

**PYMATUNING TOWNSHIP
MERCER COUNTY, PENNSYLVANIA**

ORDINANCE No. 188 - 2007

AN ORDINANCE OF PYMATUNING TOWNSHIP, REVISING ORDINANCE 185, (EMERGENCY AND MUNICIPAL SERVICES TAX) OF PYMATUNING TOWNSHIP FOR THE PROPOSE OF REPEALING THE EMERGENCY AND MUNICIPAL SERVICES TAX AND ENACTING THE LOCAL SERVICES TAX OF THIRTY (\$30) DOLLARS FOR INDIVIDUALS FROM EMPLOYMENT WITHIN PYMATUNING TOWNSHIP, PROVIDING DEFINITIONS OF SAID TAX, PROVIDING EXEMPTIONS FROM THE TAX, ESTABLISHING COLLECTION PROCEDURES, AND ESTABLISHING PENALTIES FOR VIOLATION OF THESE REGULATIONS.

BE IT ENACTED AND ORDAINED by the Pymatuning Township Board of Supervisors, Mercer County, Pennsylvania, and it is hereby enacted and ordained by authority of same as follows:

Section 1.

Ordinance No. 185, Emergency and Municipal Services Tax of Pymatuning Township is hereby revised in its entirety to read as follows:

Article 1. Title.

This Article shall be known and may be cited as the ALocal Services Tax Ordinance@.

Article 2. Authority.

This Article is enacted under the authority of Act 511 or 1965, as amended, known as AThe Local Tax Enabling Act@.

Article 3. Definitions.

As used in this Article, unless the context clearly indicates a different meaning, the following words shall have the meanings set forth below:

CALENDAR YEAR - The twelve month period beginning January 1st and ending December 31st.

COLLECTOR - Person, public employee, public agency, or private agency designated by governing body of Pymatuning Township to collect and administer the Tax.

EARNED INCOME - ACompensation@ as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the ATax Reform Code of 1971", and regulations in 61 PA Code Pt. I Subpt. B Art. V (relating to personal income tax) NOT INCLUDING, however, wages or

compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the ATax Reform Code of 1971". The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EMPLOYER - A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation, including self-employed individuals.

EXEMPTION CERTIFICATE - An Exemption Certificate substantially in the form of the uniform certificate prescribed by the Pennsylvania Department of Community and Economic Development affirming that the person reasonably expects to receive Earned Income and/or Net Profits from all sources within the municipality of less than twelve thousand dollars (\$12,000) in the calendar year for which the Exemption Certificate is filed, which Exemption Certificate has attached to it a copy of all of the employee=s last pay stubs or W-2 forms from employment within the municipality for the year prior to the calendar year for which the employee is requesting to be exempted from the Tax. In addition to the income exemptions, provision has been made for certain military exemptions.

LOCAL SERVICES - Emergency services, road construction and/or maintenance; reduction of property taxes; and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 PA C.S. Subch. F.

MUNICIPALITY - The Township of Pymatuning.

NET PROFITS - The net income from the operation of a business, profession, or other activity, except corporations determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the ATax Reform Code of 1971", and regulations in 61 Pa. Code Pt. I Subpt. B Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For Taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;
- (2) any gain on the sale of farm machinery;
- (3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
- (4) any gain on the sale of other capital assets of the farm. (Def. amended Dec. 9, 2002, P.L. 1364, No. 166)

NON-RESIDENT - A person, partnership, association or other entity domiciled outside the municipality.

OCCUPATION - Any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or otherwise, for which any Earned Income and/or Net Profits are charged and received from sources within the municipality.

POLITICAL SUBDIVISION - Any county, city, borough, incorporated town, township, school district, vocational school district and county institutional district.

TAX - The Tax imposed by Article 4 of this Ordinance.

TAXPAYER - Any natural person liable for the Tax levied by Article 4 of this Ordinance.

Article 4. Levy.

The municipality hereby levies and imposes on every individual engaging in an occupation within the jurisdictional limits of the municipality a Tax in the amount of \$30 per annum, beginning the first day of January 2008 and continuing on a calendar basis annually thereafter, until modified or repealed by a subsequent ordinance. This Tax is in addition to all other taxes of any kind or nature heretofore levied by the municipality.

Article 5. Exemptions.

The Tax levied by Article 4 shall not be imposed upon the following persons:

A. Any person who 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

B. 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 calendar year. For purposes of this subsection, Areserve 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.

C. Any person whose total Earned Income and/or Net Profits from all sources within the municipality is less than twelve thousand dollars (\$12,000) for the calendar year in which the Local Services Tax is levied.

