

ORDINANCE NO. 2005- 6

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF HILLTOWN TOWNSHIP AMENDING THE CODE OF THE TOWNSHIP OF HILLTOWN, CHAPTER 143, ARTICLE IV, SECTIONS 143-29 THROUGH 143-37 (ORDINANCE NO. 90-2 KNOWN AS "OCCUPATIONAL PRIVILEGE TAX") AND TO PROVIDE FOR ENACTMENT OF AN EMERGENCY AND MUNICIPAL SERVICES TAX.

WHEREAS, the Local Tax Enabling Act (P.L. 1257, No. 511), which was enacted December 31, 1965, in part authorizes Second Class Townships to impose a tax for general revenue purposes upon the privilege of engaging in an occupation within the local municipality, known as an Occupation Privilege Tax (OPT); and

WHEREAS, on March 26, 1990, the Hilltown Township Board of Supervisors adopted Ordinance No. 90-2 (later codified within Chapter 143, Article IV) which imposed an Occupation Privilege Tax at the rate of \$10.00, in accordance with the Local Tax Enabling Act No. 511; and

WHEREAS, on December 1, 2004, the Local Tax Enabling Act No. 511 was amended by Act 222 of 2004, which establishes the Emergency and Municipal Services Tax and provides for changes to the administration, rate of collection, and title of the Occupation Privilege Tax; and

NOW, THEREFORE, BE IT ORDAINED as follows:

§143-29. Short title.

This article shall be known and may be cited as the "Hilltown Township Emergency and Municipal Services Tax Ordinance."

§143-30. Definitions and word usage.

- 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:

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

INDIVIDUAL – Any person, male or female, engaged in any occupation, trade or profession within the Township of Hilltown.

OCCUPATION – Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the Township of Hilltown for which an aggregate total compensation of at least \$12,000 per calendar year is charged or received, whether by means of salary, wages, commissions or fees for services rendered.

TAX – The emergency and municipal services tax levied by this article.

TAX COLLECTOR – The person, public employee or private agency designated from time to time by the Board of Supervisors of the Township of Hilltown to collect and administer the tax imposed by this article.

TOWNSHIP OF HILLTOWN – The area within the corporate limits of the Township of Hilltown, Bucks County, Pennsylvania.

- B. “He/she”, “his/her” or “him/her” indicates the singular and plural number as well as male, female and neuter gender.

§143-31. Levy.

The Township of Hilltown hereby levies and imposes on each occupation engaged in by individuals within its corporate limits an emergency and municipal services tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Hilltown and shall continue in force on a calendar-year basis without annual reenactment unless the rate is subsequently changed.

§143-32. Amount of tax.

- A. Beginning with the first day of January, each occupation, as hereinbefore defined, engaged in within the corporate limits of the Township of Hilltown shall be subject to an emergency and municipal services tax in the amount of \$52 per annum, said tax to be paid by the individual so engaged.
- B. Any individual whose total income from all sources is less than \$12,000 per annum shall be exempt from the payment of the emergency and municipal services tax.
- C. No more than 25% of the tax levied on any one person shall be collected in any calendar year quarter.
- D. Individuals shall only be subject to payment of the portions of the emergency and municipal services tax attributable to the calendar-year quarters in which the individual is engaged in an occupation within the corporate limits of the Township. Being engaged in an occupation on the first day of the first pay

period following either January 1, April 1, July 1 or October 1 shall subject the individual to payment of the portion of the total tax to be levied attributable to that calendar quarter.

§143-33. Duty of employers.

Each employer within the Township of Hilltown, as well as those employers situated outside the Township of Hilltown but who engage in business within the Township of Hilltown, is hereby charged with the duty of collecting from each of the employees engaged by him/her and performing for him/her within the Township of Hilltown said tax of \$52 per annum and making a return and payment thereof to the Tax Collector. Further, each employer is hereby authorized to deduct this tax from each employee in his/her employ, whether said employee is paid by salary, wages, commissions or fees and whether or not part or all such services are performed within the Township of Hilltown. No more than 25% of the tax levied on any one person shall be collected in any calendar-year quarter.

