

**WRIGHTSVILLE BOROUGH
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2005-9

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE
BOROUGH OF WRIGHTSVILLE AMENDING CHAPTER 24
OF THE CODE OF ORDINANCES BY ADDING A NEW PART
7 ENTITLED "EMERGENCY AND MUNICIPAL SERVICES
TAX" TO IMPOSE SUCH A TAX.

WHEREAS, by virtue of P.L. 1257, December 31, 1965 (53 P.S. §6901 et seq.), as amended, and otherwise known as the Local Tax Enabling Act, municipalities were authorized to enact an Occupational Privilege Tax; and

WHEREAS, the Local Tax Enabling Act was amended by Act 222 of 2004, signed into law December 1, 2004, providing for an Emergency and Municipal Services Tax in lieu of the Occupational Privilege Tax, as well as, among other things, increasing the maximum limit of such tax from \$10.00 to \$52.00; and

WHEREAS, the Borough of Wrightsville ("Borough") had not previously imposed an Occupational Privilege Tax on the residents of the Borough; and

WHEREAS, the Borough desires to amend its Code of Ordinances to impose an Emergency and Municipal Services Tax in accordance with Act 222 of 2004.

NOW, THEREFORE, be it enacted and ordained by the Borough Council of Wrightsville Borough, York County, Pennsylvania, as follows:

Section 1. Chapter 24 of the Code of Ordinances is hereby amended by the addition of a new Part 7, as follows:

**PART 7
Emergency and Municipal Services Tax**

§ 701. Definitions.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

BOROUGH – The Borough of Wrightsville

BOROUGH COUNCIL – The Borough Council of Wrightsville Borough.

EMERGENCY AND MUNICIPAL SERVICES TAX OFFICER – The person, public employee or private agency designated by the Borough Council to collect and administer the provisions of this Part.

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

FISCAL YEAR – The twelve-month period beginning January 1 and ending December 31.

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

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

TAX – The emergency and municipal services tax in the amount of \$42.00 levied by this Part.

TREASURER – The Treasurer of the Borough.

§ 702. Tax levied.

The Borough hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year an emergency and municipal services tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough.

§ 703. Exemption.

Any person whose total income from all sources is less than \$5,000.00 per year is exempt from the levy of this tax.

§ 704. Amount of tax.

Beginning January 1, 2006, and annually thereafter, each occupation engaged in within the corporate limits of the Borough shall be subject to an emergency and municipal services tax in the amount of \$42.00 per year, such tax to be paid by the individual so engaged.

§ 705. Funds.

Funds derived from the emergency and municipal services tax may be used 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.

§ 706. Duty of employers.

Each employer within the Borough, as well as those employers situated outside the Borough but who engage in business within the Borough, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Borough the tax of \$42.00 per year and making a return and payment thereof to the Emergency and Municipal Services Tax Officer. It shall be the duty of the employer to deduct \$42.00 from the first pay of each employee in the beginning of each fiscal year or at such time that the employee becomes employed, whether such employee is paid by salary, wages or commission and whether or not part or all such services are performed within the Borough.

§ 707. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Emergency and Municipal Services Tax Officer. If the employer fails to file such return and pay such tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to such employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

§ 708. 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 over to the Emergency and Municipal Services Tax Officer 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 records for each subsequent quarter. Payment on these supplemental reports shall be due at the time of the filing of the report.

§ 709. Individuals engaged in more than one occupation.

- A. Each individual who shall have more than one occupation within the Borough 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 Emergency and Municipal Services Tax Officer, 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, address and the name and account number of the employer who deducted this tax.

- B. If a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such emergency and municipal services tax shall be in the following order: first, the political subdivision in which a person maintains his 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; third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. 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 \$42.00 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. 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.
- C. Deduction or nondeduction and reporting by employers shall be in accordance with Subsection A. hereof.

§ 710. Self-employed individuals.

- A. All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within the Borough, shall be required to comply with this article and pay the tax to the Emergency and Municipal Services Tax Officer on or before April 30 of that year, or as soon thereafter as he engages in an occupation.
- B. In the event a self-employed person is engaged in more than one occupation within or without the Borough or an occupation which required his working in more than one political subdivision during the year, reporting priority of claims and prima facie certification of payment shall be in accordance with § 709A and B.

