

CITY OF JOHNSTOWN, PENNSYLVANIA

ORDINANCE NO. 5350

Bill No. 2 OF 2023

Introduced in Council: March 8, 2023

AN ORDINANCE AMENDING ORDINANCE 5008, ADOPTED DECEMBER 12, 2007, AS AMENDED BY ORDINANCE NUMBER 5871, ADOPTED NOVEMBER 12, 2015, AND CODIFIED WITHIN THE CODE OF ORDINANCES OF THE CITY OF JOHNSTOWN, AT TITLE FOUR, TAXATION, CHAPTER 882, ENTITLED "LOCAL SERVICES TAX" TO AMEND THE ANNUAL RATE FOR THE LOCAL SERVICES TAX AND ADJUST THE EXEMPTIONS THERETO IN ACCORDANCE WITH SAME, BY LOWERING THE CURRENT TAX RATE TO FORTY SEVEN DOLLARS (\$47) EFFECTIVE APRIL 29, 2023

WHEREAS, pursuant to the Municipal Financial Recovery Act (Act 47 of 1987, as amended by Act 199 in 2014) the City of Johnstown previously operated under Recovery Plans, as amended, and is currently operating under an Exit Plan which, as amended, provides for the City's exit from its Act 47 recovery plan and related status as a financially distressed municipality as of April 28, 2023; and

WHEREAS, the City's updated, amended Exit Plan includes directions relative to an eventual phasing-out of any additional amount of Local Services Tax imposed in excess of \$52.00 by the April 28, 2023 Exit Date, as required by law and therefore requires the lowering of the amount of local services tax from its previous rate of \$156.00 effective April 29, 2023; and

WHEREAS, the due to the apportionment of the maximum \$52.00 local services tax between the City of Johnstown and the Greater Johnstown School District, the City would collect a total tax in the amount of \$47.00 upon its exit from Act 47 Recovery status.

NOW, THEREFORE, it is hereby ordained and enacted that Ordinance No. 5008, as amended, and specifically Title IV, Chapter 882 of the City of Johnstown's codified Ordinances is hereby amended as shown below:

SECTION 1: Levy

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2016; upon the privilege of engaging in an occupation with a primary place of employment within the City of Johnstown during the tax year. **Effective April 29, 2023**, each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of one hundred fifty six dollars (\$156.00) forty seven dollars (\$47.00), assessed on a pro rata basis, in accordance with the provisions of this article. ~~This tax may be used solely for the following purposes as the same may be allocated by the City from time to time:~~

- ~~(1) Emergency Services, which shall include emergency medical services, police services and/or fire services;~~
- ~~(2) Road construction and/or maintenance;~~
- ~~(3) Reduction of property taxes; or~~
- ~~(4) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa. C.S. Ch. 85, Subch. F (Relating to homestead property exclusion). The City of Johnstown shall use no less than twenty-five percent of the funds derived from the tax for~~

~~emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City of Johnstown. The tax shall be no more than \$156.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.~~

SECTION 2: Exemptions and refunds

A. Exemptions. The following persons are exempt from payment of the tax specified in Section 1:

- (1) Any person whose total earned income and net profits from all sources within the City is less than ~~twenty-one thousand dollars (\$21,000)~~ **twelve thousand dollars (\$12,000)** for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year.
- (2) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.
- (3) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the City and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the City of less than ~~twenty-one thousand dollars (\$21,000)~~ **twelve thousand dollars (\$12,000)** in the calendar year for which the exemption certificate is filed. In the event the City utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the City for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the City or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the City.
- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the City that the person has received earned income and net profits from all sources within the City equal to or in excess of ~~twenty-one thousand dollars (\$21,000)~~ **twelve thousand dollars (\$12,000)** in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of ~~twenty-one thousand dollars (\$21,000)~~

twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).

(3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the City may pursue collection under this article.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

C. Refunds. The City of Johnstown, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments.

(1) Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest.

(2) No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1).

(3) The City or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

SECTION 3: Duty of Employers to Collect

A. Each employer within the City, as well as those employers situated outside the City but who engage in business within the City, is hereby charged with the duty of collecting the tax from each of its employees engaged by it or performing for it within the City and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in its employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the City.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. 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 levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section.

- C. No person shall be subject to the payment of the local services tax by more than one City during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than ~~one hundred fifty six dollars (\$156.00)~~ **forty seven dollars (\$47.00)**, on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The City shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the City 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 Paragraph B of this section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

SECTION 4: Returns

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by it to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

SECTION 5: Interpretation

A. Nothing contained in this article shall be construed to empower the City to levy and collect the tax hereby imposed on any occupation not within the taxing power of the City 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 article 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 or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

C. Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 6: Effective Date

The tax imposed by this Ordinance shall be ~~effective on January 1, 2016~~ **effective on April 29, 2023** and all calendar years thereafter unless repealed or modified by the Council of the City of Johnstown.

SECTION 7

In all other respects, Title IV of the Code of the City of Johnstown, "Taxation," shall remain as heretofore enacted, ordained and amended.

ORDAINED and ENACTED by the City Council of the City of Johnstown, County of Cambria, the Commonwealth of Pennsylvania on this 12th day of April, 2022.

PASSED FINALLY IN COUNCIL: April 12, 2023

By the following vote:

Yeas: Rev. King, Mr. Capriotti, Mr. Britt, Ms. Huchel, Mr. Arnone,

Nays:

Absent: Mrs. Mock, Mayor Janakovic



Frank Janakovic, Mayor
Michael Capriotti, Deputy Mayor

ATTEST:

I do hereby certify that the following is a true and correct copy of Ordinance No. 5350 as the same was adopted by the City Council of the City of Johnstown, Pennsylvania.



Ethan Imhoff, City Manager