

ORDINANCE NO. 272

AN ORDINANCE PROVIDING FOR A LOCAL SERVICES TAX OR LST, EXEMPTION FROM TAXATION, ADMINISTRATION OF TAX DUTY OF EMPLOYERS, SELF-EMPLOYED INDIVIDUALS SUITS FOR COLLECTION AND PENALTY.

Section 1: DEFINITIONS

The following words and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

- a. "Individual" means any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Municipality.
- b. "Occupation" means 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 Municipality for which compensation is charged or received, whether by means of salary, wages, commissions or fees for services rendered.
- c. "Employer" means an individual, partnership association, corporation, governmental body, agency or other employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.
- d. "Tax" means the Local Services Tax (LST) in the amount of fifty-two dollars (\$52.00) levied by this ordinance.
- e. "Collector" means the Municipal employee or other person per Resolution
- f. "Fiscal year" means the twelve-month period beginning January 1 and ending December 31 of each calendar year.
- g. "Municipality" means the area within the corporate limits of the Old Lycoming Township.
- h. "He", "his", "him" means and indicates the singular and plural number as well as male, female and neuter gender.

Section 2: LEVY

The Municipality hereby levies and imposes an emergency and municipal service tax engaged in by individuals within its corporate limits during the fiscal year 2014 and thereafter. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Municipality.

Section 3: STATUTORY AUTHORITY

This ordinance is enacted under the authority of "The Local Tax Enabling Act" as enacted by the General Assembly of the Commonwealth of Pennsylvania as Act No.511, approved December 31, 1965, as amended.

Section 4: AMOUNT OF TAX

Beginning on January 1, 2014, each occupation, as hereinbefore defined, engaged within the corporate limits of the Municipality, shall be subject to a local service tax in the amount of fifty-two dollars (\$52.00) per annum, such tax to be paid by the individual so engaged.

Section 5: EXEMPTION FROM TAX

Any individual whose total income from all sources during the fiscal year is less than twelve thousand dollars (\$12,000.00) is exempt from such tax.

Section 6: DUTY OF EMPLOYERS

Each employer within the Municipality, as well as those employers situated outside of the Municipality, but who engage in business within the Municipality is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Municipality, the tax of fifty-two dollars (\$52.00) per annum and making a return and payment thereof to the Municipality's Collector. Each employer is further authorized to deduct this tax from each employee in his employ, whether or not part of all such services are performed within the Municipality.

Section 7: RETURNS

Each employer shall prepare and file a return showing a computation of tax on forms to be supplied by the Collector. If the employer fails to file such return and pay such tax, whether or not he make collections thereof from the salary, wages or commission 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.

Section 8: DATES FOR DETERMINING TAX LIABILITY AND PAYMENT

Each employer shall use his employment records from January 1 to March 31 of each fiscal year, for determining the number of employees from whom such tax shall be deducted and paid to the Municipality's Collector on or before April 30. Supplemental reports shall be made by each employer on June 30, September 30, and December 31 of new employees as reflected on his employment records and payments based on these supplemental reports shall be made on July 31, October 31, and January 31 respectively of the fiscal year.

Section 9: INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION

Each Individual who has more than one occupation within the Municipality 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 deductions on a form to be furnished to the employer by the Collector, which form shall have 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.

Section 10: **SELF-EMPLOYED INDIVIDUALS**

All self employed individuals who perform services of any type or kind, engage in any occupation or profession within the Municipality shall be required to comply with this ordinance and pay the tax to the Municipality's Collector on June 15 of each year, or as soon thereafter as he engages in an occupation.

Section 11: **EMPLOYER AND SELF-EMPLOYED INDIVIDUALS RESIDING OUTSIDE THE MUNICIPALITY**

All employers and self-employed individuals resident or having their place of business outside of the Municipality but who perform services of any type or kind, or engage in any occupation or profession within the Municipality do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this ordinance with the same force and effect as though they were residents of the Municipality. Any individual engaged in an occupation within the Municipality and an employee of a nonresident employer may, for the purpose of this ordinance, be considered a self-employed person, and in the event this tax is not paid, the Municipality shall have the option of proceeding against the employer or employee for the collection of this tax as hereinafter provided.

Section 12: **ADMINISTRATION OF TAX**

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

Section 13: **SUITS FOR COLLECTION**

- a. In the event that any tax under this ordinance remains due or unpaid thirty days after the due dates set forth above, the Tax Collector may sue for the recovery for any such tax due or unpaid under this ordinance together with interest and penalty as set by resolution.
- b. If for any reason the tax is not paid when due, the interest rate as set by resolution of such tax shall be calculated beginning with the due date of such tax and a penalty as set by resolution for each month added to such tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable thereof shall, in addition, be responsible and liable for costs of collections.

Section 14: **VALIDITY**

The provisions of this ordinance are severable and if any of its provisions are held invalid or unconstitutional, the decision of the court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this ordinance would not have been adopted if such illegal, invalid or unconstitutional provision had not been included herein.

Section 15: **SAVING CLAUSE**

- a. Nothing contained in this ordinance shall be construed to empower the Municipality to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Municipality under the Constitution of the United States and the law of the Commonwealth of Pennsylvania.
- b. If the tax imposed under the provisions of this ordinance are 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 such tax, or the validity of the tax so imposed on other persons or individuals as herein provided.

Section 16: **EFFECTIVE DATE**

This ordinance shall become effective January 1, 2014, and remain in force and effect thereafter.

Section 17: **PENALTY**

Whoever makes any false or untrue statement on any return required by this ordinance, or who refuses inspection of his books, records or accounts in his 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 ordinance shall be fined not more than one thousand dollars (\$1,000.00) for each offense or imprisoned not more than ninety days (90) or both. It is further provided that 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 ordinance.

DULY ENACTED AND ORDAINED this 10th day of December, 2013. By Old Lycoming Township, Lycoming County Pennsylvania, in lawful session duly assembled.

Attest

Old Lycoming Township

John Eck, Chairman

Robert Whitford, Secretary
(Seal)

Janet Hall, Supervisor

Linda Mazzullo, Supervisor