Article 6. Collection Through Employers.

A. Every Employer shall, within fifteen (15) days after first becoming an Employer, register with the Collector the Employer=s name, address and such other information

as the Collector may require. Failure to register in a timely manner does not relieve the Employer of the requirements of this Article.

B. As to each Taxpayer employed for any length of time during any payroll period of an Employer during the calendar year, each Employer shall deduct a pro rata share of the

Tax from the Earned Income payable to the Taxpayer with respect to such payroll period. The pro rata share of the Tax assessed on a Taxpayer for a payroll period shall be determined by dividing the rate of the Tax (\$30) 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 of the Tax, an Employer shall round down the amount of Tax deducted for each payroll period to the nearest one-hundredth of a dollar.

C. Each Employer shall file a return on a form prescribed by the Collector, and pay the Collector the full amount of all such taxes deducted during a calendar quarter within

30 days after the end of the calendar quarter. A tax return must be filed for each calendar quarter, regardless of whether withholdings were completed or any tax liability exists.

D. Any Employer who discontinues business or ceases operation during the calendar year, shall within fifteen (15) days after discontinuing business or ceasing operation, file the return herein above required and pay the Tax to the Collector.

E. The failure of any Employer to deduct the Tax shall not relieve the employee from the duty to file a return and pay the Tax. Any Employer who fails to deduct the Tax as required by this section, or who fails to pay such Tax to the Collector, shall be liable for such Tax in full, as though the Tax had originally been levied against such Employer. No Employer shall be liable for failure to deduct the Tax if the failure to deduct the Tax 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.

F. Priority of Withholding.

The Tax shall be withheld at 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, i.e. concurrent employment, or an occupation which requires the person working in more than one political subdivision during the payroll period, the priority to withhold the Local Services Tax shall be in the following order:

1. The political subdivision in which a person maintains his or her principal office or is principally employed;

2. The political subdivision in which the person resides and works, if the Tax is levied by that political subdivision.

3. The political subdivision in which a person is employed and which imposes the Tax nearest in miles to the person=s home.

G. The Employer shall not deduct the Tax but shall maintain adequate records concerning the employees in the cases described in subsection 1 and 2 of this section.

1. It is the intent of this section that no person shall be subject to the payment of the Local Services Tax in more than one municipality during each payroll period. No Taxpayer shall be required to pay more than \$30 in total during the calendar year. In the case of concurrent employment, an Employer shall refrain from withholding the Local Services Tax, if the employee provides:

a) 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 Local Services Tax withheld; and

b) 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 weeks of its occurrence.

2. In the case of an employee claiming the exemption set forth at Article 5(C), if (a) the employee has provided an Exemption Certificate to the Employer, (b) the Collector has not otherwise instructed the Employer, (c) the Employer has not received notification from the person who claimed the exemption or from the Collector that the person has received Earned Income and/or Net Profits from all sources within the municipality 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 and (d) the Employer has not paid to the person Earned Income within the municipality an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year.

3. If a person has claimed exemption from the Tax under Article 5 (C) for a given calendar year but either (a) the Employer has received notification from the person who claimed the exemption or from the Collector that the person has received Earned Income and/or Net Profits from all sources within the municipality 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 (b) the Employer has paid to the person Earned Income within the municipality an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, then the Employer shall withhold the Tax for the remainder of that calendar year and the Employer shall withhold from the person, for the first payroll period after receipt of the notification described in clause (a) above or for the first payroll period after

payments described in clause (b) above have been made, a lump sum equal to the amount of Tax that was not withheld from the person due to the exemption claimed by the person, 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 employees. In the event the employment of a person subject to withholding of the Tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of Tax due and the Collector may pursue collection under this Article.

4. Each Employer shall ensure that Exemption Certificate forms are readily available to employees at all times and shall furnish each new employee with the Exemption Certificate form at the time of hiring and prior to the first pay period of each calendar year.

5. A person seeking exemption from the Tax under Article 5 (C) must annually file an Exemption Certificate with the Employer and the Collector.

6. Each Employer within the municipality and each Employer located outside the municipality who engages in business within the municipality, is hereby charged with the duty of collecting the Tax from each of the employees engaged by the Employer and performing work for the Employer with the municipality.

Article 7. Direct Payment by Taxpayers.

Every Taxpayer who is self-employed and has not filed an Exemption Certification with the Collector, or whose Tax for any other reason is not collected under Article 6 of this Article, shall file a return on a form prescribed by the Collector and shall pay a pro rata share of the Tax directly to the Collector within 30 days after the end of each calendar quarter. The pro rata share of the Tax assessed on a Taxpayer for a calendar quarter shall be determined by dividing the rate of the Tax levied (\$30) for the calendar year by four.

