

ARTICLE 345
Local Services Tax

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CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65 (53 P.S. §6901-6924)

Limit of tax - see Act 511 of 12-31-65 (53 P.S. §6908(8))

Register - see Act 511 of 12-31-65 (53 P.S. §6909)

345.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Employer" means an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on salary, wage, commission or other compensation basis, including self-employed person.
- (b) "Fiscal year" means the twelve month period beginning January 1 and ending December 31.
- (c) "Individual" means any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the City.
- (d) "Occupation" means any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the City for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered. (Ord. 35-1969 §5.)
- (e) "Local Services Tax Officer" means the person, public employee or private agency designated by Council by resolution to collect and administer the provisions of this article.
- (f) "Tax" means the Local Services Tax in the amount of fifty-two dollars (\$52.00) levied by this article.
- (g) "Treasurer" means the Treasurer of the City of York.
- (h) "DCED" means the Pennsylvania Department of Community and Economic Development.
- (i) "Business Administrator" means the Business Administrator of the City of York. (Ord. 48-2007. Passed 12-27-07.)

345.02 TAX LEVIED.

The City hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year local services tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City.
(Ord. 48-2007. Passed 12-27-07.)

345.03 EXEMPTIONS AND REFUNDS.

(a) Any person whose total income from all sources is less than twelve thousand dollars (\$12,000) per year is exempt from the levy of this tax. In addition, the following persons are exempt from payment of the tax:

(1) 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 disability.

(2) 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. For the purposes of this subparagraph, "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.

(b) Procedure to Claim Exemption.

(1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the City of York and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the City of York of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the City utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the City for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the City 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 employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the City.

(2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the City that the person has received earned income and net profits from all sources within the 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 the municipality 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 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 employees. 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 City may pursue collection under this article.

(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 employee from the local services tax.

(c) Refunds. The Business Administrator or his designee, in consultation with the Local Services Tax Officer and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. 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 for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1): The Business Administrator or his designee shall determine eligibility for exemption and follow the established procedure for making refunds to exempt persons. (Ord. 48-2007. Passed 12-27-07.)

345.04 AMOUNT OF TAX.

Beginning January 1 2008, each occupation engaged in within the corporate limits of the City shall be subject to legislative service tax in the amount of fifty-two dollars (\$52.00) per year, such tax to be paid by the individual so engaged. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of (\$52.00) assessed on a pro rata basis, in accordance with the provisions of this article. (Ord. 48-2007. Passed 12-27-07.)

345.05 DUTY OF EMPLOYERS.

(a) Each employer within the City, as well as those employers situated outside the City but who engage in business within the City, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the City and making a return and payment thereof to the Local Services Tax Officer. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the City.

(b) A person subject to the tax shall be assessed by the employer 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 rate of the 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 tax 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 Paragraph D of this Section. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

(c) No person shall be subject to the payment of the local services tax by more than one City during each payroll period.

(d) In the case of concurrent employment, an employer shall refrain from withholding the 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 tax withheld and 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. The employee's statement shall be provided on the form approved by DCED.

(e) The tax shall be no more than fifty-two dollars (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The City shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(f) No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the City 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 this article and remits the amount so withheld in accordance with this article.

(g) Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.
(Ord. 48-2007. Passed 12-27-07.)

345.06 RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Local Services Tax Officer. Each employer in filing this return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of two percent of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. If the employer fails to file such return and pay such tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to such employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him. (Ord. 48-2007. Passed 12-27-07.)

345.07 DATES FOR DETERMINING LIABILITY.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Local Services Tax Officer on or before the thirtieth (30th) day following the end of each calendar quarter of each such tax year. (Ord. 48-2007. Passed 12-27-07.)

345.08 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.

(a) Each individual who shall have more than one occupation within the City, shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Local Services Tax Officer, 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 employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

(b) If 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 occupational privilege 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 (\$52.00) in any calendar year as Local 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.

(c) Deduction or nondeduction and reporting by employers shall be in accordance with subsection (a) hereof as well as Section 345.05. (Ord. 48-2007. Passed 12-27-07.)

345.09 SELF-EMPLOYED INDIVIDUALS.

(a) All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within the City, shall be required to comply with this article and pay the pro rata portion of the tax due to the Treasurer on, or before the thirtieth (30th) day following the end of each calendar quarter of each such tax year.

(b) In the event a self-employed person is engaged in more than one occupation within or without the City or an occupation which required his working in more than one political subdivision during the year, reporting priority of claims and prima-facie certification of payment shall be in accordance with Section 345.08(a) and (b).
(Ord. 48-2007. Passed 12-27-07.)

345.10 NONRESIDENT EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.

All employers and self-employed individuals residing or having their place of business outside of the City, but who perform services of any type or kind, or engage in any occupation or profession within the City do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the City. Any individual engaged in an occupation within the City and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, and in the event this tax is not paid, the City shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. (Ord. 48-2007. Passed 12-27-07.)

345.11 ADMINISTRATION OF TAX.

(a) It shall be the duty of the Local Services Tax Officer to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person together with the date the tax was received.

(b) The Local Services Tax Officer 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 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 or found to have occurred. Any person aggrieved by any decision of the Local Services Tax Officer shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 to the Court of Common Pleas of York County as is provided in other cases.

(c) The Local Services Tax Officer is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Local Services Tax Officer the means, facilities and opportunity for such examination. (Ord. 48-2007. Passed 12-27-07.)

345.12 SUITS FOR COLLECTION.

(a) If any tax under this article remains due or unpaid thirty days after the due dates above set forth, the Local Services Tax Officer, may sue for the recovery of any such tax due or unpaid under this article together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of such tax shall be calculated beginning with the due date of such tax and a penalty of ten percent shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

(Ord. 48-2007. Passed 12-27-07.)

345.13 USAGE OF FUNDS.

The funds received under this article may only be used for:

- (a) Police, fire and/or emergency services, which shall include emergency medical services.
- (b) Road conditions construction and/or maintenance, or
- (c) Reduction of property taxes.
- (d) 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 City of York shall use no less than twenty-five percent (25%) of the funds derived from the tax for police, fire and/or emergency services.

(Ord. 48-2007. Passed 12-27-07.)

345.99 PENALTY.

Whoever makes any false or untrue statement on any return required by this article, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this article, shall upon conviction be sentenced and fined not more than one thousand dollars (\$1,000) for each offense and in default of payment thereof shall be imprisoned for not more than ninety days for each offense. It is further provided that the action to enforce the fine and penalty hereby 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. (Ord. 1-2009. Passed 1-6-09.)