

ORDINANCE NO 2005-06
EMERGENCY AND MUNICIPAL SERVICES TAX ORDINANCE

AN ORDINANCE ENACTING A TAX FOR GENERAL REVENUE PURPOSES IN THE AMOUNT OF THIRTY-FIVE (\$35.00) DOLLARS PER YEAR UPON THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE LIMITS OF COALDALE BOROUGH, SCHUYLKILL COUNTY, PENNSYLVANIA; SAID TAX TO BE PAID BY ANY INDIVIDUAL EXERCISING SUCH PRIVILEGE; EXEMPTING THEREFROM INDIVIDUALS DERIVING LESS THAN TWELVE THOUSAND (\$12,000.00) DOLLARS PER YEAR, OR IF SAID INDIVIDUALS ARE UNDER EIGHTEEN (18) YEARS OF AGE; PROVIDING FOR ITS COLLECTION; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX COLLECTOR, CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION ON THE TAX COLLECTOR, AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT RESOLVED by The Borough Council of Coaldale Borough, Schuylkill County, Pennsylvania, and it is hereby resolved by authority of the same as follows:

SECTION 1 DEFINITIONS. The following words and phrases, when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

- a. "Individual" shall mean any person, male or female, who attains or is over the age of eighteen (18) years on the first day of January, engaged in any occupation, trade, or profession, within the limits of the Borough of Coaldale.
- b. "Occupation" shall mean any trade, profession, business, or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the limits of Coaldale Borough, for which compensation is charged or received by means of salary, wages, commissions or fees for services rendered.
- c. "Employer" shall mean an individual, partnership, association, corporation, governmental body, agency, or other entity employing one (1) or more persons on a salary, wage, commission, or other compensation basis, including a self-employed person.
- d. "Tax" shall mean the Emergency Management and Municipal Services Tax in the amount of Thirty-Five (\$35.00) Dollars levied by this Ordinance.
- e. "Emergency Management and Municipal Services Tax Officer" or "Officer" shall mean the person, public employee, or private agency designated by Coaldale Borough to collect and administer the Emergency Management and Municipal Services Tax hereby imposed.
- f. "Fiscal Year" shall mean the Twelve-Month (12) Period beginning January 1 and ending December 31.

g. "District" shall mean the area within the limits and jurisdiction of Coaldale Borough, Schuylkill County, Pennsylvania.

h. "He," "His," or "Him" shall mean and indicate the singular and plural number, as well as, male, female, and neuter gender.

i. **SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION** - Includes salaries, wages, commissioners, bonuses, incentive payments, fees and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property, but shall not include periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay, or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, nor public assistance or unemployment compensation payments, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy or Air Force of the United States, nor any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for such service.

SECTION 2 LEVY. The Council of the Borough of Coaldale hereby levies and imposes on each individual engaged in any occupation within the territorial limits of Coaldale Borough during this fiscal year and each fiscal year thereafter, an Emergency Management and Municipal Services Tax. This tax is an addition to all other taxes of any kind or nature heretofore levied by Coaldale Borough, provided that all individuals deriving less than Twelve Thousand (\$12, 000.00) Dollars per year from all sources of income shall be exempt from the Emergency and Municipal Services Tax hereby levied. The Emergency and Municipal Services Tax in the amount as herein may be subject to the sharing provisions as set forth in applicable law.

SECTION 3 EXEMPTION. Any individual who earns an annual gross salary of Twelve Thousand (12,000.00) Dollars or less shall be exempt from payment of the payment of tax hereunder only upon the filing of an affidavit from the Employer that it anticipates earnings of less than such stated amount due to seasonal employment or otherwise.

SECTION 4 AMOUNT OF TAX. Beginning with the first day of January, each person engaged in an occupation as herein before defined, engaged in within the limits of Coaldale Borough, shall be subject to an Emergency Management and Municipal Service Tax in the amount of Thirty-Five (\$35.00) Dollars per annum, said tax to be paid by the individual so engaged.

SECTION 5 DUTY OF EMPLOYERS. Each employer within Coaldale Borough, as well as those employers situated outside Coaldale Borough is hereby charged with the duty of collecting from each of his employees engaged by him, and performing for him within Coaldale Borough, the said tax of Thirty-Five (\$35.00) Dollars per annum, and making a return and payment thereof to the Tax Officer. Further, each employer is hereby authorized to deduct this tax from each employee in his employ, whether the said employee is paid by salary, wages, or commission and whether or not part or all such services are performed within Coaldale Borough.

