

**EAST MANCHESTER TOWNSHIP  
YORK COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2008-2**

**AN ORDINANCE ENACTING AND LEVYING A LOCAL SERVICES TAX ON PERSONS EMPLOYED WITHIN EAST MANCHESTER TOWNSHIP, FIXING THE RATE OF THE TAX, AND EXEMPTING CERTAIN PERSONS**

**WHEREAS**, East Manchester Township (Township) is a municipality as defined in the Local Tax Enabling Act, 53 P.S. § 6924.101 et seq (Act), being a second class township; and

**WHEREAS**, Section 301.1(f)(9) of the Act, 53 P.S. § 6924.301.1(f)(9), as amended, authorizes the Township to levy a local services tax, and to regulate such tax; and

**WHEREAS**, consistent with the Act, the Township desires to institute a local services tax, to comply with the Act; and

**WHEREAS**, the Township has adopted the Code of the Township of East Manchester (Code) codifying the Ordinances of the Township; and

**WHEREAS**, the Township has duly advertised notice of intention to adopt this Ordinance, as required by Section 4 of the Act, 53 P.S. § 6924.306:

**NOW, THEREFORE BE IT ORDAINED AND ENACTED** and it is hereby ordained and enacted as follows:

**SECTION 1. Repealer.** The title and text of Article IV [Occupational Privilege Tax] of Chapter 212 [Taxation] of the Code is hereby amended to state in its entirety as follows:

Article IV  
Local Services Tax

§ 212-20. **Title.** This Ordinance shall be known as “The East Manchester Township Local Services Tax Ordinance”.

§ 212-21. **Definitions.** For purposes of this Ordinance, the following definitions shall apply:

“ACT”: The Local Tax Enabling Act, 53 P.S. § 6901 et seq, as amended by Act 7 of 2007.

“COLLECTION AGENT”: The person or entity appointed or designated by the Township to collect the local services tax pursuant to this Ordinance.

“COMBINED RATE”: The aggregate annual rate of the local services tax levied by both the Township and the Northeastern School District.

“DCED”: The Pennsylvania Department of Community and Economic Development.

“EARNED INCOME”: This term shall have the same meaning as is given in Division I of Section 13 of the Act.

“EMPLOYEE”: Any person who, as a result of his or her employment or occupation, is subject to this Tax, or to an exemption.

“NET PROFITS”: This term shall have the same meaning as is given in Division I of Section 13 of the Act.

“PERSON”: Any employee or other person who is subject to, or exempt from, the tax imposed by this Ordinance.

“PLACE OF EMPLOYMENT”: The place in which the person maintains his or her principal office or is principally employed, as determined pursuant to the Local Tax Enabling Act, 53 P.S. § 6901 et seq, which shall be determined as of the day the Taxpayer first becomes subject to the tax during any calendar year.

“RESERVE COMPONENT OF THE ARMED FORCES”: The United States Army, Navy, Marine Corps, Coast Guard, or Air Force Reserve, or the Pennsylvania Army or Air National Guard.

“TAX”: The local services tax adopted and levied by this Ordinance.

“TAXPAYER”: Any person who is subject to the tax imposed by this Ordinance.

“TOWNSHIP”: East Manchester Township, York County, Pennsylvania.

**§ 212-22 Levy of Tax; Amount of Tax.** The Board of Supervisors of the Township hereby enacts and levies the Tax in the amount of Fifty-Two Dollars (\$52.00) per year on each person whose place of employment is within the Township.

**§ 212-23 Calendar Year.** This Tax shall be imposed on a calendar year basis.

**§ 212-24 Priority of Claims.** In the event that any person is engaged in more than one occupation, that is, concurrent employment, or in an occupation which requires him or her to work in more than one political subdivision during the calendar year, then the priority of claims to collect this Tax shall be in the following order: First, the political subdivision in which the

person maintains his or her principal office or is principally employed; second, the political subdivision in which the person resides and works, if such a Tax is levied by that political subdivision; and third the political subdivision in which the person is employed and which imposes the tax nearest in miles to the person's home.

#### **§ 212-25 Overpayments; Refunds.**

A. It is the intent of this Ordinance that no person shall pay more than Fifty-Two Dollars (\$52.00) on this Tax in any calendar year, irrespective of the number of municipalities within which such person may be employed or the number of municipalities collecting the local services tax. In the event that, prior to his or her employment in the Township in any calendar year, an employee has previously paid a local services tax in any other political subdivision, then the employer shall refrain from withholding the Tax, so long as the employee provides a recent pay statement from a principal employer whether within or outside of the Commonwealth that includes the name of the employer, the length of the payroll period, and the amount of the local services tax withheld, and a statement from the employee that the pay statement is from the employee's principal employer and that the employee will notify other employers of a change in the principal place of employment within two (2) weeks of its occurrence. Forms for such notification shall be the same as those prepared by DCED, as required by Section 2(f)(9)(v) of the Act. It shall be the responsibility of the employer and the employee to provide such form properly completed to the Township or its Collection Agent.

