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**BOROUGH OF LITTLESTOWN
ADAMS COUNTY, PENNSYLVANIA
LITTLESTOWN BOROUGH COUNCIL**

**EMERGENCY AND MUNICIPAL SERVICES
TAX RESOLUTION**

RESOLUTION NO. 9 OF 2004

WHEREAS, by Ordinance No. 589 of 2004, adopted on December 14, 2004, and effective as of January 1, 2005, for and during the fiscal year 2005, the Borough of Littlestown (the "Borough"), by the Littlestown Borough Council, initially enacted, ordained, imposed, levied and assessed a tax for emergency and municipal services (the "E&MS Tax") upon persons employed within the Borough of Littlestown, Adams County, Pennsylvania, subject, however, to the conditions, requirements and limitations set forth in Act 222 of 2004, amending "The Local Tax Enabling Act", Act 511 of 1965, at the rate of Forty-Two Dollars (\$42.00) per person per annum; and

WHEREAS, by the present Resolution, the Borough of Littlestown, by the Littlestown Borough Council, desires and intends to set forth and initially adopt the procedures and requirements, relative to the imposition, collection and enforcement of the E&MS Tax, within the conditions, requirements and limitations set forth in Act 222 of 2004 and "The Local Tax Enabling Act", Act 511 of 1965, as amended; and

WHEREAS, in view of the timing of the enactment of and the effective date of Act 222 of 2004, the present Resolution must first be tentatively adopted and then subsequently ratified, confirmed and finally adopted, in order to comply with the notice and advertising requirements of Section 4. of "The Local Tax Enabling Act" (53 P. S. §6904.), and in order to accommodate possible taxpayers' appeal under Section 6. of the said Act" (53 P. S. §6906.).

NOW, THEREFORE, BE IT RESOLVED, and it is hereby **RESOLVED** by the authority of the same, as follows:

1. **Authority of Enactment:** This Resolution is enacted under and pursuant to the authority of Littlestown Borough Ordinance No. 2004 - 589, Act 222 of 2004, and "The Local Tax Enabling Act", Act of December 31, 1965, P. L. 1257, No. 511, 53 P. S. §§6901., *et seq.*, as amended. The provisions of said Ordinance, Act 222 of 2004 and "The Local Tax Enabling Act", as amended and

supplemented from time to time, are hereby incorporated herein by reference as fully as though set forth at length herein.

1. Assessment and Collection of the Tax: The EM&S Tax, to be known and cited as "The Borough of Littlestown Emergency and Municipal Services Tax", as initially enacted, ordained, imposed, levied and assessed in Ordinance No. 2004 - 589, shall continue from year to year, unless or until this Resolution is repealed or amended by subsequent ordinance, resolution or change in applicable State law. The Borough hereby designates the Adams County Earned Income Tax Collection Agency (the "Agency") as the collector and agent for the Borough to assess and collect the EM&S Tax, and to take any and all lawful actions for the effective administration and enforcement of this Resolution. The EM&S Tax shall be collected, administered and enforced in accordance with the Agency's lawful requirements and procedures.

2. Tax Payment and Collection: The EM&S Tax shall be collected by the Agency from employees subject to the said Tax on a one-time, annual deduction/employer withholding basis, and shall be due and payable by each employee subject to the Tax on or before September 30th of each year, or as otherwise specified in Paragraph 9. hereinbelow; provided, however, that the collection of the EM&S Tax for fiscal/calendar year 2005 shall not commence until thirty (30) days from the date of final adoption, confirmation and ratification of the present Resolution, in order to accommodate any taxpayers' appeal filed pursuant to Section 6. of "The Local Tax Enabling Act" (53 P. S. §6906.). No early payment discount or employer administrative fee shall apply to the payment or collection of the EM&S Tax.

3. Low-Income Exemption: Any person whose total income from all sources is less than Twelve Thousand (\$12,000.00) per annum shall be exempt from the payment of the EM&S Tax. The Borough Council hereby approves and adopts the regulations for the processing of claims for exemptions, as prepared by the Borough Manager and Solicitor.

4. Reasons for the Tax: The Littlestown Borough Council hereby finds, in accordance with Section 4. of "The Local Tax Enabling Act" (53 P. S. §6904.), that the imposition of the EM&S Tax is necessary because: (a) the Littlestown Borough Police Department is in need of additional funding for operations and programs, which additional funding is otherwise unavailable without the additional revenue from the EM&S Tax; and (b) the Borough's public streets are in dire need of improvements which cannot and will not be funded without the additional revenue from the EM&S Tax.

5. **Estimated Amount of Tax Revenue:** The Littlestown Borough Council also hereby states, in accordance with Section 4. of "The Local Tax Enabling Act" (53 P. S. §6904.), that the amount of revenue estimated to be derived from the EM&S Tax will be Sixty Thousand One Hundred and Two Dollars (\$60,102.00) for fiscal year 2005, less, however, the Agency's collection fee.

6. **Advertisement of Resolution; Commencement of Collection of Tax:** The present Resolution and the enactment of the EM&S Tax shall forthwith be advertised in The Gettysburg Times, in accordance with Section 4. of "The Local Tax Enabling Act" (53 P. S. §6904.), once a week for three weeks, and the said Tax shall go into effect thirty (30) days from the time of the final adoption of the present Resolution (which final adoption shall occur shortly after the completion of the aforementioned advertising).