Article 8. Nonresident Taxpayers.

Both resident and nonresident Taxpayers shall, by virtue of engaging in an Occupation within the municipality, be subject to the Tax and the provisions of this Article.

Article 9. Administration and Enforcement.

The Collector, on behalf of the municipality, shall collect and receive the taxes, interest, fines and penalties imposed by this Article, and shall maintain records showing interest, fines and penalties imposed by this Article, and shall maintain records showing the amounts received and the dates such amounts were received. The Collector shall prescribe and issue all forms

necessary for the administration of the Tax and shall enforce regulations adopted by the governing body relating to any matter pertaining to the administration of this Article, including but not limited to, requirements for collection through Employers, requirements for evidence and records, and provisions for the examination and correction of returns. The Collector and any designated agents may examine the records of any Employer or supposed Employer or of any Taxpayer or supposed Taxpayer in order to ascertain the Tax due or verify the accuracy of any return. Every Employer or supposed Employer and every Taxpayer or supposed Taxpayer shall give the Collector and any designated agent all means, facilities and opportunity for the examinations hereby authorized. Any such examination shall be conducted within this municipality or at the office where the Tax return is processed.

Article 10. Suits for Collection of Tax.

The municipality or its Collector of the Tax may collect unpaid taxes from the Taxpayer or Employer owing such taxes by suit as provided for by Act 511 of 1965, as amended, known as AThe Local Enabling Tax Act@.

Article 11. Interest and Penalties for Unpaid Tax.

If for any reason the Tax is not paid when due, interest at the rate of six percent per annum on the amount of said Tax, and an additional penalty of one-half of one percent of the amount of unpaid Tax for each month or fraction thereof during which the Tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such Tax, the Taxpayer or Employer liable for the Tax shall, in addition, be liable for the costs of collection and the interest herein imposed.

The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Article.

Article 12. Fines and Penalties for Violation of This Article.

Any Taxpayer or Employer who fails, neglects or refuses to make a return required, any Employer who fails, neglects or refuses to register or to pay the Tax deducted from employees, or fails, neglects, or refuses to deduct or withhold the Tax from employees, Taxpayer or Employer who refuses to permit the Collector to examine the books, records, and papers, and Taxpayer or Employer who knowingly makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of Tax due in order to avoid the payment of the whole or any part of the Tax imposed shall, upon conviction thereof before the

district magistrate be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and in default of said fines and costs be imprisoned for a period not exceeding thirty days.

The failure of Taxpayer or Employer to receive or procure forms required for filing the required return does not excuse the Taxpayer or Employer from the filing requirement.

Article 13. Refunds.

Any person who has overpaid the Tax may obtain a refund by making a written application for a refund to the Collector no later than one (1) calendar year after payment of the Tax or three (3) years after the due date for payment of the Tax, whichever is later, and satisfactorily proves to the Collector that the Taxpayer is entitled to the refund. 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 Tax to the Collector for the last quarter of the calendar year, whichever is later, shall not be subject to interest imposed under 53 Pa. C.S. Section 8426. A refund shall be provided only for an amount overpaid in a calendar year that exceeds one dollar (\$1).

Refund requests must be submitted on the form approved by the Collector. It should be noted that incomplete refund requests will be deferred until the missing or incomplete information is provided. Refunds in the deferred status are not subject to the payment of interest requirement.

Article 14. Receipt.

The Collector shall provide a Taxpayer a receipt of payment of the Tax upon request by the Taxpayer. A stamped, self-addressed envelope shall be furnished by the Taxpayer if a receipt via return mail is desired.

Article 15. Applicability.

The Tax shall not apply to any subject of Tax or person not within the taxing power of the municipality under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

Article 16. Duration.

This Article shall continue in force from one calendar year to another without annual reenactment.

Section 2.

The amendments made by this ordinance shall be effective with respect to the calendar year 2008 and each year thereafter.

Section 3.

Savings and Severability Clauses

A. If the Tax, or any portion thereof, imposed upon any Taxpayer under the provisions of this Ordinance shall be held by a court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of law, the decision of the court shall not affect or impair the

right to impose the Tax or the validity of the Tax so imposed upon other persons, as herein provided.

B. The provisions of this Ordinance are severable and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intention of the levying body that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

ENACTED AND ORDAINED as an Ordinance of the Township of Pymatuning this the 13th day of December, 2007.

PYMATUNING TOWNSHIP BOARD OF SUPERVISORS

Attest:

Jayne E. Lewentz
Secretary

Richard F. Whitten
Merle L. Mason
