

**FREEPORT BOROUGH, ARMSTRONG COUNTY,
PENNSYLVANIA**

ORDINANCE NO. 356

AN ORDINANCE OF THE BOROUGH OF FREEPORT, COUNTY OF ARMSTRONG, PENNSYLVANIA, TO ENACT AN ORDINANCE IMPOSING A LOCAL SERVICES TAX UPON PERSONS EMPLOYED WITHIN THE BOROUGH OF FREEPORT, PROVIDING FOR ADMINISTRATION, COLLECTION AND ENFORCEMENT PROCEDURES, AND IMPOSING FINES AND PENALTIES FOR VIOLATIONS.

WHEREAS, the Local Tax Enabling Act (P.L. 1257, No. 511), which was enacted December 31, 1965, in part authorizes a Borough to impose a tax, known as an Occupation Privilege Tax, for general revenue purposes upon the privilege of engaging in an Occupation within the local municipality; and

WHEREAS, on February 14, 1968 the Borough of Freeport Council adopted Ordinance Number 207 which imposed an Occupation Privilege Tax at the rate of five (\$5.00) dollars, in accordance with the Local Tax Enabling Act 511; and

WHEREAS, on December 1, 2004 the Local Tax Enabling Act was amended by Act 222 of 2004, which establishes the Emergency and Municipal Services Tax and provides for changes to the administration, rate of collection, and title of the Occupation Privilege Tax; and

WHEREAS, the Local Tax Enabling Act 511 was further amended by Act 7 of 2007, which establishes the Local Services Tax as of January 1, 2008 and provides for changes to the administration, rate of collection, and title of the Occupation Privilege Tax; and

WHEREAS, because Freeport Borough did amend Ordinance Number 207 with a new Emergency and Municipal Services Tax on November 7, 2005 in the amount of \$26.00 and intend to change the rate of the tax at this time, the borough is required to enact a new Ordinance to comply with the new Local Services Tax provisions prior to December 11, 2007.

NOW, THEREFORE, BE IT ORDAINED as follows:

SECTION 1: SHORT TITLE. This Ordinance shall be known and may be cited as the "Freeport Borough Local Services Tax Ordinance".

SECTION 2: DEFINITIONS. The following terms, words and phrases, when used in this Ordinance, shall have the following meanings ascribed to them, unless the context or language clearly requires a different meaning.

COMPENSATION – Salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other income.

EMPLOYER – Any person, partnership, unincorporated association, corporation, institution, governmental body or agency, or any other entity engaged in business or situate in the Borough, employing one (1) or more person for a salary, wage, commission or other compensation.

FISCAL YEAR – The twelve (12) month period beginning January 1st and ending December 31st in any tax year.

INDIVIDUAL OR PERSON – A natural person, resident or non-resident, engaged in any occupation with the Borough, including self-employed individuals.

NON-RESIDENT – Any person residing outside the corporate limits of the Borough.

OCCUPATION – Any livelihood, trade, job, profession, business or enterprise of any type, kind or character, including services, domestic or other, carried on or preformed within the Borough for which any compensation is charged or received for services rendered.

RESIDENT – Any person residing within the corporate limits of the Borough.

TAX – The Local Services Tax, levied on individuals for the privilege of engaging in an occupation within the Borough.

TAXPAYER – Any individual liable for the Local Services Tax.

TAX COLLECTOR – Is a person, public employee, or private agency designated from time to time by the Borough of Freeport Council to assess, collect, administer, and enforce the Local Services Tax.

BOROUGH – The Borough of Freeport, Armstrong County, Pennsylvania.

SECTION 3: LEVY, AMOUNT OF TAX AND EXEMPTIONS. For the purpose of providing revenue for road construction and/or maintenance, police, fire, and/or emergency service, or reduction of property taxes, a tax is hereby levied upon the privilege of engaging in and occupation within the Borough during the fiscal year. Each individual who exercises such privilege for any length of time shall pay tax in the amount of fifty-two (\$52.00) dollars per annum; provided, however, any individual whose total income from all sources is less than twelve thousand (\$12,000.00) dollars per annum is hereby exempt from this tax.

SECTION 4: DUTIES OF EMPLOYERS.

1. Every employer not registered with the Tax Collector shall, within fifteen (15) days after the effective date of this Ordinance or within fifteen (15) days after first becoming an employer, register with the Tax Collector by providing the employer's name, address, and such other information deemed necessary or required by the Tax Collector.

2. Each employer within the Borough, as well as each employer outside the Borough but engaging in business within the Borough, is hereby charged with the duty of collecting the tax of fifty-two (\$52.00) dollars per fiscal year, in accordance with the terms of this Ordinance, from each taxpayer who engaged in an occupation, for the benefit of the employer or in the service of the employer within the Borough during the fiscal year. Each employer is hereby authorized to deduct this tax from each taxpayer, whether or not the taxpayer is paid by salary, wages, commission, and whether or not part or all of such services are performed within the Borough.

3. For each taxpayer earning over \$12,000.00 for the calendar year and employed for a length of time on or before March 31st of a calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on form prescribed by the Tax Collector, and pay the Tax Collector the tax deducted on or before April 30th of the calendar year. Thereafter, as to each taxpayer who earns over twelve thousand (\$12,000.00) dollars for the calendar year and who is employed for any length of time in any of the three month periods ending June 30th, September 30th, and December 31st of the calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Tax Collector, and pay to the Tax Collector the full amount of all taxes deducted for each such three month period on or before July 31st, October 31st, and January 31st, respectfully. The entire tax shall be prorated by pay periods over the entire year.

