

**BRECKNOCK TOWNSHIP
LANCASTER COUNTY, PENNSYLVANIA**

ORDINANCE No. 213 - 2016

AN ORDINANCE LEVYING A TAX OF \$52.00 FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN BRECKNOCK TOWNSHIP; REQUIRING EMPLOYERS TO REGISTER AND COLLECT THE TAX; PRESCRIBING REQUIREMENTS FOR RETURNS AND RECORDS; APPOINTING AND CONFERRING POWERS AND DUTIES ON THE COLLECTOR; AND IMPOSING PENALTIES.

BE IT ORDAINED AND ENACTED, by the Board of Supervisors of Brecknock Township under authority of the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, as amended and in particular as amended by Act 7 of 2007, as follows:

SECTION 1. DEFINITIONS

The following words and phrases when used in this Enactment shall have the meaning ascribed to them in this Section, unless the context clearly indicates a different meaning:

- (a) Collector. The person or persons appointed by this Enactment or by subsequent enactment of the Governing Body, to collect the Tax imposed by this Enactment.
- (b) Compensation. Salary, wages, commission, tip, bonus, fee, or any other payment or income.
- (c) "Earned Income" and "Net Profits" shall have the meanings as set forth in the Enabling Act, 53 P.S. §6913.
- (d) Effective Date. January 1, 2017.
- (e) Employee. An individual paid Compensation by an Employer to perform an Occupation of any kind.
- (f) Employer. Any individual, partnership, limited partnership, unincorporated association, institution, trust, corporation, government agency, or other entity engaged in business or operating within the Taxing Authority, employing one or more individuals engaged in an Occupation.
- (g) Enabling Act. The Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, and as amended in the future.
- (h) Enactment. This Ordinance.

(i) Governing Body. The Board of Supervisors of Brecknock Township.

(j) Occupation. Any work, job, activity, livelihood, trade, profession, business or enterprise of any kind, including services, domestic or other, for which any Compensation is received. A person may have more than one Occupation.

(k) Regulations. Regulations duly adopted by the Collector for administration of the Tax. To the extent allowed by law, including but not limited to 1 Pa.C.S.A. §1937, the Governing Body intends to incorporate future amendments to the Regulations. If a court prohibits such construction, the Governing Body intends to incorporate the Regulations as they exist on the date of adoption of this Enactment. A copy of the Regulations currently in force shall be available for public inspection.

(l) Tax. The tax imposed by this Enactment.

(m) Tax Return. A form prescribed by the Collector for reporting the amount of any tax deducted from an employee or otherwise owed under this Enactment.

(n) Tax Year. The period from January 1 to December 31.

(o) Taxing Authority. Brecknock Township.

(p) Taxpayer. Any individual on whom the Tax is imposed.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION 2. IMPOSITION OF TAX/REGULATIONS

(a) The Taxing Authority hereby imposes a Tax of \$52.00 on each individual who engages in an Occupation within the boundaries of the Taxing Authority. The Tax is imposed for the Tax Year starting on the Effective Date and ending on the next December 31. The Tax is imposed for each Tax Year thereafter without annual reenactment, until this Enactment is repealed or amended. The \$52.00 tax includes the \$10.00 imposed by the Eastern Lancaster County school District. Consequently the tax imposed by this ordinance is \$42.00 per person covered by the ordinance.

(b) The tax is based on an individual engaging in an Occupation within the Taxing Authority at any time during the Tax Year, and shall be known as the Local Services Tax or the Occupation Privilege Tax. The Enabling Act as amended by Act 7 of 2007 has denominated any Occupation Privilege Tax as a Local Services Tax.

(c) All provisions of the Enabling Act imposing requirements applicable to a local

services tax and all provisions of the Regulations are incorporated into this Enactment. If there is any discrepancy between the Regulations and the Enabling Act, or the Enactment and the Enabling Act, the provisions of the Enabling Act shall control.

(d) The Tax is imposed, and proceeds of the Tax shall be used in accordance with all applicable requirements of the Enabling Act.

SECTION 3. EXEMPTIONS FROM TAX

(a) An individual whose total earned income and net profits from all sources within the Taxing Authority in any Tax Year is less than \$12,000 is exempt from the Tax for the Tax Year.

(b) Individuals may also be exempt for other reasons, including disability resulting from serving in the armed forces, active duty as a member of a reserve component of the armed forces, and other reasons as set forth in the Regulations.

(c) An individual may obtain exemption prospectively by filing a local services tax exemption certificate on a form provided by the Collector in accordance with the Regulations. The exemption certificate shall be filed with the Collector, and if the individual is an Employee also with the individual's Employer.

(d) If an individual pays the Tax and at the end of any Tax Year has total income during the Tax Year that is less than the income exemption amount, or otherwise qualifies for an exemption, the Collector will on request after the end of Tax Year refund to the Taxpayer the Tax paid for the Tax Year.

