

TULPEHOCKEN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2019-3

AN ORDINANCE OF TULPEHOCKEN TOWNSHIP ENACTING AND LEVYING A TAX ON PERSONS ENGAGED IN ANY OCCUPATION WITHIN THE TOWNSHIP; SETTING THE AMOUNT OF TAX; PROVIDING FOR AUTHORIZED EXEMPTIONS; PROVIDING DUE DATES AND PENALTIES; REQUIRING COLLECTION BY EMPLOYERS AND PROVIDING THE PROCEDURE FOR SAME AND RELATED PROVISIONS.

BE IT ENACTED AND ORDAINED, by the Board of Supervisors of Tulpehocken Township, Berks County, Pennsylvania pursuant to the authority conferred by the Local Tax Enabling Act, and other applicable law the following be and is hereby adopted:

Section 1. DEFINITIONS.

APPROVED NOMINEE – The person designated by the governing body of the Township of Tulpehocken by resolution to administer and enforce or to assist in the administration or enforcement of the tax in the place of the Tax Collector.

CALENDAR YEAR or YEAR – The period of time beginning on the first day of January and ending on the 31st day of December of each year.

EMPLOYER – An individual, partnership, limited partnership, association or corporation That engages the services of any individual and makes payment to said individual whether by salary, wages, commission, or otherwise. An “employer” shall include a self-employed person who engages in his employ the services of one (1) or more individuals besides himself.

INDIVIDUAL – Any person, male or female, engaged in any occupation of any nature, type or kind whatsoever within the corporate limits of the Township of Tulpehocken, whether in the employ of another or self-employed, during the calendar year 2020 or any calendar year thereafter.

OCCUPATION – Any trade, profession, business or undertaking any type or kind carried on or performed within the corporate limits of the Township of Tulpehocken, for which recompense is received, whether by means of salary, wages, commission or otherwise, or whether the individual be self-employed, by payment for services rendered.

RETURN – All forms designated, prepared and supplied by the Tax Collector or his approved nominee for reporting the tax required to be deducted and paid at the times specified in this Ordinance.

TAXABLE YEAR – The calendar year in which the tax is payable.

TAX COLLECTOR – The Tax Collector of the Township of Tulpehocken, Berks County, Pennsylvania as appointed by the Township of Tulpehocken to collect the Local Services Tax.

LOCAL SERVICES TAX – A tax of fifty-two and 00/100 dollars (\$52.00) per year levied on each engagement in any occupation, as heretofore defined, within the corporate limits of the Township of Tulpehocken during the calendar year 2020 or any calendar year thereafter.

Section 2. IMPOSITION OF TAX.

For the calendar year 2020 and annually thereafter, the Township of Tulpehocken hereby imposes on each Individual, to be paid by said Individual engaging in any occupation within the corporate limits of the Township of Tulpehocken, an annual Local Services Tax in the manner and at the rates hereinafter set forth.

Section 3. AMOUNT OF TAX.

Beginning on January 1, 2020, each engagement in an occupation as hereinbefore defined shall be subject to the payment of a Local Services Tax of fifty-two and 00/100 dollars (\$52.00) to be paid by each individual engaging in any occupation, as hereinbefore defined, within the corporate limits of the Township of Tulpehocken.

Section 4. EXEMPTIONS; TAX TO BE PAID AND REFUNDED.

- A. Each individual engaging in any occupation or occupations within the corporate limits of the Township of Tulpehocken and who shall earn less than twelve thousand and 00/100 dollars (\$12,000.00) during the calendar year from said occupation or occupations shall be exempt from the payment of the Local Services Tax of fifty-two and 00/100 dollars (\$52.00).
- B. Each individual who shall be engaged in more than one (1) occupation within the corporate limits of the Township of Tulpehocken and who shall earn a total of twelve thousand and 00/100 dollars (\$12,000.00) or more from the two (2) or more occupations engaged in shall not be exempt from the Local Services Tax of fifty-two and 00/100 dollars (\$52.00) though he or she shall earn less than twelve thousand and 00/100 dollars (\$12,000.00) in each one of the two (2) or more occupations he or she is engaging in within the corporate limits of the Township of Tulpehocken.
- C. Any individual exempt from the payment of the Local Services Tax hereunder shall nevertheless pay said tax pursuant to the provisions of this Ordinance and shall, after December 31 of the subject taxable year but prior to June 30 next following the subject taxable year, file a claim for refund of said tax. The burden

of proof shall be upon the individual claiming to be exempt to verify and furnish proof satisfactory to the Tax Collector, or his approved nominee, that he or she is exempt and is entitled to a refund of the tax previously paid. Upon the receipt of such proof supporting the exemption, the Tax Collector, or his approved nominee, is authorized to make refund of the tax previously paid to such individual having supplied such proof that he or she is exempt from payment of the tax.

