

ORDINANCE NO. 2 of 2005

An Ordinance imposing an emergency and municipal services tax on individuals engaging in an occupation within the borders of Shenango Township, to be known as the Emergency and Municipal Services Tax Ordinance.

WHEREAS, the Local Tax Enabling Act(P.L. 1257, No. 511) which was enacted December 31, 1965, in part authorizes Second Class Townships to impose a tax for certain purposes upon the privilege of engaging in an occupation with the local municipality, known as the Occupational Privilege Tax(OPT); and

WHEREAS, on December 1, 2004, the Local Tax Enabling Act No. 511 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 Occupational Privilege Tax.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Supervisors of Shenango Township, Lawrence County, Pennsylvania, as follows:

Section 1. Definitions. As used in this ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

COMPENSATION - salaries, wages, commissions, tips, bonuses, fees, gross receipts, or any other earned income.

EMPLOYER - any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Township of Shenango, employing one or more employees engaged in any occupation other than domestic servants.

OCCUPATION - any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

TAX COLLECTOR - tax collector of the Township of Shenango.

TAXPAYER - any natural person liable for the tax levied by this ordinance.

Section 2. Imposition of Tax. A tax for general revenue purposes, in the amount of ten dollars (\$10.00), is hereby imposed upon the privilege of engaging in an occupation within the Township of Shenango in the fiscal year January 1, 2005 through December 31, 2005, and in each following fiscal year. Each natural person who exercises such privilege for any length of time in any fiscal year beginning with the year 2005, shall pay the tax in accordance with the provisions hereof. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Shenango, provided however, that hereby exempted from this tax is any person whose total income from all sources is less than Twelve Thousand(\$12,000) Dollars per annum.

Section 3. Payment via Employer.

1. Each employer shall register with the tax collector the employer's name, address and other

information the tax collector may require within fifteen (15) days after the effective date of this ordinance or within fifteen (15) days after first becoming an employer.

2. For each taxpayer employed for any length of time after the effective date of this ordinance and on or before March 31 of the current tax 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 said tax collector the full amount of taxes deducted on or before April 30 of the current tax year. For each taxpayer for whom no prior deduction has been made, who is employed after the effective date of this ordinance and in any of the three (3) months periods ending June 30, September 30, and December 31, of the current tax 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 said collector the full amount of all taxes deducted, on or before July 31 or October 31 of the current tax year, or January 31 of the following year, respectively. This tax shall be deducted whether or not part of the employee's duties for the employer are performed outside of the of the Township of Shenango.

3. Any employer who discontinues business or ceases operation before December 31 of any year during which this tax is in effect, shall file the return hereinabove required and pay the tax to the tax collector, within fifteen (15) days after discontinuing business or ceasing operations.

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 tax collector, shall be liable for such tax in full, without deduction of the commission hereinafter provided, as though the tax had originally been levied against such employer.

5. As to employees who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through employers, the employer shall not deduct the tax but shall maintain adequate records concerning such employees.

Section 4. Direct Payment by Taxpayers. Every taxpayer who is self-employed or whose tax for any other reason is not collected under section 3 of this ordinance shall file a return on a form prescribed by the tax collector and shall pay the tax directly to said collector. Each such taxpayer who first becomes subject to the tax after the effective date of this ordinance, and on or before March 31 of the current tax year, shall file the return and pay the tax on or before April 30 of the current tax year, and each such taxpayer who first becomes subject to the tax after March 31 of the current tax year, shall file the return and pay the tax on or before July 31 or October 31 of the current tax year, or January 31 of the following year, whichever of such payment dates first occurs at least thirty (30) days after the taxpayer becomes subject to the tax.

Section 5. Nonresident Taxpayers. Both residents and nonresident taxpayers shall, by virtue of engaging in an occupation within the Township of Shenango, be subjected to the tax and the provisions of this ordinance.

Section 6. Administration and Enforcement. The tax collector shall collect and receive the taxes, interests, 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 of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this ordinance. The tax collector and agents designated by him may examine the records of any employer and/or supposed employer or

of any 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 tax collector and any agent designated by him all means, facilities and opportunity for the examinations hereby authorized.

Section 7. Collection. The tax collector shall collect by suit or otherwise, all taxes, interests, 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%) per year on the amount of unpaid taxes and an additional penalty of one-half of one percent ($\frac{1}{2}$ of 1 %) of the amount of the 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 tax collector may accept payment under protest of the tax claimed by the Township of Shenango in any case where any person disputes the Township of Shenango's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the tax collector, the tax collector shall refund the amount of the overpayment to the person who paid under protest. Any action instituted for such judicial determination shall be instituted within two (2) years of the last day of the period for which the tax is disputed or claim made. All refunds shall be made in conformity with the procedure prescribed by the Board of Supervisors.

Section 8. Penalties. An employer or taxpayer who makes a false or untrue statement on any return required by this ordinance, who refuses inspection of his records in his custody and control setting forth his employees subject to this tax, who fail or refuses to file a return required by this ordinance, or who violates any other provisions of this ordinance, shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars (\$600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.

Section 9. Tax Proceeds. The proceeds from this tax shall be used solely for the purposes of 1) road construction and/or maintenance; 2) fire and/or emergency services; and/or 3) reduction of property taxes.

Section 9. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 10. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentence, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Board of Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 11. Effective Date. This ordinance shall become effective five (5) days after its adoption and shall continue on a calendar year basis, thereafter, without annual reenactment. Up to the effective date of this ordinance, the Occupational Privilege Tax, then in place, is intended to continue to remain in effect.

ORDAINED AND ENACTED into law this 10th day of Feb, 2005.

Attest:

Brian D. Tanner
Secretary

Date: 02-10-05

SHENANGO TOWNSHIP
BOARD OF SUPERVISORS

Logan A. H.
Sherry Phelps
William Albert