

MIDDLE SMITHFIELD TOWNSHIP
MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. 241

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSYLVANIA, ADOPTING BY ORDINANCE A LOCAL SERVICES TAX TO BE ADDED TO CHAPTER 176 OF THE MIDDLE SMITHFIELD TOWNSHIP CODE OF ORDINANCES, REPLACING AND REPEALING THE OCCUPATIONAL PRIVILEGE TAX AND AUTHORIZING THE COLLECTION OF THE LOCAL SERVICES TAX AND PROVIDING FOR EXEMPTIONS TO SAID TAX IN ACCORDANCE WITH PENNSYLVANIA STATE LAW.

WHEREAS, the Middle Smithfield Township Board of Supervisors, in order to provide revenue for emergency services and road maintenance and construction, and pursuant to the authority of the Local Tax Enabling Act 53 P.S. §6924.101 *et seq.*, as amended, intends to adopt a Local Services Tax in accordance with the law and hereby intends to impose said tax at the annual rate of Fifty-Two Dollars (\$52.00) upon each adult resident and nonresident employed within the jurisdiction of Middle Smithfield Township;

WHEREAS, it is the intention of the Middle Smithfield Township Board of Supervisors to comply with the laws of Pennsylvania; and,

WHEREAS, the Middle Smithfield Township Board of Supervisors intends to and hereby does repeal the Occupational Privilege Tax and adopt an ordinance creating the Local Services Tax to be added to Chapter 176, Article III of the Middle Smithfield Township Code of Ordinances, authorizing the collection of the Local Services Tax in accordance with the conditions and requirements of 53 P.S. §6924.101 *et seq.*, as amended.

NOW THEREFORE, be it enacted and ordained by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and the same is hereby ordained and enacted as follows, to wit:

SECTION I. REPEAL OF THE OCCUPATIONAL PRIVILEGE TAX

Existing Chapter 176, Article III, of the Middle Smithfield Township Code of Ordinances, Occupational Privilege Tax, is hereby repealed in its entirety and shall be replaced with the Local Services Tax as set forth herein.

SECTION II. ADOPTION OF THE LOCAL SERVICES TAX

The Middle Smithfield Township Board of Supervisors hereby adopts the Local Services Tax and said Local Services Tax shall be added to Chapter 176, Article III of the Middle Smithfield Township Code of Ordinances and said Chapter 176, Article III is hereby amended in its entirety by the addition of the Local Services Tax as set forth herein.

SECTION III. LOCAL SERVICES TAX

Chapter 176, Article III of the Code of Ordinances of Middle Smithfield Township is hereby amended in its entirety to read as follows:

ARTICLE III

LOCAL SERVICES TAX

§176-33 LEVY AND COLLECTION OF TAX.

The Middle Smithfield Township Board of Supervisors, for the purpose of providing revenue for emergency services, road maintenance and construction, reductions in property taxes and property tax relief, does hereby impose on each adult resident and nonresident employed and/or engaged in an occupation within the jurisdiction of Middle Smithfield Township a Local Services Tax at a flat rate which said tax shall be in addition to all other taxes levied and assessed by the Township pursuant to any other laws of the Commonwealth of Pennsylvania.

§176-34 AMOUNT OF TAX.

Beginning on the Effective Date of this Ordinance, each adult resident or nonresident employed within the boundaries of Middle Smithfield Township shall be required to pay an annual Local Services Tax in the amount of Fifty-Two Dollars (\$52.00).

§176-35 DISCOUNT, FLAT RATE AND PENALTY PERIODS.

The Local Services Tax shall not be subject to the imposition of the Local Tax Enabling Act discount and penalty provisions in regard to the levy and collection of this Local Services Tax.

§176-36 MANNER OF COLLECTION OF TAX.

A. The Tax imposed by this Ordinance shall be collected by the duly elected or appointed Tax Collector of Middle Smithfield Township (as directed by the Middle Smithfield Township Board of Supervisors) in accordance with State and Local regulations and in the same

manner as other Township taxes. Middle Smithfield Township Board of Supervisors shall appoint the Tax Collector responsible for collecting the Local Services Tax by Resolution. It shall be the duty of each adult employed within Middle Smithfield Township to pay the Local Services Tax in accordance with 53 P.S. §6924.101 *et seq.*, as amended. Each individual covered under this Ordinance and required to pay the Local Services Tax shall be assessed a pro rata share of the tax for each payroll period in which the individual is engaged in an occupation within the Township. The pro rata share of the tax assessed on the individual for a payroll period shall be determined by dividing the combined rate of the Local Service Tax levied for the calendar year (\$52.00) 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. The collection of the Local Services Tax shall be made on a payroll period basis for each payroll period in which the person is engaged in an occupation, except as otherwise provided for within 53 P.S. §6924.101 *et seq.*, as amended.

B. Each employer within Middle Smithfield Township, as well as those employers situated outside Middle Smithfield Township but who engage in business within Middle Smithfield Township, shall withhold this Local Services Tax from the compensation of their employees who are subject to the tax. This Local Services Tax shall be withheld from each employee that is subject to the Local Services Tax and said tax shall be collected by the duly elected or appointed Tax Collector of Middle Smithfield Township (as directed by the Middle Smithfield Township Board of Supervisors by Resolution) in accordance with State and Local regulations and in the same manner as other Township taxes.

C. No employer shall be held liable for failure to withhold the tax 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 this Article and remits the amount so withheld in accordance with this Article.

D. Employers shall be required to remit the Local Services Taxes thirty (30) days after the end of each quarter of a calendar year.

§176-37 WARRANT FOR COLLECTION OF TAX.