Section 5. DATE TAX IS DUE; PENALTY FOR LATE PAYMENT.

- A. Each taxpayer or employer who becomes subject to the tax or the withholding provisions of this ordinance shall file the required returns and shall pay the tax due according to the following schedule:
 - 1. For all employees employed or self-employed persons engaging in an occupation in the Township between the dates of January 1 of the taxable year and March 31 of the taxable year (first quarter), no later than April 30 of the taxable year.
 - 2. For all employees employed or self-employed persons engaging in an occupation in the Township between the dates of April 1 of the taxable year, and June 30 of the taxable year (second quarter), no later than July 31 of the taxable year.
 - 3. For employees employed or self-employed persons engaging in an occupation in the Township between the dates of July 1 of the taxable year and September 30 of the taxable year (third quarter), no later than October 31 of the taxable year.
 - 4. For all employees employed or self-employed persons engaging in an occupation in the Township between October 1 of the taxable year and December 31 of the taxable year (fourth quarter), no later than January 31 of the year following the taxable year.
- B. In the case of an individual engaging in an occupation within the corporate limits of the Township of Tulpehocken for the first time after the first day of January of the taxable year, said tax shall be due and payable at close of the quarter said privilege is so exercised, as set forth above.
- C. Each taxpayer, employer or individual who becomes subject to the tax or withholding provisions of this Ordinance and fails to remit payment for said tax to the Township, according to the schedule set forth above, shall have levied against them a penalty equal to ten percent (10%) of the amount due and interest computed at one percent (1%) per month for all amounts due and owing after the due date.

Section 6. RESPONSIBILITY OF EMPLOYER TO COLLECT; PROCEDURE.

Each employer within the Township of Tulpehocken is hereby charged with the duty of collecting and paying over to the Tax Collector of the Township of Tulpehocken, or his approved nominee, from each employee engaged in his services, a pro-rata share of the said tax of fifty-two and 00/100 dollars (\$52.00) per year upon any occupation, as hereinbefore defined, from each individual employed by said employer who performs services on behalf of said employer within the Township of Tulpehocken or who is engaged in an occupation, as hereinbefore defined, for the benefit of the said employer or in the service of said employer within the corporate limits of the Township of Tulpehocken. The pro-rata share of the tax assessed by the employer shall be determined by dividing the fifty-two dollar (\$52.00) tax by the number of payroll periods established by the employer for the year. For purposes of determining the pro-rata share, the employer shall round down to the nearest one-hundredth of a dollar. Each employer shall make returns and payments of such tax as required by this section and Section 8 and is authorized to deduct the said Local Services Tax at the rates hereby imposed from each employee in his service, whether said employee is paid by salary, wages, commission or otherwise. Each employer within the corporate limits of the Township of Tulpehocken shall prepare and file a return showing a computation of the tax on a form to be obtained by him from the Tax Collector of the Township of Tulpehocken, or his approved nominee. Each employer shall file returns as required by this section and Section 8 obtained by him from the Tax Collector of the Township of Tulpehocken, or his approved nominee, showing a computation of the tax. Each employer, by completing and filing said returns as required by this section and Section 8, and making payments after deducting the tax from the salary, wages, commissions or other compensations payable by him to his employees, shall be entitled to retain a commission calculated at one-half of one percent (0.5%) on the gross tax due and payable by each individual, provided that such tax is collected and paid over by the employer within the one (1) month next following the last day of the quarter which it is due. It is further provided that if the employer fails to file said return and pay said tax, but makes collection thereof from the salary, wages, commissions or other compensation paid by him to said employee, the employer shall be responsible for payment of the tax in full without any deductions or commissions as though the tax had originally been levied against him. If said employer fails to file a return, deduct and remit the tax imposed on his employees within four (4) months of the due date, the applicable penalty and interest shall be chargeable to the employer. It is the employer's responsibility to file the return and remit the tax on behalf of his employee whether or not he deducts the tax from the employee. It is further provided that the provisions of this section shall apply with respect to each and every employee earning less than twelve thousand and 00/100 dollars (\$12,000.00) during the taxable year as defined and set forth under Section 4. The burden of proof shall be upon the employee to verify and furnish proof to the Tax Collector, or his approved nominee, that he is exempt under Section 4 and thus entitled to a refund.

Section 7. INDIVIDUALS HAVING MORE THAN ONE OCCUPATION.