Each employer shall deduct said tax from the first pay of each such employee as set forth in Section 6 herein, unless the tax has previously been withheld from the employee in the fiscal year by the employer or the employee provides verification to the employer that the tax has previously been withheld for a like amount in the fiscal year. In the event the tax has been withheld in an amount less than the rate of tax herein levied, then, in such event, the employer shall deduct an amount equal to the difference between the amount previously withheld in such fiscal year and the tax herein levied by Coaldale Borough.

SECTION 6 RETURNS. Each employer shall register with the Tax Officer within thirty (30) days after first becoming an employer in the Borough of Coaldale. Each be supplied by the Tax Officer. On each occasion the tax is due each employer shall provide to the Tax Officer its name and complete mailing address. In addition, the employer shall identify the name and address of each employee from whom the tax was withheld or not withheld, as the case may be, and such other information as the Tax Officer may require. It is further provided that if the employer fails to file said return, and pay said tax, whether or not he makes collection thereof from the salary, wage, or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against him. The failure to receive notice shall not relieve the employer or any person subject to this Ordinance from the withholding or payment of any taxes imposed by Coaldale Borough, and such employer or taxpayer as the case may be shall be charged with the taxes as though he had receive notice.

SECTION 7 DATES FOR DETERMINING TAX LIABILITY AND PAYMENT. As to each taxpayer employed for any length of time on or before March 31 of the fiscal year each employer shall deduct the tax from the compensation payable to the employee, file a return on a form prescribed by the Tax Officer and pay such Tax Officer the full amount of tax on or before April 30 of the fiscal year, except where otherwise provided herein. Thereafter, as to each taxpayer for whom no prior deduction has been made, who is employed for any length of time in any three month period ending June 30, September 30, and December 31 of the fiscal year, each employer shall deduct the tax from the compensation paid to each such employee and file a return on or before the last day of July, October, and January, on a form prescribed by the Tax Officer and pay to such collector the full amount of tax deducted for each three (3) month period. Thereafter, quarterly returns shall be filed and payments made accordingly except as otherwise provided herein. Except that where the Employer has in their possession EMERGENCY AND MUNICIPAL SERVICES TAXES in excess of Five Hundred (\$500.00) Dollars then, in such an event, the taxes shall be forwarded to the designated officer thirty (30) days after the end of the month the tax was withheld, and in no event beyond the designated due dates, whichever first occurs.

SECTION 8 INDIVIDUALS ENGAGED IN MORE THAN ONE (1) OCCUPATION. Each Individual who shall have more than One (1) Occupation within Coaldale Borough shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax and deliver to him evidence of deduction on a form to be furnished by the employer and acceptable to the Officer, which form shall be evidence of deduction having been made, and when presented to any other employer shall be authority for

such other employer to not deduct this tax from the employee's wages. However, the name of such employee shall be included in a quarterly return of the employer to the Emergency Management and Municipal Services Tax Officer by setting forth the name and address of such employee, and the name, address and account number of the employer who actually deducted this tax.

SECTION 9 SELF-EMPLOYED INDIVIDUALS. All self-employed individuals who perform services of any kind or type, engaged in any occupation or profession within Coaldale Borough shall be required to comply with the Ordinance and pay the tax to the Officer on or before April 30 for the fiscal year, or thirty (30) days after the month as he is engaged in an occupation subjecting him to the tax, and in no event after the designated due dates as set forth in Section 6 herein whichever first occurs. The failure to receive notice shall not relieve any person subject to this Ordinance from the payment of any taxes imposed by Coaldale Borough, and such taxpayer shall be charged with the taxes as though he had received notice.

SECTION 10 EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE LIMITS OF COALDALE BOROUGH. All employers and self-employed individuals residing and having their place of business outside Coaldale Borough, but who perform services of any type or kind, or engage in any occupation or profession within Coaldale Borough are by virtue thereof bound by and subject to the provisions, penalties and regulations promulgated under this Ordinance. Further, any individual engaged in an occupation within Coaldale Borough, and an employee of a non-resident employer may, for the purpose of this Ordinance be considered a self-employed person, and in the event this tax is not paid, Coaldale Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. Each such employer and individual as the case may be shall be subject to the provision of this Ordinance as it applies to payment, reporting and any other applicable provision of this Ordinance.

