

Emergency and Municipal Services Tax

Act 222 of 2004 (<http://www.legis.state.pa.us/WU01/LI/BI/ALL/2003/0/HB0197.HTM>) amends the Local Tax Enabling Act, Act 511 of 1965, to permit municipalities and school districts (except the Pittsburgh School District)¹ to impose a combined Emergency and Municipal Services Tax (EMS tax) of up to \$52 a year beginning on and after January 1, 2005. The EMS tax replaces the occupational privilege tax. The total EMS tax paid by any individual in a calendar year is limited to \$52, regardless of the number of political subdivisions in which an individual works during the year.

Low-Income Exemption. Section 2 of Act 511, as amended by Act 222, also permits school districts and municipalities to increase the low-income exemption in Act 511 from \$10,000 to \$12,000. This exemption is applicable to the EMS (occupational privilege tax), earned income, per capita and occupation taxes.

Limit on School Tax Rate. Section 2 of Act 511, as amended by Act 222, freezes the rate of a school district's EMS tax at the rate of the occupational privilege tax collected by the school district on December 1, 2004. Section 8 of Act 511, as amended by Act 222, provides that school districts that did not impose an occupational privilege tax as of December 1, 2004 may impose an EMS tax of up to \$5.

Timing of School Tax. If the combined rate of a school and municipal EMS tax would exceed the \$52 limit after a school district imposes a new \$5 EMS tax, Section 8 of Act 511 specifies that the school EMS tax is prohibited from becoming effective before the end of the municipality's fiscal year unless notice is given to the municipality at least 45 days prior to the last day for the adoption of the municipal budget. Because municipalities must adopt their 2005 budgets by December 31, 2004, a school district cannot give timely notice to impose the tax in 2005. Accordingly, the school tax may become effective prior to January 1, 2006 only if the municipality and school district agree to the imposition of the tax by the school district and the municipality waives the notice requirement by resolution. School districts should consult their solicitor regarding any additional timing requirements in the School Code.

Limit on Municipal Tax Rate. Municipalities are able to levy an EMS tax of no less than \$10 but no more than \$52, less the amount of the school district tax, if any.

Use of Tax. Municipalities must use funds from an EMS tax for police, fire or emergency services; road construction or maintenance; or for the reduction of property taxes. This limitation does not apply to school districts.

Employer Withholding. Section 9 of Act 511 prohibits municipalities from requiring that employers withhold and collect the EMS tax more than once in a calendar year. New EMS tax rates submitted to the Department of Community and Economic Development will be available on the Department of Community and Economic Development's Web

¹Act 511 does not include the City of Philadelphia and the Philadelphia School District.

site (<http://www.inventpa.com/default.aspx?id=149>) within 48 hours of receipt. The Governor's Center for Local Government Services recommends that municipalities and school districts consult employers before finalizing their withholding policy.

Imposition of Municipal EMS Tax. Section 6 of Act 222 specifies that existing municipal ordinances adopting occupational privilege taxes will continue to be in full force and effect, without reenactment, as if such tax had been levied, assessed or collected as an emergency and municipal services tax. Therefore, municipalities need not amend their existing occupational privilege tax ordinances unless they wish to take advantage of the new law. Municipalities wishing to take advantage of the new higher limit on the tax or the higher low-income exemption provided for in Act 222 must amend their Act 511 ordinances originally imposing the occupational privilege tax. The proposed amendment to the ordinance should include the new name of the tax, the amount of the tax, the amount of the low-income exemption and the jurisdiction's withholding policy. Before a taxing jurisdiction can adopt a new ordinance imposing an EMS tax, it must comply with section 4 of Act 511, which requires that any tax imposed under the authority of Act 511 be advertised in a newspaper of general circulation once a week for three weeks. The advertisement must specify details of the tax, the reason for the tax and amount of revenue estimated to be derived from the tax. Municipal budgets generally are enacted by December 31; however, section 5 of Act 511 permits any municipality imposing a tax under Act 511 to revise its budget during any fiscal year by increasing or making additional appropriations from funds to be provided from an Act 511 tax, such as the EMS tax.

***Disclaimer:** The Department of Community and Economic Development has no authority to issue an opinion on the law that is binding on any agency or individual. This summary is for informational purposes only. The Department of Community and Economic Development suggests that municipalities and school districts contact their solicitor for further information.*