Each Individual who shall have more than one (1) occupation within the corporate limits of the Township of Tulpehocken or a principal occupation in another municipality which levies a Local Services Tax shall be subject to the payment of the annual Local Services Tax solely upon his principal occupation, and his principal employer shall deliver to him a certificate of payment in a form to be furnished to the employer by the Tax Collector, or his approved nominee, certifying to any other employer of such individual that said Local Services Tax has been paid by the employee to the employer and, in turn, remitted by said employer to the Tax Collector, or his approved nominee of said other municipality. Any employer receiving such original certificate of payment of the Local Services Tax by another employer shall not deduct or collect the Local Services Tax imposed by this Ordinance.

Section 8. DETERMINATION BY EMPLOYER AS TO WHICH EMPLOYEES ARE SUBJECT TO TAX.

Each employer in the Township of Tulpehocken shall use his employment records as of the first day of January in determining the number of employees from whom the said Local Services Tax shall be deducted and paid over to the Tax Collector or his approved nominee. Each employer who engages the services of any individual in an occupation to be performed in the Township of Tulpehocken on or after the first day of January 2020 shall collect from said employee a pro-rata share of the fifty-two and 00/100 dollars (\$52.00) tax by dividing fifty-two (52) by the number of payroll periods established by the employer for the year and collecting the sum for each remaining pay period from the employee's pay.

Section 9. COLLECTION FROM SELF-EMPLOYED PERSONS AND PERSONS EMPLOYED OUTSIDE OF THE TOWNSHIP.

Each self-employed individual in the Township of Tulpehocken who performs any services of any type or kind within the corporate limits of the Township of Tulpehocken, whether the same is regarded either as a profession as a business, shall be required to pay the Local Services Tax of fifty-two and 00/100 dollars (\$52.00) for himself and shall, further, be required to deduct and pay over in the manner hereinbefore set forth in Section 6, but in any event no less than thirteen and 00/100 dollars (\$13.00) per quarter to the Tax Collector of the Township of Tulpehocken, an annual Local Services Tax of fifty-two and 00/100 dollars (\$52.00) for himself or herself and every individual in his employ who is engaged in the performance of any occupation or profession for him within the Township of Tulpehocken. Any individual engaged in any occupation within the said Township who is an employee of another shall be liable for the payment of the tax of fifty-two and 00/100 dollars (\$52.00) for himself and shall be treated and regarded as a self-employed individual if the location of the business of his employer is beyond the corporate limits of the Township of Tulpehocken and said employee is not liable for a similar tax in another municipality. Each employer whose business location is beyond the corporate limits of the Township of Tulpehocken shall be required to furnish to the Tax Collector of the Township of Tulpehocken, or his approved nominee, a list of all individuals employed by him

who engages in any occupation of any type or kind within the corporate limits of the Township of Tulpehocken during the calendar year and who are not liable for a similar tax in another municipality. It is further provided that the provisions of this section shall apply to each self-employed individual as defined herein earning less than twelve thousand and 00/100 dollars (\$12,000.00) during the calendar year as defined and set forth under Section 4. The burden of proof shall be upon the self-employed individual to verify and furnish proof to the Tax Collector that he is exempt under Section 4 and thus entitled to a refund.

Section 10. TAX TO BE IN ADDITION TO OTHER TAXES.

The tax imposed by this Ordinance shall be in addition to all other taxes of any kind or nature heretofore or hereafter levied by the Township of Tulpehocken.

Section 11. DOMESTIC EMPLOYEES.

Where a person is engaged in domestic services for others and has more than one (1) employer in the performance of such services, the employer by whom such domestic is employed on the first day of January of the taxable year shall be responsible for the collection and payment of the annual Local Services Tax for such domestic to the Tax Collector of the Township of Tulpehocken, or his approved nominee pursuant to Section 6 and Section 8. In the event that the domestic is not employed by any person on the first day of January, the said responsibility for deducting and paying over the Local Services Tax shall rest upon the employer of the domestic on the next succeeding date following the first day of January, and said employer shall furnish to said domestic employee a certificate of payment of said Local Services Tax to be exhibited to all other employers of domestic, and the producing of said certificate to such other employers shall excuse them from the deduction of any further Local Services Tax from said domestic employee for the taxable year.

Section 12. POWERS AND DUTIES OF COLLECTOR.

- A. It shall be the duty of the Tax Collector, or his approved nominee, to collect, to receive and, when required by law or this Ordinance, to make refunds of the taxes, fines or penalties imposed by this Ordinance. It shall also be his duty to keep a record showing the amount received by him from each self-employed person paying the tax and the date of such receipt; and, further, it shall be his duty to keep a record showing the amount received by him from every employer paying the tax on behalf of his employees by deduction made by such employer from the salary, wages, commissions or other forms of recompense.
- B. The Tax Collector, or his approved nominee, is hereby charged with the administration and enforcement of the provisions of this Ordinance and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including a provision for the examination of the payroll records of any

employer within the Township of Tulpehocken and, further, for the reexamination and correction of any returns made in compliance with this Ordinance and any payment alleged or found to be incorrect or as to which over payment or exemption is claimed or found to have occurred. Any person aggrieved by any decision of the Tax Collector, or his approved nominee, shall have the right to appeal to the Court of Common Pleas of Berks County as in other cases provided.

