

**ORDINANCE NO. \_\_\_\_\_**  
**TOWNSHIP OF SOUTH COVENTRY**  
**CHESTER COUNTY, PENNSYLVANIA**

AN ORDINANCE PURSUANT TO ACT 7 OF 2007 REPEALING ORDINANCE NO. \_\_\_\_\_ AND ENACTING A NEW ORDINANCE NO. \_\_\_\_\_, TO BE ENTITLED, "LOCAL SERVICES TAX."

**ARTICLE I. LOCAL SERVICES TAX.**

Be it enacted and ordained by the Board of Supervisors of the Township of South Coventry, and it is hereby enacted and ordained by the authority of the same. In accordance with the Local Tax Enabling Act, as amended, 53 P.S. § 6902, et. seq., Township Ordinance No. \_\_\_\_\_ (relating to the Emergency and Municipal Services Tax) is hereby repealed and replaced with the following, which is hereby enacted:

**Section 1. Title.**

This article, and the tax imposed thereby, shall be known and may be cited as the "Local Services Tax."

**Section 2. Imposition of Tax.**

- A. Every individual who engages in an occupation with a primary place of employment within the Township of South Coventry during the tax year shall pay a Local Services Tax to the Township in the amount of \$52.00 per person per calendar year, irrespective of the number of political subdivisions within which a person may be employed.
- B. All taxes imposed by this article, together with all interests, costs, and penalties, shall be recoverable by the Township of South Coventry, or its authorized employees, or by any person(s) or agency(ies) so designated and authorized by the Township, in accordance with the provisions of the Local Tax Enabling Act and/or as debts of like amount otherwise recoverable by law.
- C. The Local Services Tax imposed under this article shall be used solely for the following purposes as the same may be allocated by the Township from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The Township of South Coventry shall use no less than twenty-five percent of the funds derived from the Tax for emergency services. This Tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of South Coventry.
- D. This article is enacted under the authority of the Local Tax Enabling Act, as amended (53 P.S. § 6901 et. seq.).

**Section 3. Definitions; Word Usage.**

As used in this article, the following terms shall have the meanings indicated except where the context or language clearly indicates or requires a different meaning:

**TOWNSHIP TAX COLLECTOR** — The person, public employee, or private agency designated by the Township of South Coventry to collect and administer the tax herein imposed.

**DCED** – The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

**EARNED INCOME** - Shall have the same meaning as provided for in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, Section 13, Division I, as amended, 53 P.S. § 6913.

**EMPLOYEE** — An individual whose compensation is subject to the withholding of federal income tax and who performs services for an employer.

**EMPLOYER** — An individual, partnership, association, limited liability company, limited partnership, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

"HE," "HIS" or "HIM" – Shall mean and indicate the singular and plural number as well as male, female and neuter genders.

**INDIVIDUAL** — Any person, male or female, engaged in any occupation, trade or profession of any nature within the corporate limits of the Township of South Coventry, whether in the employ of another or self-employed.

**NET PROFITS** – The net income from the operation of a business, profession, or other activity as this term is defined in Section 13 of The Local Tax Enabling Act, as amended, 53 P.S. § 6913.

**OCCUPATION** — 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 Township of South Coventry for which compensation is charged or received, whether by means of salary, wages, commission, fees or otherwise, for services rendered.

**RESERVE COMPONENT OF THE ARMED SERVICES** - 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.

**TAX** — The Local Services Tax in the amount of \$52.00 levied by this article on each individual engaged in any occupation, as herein before defined, within the corporate limits of the Township of South Coventry.

