

A RESOLUTION IMPOSING AN EMERGENCY AND MUNICIPAL SERVICES TAX UPON EACH INDIVIDUAL ENGAGED IN ANY OCCUPATION DURING THE TAX YEAR WITHIN THE MUNICIPAL LIMITS OF PEACH BOTTOM TOWNSHIP AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

AND BE IT RESOLVED, by the Board of Supervisors of Peach Bottom Township, York County, Pennsylvania, as follows:

Section 1 - Short Title: This Resolution shall be known and may be cited as the "Peach Bottom Township Emergency and Municipal Services Tax Resolution".

Section 2 - Definitions: The following words and phrases used in this Resolution shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

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

B. COLLECTOR - The Collector of Taxes appointed by the Peach Bottom Township or other persons designated by Peach Bottom Township for collection and enforcement of this tax.

C. INDIVIDUAL - Any person, male or female, engaged in any occupation, trade or profession, within the limits of Peach Bottom Township.

D. MUNICIPALITY - A borough, city or township; a school district is not a municipality.

E. 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 Peach Bottom Township for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

F. TAX - The Emergency and Municipal Services Tax in the amount of Forty-two (\$42.00) Dollars levied by this Resolution.

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

H. PEACH BOTTOM TOWNSHIP - The area within the municipal limits of Peach Bottom Township.

Section 3 - Tax Imposed: Peach Bottom Township hereby levies and imposes on each individual engaged in any occupation during the

tax year within the municipal limits of Peach Bottom Township an Emergency and Municipal Services Tax. This tax is in addition to all other taxes of any kind and nature heretofore levied by Peach Bottom Township.

Section 4 - 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, for any length of time during the tax year shall be required to an Emergency and Municipal Services Tax in the amount of Forty-two (\$42.00) Dollars. An individual who has previously paid an Emergency and Municipal Services Tax in the sum of Forty-two (\$42.00) Dollars to any other municipality during the current tax year shall not be required to pay the Emergency and Municipal Services Tax to Peach Bottom Township. If an individual has paid an Emergency and Municipal Services Tax to any other municipality in an amount less than Forty-two (\$42.00) Dollars, the individual shall pay to Peach Bottom Township the difference between Forty-two (\$42.00) Dollars and the amount of tax paid to any other municipality. It is the intent of this Resolution that no individual shall pay more than Forty-two (\$42.00) Dollars to a municipality 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. For purposes of this section a school district is not a municipality.

Section 5 - Use of Funds: Funds derived from the Emergency and Municipal Services Tax may be used only for the following purposes unless otherwise authorized by law:

- A. Police, fire and/or emergency services
- B. Road construction and/or maintenance; or
- C. Reduction of property taxes

Section 6 - Duties of Employers: Each employer within Peach Bottom Township, as well as each employer situated outside Peach Bottom Township but who engages in business within Peach Bottom Township, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within Peach Bottom Township the said tax of Forty-two (\$42.00) Dollars per annum and making a return and payment thereof to the Collector 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 Peach Bottom Township.

Section 7 - Returns: Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Collector 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.

Section 8 - Dates for Determining Liability: Each employer shall use his employment records from January 1 to March 31 for determining the number of employees from whom such tax shall be deducted and paid to the Collector of Taxes on or before April 30. A supplemental report shall be made for each employee on July 31, October 31 and January 31 of the following year for new employees as reflected on his employment record for each subsequent quarter. Payment on the supplemental report shall be due at the time of the filing of the report.

Section 9 - Individuals Engaged in More Than One Occupation:

A. Each individual who shall have more than one (1) occupation within Peach Bottom Township shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deduction on a form to be furnished to the employer by the Collector of Taxes which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employee's wages but to include such employee on his return by setting forth his name and the account number of the employer who deducted the tax.

B. If 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 the person maintains his principal office or is principally employed.

2. The political subdivision in which the person resides and works, if such a tax is levied by that political subdivision.

3. The political subdivision in which a person is employed and which imposes the tax nearest, in miles, to the person's home.

4. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than Forty-two (\$42.00) Dollars in the 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. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

Section 10 - Exemption: An individual earning less than an aggregate of Twelve Thousand (\$12,000.00) Dollars from all sources of employment from self-employment or from any business or profession irrespective of whether such employment, self-employment, business, occupation or profession is within or without Peach Bottom Township shall be exempted from the payment of this tax.

Section 11 - Self-employed Individuals:

A. All self-employed individuals who perform services of any type or kind or engage in any occupation or profession within Peach Bottom Township shall be required to comply with this Resolution and pay the Emergency and Municipal Services Tax to the Tax Collector on or before April 30 of any tax year or as soon thereafter as he engages in any occupation, business or profession.

