

ORDINANCE NO. 05-114

**AN ORDINANCE OF CUMBERLAND TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA, PROVIDING FOR THE LEVY AND COLLECTION OF AN EMERGENCY AND MUNICIPAL SERVICE TAX FOR PURPOSES OF ROAD CONSTRUCTION AND/OR MAINTENANCE, FIRE AND/OR EMERGENCY SERVICES; AND/OR REDUCTION OF PROPERTY TAXES ON THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE TOWNSHIP OF CUMBERLAND, PRESCRIBING THE METHOD AND MANNER OF COLLECTING SUCH TAX; PROVIDING CERTAIN EXEMPTIONS, PRESCRIBING PENALTIES AND REPEALING THE OCCUPATIONAL PRIVILEGE TAX ENACTED BY ORDINANCE NO. 02-104.**

Section 1: Authority of Enactment

This Ordinance is enacted under authority of Act 222 of 2004 and The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, No. 511 (53 P.S. §6901 et seq.), as hereafter amended, supplemented, modified or reenacted by the General Assembly of the Commonwealth of Pennsylvania.

Section 2: Title of Ordinance

This Ordinance shall be known and may be cited as the "Cumberland Township Emergency and Municipal Services Tax Ordinance".

Section 3: Definitions.

As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Township. Cumberland Township, Adams County, Pennsylvania.

Compensation. Salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other earned income. Compensation paid to any person on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under the Workers' Compensation Act, Occupation Disease Acts and similar legislation or

payments commonly recognized as old age benefits, retirement pay or pensions, or payments commonly known as public assistance or unemployment compensation payments or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, shall not constitute earned income and compensation.

**Employer.** Any person, sole proprietorship, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, limited liability company, limited liability partnership or any other entity engaged in business (whether for-profit or non-profit) situate in Cumberland Township, employing one or more employees engaged in any occupation.

**Occupation.** Any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, whether for-profit or non-profit, for which monetary compensation is received or charged.

**Taxpayer.** Any natural person liable for the Emergency and Municipal Services Tax. Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within Cumberland Township, be subject to the said Tax and the provisions of this Ordinance.

#### Section 4. Imposition.

For purposes of (1) road construction and/or maintenance; (2) fire and/or emergency services; and/or (3) reduction of property taxes, a tax for emergency and municipal services in the amount of \$52.00 per person per annum is hereby imposed upon persons engaged in an occupation within Cumberland Township, Adams County, Pennsylvania, at any time and for any period during a calendar year. Such tax shall continue from year to year until or unless this Ordinance is repealed or the rate thereof changed by subsequent ordinance or resolution of the Board of Supervisors of Cumberland Township, Adams County, Pennsylvania, or changed by applicable State law.

#### Section 5. Collection of Tax.

The Township hereby designates the York Adams Tax Bureau or its successor (hereinafter referred to as the "Agency") as the collector and agent for the Township to assess and collect the tax imposed by this Ordinance and to make any and all lawful actions for the effective administration and enforcement of this Ordinance. Without limiting the generality of the foregoing, the Agency shall have the power to act as tax collector and issue receipts on behalf of the Township; to prepare and distribute forms and to require the remission of tax by taxpayers and employers and the filing of reports

and returns; to examine books, papers and records of any taxpayer or employer in order to verify the accuracy of any report or return; to correct or supply any inaccurate, incomplete or missing return from the best information available and to assess and collect tax due thereupon; to promulgate and/or approve rules and regulations pertaining to the assessment and collection of said tax and the administration and enforcement of this Ordinance, which regulations may, among other things, provide for bulk returns and payments by employers and the issuing to them of receipts on behalf of the Township, as well as provide for the appointment of such tax officers and assistants to collect and administer the tax imposed by this Ordinance as may be deemed prudent. Such rules and regulations shall be kept available for the public inspection at the office of the Agency.

#### Section 6. Payment of Tax

Every person engaged in any occupation as herein defined, subject to the tax imposed by Section 4 hereof, for the period for which this Ordinance is applicable, shall pay the same to the Agency which shall have all rights to demand, receive and collect the same in accordance with and subject to the rules and regulations established by said Agency as aforesaid.

#### Section 7. Time of Payment

The tax imposed by Section 4 hereof shall be due and payable on or before September 30<sup>th</sup> of each year. There shall be no discount for early payment of the Emergency and Municipal Services Tax.

#### Section 8. Low-Income Exemption

Any person whose total income from all sources is less than \$12,000.00 per annum shall be exempt from the payment of the Emergency and Municipal Services Tax.