The entry of the tax in the tax duplicate and the issuance of the said duplicate to the duly elected or appointed Tax Collector (as directed by Middle Smithfield Township) shall constitute his warrant for the collection of the tax as hereby assessed. Each employer within Middle Smithfield Township shall cooperate with the Township in identifying those people employed within the Township.

§176-38 EXEMPTIONS.

The following persons shall be exempt from the Local Services Tax:

A. Any person who served in any war or armed conflict in which the United States was engaged and honorably discharged or released under honorable circumstances from active duty, 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 permanent disability.

B. 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.

C. Any person who earns less than Twelve Thousand Dollars (\$12,000.00) in earned income and net profits from all sources within Middle Smithfield Township for the calendar year in which the Local Services Tax is levied.

1. A person seeking to claim an exemption from the Local Services Tax may annually file an exemption certificate with Middle Smithfield Township, the elected or appointed Township Tax Collector (as directed by the Middle Smithfield Township Board of Supervisors) and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within Middle Smithfield Township of less than Twelve Thousand Dollars (\$12,000.00) in the calendar year for which the exemption certificate is filed. 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 Middle Smithfield Township for the year prior to the fiscal year for which the employee is requesting to be exempted from the Local Services Tax. Upon receipt of the exemption certificate and until otherwise instructed by Middle Smithfield Township, 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, which are provided by the Department of Community and Economic Development, are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. For purposes of this section, earned income and net profits shall have the same meanings as in the Local Tax Enabling Act, as amended.

2. With respect to a person who claimed an exemption for a given calendar year from the Local Services Tax, upon notification to an employer by the person or by Middle Smithfield Township that the person has received earned income and net profits from all sources within the Township equal to or in excess of Twelve Thousand Dollars (\$ 12,000.00) 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 Township in an amount equal to or in excess of Twelve Thousand Dollars (\$ 12,000.00) in that calendar year, an employer shall withhold the local services tax from the person under subsection (3) below.

3. If a person who claimed an exemption for a given calendar year from the Local Services Tax becomes subject to the tax for the calendar year under subsection (2) above,

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 subsection (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 subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Township may pursue collection under this ordinance.

§176-39 PRIORITY OF CLAIM.

A. No person shall be subject to the payment of the Local Services Tax by more than one political subdivision during each payroll period.

B. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period.

C. 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, the priority of claim to collect the Local Services Tax shall be in the following order: first, the political subdivision in which a person maintains the person's principal office or is principally employed; second, the political subdivision in which the person resides and works, if the tax is levied by that political subdivision; and third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

D. In the case of concurrent employment, an employer shall refrain from withholding the Local Services 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 Local Services 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.

§176-40 SELF-EMPLOYED INDIVIDUALS.

Each self-employed individual who performs services of any type or kind or engages in any occupancy or profession within a primary place of employment within Middle Smithfield Township shall be required to comply with this Article and pay the pro rata portion of the Local Services Tax to the Tax Collector on or before the thirtieth day following the end of each quarter in a calendar year.

§176-41 REFUNDS.

A person claiming the right to a refund for the Local Services Tax shall follow the regulations governing refunds in accordance with 53 Pa. C.S.A. §§ 8425 and 8426, as amended, and/or any Township ordinance or resolution governing said refunds.

§176-42 PENALTY FOR VIOLATION.

Any resident or nonresident who fails or refuses to pay the Local Services Tax or to render accurate information to an assessor concerning the status of their employment or age, shall, upon conviction thereof, be sentenced to pay a fine of not more than Six Hundred Dollars (\$600.00) and in default of payment, to imprisonment for a term not to exceed thirty (30) days. The duly elected or appointed Tax Collector (as directed by the Middle Smithfield Township Board of Supervisors) and the Township may also proceed with all other available remedies, including but not limited to filing an action for the recovery of any tax due or unpaid under this Ordinance, together with interest and penalty.

§176-43 (RESERVED)

SECTION IV. REPEALER.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION V. SEVERABILITY.

If any section, paragraph, sub-section, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

SECTION VI. EFFECTIVE DATE

This Ordinance shall become effective on January 1, 2024.

ENACTED AND ORDAINED this 16 day of November, A.D., 2023, by the Middle Smithfield Township Board of Supervisors in lawful session duly assembled.

Board of Supervisors of Middle Smithfield Township

By: Annette Atkinson
Annette Atkinson, Chair

By: Mark Oney
Mark Oney, Vice-Chair

By: Michael J. Dwyer
Michael J. Dwyer, Supervisor

ATTEST: Michele J. Clewell [TOWNSHIP SEAL]
Township Secretary

CERTIFICATE

I, the undersigned, Secretary of Middle Smithfield Township, Monroe County, Pennsylvania, do hereby certify that the foregoing and attached is a true and correct copy of an Ordinance of said local government unit, Ordinance 241, which was duly enacted by the affirmative vote of the members of the governing body at a meeting thereof duly called and held on the 16th day of November, 2023, after due notice to the members and to the public and which was at all times open to the public, that the same was examined and approved by the members of the governing body and was duly recorded in the Ordinance Book of said local government unit and was published as required by law in the Pocono Record, a newspaper of general circulation in said local government unit.

I further certify that the total number of members of the governing body of the local government unit is three; that the vote upon said Ordinance was called and duly recorded on the Minutes of said meeting and that the members voted in the manner following:

Annette Atkinson - Aye
Mark Oney - Aye
Michael J. Dwyer - Aye

WITNESS my hand and seal of the Middle Smithfield Township Board of Supervisors, this
16 day of November, 2023.

Michele G. Clement

(SEAL)