

POCONO TOWNSHIP
MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. 122

AN ORDINANCE OF THE TOWNSHIP OF POCONO, COUNTY OF MONROE, AND COMMONWEALTH OF PENNSYLVANIA, PROVIDING A NEW MEANS OF REVENUE FOR POCONO TOWNSHIP BY IMPOSING A TAX ENTITLED "THE EMERGENCY AND MUNICIPAL SERVICES TAX", AT THE RATE OF FIFTY TWO (\$52.00) DOLLARS PER YEAR, ON THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE POCONO TOWNSHIP LIMITS; PROVIDING FOR ITS LEVY AND COLLECTION FROM EACH INDIVIDUAL EXERCISING SUCH PRIVILEGE; IMPOSING UPON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL SUBJECT TO SAID TAX IN THAT EMPLOYER'S EMPLOY AND REMITTING AND PAYING OVER THE SAME TO THE DULY APPOINTED TAX ADMINISTRATOR OF THE EMERGENCY AND MUNICIPAL SERVICES TAX FOR THE TOWNSHIP; CONFERRING AND IMPOSING POWERS AND DUTIES ON THE DULY APPOINTED TAX ADMINISTRATOR; PROVIDING FOR ENFORCEMENT AND DELINQUENT COLLECTION PROCEDURES; PRESCRIBING PENALTIES FOR VIOLATIONS; AND PROVIDING A TWELVE THOUSAND (\$12,000.00) DOLLAR PER YEAR INCOME EXEMPTION.

WHEREAS, the Local Tax Enabling Act found at 53 P.S. §6901 et. seq. (P.L. 1257, No. 511), which was enacted December 31, 1965, in part authorizes Second Class Townships to impose a tax upon the privilege of engaging in an occupation within the local municipality, which tax was originally known as the Occupation Privilege tax; and

WHEREAS, on December 1, 2004, the Local Tax Enabling Act was amended by Act 222 of 2004, which changed the name of the tax to the Emergency and Municipal Services Tax and which provides for other changes including changes to the administration, rate of collection and income exemption limit available; and

WHEREAS, the Board of Supervisors of Pocono Township ("Supervisors") deems it to be in the best interests, and for the general welfare, of the citizens and residents of Pocono Township ("Township") to levy an Emergency and Municipal Services tax in the Township.

NOW, THEREFORE BE IT ORDAINED AND ENACTED by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

Section 1. Authority of Enactment. This Ordinance is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. 6901 et seq. (1982), as

amended by Act 222 of 2004 and as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

Section 2. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

COMPENSATION - salaries, wages, commissions, tips, bonuses, fees, gross receipts, or any other earned income.

EMPLOYER - any individual, partnership, limited partnership, association, institution, trust, corporation, limited liability company, governmental agency, or any other body or entity employing one or more employees engaged in any occupation on compensation basis, including a self-employed person.

INDIVIDUAL - any person engaged in any occupation within the Pocono Township boundaries.

OCCUPATION - any livelihood, job, trade, profession, business, undertaking or enterprise of any kind, including services, domestic or other, carried on or performed within the Pocono Township boundary limits for which compensation is received or charged.

SUPERVISORS- the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania.

TAX - the Emergency and Municipal Services Tax imposed by this Ordinance.

TAX ADMINISTRATOR - shall mean the person, company or business that is appointed by resolution of the Pocono Township Supervisors to collect the Emergency and Municipal Services Tax for Pocono Township.

TAXPAYER - any Individual or Employer liable for the tax levied by this ordinance.

Section 3. Levy/Imposition of Tax. Pocono Township hereby levies and imposes on each Individual engaged in an occupation within the Pocono Township boundary limits an Emergency and Municipal Services Tax during the year 2006 and in each following calendar year. This tax is in addition to all other taxes of any kind or nature heretofore levied by Pocono Township.

