

**ORDINANCE NO. 2007 – 06
TOWNSHIP OF HELLAM
YORK COUNTY, PENNSYLVANIA**

**AN ORDINANCE ENACTING A LOCAL SERVICES TAX
TO LEVY, ASSESS AND COLLECT A TAX ON INDIVIDUALS ENGAGED IN AN
OCCUPATION IN THE TOWNSHIP OF HELLAM**

WHEREAS, on December 21, 2006, pursuant to the authorization of Section 2 of the Local Tax Enabling Act [53 P.S. s. 6902], the Board of Supervisors of the Township of Hellam enacted Ordinance 2006-3 to levy, assess and collect an Emergency and Municipal Services Tax; and

WHEREAS, Section 2 and other sections of the said Local Tax Enabling Act were amended by Act 7 of 2007 to rename and further amend the Emergency and Municipal Services Tax, to replace it with a Local Services Tax, to authorize the Township to levy a local services tax and to regulate such tax; and

WHEREAS, Section 2 (f)(9) of the Local Tax Enabling Act [53 P.S. s. 6902 (f)(9)] authorizes municipalities to levy, assess and collect a tax on the privilege of engaging in an occupation on individuals working within the municipality; and

WHEREAS, consistent with Act 7 of 2007, the Township desires to reenact the tax to comply with the new provisions of Act 7 of 2007; and

WHEREAS, the Board of Supervisors has determined that is in the best interests of the citizens of Hellam Township to levy, assess and collect a tax on the privilege of engaging in an occupation on individuals working within the municipality in the amount of Forty-Two Dollars (\$42.00) per calendar year, for the purpose of providing revenue for emergency services and other governmental purposes.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Hellam, York County, Pennsylvania, and it is hereby enacted and ordained, as follows:

Section 1. Short title.

This Ordinance shall be known and may be cited as the "Hellam Township Local Services Tax Ordinance."

Section 2. Definitions.

- A. 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:

ACT – The Local Tax Enabling Act, 53 P.S. s.6901, et. seq.

COLLECTOR – The person or firm from time to time designated by action of the Board of

Supervisors of Hellam Township to collect and administer the provisions of this article and collect the tax levied by this article.

DCED - The Pennsylvania Department of Community and Economic Development.

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

INCOME FROM ALL SOURCES - Earned income and net profits, as defined by the Local Tax Enabling Act, 53 P.S. s.6901, et. seq.

INDIVIDUAL - Any person, male or female, 18 years of age or over engaged in any occupation within the limits of the Township of Hellam.

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

PLACE OF EMPLOYMENT - The place in which the person maintains his or her principal office or is principally employed, as determined pursuant to the Act.

TAX - The local services tax adopted and levied by this ordinance.

TOWNSHIP - The Township of Hellam, York County, Pennsylvania.

B. "He," "his" or "him" shall include singular and plural number and male, female or neuter gender.

Section 3. Levy; exemption.

The Township of Hellam hereby levies and imposes a tax in the amount of \$42 for the calendar year of 2008 and every calendar year thereafter on every individual whose place of employment is within the limits of the Township of Hellam. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Hellam.

Section 4. Individuals engaged in more than one occupation.

A. In the event that an individual is engaged in more than one occupation or an occupation which requires working in more than one political subdivision during the calendar year, the priority of claim to collect the tax shall be in the following order:

- (1) First, the political subdivision in which the individual maintains his principal office or is principally employed.
- (2) Second, the political subdivision in which the individual resides and works, if a like tax is levied by that political subdivision.

- (3) Third, the political subdivision in which the individual is employed and which imposes the tax nearest in miles to the individual's home.

B. The place of employment shall be determined as of the day the individual first becomes subject to a like tax during the calendar year. Any employer to whom an employee shows a receipt for a like tax for the calendar year from some other political subdivision or employer shall not be required to deduct this tax from the employee's wages, but shall include such employee on his return by setting forth his name, address and the identification of the other political subdivision to whom the tax was paid or the employer who deducted the tax.

Section 5. Self-employed individuals.

All self-employed individuals engaged in any occupation within the Township shall be required to comply with this article and to pay the tax to the Collector on April 15 or as soon thereafter as he engages in an occupation.

Section 6. Residency beyond Township limits.

All employers and self-employed individuals residing or having their place of business outside the Township, but who engage in any occupation within the Township, 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 Township. Further, any individual engaged in an occupation within the Township and an employee of a nonresident employer may for the purpose of this article be considered as a self-employed person, and in the event that this tax is not paid, the Township shall have the option of proceeding against either the employee or employer for the collection of this tax as hereinafter provided in this Ordinance.

SECTION 7. Overpayments; Refunds.

- A. It is the intent of this Ordinance that no person shall pay more than Forty-two Dollars (\$42.00) on this Tax in any calendar year, excluding any such tax paid to the Eastern York County School District or other school district. 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 the Act. It shall be the responsibility of the employer and the employee to provide such form properly completed to the Township or its Collector.
- 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). 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 \$42.00, 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.
- D. The provisions of this Section shall not apply to any local services tax paid to the Eastern York County School District.

SECTION 8. 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 \$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 \$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 \$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 \$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 \$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.

SECTION 9. 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.

SECTION 10. Collector.

The Township hereby designates the York Area Tax Bureau (YATB) as its Collector for this Tax. YATB's current mailing address is: 1415 North Duke Street, P.O. Box 15627, York, PA 17405-0156. The designated collector may be changed from time to time by Resolution adopted by the Township.

SECTION 11. Amendments by Resolution.

Both the amount of this Tax as set in Section 3, and the designated Collector, as set forth in Section 10, 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.

SECTION 12. 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.

SECTION 13. 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 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.

SECTION 14. Penalties; Enforcement: Collection Actions.

- A. If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of the said tax, and an additional penalty of 10% shall be added to the flat rate of said tax for non-payment thereof.
- B. Subject to the limitations of Section 11, 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.

- C. 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 and attorney's fees. 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.
- D. 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 Sections B and C.

Section 15. Administration of tax.

- A. It shall be the duty of the Collector 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 the tax was received, and to turn payments received over to the Township.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of the payroll records of any employer subject to this article; the examination and correction of any return made in compliance with this article; and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of York County as in other cases provided.
- C. The Collector 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 Collector the means, facilities and opportunity for such examination.

Section 16. Saving clause.

- A. Nothing contained in this article shall be construed to empower the Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township 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 ordinance 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 or the validity of the tax so imposed on other persons or individuals as herein provided.

Section 17. 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 18. Repealer.

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

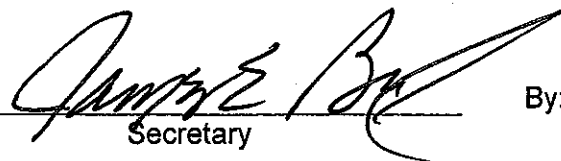
Section 19. Effective date.

This ordinance shall become effective five (5) days after enactment, and shall apply to collection of the tax beginning with calendar year 2008.

Enacted and Ordained by the Board of Supervisors of Hellam Township, York County, Pennsylvania, in lawful session assembled, this 15th day of November, 2007.

**HELLAM TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST:

By: 
Secretary

By: 
Chairman