

**DOVER BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2005 - 09

AN ORDINANCE OF DOVER BOROUGH ADOPTING A NEW ARTICLE VI, CHAPTER 143 OF THE CODE OF THE BOROUGH OF DOVER, ENTITLED "EMERGENCY AND MUNICIPAL SERVICES TAX," WHICH IS AN ORDINANCE OF DOVER BOROUGH, YORK COUNTY, PENNSYLVANIA, LEVYING AND IMPOSING AN EMERGENCY AND MUNICIPAL SERVICES TAX ON INDIVIDUALS ENGAGED IN AN OCCUPATION IN DOVER BOROUGH; DEFINING CERTAIN TERMS USED IN THE ORDINANCE; ESTABLISHING THE AMOUNT OF THE TAX IMPOSED AT FIFTEEN (\$15.00) DOLLARS PER ANNUM; IMPOSING CERTAIN DUTIES ON EMPLOYERS TO COLLECT THE TAX; REQUIRING EMPLOYERS TO FILE RETURNS WITH DOVER BOROUGH; PROVIDING FOR THE TIME FOR THE DETERMINATION OF THE TAX LIABILITY AND PAYMENT OF THE TAX; ESTABLISHING PRIORITY OF PAYMENT FOR INDIVIDUALS EMPLOYED IN MORE THAN ONE POLITICAL SUBDIVISION; PROVIDING FOR AN EXEMPTION FOR PAYMENT OF THE TAX; ESTABLISHING RULES AND REGULATIONS FOR SELF-EMPLOYED INDIVIDUALS; ESTABLISHING RULES AND REGULATIONS FOR EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING OUTSIDE THE BOROUGH; ESTABLISHING THE POWERS AND DUTIES OF THE RECEIVER OF TAXES; PROVIDING FOR THE COLLECTION OF DELINQUENT TAXES; AND PROVIDING PENALTIES FOR VIOLATION OF THE PROVISIONS OF THE ORDINANCE.

WHEREAS, the Commonwealth of Pennsylvania has enacted a statute authorizing a municipality to enact an Emergency and Municipal Services Tax; and

WHEREAS, Dover Borough wishes to levy and impose the Emergency and Municipal Services Tax as authorized by the Commonwealth of Pennsylvania.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted and ordained by the Borough Council of Dover Borough as follows:

1) The Code of the Borough of Dover is hereby amended by adding thereto a new Article VI, Chapter 143, to be entitled, "Emergency and Municipal Services Tax," to read as follows:

§ 143-46. Definitions and Word Usage.

A. "He," "his" or "him" shall mean and indicate the singular and plural number as well as male, female and neuter gender.

B. The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

EMPLOYER - An individual, partnership, association, corporation, governmental body, agency or other entity employing one (1) or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

INDIVIDUAL - Any person, male or female, engaged in any occupation, trade or profession, within the limits of the Borough of Dover.

OCCUPATION - Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Dover for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

RECEIVER OF TAXES - The duly elected Tax Collector of Dover Borough or other persons designated by the Borough of Dover for collection and enforcement of this tax.

TAX - The Emergency and Municipal Services Tax in the amount of Fifteen (\$15.00) Dollars levied by this Article.

TAX YEAR - The period January 1 through December 31, the calendar year.

BOROUGH OF DOVER - The area within the municipal limits of the Borough of Dover.

§ 143-47. Tax Imposed.

The Borough of Dover hereby levies and imposes on each individual engaged in any occupation during the tax year within the municipal limits of the Borough of Dover an Emergency and Municipal Services Tax. This tax is in addition to all other taxes of any kind and nature heretofore levied by the Borough of Dover.

§ 143-48. Amount of Tax.

Beginning with the first day of January, 2006, and each tax year thereafter, each individual engaged in an occupation, as hereinbefore defined, within the Borough of Dover for any length of time during the tax year shall be required to pay an Emergency

and Municipal Services Tax in the amount of Fifteen (\$15.00) Dollars. An individual who has previously paid an Emergency and Municipal Services Tax in the sum of Fifty-two (\$52.00) Dollars to any other municipality during the current tax year shall not be required to pay the Emergency and Municipal Services Tax to Dover Borough. If an individual has paid an Emergency and Municipal Services Tax to any other municipality in an amount less than Fifty-two (\$52.00) Dollars, the individual shall pay to Dover Borough the difference between Fifty-two (\$52.00) Dollars and the amount of tax paid to any other municipality; but, in no event shall an individual pay more than Fifteen (\$15.00) Dollars to the Borough of Dover. It is the intent of this Ordinance that no individual shall pay more than Fifty-two (\$52.00) Dollars in any calendar year as an Emergency and Municipal Services Tax irrespective of the number of political subdivisions within which such person may be employed within any given calendar year.

§ 143-49. Duties of Employers.

Each employer within the Borough of Dover, as well as each employer situated outside the Borough of Dover but who engages in business within the Borough of Dover, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough of Dover said tax of Fifteen (\$15.00) Dollars per annum and making a return and payment thereof to the Receiver of Taxes. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether said employee is paid by salary, wages or commissions and whether or not part or all such services are performed within the Borough of Dover.

§ 143-50. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Receiver of Taxes. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against him.

§ 143-51. Determination of Tax Liability; Payment.

Commencing with the calendar year 2006 and for each tax year thereafter, each employer shall use his employment records from the 1st day of January to the 31st day of March of each tax year for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before April 30th of each tax year. Each employer shall use his employment records from April 1st to June 30th of each tax year as to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and paid over to the

Receiver of Taxes on or before July 31st of each tax year. Each employer shall use his employment records from July 1st to September 30th of each tax year as to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before October 31st of each tax year. Each employer shall use his employment records from October 1st to December 31st of each tax year as to employees who have not previously paid this tax for determining the number of employees from whom the tax shall be deducted and paid over to the Receiver of Taxes on or before January 31st of the next calendar year.

