

ARTICLE V
LOCAL SERVICES TAX

History: Adopted by the Board of Supervisors as Ordinance No. 2009-11-04.

§ 18-501. Purpose

- A. This Article shall be known and may be cited as “Center Township Local Services Tax Ordinance”.
- B. The Center Township Board of Supervisors desires to enact the Local Services Tax for the privilege of engaging in an occupation with a primary place of employment within Center Township.

§ 18-502. Definitions

For the purpose of this Article, certain terms and words used herein are defined as follows:

- A. **Collector:** The person, public employee, or private agency designated by Center Township to collect and administer the tax herein imposed.
- B. **DCED:** The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- C. **Earned Income:** Compensation as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257 §13, as amended, 53 P.S. §6913, as amended.
- D. **Employer:** An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency, or other entity employing one or more persons on a salary, wage, commission, or other compensation basis, including a self-employed person.
- E. **He, His, or Him:** Indicates the singular and plural number, as well as male, female and neuter genders.
- F. **Individual:** Any person, male or female, engaged in any occupation, trade, or profession within the boundaries of Center Township.
- G. **Net Profits:** The net income from the operation of a business, profession; or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257 §13, as amended, 53 P.S. §6913, as amended.

- H. **Occupation:** Any trade, profession, business, or undertaking of any type, kind, or character, including services, domestic, or other, earned on or performed within Center Township for which compensation is charged or received; whether by means of salary, commission, or fees for services rendered.
- I. **Political Subdivision:** The area within the corporate limits of the Township of Center, Butler County, Pennsylvania.
- J. **Tax:** The local services tax at the rate fixed in Section 18-503 of this Article.
- K. **Tax Year:** The period from January 1 until December 31 in any year; a calendar year.

§ 18-503. Levy of Tax

- A. For the specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2010: upon the privilege of engaging in an occupation with a primary place of employment within Center Township during the tax year.
- B. Each natural person who exercises such privilege for any length of time during any tax year in the amount of \$52.00, assessed on a pro rata basis, in accordance with the provisions of this Article.
- C. This tax may be used solely for the following purposes as the same may be allocated by the Board of Supervisors from time to time;
 - 1. emergency services, which shall include emergency medical services, police services and/or fire services.
 - 2. road construction and/or maintenance;
 - 3. reduction of property taxes; or
 - 4. property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion).
- D. Center Township shall use no less than twenty-five percent (25%) of the funds derived from the tax for emergency services.
- E. This tax is in addition to all other taxes of any kind or nature heretofore levied by Center Township.

- F. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of employers within Center Township which a person maybe employed.

§ 18-504. Exemption and Refunds

A. Exemption

Any person whose total earned income and net profits from all sources within Center Township is less than twelve thousand dollars (\$12,000) for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition the following persons are exempt from payment of the tax:

1. Any person who has 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 quadruple amputee or has a service connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent (100%) disability.
2. 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. For the purpose of this subparagraph, "reserve component of the armed forces shall mean;
 - a. the United Army Reserve,
 - b. the United States Navy Reserve,
 - c. the United States Marine Reserve,
 - d. the United States Coast Guard Reserve,
 - e. the United States Air Force Reserve,
 - f. the Pennsylvania Army National Guard, or
 - g. the Pennsylvania Air National Guard

B. Procedure to Claim Exemption

1. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with Center Township and with the person's employer affirming that the person reasonably expects to receive

earned income and net profits from all sources within Center Township of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event Center Township utilizes a tax collection officer, the exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within Center Township for the year prior to the fiscal year for which the employee is requesting to be exempt from the tax. Upon receipt of the exemption certificate and until otherwise instructed by Center Township as by Section 18-504.B.2, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by Center Township.

2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by Center Township that the person has received earned income and net profits from all sources within Center 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 tax exemption for that calendar year or upon employer's payment to the person of earned income within Center Township in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under Section 18-504.B.3.
3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause 2, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person for the first payroll period after receipt of notification under Section 18-504.B.2, a lump sum equal to the amount of tax that was not withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and Center Township may pursue collection under this Article.
4. Except as provided in Section 18-504.B.2, it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility, or exempting any employee from the local services tax.

C. Refunds

The Board of Supervisors, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any

person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds may be made 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 later, shall not subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1.00): The Board of Supervisors or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 18-505. Duty of Employers to Collect

- A. Each employer within Center Township, as well as those employers situated outside Center Township but who engage in business within Center Township, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within Center Township and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage, or commission and whether or not all such services are performed in Center Township.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of tax for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth (1/100) of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Section 18-505.D of this Article. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.
- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes:
 - 1. name of employer
 - 2. the length of payroll period
 - 3. the amount of tax withheld, and

4. a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two (2) weeks of occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than fifty-two dollars (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by a taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to Center Township if the failure to withhold taxes 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. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Section 18-504 of this Article and this section and remits the amount so withheld in accordance with this Article.
- G. Employers shall be required to remit the local services tax thirty (30) days after the end of each quarter of a calendar year.

§ 18-506. Returns

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages, or commissions paid by him or her to an employee, except as provided hereafter in this Article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 18-507. Dates for Determining Tax Liability and Payment

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth (30th) day following the end of each calendar quarter of each such tax year.

§ 18-508. Self-Employed Individuals

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primarily place of employment within Center Township shall be required to comply with this Article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth (30th) day following the end of each quarter.

§ 18-509. Individuals Engaged in More Than One Occupation or Employed in More Than One Political Subdivision

A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

1. First, the political subdivision in which a person maintains his or her principal office or is principally employed;
2. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
3. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

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.

§ 18-510. Nonresidents Subject to Tax

A. All employees and self-employed individuals residing or having their places of business outside Center Township but who perform services of any type or kind or engage in any occupation or profession within Center 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 Center Township. Further, any individual engaged in an occupation within Center Township and an employee of a nonresidential employer may, for the purpose of this Article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option or proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 18-511. Liability for Payment

The failure or omission of any employer to deduct the tax or remit the same to the Township shall not relieve any individual from the payment of the tax.

§ 18-512. Administration of Tax

A. The Collector shall be appointed by resolution of the Center Township Board of Supervisors. 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.

- B. The Collector is hereby charged with the administration and enforcement of this Article and hereby is charged and empowered, subject to municipal approval, to proscribe, adopt, and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the examination of 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 consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998.
- 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.

§ 18-513. Suits for Collection

- A. In the event that any tax under this Article remains due or unpaid thirty (30) days after the due dates above set forth, the Collector 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, interest at the rate of six percent (6%) on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of five percent (5%) shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

§ 18-514. Violations and Penalties

Whoever makes any false or untrue statement on any return required by this Article, or whoever refuses inspections of the books, records, or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Article shall be guilty of a violation and, upon conviction thereof, shall be sentence to pay a fine of not more than six hundred dollars (\$600.00) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this Article.

§ 18-515. Interpretation

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