§143-34. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms supplied to him/her by the Tax Collector. Each employer in filing this return and making payment of the tax withheld from his/her employees shall be entitled to retain a commission to cover the costs incurred from the extra bookkeeping necessary to record such transactions calculated at the rate of two per centum (2%) of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. If the employer fails to file said return and pay said tax, whether or not he/she makes collection thereof from the salary, wages, commissions or fees paid each employee in his/her employ, 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/her.

§143-35. Dates for determining tax liability and payment.

Each employer shall use his/her employment records from the first day of each calendar-year quarter commencing January 1, April 1, July 1 and October 1 for determining the number of employees from whom said tax shall be deducted and paid over to the Tax Collector. Reports shall be made by each employer on January 31, April 30, July 31 and October 31 of new employees as reflected on his/her employment records. Employers shall collect the said tax from his/her employees in quarterly installments on the first payday of the first pay period following January 1, April 1, July 1 and October 1, and said employer shall make payment of the tax to the Tax Collector on a basis to be determined by the Tax Collector of the following year, respectively.

§143-36. Individuals engaged in more than one occupation.

- A. Each individual who shall have more than one (1) occupation within the Township of Hilltown shall be subject to the payment of this tax on his/her principal occupation, and his/her principal employer shall deduct this tax and deliver to him/her evidence of deductions on a form to be furnished to the employer by the Tax Collector, 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/her return by setting forth his/her name and address and the name and account number of the employer who deducted this tax.
- B. Priority of claim to collect.
- (1) In the event an individual is engaged in more than one occupation or in an occupation which requires working in more than one political subdivision during the calendar year, the priority of claim to collect such occupational emergency and municipal services tax shall be in the following order:
- (a) The political subdivision in which the individual maintains his/her principal office or is principally employed.
 - (b) The political subdivision in which the individual resides and works, if such a tax is levied by that political subdivision.
 - (c) The political subdivision in which the individual is employed and which imposes the tax nearest in miles to the individual's home.
- (2) 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 \$52 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 a dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payments shall constitute 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.

§143-37. Self-employed individuals.

- A. All self-employed individuals who perform services of any type or kind engaged in any occupation or profession within the Township of Hilltown shall be required to comply with this article and pay the tax to the Tax Collector on April 30 or as soon thereafter as he/she engages in an occupation.
- B. In the event that a self-employed person is engaged in more than one (1) occupation within or without the Township of Hilltown or in an occupation which requires working in more than one (1) political subdivision during the year, reporting priority of claims and prima facie certification of payment shall be in accordance with §143-36.

§143-38. Employers and self-employed individuals residing beyond the corporate limits of the Township.

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

§143-39. Administration of tax.

- A. It shall be the duty of the Tax Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him/her from each employer or self-employed person, together with the date the tax was received.
- B. The Tax Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including the 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; or any payment made by a taxpayer who is engaged in a business or occupation or businesses or occupations within the Township of Hilltown from which he/she derives in

the aggregate less than \$12,000 per year income from all sources. Any person aggrieved by any decisions of the Tax Collector shall have the right to appeal to the Court of Common Pleas of Bucks County as in other cases provided.

- C. The Tax 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 Tax Collector the means, facilities and opportunity for such examination.
- D. The funds derived from this emergency and municipal services tax may only be used for police, fire and/or emergency services; road construction and/or maintenance; or reduction of property taxes.

§143-40. 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 Tax 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 6% on the amount of said tax shall be calculated beginning with the due date of said tax, and a penalty of 5% shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

§143-41. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article or who refuses inspection of his/her books, records or accounts in his/her custody and control setting forth the number of employees subject to this tax who are in his/her employment or whoever fails or refuses to file any return required by this article or fails or refuses to pay the tax herein levied shall, upon a summary conviction before a District Justice, be sentenced to pay a fine of not more than Six Hundred Dollars (\$600) for each offense and, in default of payment of said fine and costs, be imprisoned in the local or Bucks County Jail for a period not exceeding thirty (30) days for each offense. The action to enforce the fine and penalty herein 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.

§143-42. Severability.

If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Hilltown Township, that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SO ENACTED AND ORDAINED this 12 day of December, 2005.

HILLTOWN TOWNSHIP
BOARD OF SUPERVISORS