4. Any employer who discontinues business or ceases operation before December 31st of the calendar year shall, within fifteen (15) days after discontinuing business or ceasing operation, file a return on a form prescribed by the Tax Collector, and pay to the Tax Collector the full amount of all taxes deducted.

5. The failure of any employer to deduct the tax shall not relieve the taxpayer from the duty to file a return on a form prescribed by the Tax Collector, and pay the full amount of the tax to the Tax Collector. Any employer who fails to deduct the tax as required by this Ordinance, or who fails to pay the tax to the Tax Collector, shall be liable for such tax in full, without deduction of any fees, as though the tax had originally been levied against the employer.

6. As to taxpayer who present official receipts evidencing prior payment of an amount of the tax either directly or by collection through other employers, the employer shall not deduct the tax but shall maintain adequate records evidencing the prior payments made by the taxpayer.

SECTION 5: DIRECT PAYMENT BY INDIVIDUALS. Every individual who is self employed or whose tax for any other reason is not collected under Section 4, above, and who earns over twelve thousand (\$12,000.00) dollars for the calendar year and is employed for any length of time shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to the Tax Collector. Each such individual who first becomes subject to the tax on or before March 31st of the calendar year shall file the return and pay one-fourth the amount of the tax on or before April 30th of that calendar year. Each such individual who first becomes subject to the tax or continues to be subject to the tax after March 31st shall file the return and pay one-fourth the amount of the tax on or before July 31st and October 31st of the calendar year, and January 31st of the following calendar year.

SECTION 6: RESIDENT AND NON-RESIDENT TAXPAYER. Both resident and non-resident taxpayers shall, by virtue of engaging in an occupation within the Borough, be subject to the tax.

SECTION 7: ADMINISTRATION AND ENFORCEMENT. The Tax Collector, on behalf of the Borough, shall collect and receive the taxes, interest, fines and penalties imposed by this Ordinance and shall maintain records showing the amounts received and the dates such amounts were received. The Tax Collector shall prescribe and issue all forms necessary for the administration for the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Ordinance, including but not limited to requirements for the collection through employers, requirements for evidence and records, and provision for the examination and correction of returns. The Tax Collector and agents designated by the Tax Collector may examine the records of any employer or supposed employer or any taxpayer or supposed taxpayer in order to ascertain the tax due and/or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Tax Collector and any agent designated by the Tax Collector the means, facilities and opportunity for the examinations hereby authorized.

SECTION 8: SUITS FOR COLLECTION. The Tax Collector shall collect, by suit or otherwise, all taxes, interest, 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 (6.0%) per annum on the amount of unpaid tax, and an additional penalty of one-half (1/2) of one percent (1.0%) 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. Where suit is brought for the recovery of

any unpaid tax, the taxpayer or employer shall, in addition, be liable for the costs of collection, including attorneys' fees, as well as for interest and penalties. The Tax Collector may accept payment under protest of the tax claimed by the Borough in any case where any taxpayer disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been an overpayment to the Tax Collector, the Tax Collector shall refund the amount of the overpayment to the taxpayer who paid under protest.

SECTION 9: FINES AND PENALTIES FOR VIOLATIONS.

1. 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 to pay the tax deducted from its employees, or fails, neglects or refuses to register or pay the tax deducted from its employees, or fails, neglects or refuses to deduct or withhold the tax from its employees, any person who refuses to permit the Tax Collector or any agent designated by the Tax Collector to examine its book, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of its earned income in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance, shall upon conviction thereof be sentenced to pay a fine of not more than five hundred (\$500.00) dollars for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not to exceed thirty (30) days.

2. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Ordinance.

3. The failure of any person to receive or procure forms required for making the declaration or returns required by this Ordinance shall not excuse the person from making such declaration or return.

SECTION 10: ORDINANCE AS CUMULATIVE. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Borough.

SECTION 11: APPLICABILITY AND SEVERABILITY. The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania. If a final decision of a court of competent jurisdiction holds any section, subsection, sentence, clause, phrase, or part of this Ordinance to be illegal or unconstitutional, such determination shall not affect or impair any of the remaining sections, subsections, sentences, clauses, phrases, or parts of this Ordinance, which shall remain in full force and effect. It is hereby declared as the intent of the Borough that the sections, subsections, sentences, clauses, phrases, or parts of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional section, subsection, sentence, clause, phrase, or parts had not been included.

SECTION 12: AUTHORITY. This Ordinance is enacted under and by virtue of and pursuant to the authority vested in the Borough of Freeport, by the Local Tax Enabling Act, Act 511 of 1965, as amended.

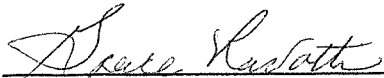
SECTION 13: REPEALER. Ordinance Numbers 207 and 352, and all other Borough Ordinances and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent of such inconsistency.

SECTION 14: EFFECTIVE DATE. This Ordinance shall take effect January 1, 2008, to be in effect for the Fiscal Year 2008 and each Fiscal Year thereafter until revised, amended or revoked by action of the Borough Council of Freeport.

ORDAINED AND ENACTED THIS 5th DAY OF NOVEMBER, 2007.

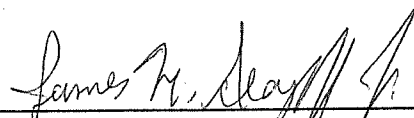
ATTEST:

FREEPORT BOROUGH, ARMSTRONG COUNTY, PENNSYLVANIA



Secretary
GRACE RAVOTTI

BY:



Council President
JAMES M SEAGRIFF, JR.

APPROVED AND ACCEPTED BY



MAYOR
ROBERT RAVOTTI