§ 143-52. Individuals Working in More Than One Political Subdivision.

A. In the event that a person is engaged in more than one (1) occupation or an occupation which requires his working in more than one (1) political subdivision during the calendar year, the priority of claim to collect such Emergency and Municipal Services Tax shall be in the following order:

- 1) The political subdivision in which a person maintains his principal office or is principally employed.
- 2) The political subdivision in which the person resides and works (if a like tax is levied by that subdivision).
- 3) The political subdivision in which a person is employed and which imposes the tax nearest, in miles, to the person's home.

B. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.

§ 143-53. Exemption.

An individual earning less than an aggregate of Twelve Thousand (\$12,000.00) Dollars within the tax year is hereby exempted from the payment of this tax.

§ 143-54. Self-employed Individuals.

All self-employed individuals who perform services of any type or kind or engage in any occupation or profession within the Borough of Dover shall be required to comply with this Article and pay the tax to the Receiver of Taxes on or before June 30th of each tax year, or as soon thereafter as he engages in an occupation.

§ 143-55. Employers and Self-employed Individuals Residing Outside Borough.

All employers and self-employed individuals residing or having their place of business outside of the Borough of Dover but who perform services of any type or kind or engage in an occupation or profession within the Borough of Dover do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Article with the same force and effect as though they were residents of the Borough of Dover. Further, any individual engaged in an occupation within the Borough of Dover and an employee of a nonresident employer may, for the purpose of this Article, be considered a self-employed person, and in the event that this tax is not paid, the Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as herein provided.

§ 143-56. Powers and Duties of Receiver of Taxes.

A. It shall be the duty of the Receiver of Taxes to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date and the tax was received.

B. The Receiver of Taxes is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Receiver of Taxes the means, facilities and opportunity for such examination.

§ 143-57. Collection of Delinquent Taxes.

A. In the event that any tax under this Article remains due or unpaid thirty (30) days after the due dates above set forth, the Borough may sue for the recovery of any such tax due or unpaid under this Article, together with interest as herein provided.

B. All taxes imposed by this Article which are not paid when due shall bear interest at the rate of one-half (1/2) of one (1%) per cent per month, until paid, on the amount of the tax. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

C. The Receiver of Taxes shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing delinquent Emergency and Municipal Services Taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent Emergency and Municipal Services Taxes, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable individual and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from

the wages, commissions or earnings of such individual employees, owing or that shall, within sixty (60) days thereafter, become due or from any unpaid commissions or earnings of any such taxable in its or his possession or that shall, within sixty (60) days thereafter, come into its or his possession, a sum sufficient to pay the respective amount of the delinquent Emergency and Municipal Services Taxes and costs, shown upon the written notice or demand, and to pay the same to the Receiver of Taxes of the Borough of Dover within sixty (60) days after such notice shall have been given. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such delinquent Emergency and Municipal Services Tax or to pay the same over to the Receiver of Taxes, as herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such delinquent Emergency and Municipal Services Tax that is so withheld and paid over or that is withheld and not paid over, together with a penalty of ten (10%) per cent added thereto, to be recovered by a civil action in a suit to be instituted by the Receiver of Taxes or by the proper authorities of the Borough of Dover, as debts of like amount as are now or by law recoverable, except that such person shall not have the benefit of any stay or exemption law.

D. Upon presentation of a written notice and demand under oath or affirmation to the State Treasurer or any other fiscal officer of the Commonwealth or its boards, authorities, agencies or commissions, it shall be the duty of the Treasurer or officer to deduct from the wages then owing or that, within sixty (60) days thereafter, shall become due to any employee a sum sufficient to pay the respective amount of the delinquent Emergency and Municipal Services Tax and costs shown on the written notice. The same shall be paid to the Receiver of Taxes of the Borough of Dover within sixty (60) days after such notice shall have been given.

§ 143-58. Violations and Penalties.

Whoever makes any false or untrue statement on any return required by this Article or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment or whoever fails or refuses to file any return required by this Article or in any other manner violates the provisions of this Ordinance, shall, upon being found guilty thereof in a summary criminal proceeding commenced by Dover Borough, pay a fine not exceeding Six Hundred (\$600.00) Dollars plus all court costs, including reasonable attorney's fees, incurred by Dover Borough, or upon failure to pay such fine and costs, be sentenced to incarceration in the county jail for a period not exceeding thirty (30) days. Northern York County Regional police officers, the appropriate code enforcement officers of Dover Borough or other appropriate officer or officers of Dover Borough shall have the power to enforce the provisions of this Article.

§ 143-59. Construal of Provisions.

A. Nothing contained in this Article shall be construed to empower the Borough of Dover to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

B. If the tax hereby imposed under the provisions of this Article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax so imposed on other persons or individuals as herein provided.

3) If any section, subsection, sentence or clause of this Ordinance is held for any reason to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this Ordinance and it shall be deemed that this Ordinance would have been enacted without the invalid section, subsection, sentence or clause.

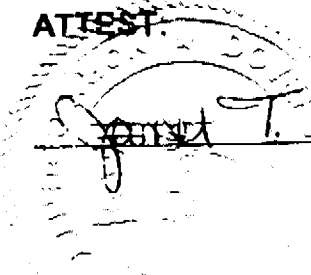
4) This Ordinance shall become effective five (5) days after enactment.

ENACTED AND ORDAINED by the Borough Council of Dover Borough

this 5th day of December, 2005.

ATTEST

BOROUGH OF DOVER


Shirley T. Shirey

By: Jeri A. Koch

Approved this 5th day of December, 2005.

Robert L. Eschellbein
Mayor