

LOCAL TAX ENABLING ACT - OMNIBUS AMENDMENTS

Act of Jun. 21, 2007, P.L. 13, No. 7

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SB 218

AN ACT

Amending the act of December 31, 1965 (P.L.1257, No.511), entitled "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," providing for local services taxes; repealing provisions relating to emergency and municipal services taxes and to continuation of occupational privilege taxes; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended December 1, 2004 (P.L.1729, No.222), is amended to read:

Section 2. Delegation of Taxing Powers and Restrictions Thereon.--(a) The duly constituted authorities of the following political subdivisions, cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class, and school districts of the fourth class, in all cases including independent school districts[,] may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of such taxes as they shall determine on persons, transactions, occupations, privileges, subjects and personal property within the limits of such political subdivisions, and upon the transfer of real property, or of any interest in real property, situate within the political subdivision levying and assessing the tax, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer take place. The taxing authority may provide that the transferee shall remain

liable for any unpaid realty transfer taxes imposed by virtue of this act.

(b) Each local taxing authority may, by ordinance or resolution, exempt any person whose total income from all sources is less than twelve thousand dollars (\$12,000) per annum from the per capita or similar head tax, occupation tax [and emergency and municipal services tax,] or earned income tax, or any portion thereof, and may adopt regulations for the processing of claims for exemptions.

(c) (1) Each political subdivision levying the local services tax shall exempt the following persons from the local services tax:

(i) 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 permanent disability.

(ii) 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.

(2) For purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

(d) Each political subdivision levying the local services tax at a rate exceeding ten dollars (\$10) shall, and each political subdivision levying the local services tax at a rate of ten dollars (\$10) or less may, by ordinance or resolution, exempt any person from the local services tax whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand dollars (\$12,000) for the calendar year in which the local services tax is levied.

(e) (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision levying the tax and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer pursuant to section 10 of this act, the political subdivision shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employe's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employe is requesting to be exempted from the local services tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision levying the tax or except as required by clause (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 employes at all times and shall furnish each new employe with a form at the time of hiring. The Department of Community and Economic Development shall develop and make available to political subdivisions and employers uniform exemption certificates required by this clause.

(2) With respect to a person who claimed an exemption for a given calendar year from the local services tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within that political subdivision 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 an employer's payment to the person of earned income within that political subdivision 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 clause (3).

(3) If a person who claimed an exemption for a given calendar year from the local services 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 the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employes. 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 the political subdivision levying the tax may pursue collection under this act.

(4) Except as provided in clause (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 employe from a local services tax.

(f) Such local authorities shall not have authority by virtue of this act:

(1) To levy, assess and collect or provide for the levying, assessment and collection of any tax on the transfer of real property when the transfer is by will or mortgage or the intestate laws of this Commonwealth or on a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single family residential premises or on a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof, or on a transfer between nonprofit industrial development agencies and industrial corporations purchasing from them, or on transfer to or from nonprofit industrial development agencies, or on a transfer between husband and wife, or on a transfer between persons who were previously husband and wife but who have since been divorced; provided such transfer is made within three months of the date of the granting of the final decree in divorce, or the decree of equitable distribution of marital property, whichever is later, and the property or interest therein, subject to such transfer, was acquired by the husband and wife, or husband or wife, prior to the granting of the final decree in divorce, or on a transfer between parent and child or the spouse of such a child, or between parent and trustee for the benefit of a child or the spouse of such child, or on a transfer between a grandparent and grandchild or the spouse of such grandchild, or on a transfer between brother and sister or brother and brother or sister and sister or the spouse of such brother or sister, or on a transfer to a conservancy which possesses a tax-exempt status pursuant to

section 501(c)(3) of the Internal Revenue Code, and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, or on a correctional deed without consideration, or on a transfer to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation, leases, or on a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer within a family from a sole proprietor family member to a family farm corporation, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee;

(2) To levy, assess or collect a tax on the gross receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or on any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service;

(3) Except on sales of admission to places of amusement, **other than on sales of admission to professional baseball events in a city of the third class with a population of not less than one hundred six thousand and not more than one hundred seven thousand based on the 2000 Federal decennial census**, or on sales or other transfers of title or possession of property, to levy, assess or collect a tax on the privilege of employing such tangible property as is now or does hereafter become subject to a State tax; and for the purposes of this clause, real property rented for camping purposes shall not be considered a place of amusement.

