

Bill No. 5-07
Introduced: September 10, 2007
By Commissioner: Daley
Enacted: October 8, 2007

**MT. LEBANON, PENNSYLVANIA
ORDINANCE NO. 3132**

AN ORDINANCE OF THE MUNICIPALITY OF MT. LEBANON, PENNSYLVANIA, AMENDING, RESTATING AND RE-ENACTING CHAPTER XVIII (TAXATION, SPECIAL) OF THE MT. LEBANON CODE, PART 2 (EMERGENCY AND MUNICIPAL SERVICES) TO LEVY THE LOCAL SERVICES TAX AND TO CONFORM TO ACT 7 OF 2007 OF THE GENERAL ASSEMBLY OF PENNSYLVANIA

PREAMBLE

On November 20, 2004, the Pennsylvania General Assembly enacted amendments to Act 511 of 1965 (“Act 222”). Among other tax-related provisions, Act 222 authorized municipalities and school districts to levy an emergency and municipal services tax of up to \$52 per year, required that municipalities use proceeds from an emergency and municipal services tax for police, fire or emergency services, road construction or maintenance, or for the reduction of property taxes. On December 13, 2004, the Commission of Mt. Lebanon enacted Ordinance No. 3103 to levy the emergency and municipal services tax at the rate of \$52 per year pursuant to the authorization of Act 222.

On June 21, 2007, the Governor approved Act 7 of 2007 (“Act 7”), further amending Act 511 of 1965. Effective for taxes levied for calendar year 2008 and each year thereafter, Act 7 among other changes, changed the name of the emergency and municipal services tax to the

“local services tax”, mandated an income-based exemption and a military exemption from the tax, and modified the withholding and collection provisions.

NOW, THEREFORE, Mt. Lebanon, Pennsylvania, hereby ordains that:

Section 1. Chapter XVIII (Taxation, Special), Part 2, of the Mt. Lebanon Code shall be amended, restated and re-enacted in its entirety as follows.

§ 201 Short Title. This Part 2 shall be known and may be cited as the [“Emergency and Municipal Services Tax Regulations.”] “Local Services Tax Ordinance.”

§ 202 Definitions. As used in this Part 2, unless the context indicates clearly a different meaning, the following words shall have the meanings set forth below:

Collector: the Treasurer of the Municipality.

Compensation: salaries, wages, commissions, tips, bonuses, fees, gross receipts or other income derived from engaging in an Occupation.

Earned Income and Net Profits: shall have the same meaning as those terms are given in Section 13 of the Local Tax Enabling Act, Act 511 of 1965 (53 P.S. § 6313).

[Emergency and municipal services: Police, fire and/or emergency services; road construction and/or maintenance; or reduction of property taxes.]

Emergency Services: emergency services, which shall include emergency medical services, police services and/or fire services.

Employer: any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated within the Municipality employing one (1) or more employees engaged in any Occupation, other than domestic servants.

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 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 fiscal year for which the employee is requesting to be exempted from the Tax.

[Income: salaries, wages, commissions, bonuses, incentive payments, fees, tips and other Compensation received by a natural person or his personal representative, and whether in cash or in property.]

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.

Occupation: any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which any Compensation is received.

Tax: the tax imposed by § 203 of this chapter.

Taxpayer: any natural person liable for the tax levied by § 203 of this chapter.

§ 203 Levy. For [emergency and municipal] local services purposes, a Tax is hereby levied upon the privilege of engaging in an Occupation within the Municipality. Each natural person who exercises such privilege for any length of time in any year shall [pay annually with respect to such year a] be assessed and shall pay the Tax in the amount equal to the pro rata share of the annual amount of fifty-two dollars (\$52) in accordance with the provisions of this Part 2, subject to the exemptions set forth in § 204 of this chapter. [; provided, however, that the Tax hereby levied shall not be imposed upon any natural person whose total income during the taxable year is not in excess of one thousand dollars (\$1,000).]

§ 204 Exemptions. The Tax levied by § 203 shall not be imposed upon the following persons:

204.1 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.

204.2 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 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.

204.3 Any natural person whose total Earned Income and Net Profits from all sources within the Municipality during the taxable year is not in excess of twelve thousand dollars (\$12,000).

§ [204] 205 Collection Through Employers

[204.1] 205.1 Every Employer not registered under the provisions of the Earned Income Tax [Regulations] Ordinance of the Municipality (Part 1 of this chapter) 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.

[204.2] 205.2 As to each Taxpayer employed for any length of time [on or before March 31 of any] during any payroll period of an Employer during the calendar year, each Employer shall deduct a pro rata share of the Tax from Compensation 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 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. Each Employer shall file a return on a form prescribed by the Collector, and pay the Collector the full amount of all such Taxes [on or before April 30 of each year with respect to such year. Thereafter, as to each Taxpayer for whom no prior deduction has been made, who is employed for any length of time in any of the three (3) month periods ending with June 30, September 30, and December 31 of any year, each Employer shall deduct the Tax from Compensation payable to the Taxpayer, file a return on a form prescribed by the Collector, and pay to the Collector the full amount of all Taxes deducted for each three (3) month period on or before July 31, October 31 and January 1 of each year.] deducted during a calendar quarter within 30 days after the end of the calendar quarter.