7. **Filing Requirement:** In accordance with the requirement of Section 7. of The Local Tax Enabling Act, as amended (53 P. S. §6907.), the Littlestown Borough Secretary shall file exact, certified copies of the present Resolution and Ordinance No. 2004 - 589, within no more than fifteen (15) days of the effective date [i.e., within no more than fifteen (15) days of January 1, 2005], with the Department of Community Affairs (now the Department of Community and Economic Development).

8. **Definitions:** As used in this Resolution, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Borough - Borough of Littlestown, Adams County, Pennsylvania

Compensation - Salaries, wages, commissions, tips, bonuses, fees, gross receipts, or any other earned income. Compensation paid to any person on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under the Workers' Compensation Act, Occupation Disease Acts and similar legislation or payments commonly recognized as old age benefits, retirement pay or pensions, or payments commonly known as public assistance or unemployment compensation payments or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, shall not constitute earned income or compensation.

Employer - Any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, limited liability company, limited liability partnership, or any other entity engaged in business

(whether for-profit or non-profit) situated in the Borough of Littlestown, employing one (1) or more employees engaged in any occupation.

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

Taxpayer - Any natural person liable for the EM&S Tax. Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the Borough of Littlestown, be subject to the said Tax and the provisions of this Resolution.

9. Collection Through Employers:

(a) Each employer shall register with the Agency the employer's name, address and other information the Agency may require within fifteen (15) days after the effective date of this Resolution or within fifteen (15) days after first becoming an employer.

(b) For each taxpayer employed for any length of time after the effective date of this Resolution and as of January 1 of the current tax year, each employer shall deduct the EM&S Tax from compensation payable to the taxpayer, file a return on a form prescribed by the Agency, and pay to said Agency the full amount of taxes deducted on or before September 30th 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 Resolution and after said September 30th deadline, each employer shall deduct the EM&S Tax from compensation payable to the taxpayer, file a return on a form prescribed by the Agency, and pay said collector the full amount of all taxes deducted, on or before January 31st of the following year.

(c) Any employer who discontinues business or ceases operation before December 31st of any year during which the EM&S Tax is in effect shall file the return hereinabove required and pay the said Tax, relative to any and all employees subject to the said Tax, to the Agency, within fifteen (15) days after discontinuing business or ceasing operations.

(d) The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the EM&S Tax. Any employer who fails to deduct and/or remit the said Tax as required by this Resolution shall be liable for such Tax in full, relative to any and all employees subject to the said Tax.

(e) As to any employee who presents an official receipt evidencing prior payment, for the calendar/fiscal year in question, of the EM&S Tax imposed hereby either directly or by collection through employer(s), the employer shall not deduct the tax but shall maintain records satisfactory to the Agency concerning such employee.

10. Direct Payment by Taxpayers: Every taxpayer who is self-employed or whose EM&S Tax for any other reason is not collected under Paragraph 9. of this Resolution shall file a return on a form prescribed by the Agency and shall pay the said Tax directly to the Agency in accordance with the requirements set forth in said Paragraph 9.

11. Administration and Enforcement: The Agency shall be the collector of the EM&S Tax for and on behalf of the Borough, and, as the agent of the Borough, shall assess and collect the said Tax and do all things necessary for the effective administration and enforcement of all provisions of this Resolution, Act 222 of 2004 and "The Local Tax Enabling Act", as amended. The Agency shall collect and receive the EM&S Tax, interest, fines and penalties imposed by this Resolution, and shall maintain records showing the amounts received and the dates such amounts were received. The Agency shall prescribe and issue all forms necessary for the collection, administration and enforcement of the EM&S Tax, and may adopt and enforce regulations relating to any matter pertaining to the administration and enforcement of this Resolution. The Agency and any agents designated by said Agency may examine the records of any employer and/or supposed employer or of any taxpayer in order to ascertain the tax due or to verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Agency and any agent designated by said Agency all means, facilities and opportunity for the examinations hereby authorized.

12. Collection Procedures: The Agency shall collect by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Resolution and unpaid. If for any reason, any tax is not paid when due, interest at the rate of six percent (6%) per annum 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 Agency may accept payment under protest of the tax claimed by the Borough in any case in which any person disputes the Borough's claim for the tax. If a Court of competent jurisdiction thereafter decides that there has been an overpayment to the Agency, the Agency 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.

13. **Penalties:** An employer or taxpayer who/which makes a false or untrue statement on any return required by this Resolution, who/which refuses inspection of his/her/its records in his/her/its custody and control setting forth his/her/its employees subject to the EM&S Tax, who/which fails or refuses to file a return required by this Resolution, or who/which violates any other provisions of this Resolution, shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred Dollars (\$600.00), together with the costs of prosecution, and in default of payment, be sentenced to imprisonment for a term not to exceed thirty (30) days.

14. **Repealer:** All Ordinances or Resolutions, or parts of Ordinances or Resolutions, which are inconsistent herewith are hereby repealed.

15. **Severability:** If any sentence, clause, section, or part of this Resolution 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, sentences, clauses, sections or parts of this Resolution. It is hereby declared as the intent of the Borough Council of the Borough of Littlestown that this Resolution would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

IN WITNESS WHEREOF, the present Resolution has been duly adopted this 14th day of December, 2004, in lawful session duly convened.

ATTEST:

LITTLESTOWN BOROUGH
COUNCIL
BOROUGH OF LITTLESTOWN,
ADAMS COUNTY, PENNSYLVANIA

Sandy Conrad
Sandy Conrad,
Borough Secretary

By: Karen M. Loney
Karen M. Loney
President

(SEAL)