(4) To levy, assess and collect a tax on goods and articles manufactured in such political subdivision or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in such political subdivision or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products; except that local authorities may levy, assess and collect [an emergency and municipal] **a local** services tax and taxes on the occupation, per capita and earned income or net profits of natural persons engaged in the above activities whether doing business as individual proprietorship or as members of partnerships or other associations;

(5) To levy, assess or collect a tax on salaries, wages, commissions, compensation and earned income of nonresidents of the

political subdivisions: Provided, That this limitation (5) shall apply only to school districts of the second, third and fourth classes;

(6) To levy, assess or collect a tax on personal property subject to taxation by counties or on personal property owned by persons, associations and corporations specifically exempted by law from taxation under the county personal property tax law: Provided, That this limitation (6) shall not apply to cities of the second class;

(7) To levy, assess or collect a tax on membership in or membership dues, fees or assessment of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmens, recreational, golf and tennis clubs, girl and boy scout troops and councils;

(8) To levy, assess or collect any tax on a mobilehome or house trailer subject to a real property tax unless the same tax is levied, assessed and collected on other real property in the political subdivision.

(9) To levy, assess or collect any tax on individuals for the privilege of engaging in an occupation [(emergency and municipal services tax)] except that such a tax, **to be known as the local services tax**, may be levied, assessed and collected only by the political subdivision of the taxpayer's place of employment.

[Payment of any emergency and municipal services tax to any political subdivision by any person pursuant to an ordinance or resolution passed or adopted under the authority of this act shall be no less than ten dollars (\$10) nor more than fifty-two dollars (\$52) on each person for each calendar year.

The situs of such tax shall be the place of employment, but, in the event 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 fifty-two dollars (\$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 dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment which constitutes prima facie certification of payment to all other political subdivisions.] **The following apply:**

(i) If a local services tax is levied at a combined rate exceeding ten dollars (\$10) in a calendar year, a person subject to the local services tax shall be assessed 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 combined rate of the local services tax levied 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 of a dollar. Collection of the local services tax levied under this subclause 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 subclause (v).

(ii) If a school district levied an emergency and municipal services tax on the effective date of this subclause, the school district may continue to levy the local services tax in the same amount the school district collected on the effective date of this subclause. However, if a municipality located in whole or in part within the school district subsequently levies the local services tax, the school district may only collect five dollars (\$5) on persons employed within the municipality each calendar year. A school district that did not levy an emergency and municipal services tax on the effective date of this subclause shall be prohibited from levying the local services tax. If a school district and a municipality located in whole or in part within the school district both levy a local services tax at a combined rate exceeding ten dollars (\$10), the school district's pro rata share of the aggregate local services taxes levied on persons employed within the municipality shall be collected by the municipality or its tax officer based on payroll periods as provided under subclause (i) and shall be paid to the school district on a quarterly basis within sixty days of receipt by the municipality or its tax officer.

(iii) Except as provided in subclause (ii), no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period as established by subclause (iv).

(iv) With respect to a person subject to the local services tax at a combined rate exceeding ten dollars (\$10), 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. With respect to a person subject to the local services tax at a combined rate of not more than ten dollars (\$10), the situs of the tax shall be the place of employment determined as of the day the person first becomes subject to the tax during the calendar year. 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: first, the political subdivision in which a person maintains the person's principal office or is principally employed; second, the political subdivision in which the person resides and works, if the tax is levied by that political subdivision; and third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

(v) In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employe provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the employe that the pay statement is from the employe's principal employer and the employe will notify other employers of a change in principal place of employment within two weeks of its occurrence. The Department of Community and Economic Development shall develop a uniform employe statement form.

(vi) The local services tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. A political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(vii) Political subdivisions shall adopt regulations for the processing of refund claims for overpaid local services taxes for any calendar year. The regulations shall be consistent with 53

Pa.C.S. §§ 8425 (relating to refunds of overpayments) and 8426 (relating to interest on overpayment). Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year under section 9 of this act, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. § 8426. Political subdivisions shall only provide refunds for amounts overpaid in a calendar year that exceed one dollar (\$1).

(viii) The Department of Community and Economic Development shall provide suggested forms and technical assistance to facilitate the administration of the local services tax for political subdivisions and reduce the burden of implementation, accounting and compliance for employers and taxpayers.