Section 4. Amount of Tax. Beginning with the first day of January, in each calendar year, every Individual engaged in an occupation within Pocono Township, and earning more than twelve thousand (\$12,000.00) dollars between January 1 and December 31 of said year, shall be required to pay an Emergency and Municipal Services Tax in the amount of fifty two (\$52.00) dollars per annum. Any Individual whose total income from all sources is less than twelve thousand dollars (\$12,000.00) per annum shall be exempt from this tax. Any Individual claiming an exemption from the tax must still pay the tax, and must then file a claim for

exemption and make application for a refund or credit on a form prescribed by the Tax Administrator within twelve (12) months following the calendar year the tax was due. Proof of actual income shall be required as part of making the application for the refund/or credit.

Section 5. Duties of Employer. Each employer within Pocono Township, as well as employers situate outside Pocono Township who engage in business within Pocono Township, is hereby charged with the duty of collecting from each Individual employed by that employer and working/performing for that employer within Pocono Township, the said tax of fifty two (\$52.00) dollars per annum and making a return and payment thereof to the Appointed Tax Administrator in accordance with the following:

A. Each employer shall register with the Tax Administrator the employer's name, address and other information the Tax Administrator may require within fifteen (15) days after the effective date of this ordinance or within fifteen (15) days after first becoming an employer.

B. Each employer shall use his employment records from the first day of January to the 31st day of December for determining the number of Individuals employees from whom said tax shall be deducted and paid over to the appointed Tax Administrator.

C. For each Individual employed for any length of time after the effective date of this Ordinance, on or before March 31 of the current tax year each employer shall deduct the tax from compensation payable to that Individual, and on or before April 30 of the current tax year, file a return on a form prescribed by the Tax Administrator and pay to said Tax Administrator the full amount of taxes deducted; provided, however, that for any Individual hired after the effective date of this Ordinance in any of the three (3) calendar quarters ending June 30, September 30, or December 31, of the current tax year, each employer shall deduct the tax from compensation payable to that Individual (if that Individual has not already paid the tax) on or before the end of that initial calendar quarter employment period, and file a return on a form prescribed by the Tax Administrator, and pay said collector the full amount of all taxes deducted, on or before July 31 of the current tax year for taxes deducted during the second calendar quarter, October 31 of the current tax year for taxes deducted during the third calendar quarter, or January 31 of the following year for taxes deducted during the fourth calendar quarter; and provided further, that in the event there is less than sixty (60) days remaining before the end of the calendar quarter in which this Ordinance becomes effective, employers shall have a period of sixty (60) days from the effective date of this Ordinance to deduct the tax required to be deducted pursuant to the provisions hereof, and a period of ninety (90) days from the effective date of this Ordinance to file the required return and pay the deducted taxes to the Tax Administrator.

D. Any employer who discontinues business or ceases operation before December

31 of any year during which this tax is in effect, shall file the return hereinabove required and pay the tax to the Tax Administrator, within fifteen (15) days after discontinuing business or ceasing operations.

E. The failure of any employer to deduct the tax shall not relieve the Individual 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 Tax Administrator, shall be liable for such tax in full, as though the tax had originally been levied against such employer.

F. As to Individuals who present official receipts to their employer evidencing prior payment of the tax imposed hereby for that calendar year, either directly or by collection through other employers, the employer shall not deduct the tax but shall maintain a copy of said tax receipt and adequate records concerning such employees.

Section 6. Direct Payment by Taxpayers. Every Individual who is self-employed or whose tax for any other reason is not collected under Section 5.C. of this Ordinance shall file a return on a form prescribed by the Tax Administrator and shall pay the tax directly to said Tax Administrator. Each such Individual who first becomes subject to the tax after the effective date of this Ordinance but on or before March 31 of the current tax year, shall file the return and pay the tax on or before April 30 of the current tax year, and each such Individual who first becomes subject to the tax after March 31 of the current tax year, shall file the return and pay the tax on or before July 31 or October 31 of the current tax year, or January 31 of the following year, whichever of such payment dates first occurs at least thirty (30) days after the Individual becomes subject to the tax.