**YEAR** — The period from January 1 until December 31 in any year; the calendar year.

**Section 4. Collection and Payment of Tax.**

- A. Duty of employer to collect and make payment. Each employer within the Township of South Coventry, as well as those employers situated outside of the Township of South Coventry but who engage in business within the Township of South Coventry, is hereby charged with the duty of collecting from each employee engaged by the employer and performing for the employer within the Township of South Coventry the tax of \$52.00 per annum and making a return and payment thereof to the Township Tax Collector. Subject to the withholding requirements of this section, each employer is hereby authorized to deduct the tax from the compensation of each employee in its employ, whether said employee is paid by salary, wages or commissions and whether or not part or all of such services are performed within the Township of South Coventry. Each employer shall pay the tax to the Township Tax Collector as provided herein, whether or not the tax was deducted from the compensation of each employee in its employ.
- (1) An employer required hereunder to collect the tax shall withhold a pro rata share of the total tax per annum for each payroll period in which the person is engaged 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 section shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided for in Section 4.A(2).
  - (2) In the case of an employee who has concurrent employment, an employer shall refrain from withholding the Local Services Tax if the employee 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 employee that the pay statement is from the employer's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement described in this paragraph shall be provided on the form prescribed by DCED.
  - (3) No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Township if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office, or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Sections 4.A.(1) and 6.E. of this article and this section and remits the amount so withheld in accordance with this article.
- B. Returns; Responsibility for Payment. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Township Tax Collector. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, except as provided hereafter in this

article, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against the employer.

- C. Dates for Determining Liability and Payment. Each employer shall use his employment record as of each payroll period in the calendar year to determine from whom the tax shall be deducted. An employer shall be required to remit quarterly payments of the tax to the Township Tax Collector on or before the thirtieth day after the end of each quarter of a calendar year on forms prescribed by the Township Tax Collector.
- D. Self-Employed Individuals. Every taxpayer who is self-employed and has not filed an exemption certificate with the Tax Collector, or whose Tax for any other reason is not collected under this section, shall file a return on a form prescribed by the Township Tax Collector and shall pay a pro-rata share of the Tax directly to the Township Tax Collector on or before the thirtieth day 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 under this article for the Year by four.
- E. Persons Residing Outside the Township. All self-employed individuals and employers residing or having their place of business outside the corporate limits of the Township of South Coventry and engaging in an occupation within the Township of South Coventry do by virtue thereof agree to be bound by and subject themselves to the provisions of this article and the regulations promulgated hereunder with the same force and effect as though they had their place of business in or were residents of the Township of South Coventry. Further, any individual engaged in an occupation within the Township of South Coventry and as an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, but in the event that the tax is not paid, the Township Tax Collector shall have the option of proceeding against either the employer or employee for the collection of the tax as hereinafter provided.
- F. Individuals Engaged in More Than One Occupation.
  - (1) Each employee who shall have more than one occupation within the Township of South Coventry shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax. The principal employer shall deliver to such employee evidence of deduction. This evidence of deduction showing that payment 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, in accordance with Section 4.A.(2), but to include such employee on his return by setting forth his name, social security number and the name of the employer who deducted this tax.
  - (2) The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:
    - (i) First, the political subdivision in which a person maintains his or her principal office or is principally employed;

- (ii) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- (iii) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

- (3) It is the intent of this provision that no individual shall pay more than \$52.00 in any calendar year as a Local Services Tax, irrespective of the number of political subdivisions within which such individual may be employed within any given calendar year. In case of dispute, a proof of payment that that tax has been paid for that calendar year shall constitute prima facie certification of payment to all other political subdivisions.

- G. Each employer shall ensure that exemption certificate forms are readily available to employees at all times and shall furnish each new employee with an exemption certificate form at the time of hiring and prior to the first payroll period of each Year.

**Section 5. Administration and Enforcement.**

A. Powers and Duties of Township Tax Collector.

- (1) It shall be the duty of the Township Tax Collector to accept and receive payments of the tax and to keep a record thereof showing the amount received by him from each employer or self-employed individual, together with the date the tax was received.
- (2) The Township Tax Collector is hereby charged with the administration and enforcement of this article 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 article, including provisions for the examination of the books, accounts and 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 and found to have occurred. Any person aggrieved by any decision of the Township Tax Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998.
- (3) The Township Tax Collector is hereby authorized to examine those books, accounts and payroll records of any employer necessary 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 Township Tax Collector the means, facilities and opportunity for such examination.

B. Late Payment; Recovery.

- (1) In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, and without waiving any other rights available to the Township pursuant to applicable law, the Township Tax Collector, on behalf of the Township, may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.
- (2) If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection, including reasonable attorneys' fees.