B. In the event that a person's employer within the Township withholds this Tax, and the person has previously paid a local services tax in another political subdivision pursuant to this Section, then, upon written request of the Taxpayer, pursuant to regulations adopted by the Township pursuant to Section 2(f)(9)(vii) of the Act, the Township or its Collection Agent shall refund such overpayment, except that the Township shall only be required to provide refunds for overpaid amounts that exceed one dollar (\$1.00). Refunds made within seventy-five (75) days of the refund request or within seventy-five (75) days after the last day the employer is required to remit the Tax for the last quarter of the calendar year, whichever is last, shall not be subject to interest. The amount of the refund shall be limited to the amount of any local services tax paid by the Taxpayer in another political subdivision, but in no event shall exceed the amount of this Tax as fixed by the Township for the calendar year in which the refund was sought.

C. In the event that a person has in any calendar year previously paid a local services tax in another political subdivision, but such tax was less than Fifty-Two Dollars (\$52.00), then the Taxpayer shall be liable for the difference between the tax actually paid in the other political subdivision and the amount due for this Tax to the Township.

#### **§ 212-26 Exemptions.**

A. The following persons shall be exempt from the Tax:

1. Any person whose total earned income and net profits from all sources within the Township is less than Twelve Thousand Dollars (\$12,000) in the calendar year in which the Tax is levied.

2. Any person who served in any war or armed conflict in which the United States was engaged, and is honorably discharged or released under honorable circumstances from active service, if, as a result of military service, the person is blind, paraplegic, or a double or triple amputee, or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a one hundred percent (100%) permanent disability.

3. Any person who serves as a member of a Reserve Component of the Armed Forces and is called to active duty at any time during the taxable year.

B. A person seeking exemption from the Tax pursuant to this Section may annually file an exemption certificate with the Township and with his or her employer affirming that he or she reasonably expects to receive earned income and net profits from all sources within the Township of less than Twelve Thousand Dollars (\$12,000) in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Township for the year prior to the year for which the exemption is requested. Upon receipt of the exemption certificate and until notified otherwise by the Township, the employer shall not withhold the Tax from the person for the calendar year, or the remainder of the calendar year, for which the exemption certificate applies. The exemption certificate shall be on a form prepared by DCED, pursuant to Section 2(e)(1) of the Act.

C. For any person who claims an exemption pursuant to this Section, upon notification to an employer by the person or by the Township that the person has received earned income and net profits from all sources within the Township equal to or in excess of Twelve Thousand Dollars (\$12,000) in that calendar year, or that the person is otherwise ineligible for the exemption for that calendar year, or upon an employer's payment to the person of earned income within the Township of Twelve Thousand Dollars (\$12,000) or more in that calendar year, the employer shall withhold the Tax from the person for the remainder of the calendar year, and shall withhold from the person, for the first payroll period after receipt of the notification or after the person equals or exceeds Twelve Thousand Dollars (\$12,000) in earned income, a lump sum equal to the amount of the Tax not previously withheld in the current calendar year due to the exemption, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in the calendar year shall be the same amount withheld for other employees.

**§ 212-27. Duties of Employers; Withholding of Tax.** It shall be the duty of every employer within the Township, or every employer of a person whose place of employment as defined in this Ordinance is the Township, to collect this Tax from and on behalf of each such person whose place of employment is the Township from the employee in the manner set forth in Section 2(f)(9)(i) of the Act, which is by a pro rata share of the tax for each payroll period in which the employee is engaging in an occupation. The pro rata share of the Tax assessed on a person shall be determined by dividing the Combined Rate of the Tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year, or, in the case of a person who becomes employed after the beginning of the calendar year, by the number of payroll periods remaining in the calendar year. In the event that the employment of a

person is subsequently severed, the person shall be liable for any outstanding balance of the Tax due to the Township for that calendar year, which the Township may collect as permitted by law.

**§ 212-28. Collection Agent.** The Township hereby designates the York Adams Tax Bureau (YATB) as its Collection Agent for this Tax. YATB's current mailing address is: 1415 North Duke Street, P.O. Box 15627, York, PA 17405-0156.

**§ 212-29. Amendments by Resolution.** Both the amount of this Tax as set in Section 212-22, and the designated Collection Agent as set forth in Section 212-28, may be amended by the Township from time to time by Resolution, including, but not limited to, the Township's annual Tax Resolution which fixes and sets taxes for the next calendar year.

**§ 212-30. Remission of Tax; Liability.**

A. It shall be the responsibility of every employer of every Taxpayer whose place of employment is in the Township to collect and remit said taxes to the Township's Collection Agent by no later than thirty (30) days after the end of each quarter of a calendar year. Nothing in this Section or this Ordinance is intended, or shall be construed, to relieve any Taxpayer whose place of employment is the Township from the responsibility and liability for the payment of this Tax. In the event that any such Taxpayer's employer fails to collect or remit such Tax to the Township or its Collection Agent, then it shall be the responsibility of the Taxpayer to do so.