Section 7. Individuals Engaged in More Than One Occupation. Each Individual who shall have more than one occupation within Pocono Township shall be subject to the payment of this tax on that Individual's principal occupation, and that Individual's principal employer shall deduct this tax and deliver to the Individual evidence of deductions on a form to be furnished to the employer by the Tax Administrator, which form shall be evidence of deduction having been made, and when presented to any other employer shall be authority for such employer to NOT DEDUCT this tax from the Individual's compensation, but to include such Individual on that employer's tax return by setting forth the Individual's name, address and the name and account number of the employer who deducted this tax.

Section 8. Employers and Individuals Residing Beyond the Pocono Township Boundary Limits. Both resident and nonresident Individuals shall, by virtue of engaging in an occupation within Pocono Township, be subject to the tax and the provisions of this Ordinance. All employers and self-employed Individuals residing or having their places of business outside

of Pocono Township but who engage in any occupation within Pocono Township do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Ordinance with the same force and effect as though they were residents of Pocono Township. Any Individual engaged in an occupation within Pocono Township and an employee of a non-resident employer shall, for the purpose of this Ordinance, be considered a self-employed person, and in the event this tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

Section 9. Restricted Use of Tax. Pocono Township may only use the revenue derived from this tax for:

- (A) police, fire and/or emergency services; and/or
- (B) road construction and/or maintenance; and/or
- (C) reduction of property taxes.

Section 10: Administration of Tax.

A. It shall be the duty of the Tax Administrator to accept and receive payments of this tax, as well as all interest, fines and penalties imposed by this Ordinance and to keep a record thereof showing the amount received by Tax Administrator from each employer or self-employed person together with the date the tax was received or other payment was received..

B. The Tax Administrator is hereby charged with the administration and enforcement of this Ordinance and is hereby authorized, charged and empowered to prescribe, promulgate and adopt forms, rules and regulations in relation to any matter pertaining to the administration and enforcement of this Ordinance including provisions for the examination of the payroll records of any employer subject to this Ordinance; the examination and correction of any return filed pursuant to this Ordinance and any payments alleged or found to be incorrect, or as to which over-payment is claimed or found to have occurred. Any person aggrieved by any decision of the Tax Administrator shall have the right to appeal to the Court of Common Pleas of Monroe County as in other cases provided.

C. The Tax Administrator, and any agents designated by the Tax Administrator, are hereby authorized to examine the books and records of any employer or Individual in order to verify the accuracy of any return made by an employer or Individual, or, if no return was made, to ascertain the tax due. Each employer and Individual shall give the Tax Administrator, and any agents designated by the Tax Administrator, the means, facilities and opportunity for such examinations.

Section 11. Collection. The Tax Administrator, or another person or entity designated for this purpose by the Supervisors, shall collect by suit or otherwise, all taxes, interests, costs, fines and penalties due under this Ordinance and unpaid. If for any reason, any tax is not paid when due, interest at the rate of six percent (6%) per year on the amount of unpaid taxes and an additional penalty of one-half of one percent (1/2 of 1 %) of the amount of the unpaid tax, for each month or fraction of a month during which the tax remains unpaid shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection (including but not limited to attorney fees) as well as for interest and penalties.

Section 12. Penalties. Any person who fails, neglects or refuses to make any declaration or return required by this Ordinance; any employer who fails, neglects or refuses to register or to pay the tax deducted from his/her/its employees; any person who refuses to permit the Tax Administrator or any agent designated by the Tax Administrator to examine the books, records and papers in his/her/its custody and control setting employees subject to this tax or necessary to properly calculate whether any tax is due and the amount thereof; any person who makes a incomplete false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance, or who violates any other provisions of this Ordinance, shall pay a penalty of Five Hundred and 00/100 (\$500.00) Dollars per violation. If the penalty is not voluntarily paid to Pocono Township, the Township shall initiate a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. In any case where a penalty for a violation of this Ordinance is not timely paid and the person upon whom the penalty was imposed is found liable therefore in a civil enforcement proceeding commenced by the Township or the Tax Administrator, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township or the Tax Administrator in the enforcement proceedings. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Each section of this Ordinance that is violated shall also constitute a separate violation. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to Pocono Township for its general use. Additionally, the appropriate officers or agents of Pocono Township are hereby authorized to seek equitable relief, including injunctions, to enforce compliance with this Ordinance. The failure of any taxpayer to receive or procure forms for making the declaration or returns required by this Ordinance shall not excuse that taxpayer from making such declarations or returns.