C. Violations and Penalties. Whoever makes any false or untrue statement on any return or record required by this article, or whoever refuses inspection of those books, records or accounts required in Section 5.A.(3) in his custody and control, or whoever fails or refuses to file any return required by this article or fails to pay the tax due shall, upon being found liable therefor in a civil enforcement proceeding, pay a fine of not more than \$600, plus all court costs, including reasonable attorney's fees, incurred by the Township of South Coventry in the enforcement of this article. 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 article. No judgment shall be imposed until the date of the determination of the violation by the Magisterial District Judge and/or Court. If the defendant neither pays nor timely appeals the judgment, the Township of South Coventry may enforce the judgment pursuant to the applicable rules of civil procedure. Further, the appropriate officers or agents of the Township of South Coventry are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

## **Section 6. Exemptions.**

- A. Any person whose total earned income and net profits from all sources within the Township of South Coventry is less than \$12,000 per calendar year in which the tax is levied shall be exempt from this tax upon the filing of an exemption certificate with the Local Services Tax Collector.
- (1) A person seeking exemption from the Tax under this Section 6.A. must annually file an exemption certificate with the employer and the Township Tax Collector affirming that the person reasonably expects to receive earned income and net profits from all services within the Township of South Coventry of less than twelve thousand dollars (\$12,000.00) in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Township of South Coventry for the year prior to the fiscal year for which the employee is requesting to be exempt from the Tax. Upon receipt of the exemption certificate and until otherwise instructed by the Township or except as required by Section 6.A.(2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate

forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring.

- (2) With respect to a person who claimed an exemption for a given calendar year from the Local Services Tax pursuant to this Section 6.A., upon notification to an employer by the person or by the Township of South Coventry that a person has received earned income and net profits from all sources within the Township of South Coventry equal to or in excess of \$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 the Township of South Coventry in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification hereunder, 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 section, 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 that 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 Township of South Coventry may pursue collection of the tax.

- B. 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 services 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 disability shall be exempt from this tax upon the filing of an exemption certificate with the Township Tax Collector.
- C. Any person who serves as a member of a Reserve Component of the Armed Forces and is called to active duty at anytime during the taxable year shall be exempt from this tax upon the filing of an exemption certificate with the Township Tax Collector.
- D. The Township Tax Collector is hereby charged and empowered to adopt regulations for the processing of claims for exemptions under this section.
- E. The exemption certificate for any exemption under this section must be in a form substantially similar to the uniform exemption certificate prescribed by DCED.

**Section 7. Refund.**

- A. A person who overpaid Local Services tax for a calendar year shall be entitled to a refund of the tax by filing a refund request with the Township Tax Collector. A person shall only be entitled to a refund of tax for amounts overpaid in a calendar year that exceed \$1.00.
- B. The Township Tax Collector is hereby charged and empowered to adopt regulations for the processing of refund claims for overpaid local services tax consistent with 53

Pa.C.S. § 8425, as amended (relating to refunds of overpayments) and 53 Pa.C.S § 8426, as amended (relating to interest on overpayments).

- C. A person shall not be entitled to interest on the amount of refunded tax if the Township pays the refund within seventy-five days of the 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 4.C., whichever is later.

**Section 8. Interpretation; Severability.**

- A. Nothing contained in this article shall be construed to empower the Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.
- B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.
- C. If any term, condition, or provision of this Chapter shall, to any extent, be held to be invalid or unenforceable by a valid order of any court or regulatory agency, the remainder hereof shall be valid in all other respects and continue to be effective. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the Township.

**ARTICLE 2.**

Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed, provided that nothing herein shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2005 and all prior calendar years, or of an emergency and municipal services tax, plus applicable penalties and interest, for calendar years 2006 and 2007, as the same existed prior to this amendment.

**ARTICLE 3.**

The tax imposed by this Ordinance shall be effective thirty-one (31) days from enactment and shall apply to tax years commencing on or after January 1, 2008.

**ARTICLE 4.**

In all other respects, the Code of the Township of South Coventry is hereby reaffirmed and will remain in full force and effect.

ORDAINED and ENACTED by the Board of Supervisors this \_\_\_ day of \_\_\_\_\_, 2007.

Tim Blevins  
Chairperson

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Millie Donnell  
Vice-Chairperson

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David Prizer  
Member