
ARTICLE 317
LOCAL SERVICES TAX

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“317.01 DEFINITIONS

The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context or language clearly indicates or requires a different meaning:

- (a) “Collector.” The Finance Director of the City of Franklin.
- (b) “DCED.” The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- (c) “Earned Income.” Compensation as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.
- (d) “Employer.” An individual, partnership, association, limited liability corporation, 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 self-employed person.
- (e) “He, His or Him.” Indicates the singular and plural number, as well as male, female and neutral genders.
- (f) “Individual.” Any person, male or female, engaged in any occupation, trade, or profession within the corporate limits of the City of Franklin.
- (g) “Net Profits.” The net income from the operation of a business, profession or other activity as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

- (h) "Occupation." Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the City of Franklin for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.
- (i) "Tax." The local services tax at the rate fixed in Section 317.02 of this Article.
- (j) "Tax Year." The period from January 1 until December 31 in any year; a calendar year.

317.02 LEVY OF TAX

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008, upon the privilege of engaging in an occupation with a primary place of employment within the corporate limits of the City of Franklin during the tax year. Each individual who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of Fifty-Two and 00/100 (\$52.00) Dollars, assessed on a pro rata basis, in accordance with the provisions of this Article. This tax may be solely used for the following purposes as the same may be allocated by the Council of the City of Franklin from time to time:

- (a) emergency services, which shall include emergency medical services, police services and/or fire services;
- (b) road construction and/or maintenance;
- (c) reduction of property taxes; or
- (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 Franklin shall use no less than Twenty-Five (25%) Percent of the funds derived from the tax for emergency services. The tax is in addition to all other taxes of any kind or nature heretofore levied by the City of Franklin. The tax shall be no more than Fifty-Two and 00/100 (\$52.00) Dollars on each individual for each calendar year, irrespective of the number of political subdivisions within which an individual may be employed.

317.03 EXEMPTIONS

Any individual whose total earned income and net profits from all sources within the City of Franklin is less than Twelve Thousand and 00/100 (\$12,000.00) Dollars for any tax year in which the tax is levied is exempt from the payment of the tax for that tax year. In addition, the following individuals are exempt from the payment of the tax:

- (a) Any individual who has served in any war or armed conflict in which the United States of America 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 (100%) Percent disability.
- (b) Any individual who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the tax 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.

317.04 PROCEDURE TO CLAIM EXEMPTION

- (1) An individual seeking to claim an exemption from the tax may annually file an exemption certificate with the Collector or his designee and with the individual's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the corporate limits of the City of Franklin of less than Twelve Thousand and 00/100 (\$12,000.00) Dollars in the tax year for which the exemption certificate is filed. In the event the City of Franklin 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 individual's last pay stubs or W-2 forms from employment with the corporate limits of the City of Franklin for the tax year prior to the tax year for which the individual is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the City of Franklin or except as required by Section 317.04(2), the employer shall not withhold the tax from the individual during the tax year or the remainder of the tax 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 of Franklin.

- (2) With respect to an individual who claimed an exemption for a given tax year from the tax, upon notification to an employer by the individual or the City of Franklin that the individual has received earned income and net profits from all sources with the corporate limits of the City of Franklin equal to or in excess of Twelve Thousand and 00/100 (\$12,000.00) Dollars in that tax year or that the individual is otherwise ineligible for the tax exemption for that tax year, or upon an employer's payment to the individual of earned income within the corporate limits of the City of Franklin in an amount equal to or in excess of Twelve Thousand and 00/100 (\$12,000.00) Dollars in that tax year, an employer shall withhold the tax from the individual under Section 317.04(3).
- (3) If an individual who claimed an exemption for a given tax year from the tax becomes subject to the tax for the tax year under Section 317.04(2), the employer shall withhold the tax for the remainder of that tax year. The employer shall withhold from the individual, for the first payroll period after receipt of notification under Section 317.04(2), a lump sum equal to the amount of tax that was not withheld from the individual due to the exemption claimed by the individual 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 tax year shall be the same amount withheld for other employees. In the event the employment of the individual subject to withholding of the tax under this Section 317.04(3) is subsequently severed in that tax year, the individual shall be liable for any outstanding balance of tax due, and the City of Franklin may pursue collection under this Article.
- (4) Except as provided in Section 317.04(2), it is the intent of Section 317.04 that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility, or exempting any employee from the tax.

317.05 REFUNDS

The City of Franklin, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax period 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 with seventy-five (75) days of a refund request or seventy-five (75) days after the last day the employer is required to remit the tax for the last quarter of the tax year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a tax year that do not exceed One and 00/100 (\$1.00) Dollar. The Collector or his designee shall determine the eligibility for exemption and provide refunds to exempt persons.