- C. The Tax Collector, or his approved nominee, is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by any employer on behalf of his employees or, if no return was made, to ascertain the Local Services Tax due. Each employer in the Township of Tulpehocken is hereby directed and required to give to the Tax Collector, or his approved nominee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.
- D. The records, books and accounts of the Tax Collector, or his approved nominee, shall be audited by whoever from time to time is charged with the auditing of the accounts of the Township of Tulpehocken.

Section 13. COLLECTION OF UNPAID TAXES.

In the event that any tax under this Ordinance remains due or unpaid at the end of the taxable year, the Tax Collector, or his approved nominee, may sue for the recovery of any such tax due or unpaid under this Ordinance, together with penalty. Where suit is brought for the recovery of any Local Services Tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection and the interest and penalties herein imposed.

Section 14. VIOLATIONS AND PENALTIES.

Whoever makes any false or untrue statements on any return or exemption claim required by this Ordinance, or who refuses inspection of the books, records or accounts in this custody or control in order to determine the number of employees subject to the Local Services Tax who are in his employment or whoever fails or refuses to file any return required by this Ordinance shall, upon conviction before any District justice having jurisdiction, be sentenced to pay a fine of not more than three hundred and 00/100 dollars (\$300.00) for each offense and, in default of payment of said fine, to be imprisoned in Berks County Prison for a period not exceeding thirty (30) days for each offense. It is further provided that action to enforce the penalty herein provided may be begun and instituted against any person in charge of the business premises of any employer who has failed or who refuses to file a return required by this Ordinance.

Section 15. LIMITATION ON LEVY; EFFECT OF JUDICIAL DECISIONS.

- A. Nothing contained in this Ordinance shall be construed to empower the Township of Tulpehocken to levy and collect the Local Services Tax hereby imposed on any occupation not within the taxing power of the Township of Tulpehocken under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania, particularly those laws which provide that no person shall pay more than fifty-two and 00/100 dollars (\$52.00) in any calendar year as a Local Services Tax irrespective of the number of political subdivisions within which such person may be employed within any given calendar year .
- B. If the Local Services Tax hereby imposed under the provisions of this Ordinance shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or 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 Local Services Tax or the validity of the tax so imposed upon other persons or individuals as herein provided.

Section 16. INDIVIDUALS IN LICENSED OCCUPATIONS SUBJECT TO TAX.

If any individual is engaged in any occupation of any type or kind licensed by the Commonwealth of Pennsylvania, the tax imposed by this Ordinance, nevertheless, shall be payable and due by said individual for the carrying on of such occupation or business so licensed within the corporate limits of the Township of Tulpehocken.

Section 17. DEADLINE FOR REFUND CLAIMS.

Any claim for refund of any Local Services Tax paid during the calendar year of 2020 or thereafter must be filed in writing with the Tax Collector, or his approved nominee, on or before the 30th day of June next following the subject taxable year. Any claim for refund filed after said date shall be barred and disallowed.

Section 18. PREVIOUSLY ENACTED ORDINANCES. All other articles, sections, parts and provisions of the Ordinances of the Township of Tulpehocken shall remain in full force and effect as previously enacted and amended.

Section 19. REPEALER. Any ordinance or parts of any ordinance conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance's provision.

Section 20. SEVERABILITY. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect nor impair the validity of the Ordinance as a whole, or any other article,

section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Board of Supervisors of the Township of Tulpehocken, Berks County, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or words that may have been declared illegal, unconstitutional or invalid.

Section 21. EFFECTIVE DATE. This Ordinance shall become effective at the earliest date permitted by law.

ENACTED AND ORDAINED into an Ordinance this 13th day of November, A.D. 2019, by the Supervisors of Tulpehocken Township, Berks County, Pennsylvania in Lawful Session duly assembled.

BOARD OF SUPERVISORS OF
TULPEHOCKEN TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA



By: Mary A. Decker
Chairman

Richard A. Kramer
Member

Robert H. Feick
Member

ATTEST: Christy Flaherty
Secretary

CERTIFICATE OF ENACTMENT

I HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2019-3 of Tulpehocken Township, Berks County, Pennsylvania, which was adopted by the Board of Supervisors of said Township at a regular meeting held pursuant to notice as required by law on November 13, 2019.

WITNESS my hand and seal this 13th day of November, 2019.


Secretary

DATED: November 13, 2019