§ 711. Nonresident employers and self-employed individuals.

All employers and self-employed individuals residing or having their place of business outside of the Borough, but who perform services of any type or kind or engage in any occupation or profession within the Borough, 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. Any individual engaged in an occupation within the Borough and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, and in the event 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 hereinafter provided.

§ 712. Administration of tax.

- A. It shall be the duty of the Emergency and Municipal Services Tax Officer to accept and receive payments of this tax, 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 Treasurer.
- B. The Emergency and Municipal Services Tax Officer is hereby charged with the administration and enforcement of this article 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 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 Emergency and Municipal Services Tax Officer shall have the right to appeal to the Court of Common Pleas of York County as is provided in other cases.
- C. The Emergency and Municipal Services Tax Officer 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 Emergency and Municipal Services Tax Officer the means, facilities and opportunity for such examination.

§ 713. Suits on collection; penalty and interest.

- A. If any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Emergency and Municipal Services Tax Officer, on behalf of the Borough, may sue for the recovery of any such tax due or unpaid under this article together with interest and penalty.
- B. If for any reason the tax is not paid when due, a penalty in the amount of 10% on the amount of said tax, and interest at the rate of 0.5% of the amount of the unpaid tax for each month or fraction thereof during 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.

§ 714. Refunds.

- A. Refunds of the emergency and municipal services tax will, under normal circumstances, not be considered until after the close of the tax year, where such refund is based upon the claim that the taxpayer did not earn \$5,000.00 or more by employment within the Borough as provided in Section 225-61.

- B. Refund claims based upon non-earning of \$5,000.00 or more within the Borough must be accompanied by appropriate documentary evidence, such as W-2's or a statement from the employer where the W-2 issued contains both earnings within and outside the Borough.
- C. Claims for refunds representing duplicate deductions made by two or more separate employers on the same employee, which represents an obvious overpayment of the limit of the tax, will be considered timely and acted upon even though the tax year has not terminated; or refunds of tax deductions made erroneously by an employer where there is documentary evidence presented that the employee was not and will not be employed within the Borough during the tax year will also be considered timely even though the year has not terminated.

§ 715. Refunds in excess of annual limit.

- A. Act 222 of 2004, December 1, 2004 limits the annual rate of emergency and municipal services tax on any one individual to not more than \$52.00 per year.
- B. If, at any time, two political subdivisions shall impose the above tax on the same person, subject, or privilege located within both political subdivisions, during the same year or part of the same year, under authority of P.L. 1257 during the time such duplication of the tax exists, the tax shall be $\frac{1}{2}$ the rate as above limited, and such $\frac{1}{2}$ rate shall become effective by virtue of the requirements of P.L. 1257 without any action on the part of the political subdivision imposing the tax.
- C. Any person whose place of employment is located in another political subdivision imposing the emergency and municipal services tax, but who performs his services for such employer within the Borough limits shall be taxable to the Borough only to the limit of $\frac{1}{2}$ of the rate as above limited per annum, and if an amount in excess of this limit is paid to the Borough for such occupation privilege, any such excess shall be refunded to such employee upon the filing of a claim for refund, accompanied by sufficient documentary evidence to support such overpayment, such as emergency and municipal services tax receipts showing the payments to both subdivisions.

§ 716. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this Part, 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, shall, upon conviction, be sentenced and fined not more than \$600 for each offense and, in default of payment thereof, shall be imprisoned for not more than 30 days for each offense. It is further provided that the action to enforce the fine and penalty hereby provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this article.

Section 2: In the event any section, subsection, sentence or clause of this ordinance is found to be invalid, for any reason, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

Section 3: This ordinance shall be effective as of 12:00 a.m. on JAN. 2, 2006.

ENACTED AND ORDAINED this 19th day of DECEMBER, 2005.

ATTEST:

Anne C. Fross
Secretary

BOROUGH COUNCIL OF THE
BOROUGH OF WRIGHTSVILLE

By: David Lindeman
President, Borough Council

APPROVED this 19th day of DECEMBER, 2005.

Gene Henderson
Mayor