SECTION 4. INDIVIDUALS WHO ENGAGE IN AN OCCUPATION IN MULTIPLE JURISDICTIONS/MULTIPLE EMPLOYERS

Rules applicable to individuals who engage in an Occupation in multiple jurisdictions or have multiple employers are as set forth in the Regulations.

SECTION 5. EMPLOYER COLLECTION

(a) Every Employer not registered under the provisions of an enactment of the Taxing Authority imposing a tax on earned income and net profits shall, within 30 days after the Effective Date, or within 30 days after first becoming an Employer, register with the Collector the Employer's name, address and any other information required by the Collector on an employer registration form prescribed by the Collector.

(b) Every employer is required to deduct the Tax as set forth in the Regulations from any Compensation payable to any Employee on whom the Tax is imposed, unless the Employee

has filed a local services tax withholding exemption certificate in accordance with the Regulations. As set forth in the Regulations, the full amount of the Tax shall be deducted in lump sum if the combined municipal and school district tax rate is \$10 or less. As set forth in the Regulations, the Tax shall be deducted pro rata on a per payroll basis if the combined municipal and school district tax rate exceeds \$10.

(c) As set forth in the Regulations, no Employee is required to pay Tax through more than one Employer during any payroll period.

(d) An Employer is excused from withholding to the extent provided in the Regulations if the Employee has filed a local services tax withholding exemption certificate in accordance with the Regulations. The exemption certificate may provide exemption from withholding based on: (1) low income or other exemption from Tax as stated in the Regulations; (2) withholding by another principal Employer; (3) prior payment to the Taxing Authority of the full amount of the Tax imposed by the Taxing Authority; or (4) prior payment during the same Tax Year of \$52 as a tax imposed under the Enabling Act on an individual based or engaging in an Occupation in Pennsylvania.

(e) If an Employee has filed a local services tax withholding exemption certificate and it is determined as set forth in the Regulations that the Employee is not eligible for exemption or no longer eligible for exemption, the Employer shall start or restart withholding as set forth in the Regulations.

(f) As to each Taxpayer employed at any time after the Effective Date and on or before March 31, every Employer shall deduct the Tax from Compensation payable to the Taxpayer as set forth in the Regulations, and shall file a Tax Return and pay to the Collector on or before April 30 the amount of tax deducted on or before March 31. As to each taxpayer for whom the full amount of the Tax has not previously been deducted or paid directly by the Taxpayer to the Collector, who is employed at any time in any of the 3-month periods ending June 30, September 30, and December 31, every Employer shall deduct the Tax from Compensation payable to the Taxpayer as set forth in the Regulations, and shall file a Tax Return and pay to the Collector on or before the following July 30, October 30, and January 30, the amount of tax deducted on or before June 30, September 30, and December 31, respectively. Every Employer shall follow this same procedure in every Tax Year.

(g) Tax amounts deducted from Compensation by an Employer shall at all times be the property of the Taxing Authority, and shall constitute a trust fund held by the Employer until remitted to the Collector; and deduction of Tax from wages shall, as between the Employee and the Taxing Authority, constitute payment of the Tax by the Employee, regardless of any insolvency or failure to remit by the Employer.

(h) Any Employer who fails to deduct the Tax or who fails to pay the Tax to the Collector shall be liable for the Tax and applicable penalties in full as though the Tax had

originally been imposed against such Employer. If the Employer is a partnership, the partners thereof, and if the Employer is a corporation, limited liability company, or other organization or entity, all officers thereof, and any other person responsible for payment of taxes, shall have the same liability as the Employer.

SECTION 6. TAXPAYER DIRECT PAYMENT

Every individual who is self-employed, or whose Tax for any other reason is not deducted by an Employer under Section 5 of this Enactment, shall file a Tax Return and pay the Tax directly to the Collector. Except as otherwise stated in the Regulations, every such individual engaged in an Occupation within the Taxing Authority at any time after the Effective Date and on or before March 31, shall file a Tax Return and pay the full amount of the Tax to the Collector on or before April 30. Except as otherwise stated in the Regulations, every such individual who has not previously paid the full amount of the Tax, who engages in an Occupation within the Taxing Authority at any time in any of the 3-month periods ending June 30, September 30, and December 31, shall file a Tax Return and pay the full amount of the Tax to the Collector on or before the following July 30, October 30, and January 30, respectively. Every individual who is self-employed, or whose Tax for any other reason is not deducted by an Employer under Section 5 of this Enactment, shall follow this same procedure in every Tax Year.

SECTION 7. NON-RESIDENT TAXPAYERS

By virtue of engaging in an Occupation within the Taxing Authority, both resident and non-resident individuals are subject to the Tax.

SECTION 8. TAX COLLECTOR POWER AND DUTIES

(a) The Collector shall collect and administer the Tax, fines and penalties imposed by this Enactment, and shall keep records of collection.