Section 13. Tax Administrator. The Supervisors shall, by resolution, appoint the Tax Administrator to perform and carry out the responsibilities as provided in this Ordinance. Any and all rules and regulations that the Supervisors deem necessary to administer and or enforce this Ordinance shall be provided by resolution.

Section 14. Repealer. All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency only, and no further.

Section 15. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 16. Validity. If the tax imposed under the provisions of this Ordinance shall be held by any court of competent jurisdiction to be in violation of the Constitution or laws of the United States or of the Constitution or 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.

Section 17. Effective Date. This ordinance shall take effect thirty (30) days after enactment.

ORDAINED AND ENACTED into an Ordinance at a meeting of the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, this 21st day of February, 2006.

BOARD OF SUPERVISORS OF POCONO
TOWNSHIP

By: L. Patrick Ross

L. Patrick Ross, Chairman

By: Willard C. Anglemyer

Willard C. Anglemyer, Vice-Chairman

By: Jane Cilurso

Jane Cilurso, Supervisor

(Township Seal)



CENTRAL TAX BUREAU
 of Pennsylvania, Inc.
 128 West Second Street
 Berwick, PA 18603
 (800) 223-6829 / (570) 752-3600

Office Use Only

Approved _____ Rejected _____
 By _____ Date _____
 Reason Rejected _____
 Date Issued _____ Check No. _____

APPLICATION FOR REFUND - EMERGENCY AND MUNICIPAL SERVICES TAX

(Print or Type)

Name of Applicant: _____ Taxing District: _____
 Street Address: _____ Type of Tax/Year: _____
 _____ Refund Requested: \$ _____
 City State Zip Employer's Name and Address: _____

 Social Security Number: _____ Resident Municipality: _____

I hereby request a refund of the above tax for the following reason (s):

- Age Restriction Birth Date: _____
 Other (explain in full): _____

Multiple Payment of Tax (Proof of duplicate payment must be shown with this form.)

Employer's Name and Address	Amount Paid	Date Paid	Community to which tax was paid

Gross Income Under Taxable Limit

(If refund application is for the reason that your gross earnings FROM ALL SOURCES, including those monies earned outside the district, did not exceed \$ _____ for the period January 1 through December 31, complete section below.) All sources of income include: Social Security, unemployment compensation, pension, dividends, interest income, workers compensation, disability income, lottery winnings, etc.

Employer's Name and Address	Period of Employment	Total Earnings
		\$ _____
		\$ _____
Net Profits from self-employment: Business Name and Address		\$ _____
Other Income - Social Security, unemployment comp., pension, dividends, interest income, workers comp., disability income, lottery winnings, etc.		\$ _____
TOTAL		\$ _____
GRAND TOTAL		\$ _____

PROOF OF INCOME MUST ACCOMPANY THIS FORM BY SUBMITTING TRUE AND CORRECT COPIES OF IRS W-2 FORMS, IRS AND STATE INCOME TAX FORMS, OR BY AFFIDAVIT VERIFIED UNDER OATH, WHERE NECESSARY, THAT HIS OR HER INCOME EARNED DURING THE PERVERIOUS TAX YEAR, FROM ALL SOURCES, WAS LESS THAN THE EXEMPTION AMOUNT AUTHORIZED BY LOCAL ORDINANCE

I hereby certify under the penalties provided herewith that all statements made hereon are to the best of my knowledge and belief correct and acknowledge full responsibility for repayment of any taxes erroneously refunded to me.

Date _____ Name _____ Signature _____
 (Please print)

LOCAL TAXPAYER BILL OF RIGHTS

YOU ARE ENTITLED TO RECEIVE A WRITTEN EXPLANATION OF YOUR RIGHTS WITH REGARD TO THE AUDIT, APPEAL, ENFORCEMENT, REFUND AND COLLECTION OF LOCAL TAXES BY CALLING THE POLITICAL SUBDIVISION TO WHICH THESE TAXES APPLY DURING THEIR NORMAL BUSINESS HOURS.