(ix) For purposes of this clause, "combined rate" shall mean the aggregate annual rate of the local services tax levied by a school district and a municipality located in whole or in part within the school district.

(10) To levy, assess or collect a tax on admissions to motion picture theatres: Provided, That this limitation (10) shall not apply to cities of the second class.

(11) To levy, assess or collect a tax on the construction of or improvement to residential dwellings or upon the application for or issuance of permits for the construction of or improvements to residential dwellings.

(12) To levy, assess and collect a mercantile or business privilege tax on gross receipts or part thereof which are: (i) discounts allowed to purchasers as cash discounts for prompt payment of their bills; (ii) charges advanced by a seller for freight, delivery or other transportation for the purchaser in accordance with the terms of a contract of sale; (iii) received upon the sale of an article of personal property which was acquired by the seller as a trade-in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of trade-in allowance made in acquiring such article; (iv) refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned; (v) Pennsylvania sales tax; (vi) based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be returned at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received may be included in the gross receipts of the seller receiving such additional cash payments; (vii) of sellers from sales to other sellers in the same line where the seller transfers the title or possession at the same price for which the seller acquired the merchandise; or (viii) transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.

(13) To levy, assess or collect an amusement or admissions tax on membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control.

(14) Except by cities of the second class, to levy, assess or collect a tax on payroll amounts generated as a result of business

activity.

(15) Except by cities of the second class in which a sports stadium or arena that has received public funds in connection with its construction or maintenance is located, to levy, assess and collect a publicly funded facility usage fee upon those nonresident individuals who use such facility to engage in an athletic event or otherwise render a performance for which they receive remuneration.

(16) To levy, assess or collect an amusement or admissions tax on the charge imposed upon a patron for the sale of admission to or for the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling.

(g) For the purposes of this section, the terms "earned income" and "net profits" shall have the same meanings as those terms given in Division I of section 13.

Section 2. Section 7 of the act, amended August 11, 1967 (P.L.228, No.83) and October 9, 1967 (P.L.361, No.160), is amended to read:

Section 7. Filing of Certified Copies of Ordinances and Resolutions.--When an ordinance or a resolution is first passed or adopted by a political subdivision imposing a tax or license fee under the authority of this act, an exact printed or typewritten copy thereof, certified to by the secretary of the taxing body, shall be filed with the [Department of Community Affairs] **Department of Community and Economic Development** within fifteen days after the same becomes effective.

Any secretary or person acting as the clerk or secretary of the taxing body of any political subdivision during the meeting at which an ordinance or resolution imposing a tax or license fee is passed or adopted as herein provided who shall fail to file the certified copy or statement relative thereto with the [Department of Community Affairs] **Department of Community and Economic Development** as herein required, shall, upon summary conviction thereof in the county in which the political subdivision is located, be sentenced to pay a fine of not less than five dollars (\$5) nor more than twenty-five dollars (\$25), and the costs of prosecution.

Section 3. Section 8 of the act, amended December 1, 2004 (P.L.1729, No.222), is amended to read:

Section 8. Limitations on Rates of Specific Taxes.--No taxes levied under the provisions of this act shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

(1) Per capita, poll or other similar head taxes, ten dollars (\$10).

(2) On each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise, one mill, by retail dealers in goods, wares and merchandise and by proprietors of restaurants or other places where food, drink and refreshments are served, one and one-half mills; except in cities of the second class, where rates shall not exceed one mill on wholesale dealers and two mills on retail dealers and proprietors. No such tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise, taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(3) On wages, salaries, commissions and other earned income of individuals, one percent.

(4) On retail sales involving the transfer of title or possession of tangible personal property, two percent.

(5) On the transfer of real property, one percent.

(6) On admissions to places of amusement, athletic events and the like, and on motion picture theatres in cities of the second class, ten percent.

(7) Flat rate occupation taxes not using a millage or percentage as a basis, ten dollars (\$10).

(8) [Emergency and municipal] **Local** services taxes, fifty-two dollars (\$52).

(9) On admissions to ski facilities, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the cost of the lift ticket. The lift ticket shall include all costs of admissions to the ski facility.

(10) On admissions to golf courses, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the greens fee. The greens fee shall include all costs of admissions to the golf course.

