

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 471

(Duly Adopted January 30, 2008)

AN ORDINANCE AMENDING CHAPTER 84 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO LOCAL SERVICES TAX) TO REFLECT THE FACT THAT THE EAST PENN SCHOOL DISTRICT DOES NOT ALSO LEVY A LOCAL SERVICES TAX AND THE BOROUGH OF ALBURTIS ONLY LEVIES AN ANNUAL TAX OF \$10.00, SO THAT THE TAX IS COLLECTED IN ONE PAYMENT AT THE BEGINNING OF THE YEAR RATHER THAN PRO RATA EACH PAY PERIOD THROUGHOUT THE YEAR; WITHOUT MAKING ANY CHANGE IN THE RATE OF THE TAX (TEN DOLLARS PER YEAR).

WHEREAS, by Ordinance No. 467, the Borough of Alburtis continued in effect, without any change in rate, its ten dollar (\$10.00) annual tax upon individuals engaging in an occupation in the Borough, previously known as the Occupational Privilege Tax, then renamed by the Commonwealth as the Emergency and Municipal Services Tax, and now renamed by the Commonwealth as the Local Services Tax, with amendments to conform the tax to the new requirements of Pennsylvania Act No. 7 of 2007; and

WHEREAS, if the local school district also levies a local services tax and the combined annual rate of the school district and municipal local services taxes is greater than ten dollars (\$10.00), then the tax shall be assessed on a pro rata basis for each payroll period during the calendar year, but if the combined annual rate of the taxes is not more than ten dollars (\$10.00), then the tax is assessed at one time when the taxpayer first becomes subject to the tax during the calendar year; and

WHEREAS, the East Penn School District no longer levies a local services tax and is now prohibited from levying such a tax, so that the combined annual rate of the tax is not more than ten dollars (\$10.00); and

WHEREAS, Borough Council desires to correct the amendments made by Ordinance No. 467 to reflect the fact that the East Penn School District does not collect a local services tax and the combined rate of local services tax is not more than ten dollars (\$10.00);

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, that Chapter 84 of the Codified Ordinances (relating to Local Services Tax) is hereby amended by revising §§ 84-301, 84-302, 84-401, 84-402, 84-403, and 84-407 as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

Chapter 84 — Local Services Tax

Article III — Imposition of Tax; Exemptions and Refunds

§ 84-301 In General.

The Borough of Alburdis hereby imposes upon each individual engaged in an occupation within the corporate limits of the Borough a local services tax of Ten Dollars (\$10.00) each calendar year, assessed ~~on a pro-rata~~ basis in the manner set forth in this Chapter.

§ 84-302 Exemptions.

The following persons are exempt from the local services tax imposed under this Chapter:

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(c) **Multiple Employment.** A person who is exempt from payment of the local services tax to the Borough for a given ~~payroll period~~ calendar year under the provisions of § 84-403 (relating to Multiple Employment), but only for that ~~payroll period~~ calendar year.

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Article IV — Administration

§ 84-401 Collection by Employer.

(a) **In General.** Each employer engaging in business within the Borough of Alburty (whether situated in the Borough or outside of the Borough) is hereby charged with the duty of collecting and paying over to the Borough Tax Receiver ~~for each payroll period~~ each year the *pro-rata* ~~portion of the tax levied hereunder attributable to that payroll period~~ upon each individual within his employ subject to said tax, as determined and calculated under the provisions of this Chapter. Each employer shall make a return and payment of said tax and is authorized to deduct said local services tax from each employee subject to the tax who is earning compensation from the employer, whether the employee is paid by salary, wage, commission, or otherwise, and whether or not all such services are performed within the Borough. The tax shall be collected from an employee subject to the tax at the time it is assessed against that employee under § 84-402 (relating to Assessment of the Tax). Each employer shall make and file a return showing a computation of the tax on a form to be obtained by him from the Borough Tax Receiver. Each employer shall remit the local services taxes required to be collected in any given calendar quarter within thirty (30) days following the end of the quarter. If an employer fails to file the return and pay the tax, whether or not the employer makes collection of the tax from the salary, wages, or commissions paid by him or her to an employee, except as provided in this Chapter, the

employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

(b) Limitation of Liability. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough 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 local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of §§ 84-304 (relating to Procedure to Claim Exemptions), 84-402 (relating to Pro-Rata Assessment of the Tax), and 84-403 (relating to Multiple Employment), and this section, and remits the amount so withheld in accordance with subsection (a).

§ 84-402 Pro-Rata Assessment of the Tax.

A person subject to the local services tax imposed under this Chapter shall be assessed ~~a *pro rata* share~~ the full amount of the tax for a calendar year each on the first payroll period of the calendar year in which the person is engaging in an occupation within the Borough. ~~The *pro rata* share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax for the calendar year by the number of payroll periods established by the employer for the calendar year (with any fraction rounded down to the nearest one hundredth of a dollar).~~ A self employed person shall be assessed a *pro rata* share of the tax for each calendar quarter, and shall pay the tax for each quarter within thirty (30) days following the end of the quarter. ~~Each calendar quarter shall be deemed a payroll period for self employed persons.~~ A self employed person shall pay the tax for a given calendar year within thirty (30) days following the end of the first calendar quarter in that calendar year in which the person is engaging in an occupation within the Borough.

§ 84-403 Multiple Employment.

(a) Tax Limitation. ~~No person shall be subject to the payment of the local services tax by more than one political subdivision during any given payroll period, except that a person is subject to both a local services tax imposed by a school district and a local services tax imposed by a municipality located in whole or in part within that school district.~~ The total of all local services taxes authorized under the Local Tax Enabling Act, 53 PA. STAT. ANN. § 6901 *et seq.*, collected from any given person for any given calendar year shall be no more than fifty-two dollars (\$52.00), irrespective of the number of political subdivisions within which the person may be employed. The Tax Receiver shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(b) General Rule. The situs of the local services tax shall be the place of employment determined as of the day the person first becomes subject to the tax during ~~each payroll period~~ the calendar year. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a ~~payroll period~~ calendar year, the priority of claim to collect the local services tax shall be in the following order:

(1) First, the political subdivision in which the person maintains the person's principal office or is principally employed;

(2) Second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision;

(3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

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§ 84-407 East Penn School District Local Services Tax.

~~If the East Penn School District also levies a local services tax, the School District's share of the aggregate local services tax imposed by the Borough and the School District shall be collected by the Tax Receiver based on payroll periods and shall be paid to the School District on a quarterly basis within sixty (60) days after receipt by the Borough or the Tax Receiver.~~

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DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 30th day of January, 2008, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Steven R. Hill, President

Attest:

Sharon Trexler, Executive Secretary

AND NOW, this 30th day of January, 2008, the above Ordinance is hereby AP-
PROVED.

Robert W. Mader, Mayor