TOWNSHIP OF MIDDLESEX
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 6 - 2005

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX, CUMBERLAND COUNTY, PENNSYLVANIA PROVIDING FOR THE ASSESSMENT OF AN EMERGENCY AND MUNICIPAL SERVICES TAX.

BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County, Pennsylvania, as follows:

SECTION 1: The following provisions and sections are hereby adopted for the implementation of an Emergency and Municipal Services Tax in Middlesex Township:

EMERGENCY AND MUNICIPAL SERVICES TAX

§101. TITLE.

This Ordinance shall be known and may be cited as the "Middlesex Township Emergency and Municipal Services Tax Ordinance."

§102. AUTHORITY.

This Ordinance is enacted under the authority of the Local Tax Enabling Act, as amended by Act No. 222 of 2004.

§103. PURPOSE.

The purpose of this Ordinance is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes and for such other purposes as may be specified for such tax from time to time by the laws of the Commonwealth of Pennsylvania.

§104. 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 clearly indicates or requires a different meaning:

COLLECTOR – the person or firm, from time to time, designated by motion of the Township of Middlesex to collect and administer the provisions of this Ordinance and collect the tax levied by this Ordinance. Until changed by subsequent Motion, the collector shall be the same person or firm last designated to collect the Occupation Privilege Tax for the Township.

EMPLOYER – an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission, fee or other compensation basis, including a self-employed person.

HE, HIS OR HIM – shall include singular and plural number and male, female and neuter gender.

INDIVIDUAL – any person engaged in any occupation within the jurisdictional limits of Middlesex Township whose total annual income from such occupation or occupations is greater than $12,000 per calendar year.

OCCUPATION – any trade, profession, business or undertaking of any type, kind or character including services, domestic or other, carried on or performed within the jurisdictional limits of Middlesex Township.

TAX – the Emergency and Municipal Services Tax levied by this Ordinance.

TOWNSHIP – the area within the jurisdictional limits of Middlesex Township.

§105. LEVY.

The Township of Middlesex hereby levies and imposes on every individual engaging in an occupation within the jurisdictional limits of Middlesex Township a tax in the amount of $52.00 per annum, beginning the first day of January, 2006 and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Middlesex.

§106. RESTRICTED USE.

The Township of Middlesex shall use the revenue derived from this tax for the following purposes:

1. Police, fire and/or emergency services;

2. Road construction and/or maintenance;

3. Reduction of property taxes; and

4. For such other purposes as may be authorized for use of such tax revenue from time to time by the laws of the Commonwealth of Pennsylvania.

§107. DUTY OF EMPLOYER.

Each employer within Middlesex Township and each employer situate outside Middlesex Township who engages in business within Middlesex Township, is hereby charged with the duty of collecting the tax from each of the employees engaged by the employer and performing work for the employer within Middlesex Township and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct said tax from the salary, wages, commissions or fees paid to each employee. Each employer shall, at the time of payment of the tax, notify the collector of the number of employees subject to the tax, the number of employees exempt from the tax and an employee identification number of each employee.

§108. RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the collector. 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, wages, commissions or fees 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.

§109. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.

Each employer shall use his employment records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 31, October 31 and January 31 for new employees as reflected on his employment records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 31, October 31 and January 31, respectively.

§110. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.

1. In the event an individual is engaged in more than one occupation or an occupation which requires working in more than one political subdivision during the calendar year, the priority of claim to collect the tax shall be in the following order:

   A. The political subdivision in which the individual maintains his principal office or is principally employed.

   B. The political subdivision in which the individual resides and works, if a like tax is levied by that political subdivision.

C. The political subdivision in which the individual is employed and which imposes the tax nearest in miles to the individual's home.

2. The place of employment shall be determined as of the date the individual first becomes subject to a like tax during the calendar year. Any employer to whom an employee shows a receipt for a like tax for the calendar year from some other political subdivision or employer shall not be required to deduct this tax from the employee's wages but shall include such employee on his return by setting forth his name, address and identification of the other political subdivision to whom the tax was paid or the employer who deducted the tax.

3. It is the intent of this Section that no person shall pay more than $52.00 in any calendar year as an Emergency and Municipal Services Tax, irrespective of the number of political subdivisions within which such person may be employed within any given calendar year. In case of a dispute, a tax receipt of the taxing authority for that calendar year declaring that the individual has made prior payments, shall constitute prima facie certification of payment to all other political subdivisions.

§111. SELF-EMPLOYED INDIVIDUALS.

All self-employed individuals engaged in any occupation within Middlesex Township shall be required to comply with this Ordinance and to pay the tax to the collector on April 30 each year or as soon thereafter as he engages in an occupation.

§112. EMPLOYEES AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE LIMITS OF MIDDLESEX TOWNSHIP.

All employers and self-employed individuals residing or having their place of business outside Middlesex Township but who engage in any occupation within Middlesex Township, do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Ordinance with the same force and effect as thought they were residents of Middlesex Township. Further, any individual engaged in an occupation within Middlesex Township and an employee of a nonresident employer may for the purpose of this Ordinance be considered a self-employed person and in the event this tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§113. ADMINISTRATION OF TAX.

1. It shall be the duty of the collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the the duty of the collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt from the tax and an employee identification number for each employee as set forth in Section 107, above.

2. The collector is hereby charged with the administration and enforcement of this Ordinance and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any mater 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 as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of Cumberland County 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 tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

§114. SUIT FOR COLLECTION.

1. In the event any tax under this Ordinance remains due or unpaid 30 days after the due date above set forth, the collector may sue for the recovery of such tax due or unpaid together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of 5% shall be added to the flat rate of said tax for nonpayment 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, including, but not limited to, attorney's fees.

§115. FINE AND PENALTY.

Whoever makes any false or untrue statement on any return required by this Ordinance, or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment, or who fails or refuses to file any return required by this Ordinance, or fails or refuses to pay the tax herein levied shall, upon conviction, be sentenced to pay a fine of not more than $600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. 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 2: Except only as specifically amended, modified and changed by this Ordinance, all other ordinances of the Township of Middlesex shall remain in all other respects in full force and effect.

SECTION 3: The provisions of this Ordinance shall be severable. If any of its provisions shall be held to be unconstitutional, illegal or otherwise invalid, that decision shall not affect the remaining provisions of this Ordinance or any other ordinance of the Township of Middlesex.

SECTION 4: This Ordinance shall become effective in accordance with applicable law, with the repeal of the previously enacted Occupation Privilege Tax pursuant by Ordinance 24-74 to be effective January 1, 2006.

DULY ENACTED AND ORDAINED this 7th day of December , 2005 by the Board of Township Supervisors of the Township of Middlesex in public session duly assembled.

TOWNSHIP OF MIDDLESEX

By: Charles W Swartz[?]
Chairman, Board of Supervisors

ATTEST:

Mary S Crist[?]
Township Secretary

(Township Seal)