(12) On payrolls, fifty-five hundredths percent.

Except as otherwise provided in this act, at any time two political subdivisions shall impose any one of the above taxes on the same person, subject, business, transaction or privilege, located within both such political subdivisions, during the same year or part of the same year, under the authority of this act then the tax levied by a political subdivision under the authority of this act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate, as above limited, and such one-half rate shall become effective by virtue of the requirements of this act from the day such duplication becomes effective without any action on the part of the political subdivision imposing the tax under the authority of this act. When any one of the above taxes has been levied under the provisions of this act by one political subdivision and a subsequent levy is made either for the first time or is revived after a lapse of time by another political subdivision on the same person, subject, business, transaction or privilege at a rate that would make the combined levies exceed the limit allowed by this subdivision, the tax of the second political subdivision shall not become effective until the end of the fiscal year for which the prior tax was levied, unless:

(1) Notice indicating its intention to make such levy is given to the first taxing body by the second taxing body as follows: (i) when the notice is given to a school district it shall be given at least forty-five days prior to the last day fixed by law for the levy of its school taxes; (ii) when given to any other political subdivision it shall be prior to the first day of January immediately preceding, or if a last day for the adoption of the budget is fixed by law, at least forty-five days prior to such last day; or

(2) Unless the first taxing body shall indicate by appropriate resolution its desire to waive notice requirements in which case the levy of the second taxing body shall become effective on such date as may be agreed upon by the two taxing bodies.

It is the intent and purpose of this provision to limit rates of taxes referred to in this section so that the entire burden of one tax on a person, subject, business, transaction or privilege shall not exceed the limitations prescribed in this section: Provided, however, That any two political subdivisions which impose any one of the above taxes, on the same person, subject, business, transaction or privilege during the same year or part of the same year may agree among themselves that, instead of limiting their respective rates to one-half of the maximum rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate as above permitted.

Notwithstanding the provisions of this section, any city of the second class A may enact a tax upon wages, salaries, commissions

and other earned income of individuals resident therein, not exceeding one percent, even though a school district levies a similar tax on the same person provided that the aggregate of both taxes does not exceed two percent. [In the case of duplication of emergency and municipal services taxes by both a school district, other than a school district of the first class A, and another taxing body, the school district's share of the tax shall not exceed the amount of a tax on the privilege of engaging in an occupation collected by the school district as of the effective date of this paragraph. In the case where a school district did not levy a tax on the privilege of engaging in an occupation on the effective date of this paragraph, the school district may impose a future levy not to exceed five dollars (\$5). A school district of the first class A shall not levy, assess or collect an emergency and municipal services tax.]

Section 4. Section 9 of the act, amended December 12, 1968 (P.L.1203, No.377), is amended to read:

Section 9. Register for Earned Income and [Occupational Privilege] **Local Services** Taxes.--It shall be the duty of the [Department of Community Affairs] **Department of Community and Economic Development** to have available an official continuing register supplemented annually of all earned income and [occupational privilege] **local services** taxes levied under authority of this act. The register and its supplements, hereinafter referred to as the register, shall list such jurisdictions levying earned income [and/or occupational privilege] **and local services** taxes, the rate of the tax as stated in the tax levying ordinance or resolution, and the effective rate on resident and nonresident taxpayers, if different from the stated rate because of a coterminous levy, the name and address of the officer responsible for administering the collection of the tax and from whom information, forms for reporting and copies of rules and regulations are available. With each jurisdiction listed, all jurisdictions making coterminous levies shall also be noted and their tax rates shown.

Information for the register shall be furnished by the secretary of each taxing body to the [Department of Community Affairs] **Department of Community and Economic Development** in such manner and on such forms as the [Department of Community Affairs] **Department of Community and Economic Development** may prescribe. The information must be received by the [Department of Community Affairs] **Department of Community and Economic Development** by certified mail not later than May 31 of each year to show new tax enactments, repeals and changes. Failure to comply with this date for filing may result in the omission of the levy from the register for that year. Failure of the [Department of Community Affairs] **Department of Community and Economic Development** to receive information of taxes continued without change may be construed by the department to mean that the information contained in the previous register remains in force.

The [Department of Community Affairs] **Department of Community and Economic Development** shall have the register with such annual supplements as may be required by new tax enactments, repeals or changes available upon request not later than July 1 of each year. The effective period for each register shall be from July 1 of the year in which it is issued to June 30 of the following year.