B. Notwithstanding the provisions of this Ordinance, no employer shall be held liable for failure to withhold the Tax or for the payment of the withheld Tax money to the Township if the failure to withhold the Tax arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office, or where the employee is principally employed. An employer shall also not be liable for payment of the Tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Sections 2, 2(e), and 2(f)(9) of the Act.

**§ 212-31. Permitted Uses of Tax.** The Township's Board of Supervisors shall, in their sole discretion, determine the use of the revenues generated by this Tax, except that the use shall be limited to one or more of the following purposes and amounts:

A. emergency services, which shall include emergency medical, police and/or fire services; provided, however, that at least twenty-five percent (25%) of the funds derived from the Tax shall be used for this purpose;

B. Road construction and/or maintenance;

C. Reduction of property taxes;

D. Property tax relief in the event that the Township implements a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Chapter 85 subchapter F (relating to homestead property exclusion), and Section 22.6 of the Act;

E. Any other uses permitted by law.

**§ 212-32. Penalties; Enforcement; Collection Actions.**

A. Subject to the limitations of Section 212-30, and of the Act, any person, employee, employer, partnership, corporation, or any other entity, which violates any of the provisions of this Ordinance shall commit a summary offense, and, upon conviction thereof by a Magisterial District Judge (formerly known as District Justice), shall be subject to a fine of up to One Thousand Dollars (\$1,000.00) for each Tax which is due pursuant to this Ordinance, together with the Tax and all costs of collection, and in default of payment of such fine and costs, to imprisonment for not more than ninety (90) days.

B. In addition to the penalties in subsection A, the Township and its Collection Agent shall be entitled to any and all civil remedies available by law for the collection of such tax, and shall be entitled to all costs of collection, as approved by the Township from time to time by Resolution. The Township and its Collection Agent are further authorized to collect this Tax by any other lawful means available to them, whether in law or equity.

C. The Township specifically authorizes its Collection Agent to act on its behalf and as its agent to collect all such taxes pursuant to this Section and this Ordinance, and to initiate and prosecute on its behalf any summary criminal actions pursuant to subsection A, and any other legal actions or remedies as authorized in Section B.

**§ 212-33. Costs and Fees.** The Township specifically adopts for purposes of this Ordinance the costs and fees associated with the collection of delinquent taxes as approved by Ordinance No. 7-8-1997, as amended and codified at Section 212-53 et seq. of the Code, which are in effect on the effective date of this Ordinance. Such fees may be amended, or new fees established, by the Board of Supervisors by Resolution from time to time.

**SECTION 2. Severability.** In the event that any portion or provision of this Ordinance, or of the Act to which this Ordinance relates, is deemed or determined by a court of competent jurisdiction to be invalid, or is stricken, then the remainder of this Ordinance shall remain in full force and effect as if that invalid or stricken portion or provision were not part of this Ordinance.

**SECTION 3. Prior Ordinances.** In all other respects, Chapter 212 of the Code shall remain as heretofore enacted, ordained and amended, which said Chapter, as amended, is hereby re-enacted in its entirety herein.


**SECTION 4. Effective Dates.** The authorization to prepare and adopt regulations or forms as required by this Ordinance or the Act, specifically those set out in Sections 212-25(A)

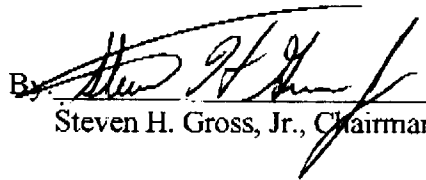
and (B), and Section 212-26(B), shall be effective five (5) days after enactment of this Ordinance. All other provisions of the Ordinance shall be effective January 1, 2009.

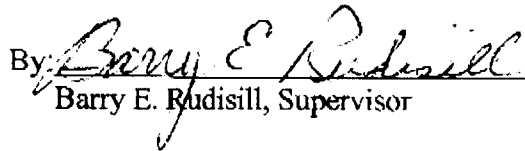
**ORDAINED AND ENACTED** this 19th day of November, 2008.

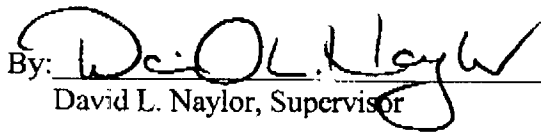
ATTEST:

EAST MANCHESTER TOWNSHIP  
BOARD OF SUPERVISORS

  
Terry F. Gingerich, Secretary

By:   
Steven H. Gross, Jr., Chairman

By:   
Barry E. Rudisill, Supervisor

By:   
David L. Naylor, Supervisor

(SEAL)