SECTION 11 ADMINISTRATION OF TAX.

a. It shall be the duty of the Emergency Management and Municipal Services Tax Officer to accept and receive payments of this tax and to keep a record thereof showing the amount received from each employer or self-employed person, together with the date the tax was received.

b. The Emergency Management and Municipal Services Tax Officer is hereby charged with the administration and enforcement of this Ordinance, and is hereby charged and empowered to prescribe, adopt, and promulgate Rules and Regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including provisions for the examination of the payroll records of any employer subject to this Ordinance, the examination and correction of any return made in compliance with this Ordinance, and any payment alleged or found to be incorrect or to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Emergency Management and Municipal Services Tax Officer shall have the right to appeal in accordance with the provisions of the local Taxpayers bill of Rights or to the court of competent jurisdiction, as in other cases provided.

c. The Emergency Management and Municipal Services Tax Officer is hereby authorized to examine the books and payroll 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 tax due. Each employer is hereby directed and required to give the Emergency Management and Municipal Services Tax Officer the means, facilities and opportunity to examine such books and payroll of the employer, and to ascertain the tax due, if any.

SECTION 12 SUITS FOR COLLECTION

a. In the event that any tax under this Ordinance remains due or unpaid for Thirty (30) Days after the due date above set forth, the Emergency Management and Municipal Services Tax Officer may sue for the recovery of any such tax due or unpaid under this Ordinance, together with interest and penalty.

b. If said tax is not paid when due, interest at the rate of Six Percent (6%) per annum shall be calculated, beginning with the due date of said tax, and a penalty of Ten Percent (10%) shall be added to the flat rate of said tax for the non-payment thereof. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection and reasonable attorney fees.

SECTION 13 FINE AND PENALTY. Whoever makes false and untrue statements on any return required by this Ordinance, or who refuses inspection of the books, records and accounts in his custody and control setting forth the number of employees in his employment subject to this tax, or whoever fails or refuses to file any return required by this Ordinance shall upon conviction before any District Magistrate of Coaldale Borough, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars and costs for each offense, and in default of the payment of said fine and costs, be imprisoned in the Schuylkill County jail for a period not exceeding Thirty (30) Days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Ordinance.

SECTION 14 VALIDITY. Provisions of this Ordinance shall be severable and if any of its provisions shall be held invalid or unconstitutional, the decision of the Court to this effect shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent of the Council of the Borough of Coaldale that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

SECTION 15 SAVING CLAUSE

a. Nothing contained in this Ordinance shall be construed to empower Coaldale Borough to levy and collect the tax hereby imposed on any occupation not within the taxing power of Coaldale Borough under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

b. If the 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 laws of the Commonwealth of Pennsylvania, as to any individual, the decision of the Court shall not affect the right to impose or collect said tax, or the validity of the tax so imposed on other person or individuals as herein provided.

SECTION 16. The tax herein imposed and the Ordinance herein enacted is in pursuance of authority granted by the provisions of the Local Tax Enabling Act approved by the General Assembly of the Commonwealth of Pennsylvania December 31, 1965, as amended.

SECTION 17. All Ordinances or parts of Ordinances inconsistent herewith be and the same hereby are repealed. In addition, the Occupational Privilege Tax currently in effect in Coaldale Borough is hereby repealed.

SECTION 18. The tax imposed by this Ordinance is anticipated to generate \$8,750.00 in revenue to be used for the reduction of property taxes, road construction and maintenance, and police, fire and/or emergency services.

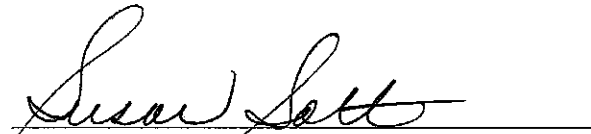
RESOLVED this 13th day of December, 2005.

ATTEST

BOROUGH OF COALDALE

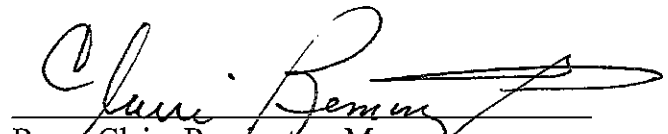


Louise Lill, Secretary/Treasurer



By: Susan Solt, President

Approved this 13th day of December, 2005.



By: Claire Remington, Mayor