Employers shall not be required by any local ordinance to withhold from the wages, salaries, commissions or other compensation of their employes any tax imposed under the provisions of this act, which is not listed in the register, or make reports of wages, salaries, commissions or other compensation in connection with taxes not so listed: Provided, That if the register is not available by July 1, the register of the previous

year shall continue temporarily in effect for an additional period not to exceed one year. The provisions of this section shall not affect the liability of any taxpayer for taxes lawfully imposed under this act.

Ordinances or resolutions imposing earned income or [occupational privilege] **local services** taxes under authority of this act may contain provisions requiring employers doing business within the jurisdiction of the political subdivision imposing the tax to withhold the tax from the compensation of those of their employes who are subject to the tax: Provided, That no employer shall be held liable for failure to withhold earned income taxes or for the payment of such withheld tax money to a political subdivision other than the political subdivision entitled to receive such money if such failure to withhold or such incorrect transmittal of withheld taxes arises from incorrect information as to the employe's place of residence submitted by the employe: And provided further, That [employers shall not be required by any local ordinance to withhold from compensation for any one of their employes for the occupational privilege tax more than one time in any fiscal period:] **no employer shall be held liable for failure to withhold the local services tax or for the payment of the withheld tax money to a political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employe as to the employe's place or places of employment, the employe's principal office or where the employe is principally employed: And provided further, That 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 2(e) and (f)(9) and remits the amount so withheld in accordance with this section:** And provided further, That the [occupational privilege] **local services** tax shall be applicable to employment in the period beginning January 1, of the current year and ending December 31 of the current year, except that taxes imposed for the first time shall become effective from [the date] **January 1 of the year** specified in the ordinance or resolution, and the tax shall continue in force on a calendar year basis[.]: **And provided further, That employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.**

Section 5. Section 19 of the act, amended October 4, 1978 (P.L.930, No.177), is amended to read:

Section 19. Collection of Delinquent Per Capita, Occupation, Occupational Privilege, **Emergency and Municipal Services, Local Services** and Earned Income Taxes from Employers, etc.--The tax collector shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing delinquent per capita, or occupation, occupational privilege, **emergency and municipal services, local services** and earned income taxes, or whose spouse owes delinquent per capita, occupation, occupational privilege, **emergency and municipal services, local services** and earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent per capita, occupation, occupational privilege, **emergency and municipal services, local services** and earned income taxes, or whose spouse owes delinquent per capita, occupation, occupational privilege, **emergency and municipal services, local services** and earned income 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 or the spouse thereof and the amount of tax due. Upon the presentation of such written notice and demand, 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 employes, then owing or that shall within sixty days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within sixty days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent per capita, occupation, occupational privilege, **emergency and municipal services, local services** and earned income taxes and costs, shown upon the written notice or demand, and to pay the same to the tax collector of the taxing district in which such delinquent tax was levied within sixty days after such notice shall have been given. No more than ten percent of the wages, commissions or earnings of the delinquent taxpayer or spouse thereof may be deducted at any one time for delinquent per capita, occupation, occupational privilege, **emergency and municipal services, local services** and earned income taxes and costs. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employe the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent of the amount of money so collected and paid over to the tax collector. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the tax collector, less the cost of bookkeeping involved in such transaction, 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 tax for each such taxable whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the tax collector, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. The tax collector shall not proceed against a spouse or his employer until he has pursued collection remedies against the delinquent taxpayer and his employer under this section.

Section 6. Section 20 of the act is amended to read:

Section 20. Collection of Delinquent Per Capita, Occupation, Occupational Privilege, **Emergency and Municipal Services, Local Services** and Earned Income Taxes from the Commonwealth.--Upon presentation of a written notice and demand under oath or affirmation, to the State Treasurer or any other fiscal officer of the State, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty days thereafter become due to any employe, a sum sufficient to pay the respective amount of the delinquent per capita, occupation, occupational privilege, **emergency and municipal services, local services** and earned income taxes and costs shown on the written notice. The same shall be paid to the tax collector of the taxing district in which said delinquent tax was levied within sixty days after such notice shall have been given.