317.06 DUTY OF EMPLOYERS TO COLLECT

- (1) Each employer within the corporate limits of the City of Franklin, as well as those employers situated outside the corporate limits of the City of Franklin but who engage in business within the corporate limits of the City of Franklin, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the corporate limits of the City of Franklin and making a return and payment thereof to the Collector or his designee. Further, each employer is hereby authorized to deduct the tax for each employee in his employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the corporate limits of the City of Franklin.
- (2) An individual subject to the tax shall be assessed by the employer a pro rate share of the tax for each payroll period in which the person is engaging in an occupation. The pro rate share of the tax assessed on the individual for a payroll period shall be determined by dividing the rate of tax levied for the tax year by the number of payroll periods established by the employer for the tax year. For purposes of determining the pro rate share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredths of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the individual is engaging in an occupation, except as provided in Section 317.06(4). For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the City of Franklin.
- (3) No individual shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- (4) 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 the change in principal place of employment within two (2) weeks of its occurrence. The employee's statement shall be provided on a form approved by DCED.
- (5) The tax shall be no more than Fifty-Two and 00/100 (\$52.00) Dollars on each individual for each tax year, irrespective of the number of political subdivisions within which an individual may be employed. The City of Franklin or the Collector or his designee shall provide a taxpayer a receipt of payment upon request by the taxpayer.

- (6) No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the City of Franklin 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 tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Section 317.03 and this section, and remits the amount so withheld in accordance with this Article.
- (7) Employers shall be required to remit the local services taxes within thirty (30) days after the end of each quarter of each tax year.

317.07 RETURNS

Each employer shall prepare and file a return showing the computation of the tax on forms to be supplied to the employer by the Collector or his designee. If an employer fails to file the return and pay the local services taxes, whether or not the employer makes collection thereof from the salary, wages, or commissions paid by him to an employee, except as provided hereafter in this Article, the employer shall be responsible for the payment of the local services taxes in full as though the local services taxes had been originally levied against the employer.

317.08 DATES FOR DETERMINING TAX LIABILITY AND PAYMENT

In each tax year, each employer shall use his employment records to determine the number of employees from whom the tax shall be deducted and paid over to the Collector or his designee on or before the thirtieth (30th) day following the end of each calendar quarter of each tax year.

317.09 SELF-EMPLOYED INDIVIDUALS

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment with the corporate limits of the City of Franklin shall be required to comply with this Article and pay the pro rate portion of the tax due to the Collector or his designee on or before the thirtieth (30th) day following the end of each calendar quarter of each tax year.

317.10 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION OR EMPLOYED IN MORE THAN ONE POLITICAL SUBDIVISION

(1) The situs of the tax shall be the place of employment on the first (1st) day the individual becomes subject to the tax during each payroll period. In the event an

individual is engaged in more than one (1) occupation, that is, concurrent employment, or an occupation which requires the individual working in more than one (1) political subdivision during a payroll period, the priority of claim to collect the tax shall be in the following order:

- (a) First, the political subdivision in which the individual maintains his or her principal office or is principally employed;
- (b) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision; and
- (c) Third, the political subdivision in which an individual is employed and which imposes the tax nearest in miles to the individual's home.

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

317.11 NONRESIDENTS SUBJECT TO TAX

All employers and self-employed individuals residing or having their places of business outside of the corporate limits of the City of Franklin but who perform services of any type or kind or engage in any occupation or profession within the corporate limits of the City of Franklin 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 of Franklin. Further, any individual engaged in an occupation within the corporate limits of the City of Franklin and an employee of a nonresidential employer may, for the purpose of this Article, be considered a self-employed person, and in the event his tax is not paid, the City of Franklin or the Collector or his designee shall have the option of proceeding against either the employer or employee for the collection of the tax as hereinafter provided.

317.12 ADMINISTRATION OF TAX

- (1) The Collector is hereby appointed by resolution of the Council of the City of Franklin 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 Collector is hereby charged with the administration and enforcement of this Article and is empowered, subject to any municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including the provisions for the examination of 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 Collector shall have the right of appeal to the Court of Common Pleas of Venango County, Pennsylvania, as in other cases provided.

- (3) The Collector 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 local services taxes due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.
- (4) The Collector shall not make refunds in the case of overpayment of the tax for any period in excess of three (3) years subsequent to the date of payment of the sum involved.

317.13 SUITS FOR COLLECTION

- (1) In the event that any tax under this Article remains due or unpaid thirty (30) days after the due dates above set forth, the Collector 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 Six (6%) Percent on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of Five (5%) Percent shall be added to flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of the tax or other appropriate remedy is undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

317.14 INTERPRETATION

- (1) Nothing in this Article shall be construed to empower the City of Franklin to levy and collect the tax hereby imposed on any occupation not within the taxing power of the City of Franklin under the Constitution of the United States of America and the laws of the Commonwealth of Pennsylvania.
- (2) 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 of America or the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair to right to impose or collect said tax or the validity of the tax imposed on other individuals as herein provided.

317.99 VIOLATIONS AND PENALTIES

Whoever makes any false or untrue statement on any return required by this Article, or whoever refuses inspection of the books, records or accounts in his custody and control setting forth the number of employees subject to the tax who are in his employment, or whoever fails or refuses to file any return required by this Article, shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than Five Hundred and 00/100 (\$500.00) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. The action to enforce the penalty herein prescribed may be instituted against any individual in charge of the business of any employer who shall have failed or who refuses to file a return required by this Article.”