B. In the event a self-employed person is engaged in more than one (1) occupation, business or profession within or without Peach Bottom Township or an occupation, business or profession which requires his working in more than one (1) political subdivision during the year, reporting priority of claims shall be in accordance with Section 9(B).

Section 12 - Nonresident Employers and Self-employed Individuals: All employers and self-employed individuals residing or having their place of business outside of Peach Bottom Township but who perform services of any type or kind or engage in any occupation, business or profession within Peach Bottom Township do, by virtue thereof, agree to be bound by and subject themselves to the provision, penalties and regulations promulgated under this Resolution with the same force and effect as though they were residents of Peach Bottom Township. Any individual engaged in an occupation, business or profession within Peach Bottom Township and an employee of a nonresident employer may, for the purpose of this Resolution, be considered 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 employer or employee for the collection of this tax as hereinafter provided.

Section 13 - Administration of Tax:

A. It shall be the duty of the Tax Collector to accept and receive payment 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 Treasurer.

B. The Tax Collector is hereby charged with the administration enforcement of this Resolution and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Resolution including provisions for the examination of the payroll records of any employer subject to this Resolution, the examination and correction of any return made in compliance with this Resolution and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred.

C. The Tax Collector is hereby authorized to examine the books and payroll records of any employer, self-employed person or anyone engaged in any occupation, business or profession partly or wholly within Peach Bottom Township. In order to verify the accuracy of any return made by such individual, or, if no return was made, to ascertain the tax due. Each employer, self-employed person or individual engaging in any occupation or business or profession partly or wholly within Peach Bottom Township is hereby directed and required to give the Tax Collector the means, facilities and opportunity for such examination.

Section 14 - Suits on Collection; Penalty and Interest:

A. If any tax under this Resolution remains due or unpaid thirty (30) days after the due dates above set forth, the Tax Collector, on behalf of the Township, may sue for the recovery of any such tax due or unpaid under this Resolution together with interest and penalties.

B. If for any reason the tax is not paid when due, a penalty in the amount of ten percent (10%) of the amount of said tax and interest at the rate of one-half percent (0.5%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the individual liable therefore shall, in addition, be responsible and liable for costs of collection including reasonable attorney's fees.

C. The Tax Collector 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.

D. The Tax Collector shall have the right to demand, receive and collect delinquent Emergency and Municipal Services Taxes from all corporations, political subdivisions, associations,

companies, firms or individuals employing persons owing such delinquent taxes. The Tax Collector shall also have the right to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals having in possession unpaid commissions or earnings belonging to any person 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. 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 a sum to pay the respective amount of the delinquent Emergency and Municipal Services Taxes and costs within sixty (60) days after such notice has been given. It shall also be the duty of any corporation, political subdivision, association, company, firm or individual to deduct from any unpaid commissions or earnings or other sums in its possession that would otherwise be due and owing to any individual owing delinquent Emergency and Municipal Services Tax a sum sufficient to pay the respective amount of the delinquent Emergency and Municipal Services Tax together with costs as shown on the aforesaid notice within sixty (60) days after such notice has 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 Tax Collector, 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 should have been withheld and paid over together with a penalty of ten percent (10%) added thereto together with reasonable attorney's fees to be recovered by a civil action in a suit to be instituted by the Tax Collector or by the proper authorities of Peach Bottom Township, 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.

Section 15 - Violations and Penalties: Whoever makes any false or untrue statement on any return required by this Resolution or who refuses inspection of his books, records or accounts in his custody and control setting for 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 Resolution shall, upon being found liable therefor in a civil enforcement proceeding commenced by Peach Bottom Township, pay a penalty in the amount of Six Hundred (\$600.00) Dollars plus all court costs including reasonable attorney's fees incurred by Peach Bottom Township. Peach Bottom Township and its appointed Collector of Taxes shall have the power to enforce the provisions of this Resolution. Notice of the violation of this Resolution and the amount of penalty imposed shall be given by personal delivery or by certified mail to the person violating this Resolution. If the person violating this

Resolution fails or refuses to pay the penalty imposed within the period specified in the notice of this violation of this Resolution, the Township shall file a civil enforcement proceeding with the District Justice to enforce the penalty imposed. It is further provided that the action to enforce the penalty herein provided may be instituted against any person in charge of the business of an employer who has failed or refuses to file a return as provided by this Resolution.

Section 16 - Construal of Provisions:

A. Nothing contained in this Resolution shall be construed to empower Peach Bottom 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 Resolution 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.

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

2. This Resolution shall be effective five (5) days after enactment.

ADOPTED by the Board of Supervisors of Peach Bottom Township, York County, Pennsylvania on the ____ day of _____, 2005.

ATTEST:

PEACH BOTTOM TOWNSHIP
BOARD OF SUPERVISORS

Secretary

By: _____
Chairman