Section 7. Section 22.1 of the act, added November 30, 2004 (P.L.1520, No.192), is amended to read:

Section 22.1. Costs of Collection of Delinquent Per Capita, Occupation, Occupational Privilege, **Emergency and Municipal Services, Local Services** and Earned Income Taxes.--(a) A person, public employe or private agency designated by a governing body of a political subdivision to collect and administer a per capita, occupation, occupational privilege, **emergency and municipal services, local services** or earned income tax may impose and

collect the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer as approved by the governing body of the political subdivision. Reasonable costs collected may be retained by the person, public employe or private agency designated to collect the tax as agreed to by the governing body of the political subdivision. An itemized accounting of all costs collected shall be remitted to the political subdivision on an annual basis.

(b) Costs related to the collection of unpaid per capita, occupation [or], occupational privilege, **emergency and municipal services or local services** taxes may only be assessed, levied and collected for five years from the last day of the calendar year in which the tax was due.

(c) A delinquent taxpayer may not bring an action for reimbursement, refund or elimination of reasonable costs of collection assessed or imposed prior to the effective date of this section. Additional costs may not be assessed on delinquent taxes collected prior to the effective date of this section.

Section 8. Sections 22.4 and 22.5 of the act, added December 1, 2004 (P.L.1729, No.222), are repealed:

[Section 22.4. Emergency and Municipal Services Taxes.--Any reference in any act or law to an occupational privilege tax shall mean the emergency and municipal services taxes as provided for in this act.

Section 22.5. Restricted Use.--(a) Any municipality deriving funds from the emergency and municipal services tax may only use the funds for:

- (1) police, fire and/or emergency services;
- (2) road construction and/or maintenance; or
- (3) reduction of property taxes.

(b) For the purpose of the emergency and municipal services tax, the term municipality does not include a school district.]

Section 9. The act is amended by adding a section to read:

Section 22.6. Restricted Use.--(a) Any municipality deriving funds from the local services tax may only use the funds for:

- (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.**
- (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).**

(a.1) A municipality shall use no less than twenty-five percent of the funds derived from the local services tax for emergency services.

(b) In the event that a municipality decides to implement a homestead and farmstead exclusion for purposes of providing property tax relief in accordance with subsection (a)(4), the following shall apply:

(1) The decision to provide a homestead and farmstead exclusion shall be made, by ordinance, prior to December 1, with the homestead and farmstead exclusion to take effect for the fiscal year beginning the first day of January following adoption of the ordinance. Upon adopting an ordinance in accordance with this paragraph, a municipality shall, by first class mail, notify the assessor, as defined in 53 Pa.C.S. § 8582 (relating to definitions), of its decision to provide a homestead and farmstead exclusion.

(2) The assessor shall provide a municipality that will be imposing a homestead and farmstead exclusion in accordance with subsection (a)(4) with a certified report, as provided in 53 Pa.C.S. § 8584(i) (relating to administration and procedure),

listing information regarding homestead and farmstead properties in the municipality as determined pursuant to applications filed with the assessor in connection with this or any other law under which a homestead or farmstead exclusion has been adopted. In the year in which an ordinance is adopted in accordance with paragraph (1), the assessor shall provide the certified report after being notified by the municipality of its decision to provide a homestead and farmstead exclusion. In each succeeding year, the assessor shall provide the certified report by December 1 or at the same time the tax duplicate is certified to the municipality, whichever occurs first. Any duty placed on an assessor in accordance with this paragraph shall be in addition to those established in 53 Pa.C.S. Ch. 85 Subch. F and the act of June 27, 2006 (1st Sp.Sess. P.L.1873, No.1), known as the "Taxpayer Relief Act."

(3) Only homestead or farmstead properties identified in the certified report of the assessor obtained in any year shall be eligible to receive the exclusion for the next fiscal year.

(4) In the year in which a municipality adopts the ordinance evidencing its decision to implement a homestead and farmstead exclusion, the municipality shall notify by first class mail the owner of each parcel of residential property within the municipality which is not approved as a homestead or farmstead property or for which the approval is due to expire of the following:

(i) That the homestead and farmstead exclusion program is to be implemented to provide property tax relief as authorized by subsection (a)(4), beginning in the next fiscal year.

(ii) That only properties currently identified in the certified report of the assessor as having been approved in whole or in part as homestead or farmstead properties shall be entitled to an exclusion in the next fiscal year.