(b) The Collector may examine the books, papers, and records of any individual or Employer in order to verify compliance with this Enactment. Every individual the Collector believes might be subject to the Tax and every Employer or person the Collector believes might be an Employer shall on request meet with and show to the Collector all books, papers, and records requested by the Collector. Every Employer or person the Collector believes might be an Employer shall also provide access to the Employer's books, papers, and records at the Employer's place of business and provide a place for the Collector's review of such books, papers, and records. For purposes of this Enactment, records shall include records in any form, including computer and other electronic records.

(c) The Collector may file suit in its name or in the name of the Taxing Authority for recovery of any amount owed to the Taxing Authority.

(d) Except as limited by any applicable law, the Collector shall have all of the powers that the Taxing Authority has or that the law prescribes for tax collectors relating to administration and enforcement of this Enactment.

(e) The Collector may promulgate and enforce Regulations relating to administration and enforcement of this Enactment.

SECTION 9. INTEREST, PENALTIES, COSTS, AND FINES

(a) If any Tax is not paid when due, the following penalty shall apply - a penalty of 5% of the amount unpaid for each month or a fraction of a month during which the amount remains unpaid.

(b) Any individual or entity who or which fails or refuses to pay Tax or other amounts owed or to pay Tax deducted from employees shall, in addition to paying the amount owed, pay reasonable costs incurred, as set forth in the Regulations, by the Taxing Authority, Collector, or any other person or entity appointed to collect the amount, to provide notices of delinquency or to implement similar procedures to collect delinquent taxes.

(c) If legal proceedings are commenced for failure to pay any amount owed, the person or entity liable therefor shall, in addition to the amount owed, pay to the Taxing Authority, Collector, or any other person or entity appointed to collect the Tax the costs of collection, including reasonable attorney fees.

(d) Any individual or entity who or which fails or refuses to file any employer registration form or Tax Return required by this Enactment or the Regulations, who or which fails or refuses to pay Tax or other amounts owed or to pay Tax deducted from Employees, who or which refuses to permit the Tax Collector to examine books, papers, and records, or who or which makes any incomplete, false or fraudulent filing or return, shall, upon conviction thereof, before any District Justice or Magistrate, be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) for each offense, and costs, and in default of payment of said fine and costs be subject to imprisonment for a period not exceeding thirty (30) days. If an Employer is a partnership, the partners thereof, and if an Employer is a corporation, limited liability company, or other organization or entity, all officers thereof, and any other person responsible for payment of taxes, shall be subject to prosecution under this Section as the Employer.

(e) The failure of any individual or entity to receive or procure forms required for making a required filing or return shall not excuse making such a filing or return.

SECTION 10. TAX COLLECTOR APPOINTMENT/TAX COLLECTION AGREEMENT

The Lancaster County Tax Collection Bureau is appointed Collector according to the

terms of a Tax Collection Agreement as presented this date or previously executed. The officers of this Taxing Authority are authorized to take any actions necessary or appropriate to carry out the terms of this Enactment and the Tax Collection Agreement.

SECTION 11. SEVERABILITY

The provisions of this Enactment are severable and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this Enactment. It is declared to be the intention of the Governing Body that this Enactment would have been adopted if such invalid or unconstitutional provision had not been included.

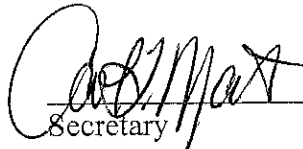
SECTION 12. REPEALER

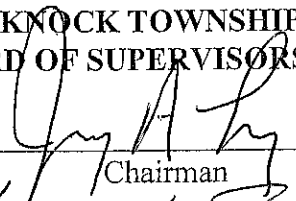
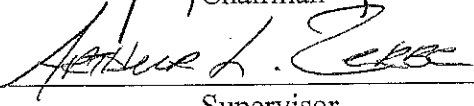
Any prior enactment or part of any prior enactment conflicting with the provisions of this Enactment is rescinded insofar as the conflict exists. So far as they are the same as enactments in force immediately prior to the adoption of this Enactment, the provisions of this Enactment are intended as a continuation of such prior enactment and not as new enactment. If this Enactment is declared invalid, any prior enactment levying a similar tax shall remain in full force and effect and shall not be affected in any manner by adoption of this Enactment. The provisions of this Enactment shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish offense under the authority of any enactment in force prior to the adoption of this Enactment. Subject to the foregoing provisions of this Section, this Enactment shall supersede and repeal on the Effective Date any enactments levying an occupation privilege tax in force immediately prior to the Effective Date.

SECTION 13. ADOPTION

This Enactment is adopted and enacted November 8th, 2016.

ATTEST:


Secretary

**BRECKNOCK TOWNSHIP
BOARD OF SUPERVISORS**

Chairman

Supervisor

Supervisor