[204.3] 205.3 Any Employer who discontinues business or ceases operation before December 31 of any year, shall within fifteen (15) days after discontinuing business or ceasing operation, file the return hereinabove required and pay the Tax to the Collector.

[204.4] 205.4 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.

[204.5] 205.5 [As to employees who present official receipts evidencing prior payment of the Tax either directly or by collection through other Employers, the] The Employer shall not deduct the Tax but shall maintain adequate records concerning [such] the employees in the cases described in § 205.5.1 and § 205.5.2.

- 205.5.1 In the case of concurrent employment, if the employee provides (a) a recent pay statement from a principal employer that includes (i) the name of the employer, (ii) the length of the payroll period and (iii) the amount of the Tax deducted and (b) a statement from the employee that (i) the pay statement is from the employee's principal employer and (ii) that the employee will notify other employers of a change in the principal place of employment within two weeks of its occurrence.
- 205.5.2 In the case of an employee claiming the exemption set forth at § 204.3, 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 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 in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year.
- 205.5.3 The Employer shall file with the Collector a copy of each Exemption Certificate, including attachments, received by the Employer no later than the end of the first payroll period as to which the employee claims the exemption set forth at § 204.3.
- 205.5.4 If a person has claimed the exemption under §204.3 for a given calendar year from the Tax 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 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 in 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 §205.5.4 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 Part 2.

205.5.5 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.

205.5.6 A person seeking exemption from the Tax under § 204.3 must annually file an Exemption Certificate with the Collector.

§ [205] 206 Direct Payment by Taxpayers. Every Taxpayer who is self-employed, or whose Tax for any other reason is not collected under § [204] 205 of this chapter, 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 [. Each such Taxpayer who first becomes subject to the Tax on or before March 31 of any year shall file the return and pay the Tax on or before April 30 of any year, and each such Taxpayer who first becomes subject to the Tax after March 31 of any year shall file the return and pay the Tax on or before July 31, October 31 and January 31 of any year, whichever of such payment dates first occurs at least thirty (30) days after the Taxpayer first becomes subject to the Tax.] 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 for the calendar year by four.

§ [206] 207 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 Part 2.

§ [207] 208 Administration and Enforcement. The Collector, on behalf of the Municipality, shall collect and receive the Taxes, interest, fines and penalties imposed by this Part 2, and shall maintain records showing interest, fines and penalties imposed by this Part 2, 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 may adopt and enforce regulations relating to any matter pertaining to the administration of this Part 2, 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 agents designated by him 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 agent designated by him all means, facilities and opportunity for the examinations hereby authorized.

§ [208] 209 Collections. The Collector shall collect, by suit or otherwise, all Taxes, interest, costs, fines and penalties due under this Part 2 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 Tax and an additional penalty of one-half of one percent (1/2 of 1%) of the amount of unpaid Tax, for each month or fraction of 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 as well as for interest and penalties. The Collector may accept payment under protest of the Tax claimed by the Municipality in any case where any person disputes the Municipality's claim for the Tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Collector, the Collector shall refund the amount of the overpayment to the person who paid under protest.

§ [209] 210 Refunds. Any person [natural person whose total income during any year is less than one thousand dollars (\$1,000) who has paid] who has overpaid the Tax [herein levied for that year] may obtain a refund [; provided, however, that on or before June 30 of any year succeeding the year for which he seeks a refund, he makes] by making a written application for a refund to the Collector no later than one (1) 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 [his income in the year for which he seeks a refund was less than one thousand dollars (\$1,000).] he 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).

§ 211 Receipt. The Collector shall provide a Taxpayer a receipt of payment of the Tax upon request by the Taxpayer.

§ [210] 212 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.

§ [211] 213 Duration. This Part 2 shall continue in force from year to year without annual reenactment.

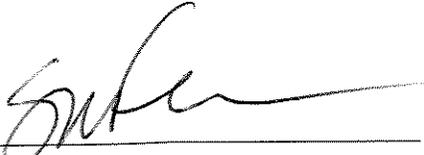
Section 2. The amendments made by this Ordinance shall be effective with respect to the calendar year 2008 and each year thereafter.

Section 3. This Ordinance is enacted under the authority of Act 511 of 1965, as amended, known as "The Local Tax Enabling Act."

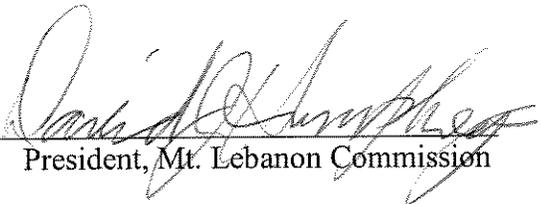
ORDAINED AND ENACTED into an Ordinance and passed by the Commission of Mt. Lebanon, Pennsylvania on this 8th day of October, 2007.

ATTEST:

MT. LEBANON, PENNSYLVANIA



Secretary

By: 

President, Mt. Lebanon Commission