(iii) That owners of properties that have not been approved by the assessor as homestead or farmstead properties may file an application in accordance with 53 Pa.C.S. § 8584(a) by the annual application deadline of March 1 in order to qualify for the program in the year following the next fiscal year.

(5) The one-time notice required by paragraph (4) may be combined and made together with the annual notice required by paragraph (7) or with an annual notice by a coterminous political subdivision that has implemented a homestead and farmstead exclusion.

(6) In the year in which the initial decision to provide a homestead and farmstead exclusion is made and in each succeeding year, a municipality shall, by resolution, fix the dollar amount that is to be excluded from the assessed value of each homestead and farmstead property for the next fiscal year, consistent with 53 Pa.C.S. §§ 8583 (relating to exclusion for homestead property) and 8586 (relating to limitations). This determination of the amount of the homestead and farmstead exclusion shall be made, after receipt of the tax duplicate and the certified report from the assessor, at the time the governing body of a municipality determines the municipal budget and estimates revenues to be derived from the local services tax for the next fiscal year.

(7) Each year after the year in which the municipality implements a homestead and farmstead exclusion and no later than one hundred twenty days prior to the application deadline, the municipality shall give notice of the existence of the municipality's homestead and farmstead exclusion program; the need to file an application in accordance with 53 Pa.C.S. § 8584(a) in order to qualify for the program; and the application deadline which, notwithstanding 53 Pa.C.S. § 8584(b), shall be December 15. This annual notice, which shall be given by first class mail, need

only be sent to the owner of each parcel of residential property in the municipality which is not approved as homestead or farmstead property or for which the approval is due to expire.

(c) For purposes of this section, the term "municipality" does not include a school district.

Section 10. Any ordinance or resolution providing for the levying, assessment or collection of a tax on individuals for the privilege of engaging in an occupation which has been enacted by a political subdivision prior to December 1, 2004, shall continue in full force and effect, without reenactment, as if such tax had been levied, assessed or collected as a local services tax under section 2(f)(9) of the act. All references in any ordinance or resolution to a tax on the privilege of engaging in an occupation shall be deemed to be a reference to a local services tax for the purposes of the act.

Section 11. All emergency and municipal services taxes levied for the calendar year beginning on January 1, 2007, shall remain in effect for the calendar year beginning on January 1, 2007, and ending December 31, 2007, and are not otherwise altered.

Section 12. The following shall apply:

(1) Except as provided in paragraph (2), the amendment or addition of the following provisions shall apply to taxes levied for calendar year 2008 and each year thereafter:

(i) The amendment of section 2 of the act.

(ii) The amendment of section 8 of the act.

(iii) The amendment of section 9 of the act, except for any editorial amendment changing the reference from the Department of Community Affairs to the Department of Community and Economic Development.

(iv) The amendment of section 19 of the act.

(v) The amendment of section 20 of the act.

(vi) The amendment of section 22.1 of the act.

(vii) The amendment of section 22.4 of the act.

(viii) The amendment of section 22.5 of the act.

(ix) The addition of section 22.6 of the act.

(2) As much of the redesignation as subsection (d) of the introductory paragraph of section 2 of the act, including the amendment of that provision, shall not apply until January 1, 2009, to a municipality which reduced its real estate property tax by at least 25% upon adoption of an ordinance pursuant to the act of December 1, 2004 (P.L.1729, No.222), entitled "An act amending the act of December 31, 1965 (P.L.1257, No.511), entitled 'An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court,' further providing for delegation of taxing powers and restrictions thereon; providing for nonresident

sports facility usage fee, for parking tax rates and for payroll taxes; further providing for limitations on rates of specific taxes and for the appointment of a single collector of taxes; further providing for the applicability of petitions under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act; and making a repeal." Section 13. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment of section 2(9) of the act.

(2) Section 6 of the act of December 1, 2004 (P.L.1729, No.222), entitled "An act amending the act of December 31, 1965 (P.L.1257, No.511), entitled 'An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court,' further providing for delegation of taxing powers and restrictions thereon; providing for nonresident sports facility usage fee, for parking tax rates and for payroll taxes; further providing for limitations on rates of specific taxes and for the appointment of a single collector of taxes; further providing for the applicability of petitions under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act; and making a repeal," is repealed.

Section 14. This act shall take effect immediately.

APPROVED--The 21st day of June, A. D. 2007.

EDWARD G. RENDELL