#### Section 9. Collection Through Employers.

1. Each employer shall register with the Agency the employer's name, address and other information the Agency may require within 15 days after the effective date of this Ordinance or within 15 days after first becoming an employer.

2. For each taxpayer employed for any length of time after the effective date of this Ordinance and as of January 1 of the current tax year, each employer shall

deduct the Emergency and Municipal Services Tax from compensation payable to the taxpayer, file a return on a form prescribed by the Agency, and pay to said Agency the full amount of taxes deducted on or before September 30<sup>th</sup> of the current tax year. Employer shall have the option of spreading withholding of the tax over the first four paychecks. For each taxpayer for whom no prior deduction has been made, who is employed after the effective date of this Ordinance and after said September 30<sup>th</sup> deadline, each employer shall deduct the Emergency and Municipal Services Tax from compensation payable to the taxpayer, file a return on a form prescribed by the Agency, and pay said collector the full amount of all taxes deducted, on or before January 31<sup>st</sup> of the following year.

3. Any employer who discontinues business or ceases operation before December 31<sup>st</sup> of any year during which the Emergency and Municipal Services Tax is in effect shall file the return hereinabove required and pay the said Tax, relative to any and all employees subject to said Tax, to the Agency, within 15 days after discontinuing business or ceasing operations.

4. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the Emergency and Municipal Services Tax. Any employer, who fails to deduct and/or remit the said Tax as required by this Ordinance, shall be liable for such Tax in full relative to any and all employees subject to the said Tax.

5. As to any employee who presents an official receipt evidencing prior payment of the Emergency and Municipal Services Tax imposed hereby either directly or by collection through employer(s) for the fiscal year in question, the employer shall not deduct the tax but shall maintain records satisfactory to the Agency concerning such employee.

6. An employer shall not retain an administrative fee or otherwise be paid an administrative fee for the collection of the Emergency and Municipal Services Tax.

#### Section 10. Direct Payment by Taxpayers.

Every taxpayer, who is self-employed or whose Emergency and Municipal Services Tax for any other reason is not collected under Section 9 of this Ordinance, shall file a return on a form prescribed by the Agency and shall pay the said Tax directly to the Agency in accordance with the requirements set forth in said Section 9.

Section 11. Collection Procedures.

The Agency shall collect by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Ordinance and unpaid. If, for any reason, any tax is not paid when due, interest at the rate of 6% per annum on the amount of unpaid taxes and an additional penalty of  $\frac{1}{2}$  of  $\frac{1}{5}$  of the amount of the unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection to include reasonable attorneys' fees as well as for interest and penalties. The Agency may accept payment under protest of the tax claimed by the Township in any case in which any person disputes the Township's claim for the tax. If a Court of competent jurisdiction thereafter decides that there has been an overpayment to the Agency, the Agency shall refund the amount of the overpayment to the person who paid under protest. Any action instituted for such judicial determination shall be instituted within 2 years of the last day of the period for which the tax is disputed or claim made.

Section 12. Tax Limit.

No taxpayer shall be subject to payment of tax under this Ordinance or under a similar ordinance or resolution of any school district or any other municipality in excess of \$52.00 in any tax year.

Section 13. Penalties.

Any employer or taxpayer who makes a false or untrue statement on any return required by this Ordinance, who refuses inspection of records in the employer's custody and control identifying any employees subject to the Emergency and Municipal Services Tax, who fails or refuses to file a return required by this Ordinance, who fails to pay the tax imposed by this Ordinance, or who violates any other provision of this Ordinance, shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600.00, together with the costs of prosecution, and in default of payment, be sentenced to imprisonment for a term not to exceed 30 days.

Section 14. Repealer.

The Occupational Privilege Tax imposed by the Township by Ordinance No. 02-104 is hereby repealed as of December 31, 2005.

Section 15. Effective Date.

This Ordinance shall be effective for fiscal year 2006, and shall continue on a calendar year basis thereafter without annual reenactment. For purposes of satisfying the requirements the requirements of Section 6 of the Local Tax Enabling Act (53 P.S. §6906) and to accommodate any taxpayer appeals filed pursuant to said Section 6 of The Local Tax Enabling Act, this Ordinance shall take effect on January 19, 2006, 30 days from the date of its enactment and adoption.

ENACTED AND ORDAINED, this 13<sup>th</sup> day of December, 2005.

Cumberland Township  
Board of Supervisors

By: David P. Waybright  
David P. Waybright, Chairman

ATTEST:

Carol G. Menzies  
(Assistant) Secretary