

TOWNSHIP OF SOUTH FAYETTE

ORDINANCE NO. 3 of 2012

AN ORDINANCE OF THE TOWNSHIP OF SOUTH FAYETTE ADOPTING A SCHEDULE OF REASONABLE COSTS IN CONNECTION WITH THE COLLECTION OF DELINQUENT LOCAL SERVICES TAXES AND DELINQUENT EARNED INCOME AND NET PROFITS TAXES AS AUTHORIZED BY THE LOCAL TAX ENABLING ACT ("ACT 511") AS AMENDED BY ACT 7 OF 2007 AND ACT 32 OF 2008 (collectively referred to hereinafter as the "LTEA")

WHEREAS, pursuant to Act 7 of 2007, the Township of South Fayette ("Township") has appointed a tax officer ("Tax Officer") to collect current and delinquent Local Services Taxes on behalf of the Township; and

WHEREAS, pursuant to Act 32 of 2008, the Township has appointed a Tax Officer to collect current and delinquent Earned Income and Net Profits Taxes (current Local Services and Earned Income and Net Profits Taxes are collectively referred to herein as "Tax" or "Taxes") on behalf of the Township; and

WHEREAS, Section 707 of Act 32 and Section 7 of Act 7 permit the Tax Officer designated by the Township to impose and collect from delinquent taxpayers the reasonable costs of collection ("Costs of Collection"), as approved by the Township; and

WHEREAS, the Township desires to approve a schedule of reasonable Costs of Collection, as defined herein, to be imposed and collected by Tax Officer from delinquent taxpayers pursuant to the LTEA; and

WHEREAS, the Township desires to permit the Tax Officer to pursue the collection of Delinquent Employer Taxes and Delinquent Taxes, as defined herein, and to recover reasonable Costs of Collection, as well as any Fines and Penalties, also defined herein, imposed by a court of competent jurisdiction pursuant to the LTEA;

NOW, BE IT ORDAINED, by the Township of South Fayette as follows:

ARTICLE I. SHORT TITLE.

This Ordinance shall be known as the LTEA Costs of Collection Ordinance.

ARTICLE II. DEFINED TERMS.

When used here, the following terms shall have the following meanings:

1. "Costs of Collection" shall mean the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect Delinquent Employer Taxes and Delinquent Taxes from Delinquent Employers and Delinquent Taxpayers, including the Initial Delinquent Collection Fee, the Delinquent Collection Fee and Expenses.

2. "Current Year" shall mean the calendar year in which Taxes are levied.
3. "Delinquent Collection Fee" shall mean a Cost of Collection recovered by Tax Officer from Delinquent Employers and Delinquent Taxpayers. Liability for the Delinquent Collection Fee shall commence in accordance with Article IV of this Ordinance.
4. "Delinquent Employer" shall mean an Employer owing Delinquent Employer Taxes and/or Fines and Penalties.
5. "Delinquent Employer Taxes" shall mean any Taxes not paid on or before the due date by an Employer having a duty to withhold and pay Taxes pursuant to the LTEA. Delinquent Employer Taxes shall include all applicable penalties, interest, Costs of Collection and Fines and Penalties in accordance with applicable law.
6. "Delinquent Taxes" shall mean any Taxes, other than Taxes subject to withholding, not paid on or before the due date by any Taxpayer. Delinquent Taxes shall include all applicable penalties, interest, Costs of Collection and Fines and Penalties in accordance with applicable law.
7. "Delinquent Taxpayer" shall mean a Taxpayer owing Delinquent Taxes and/or Fines and Penalties.
8. "Employer" shall mean a person, business entity or other entity employing one or more persons for a salary, wage, commission or other compensation and having a duty to withhold Taxes from its employees, file a return and pay the Tax Officer pursuant to the provisions of the LTEA.
9. "Expenses" shall mean all actual out-of-pocket expenses paid or incurred by Tax Officer to collect Delinquent Employer Taxes and Delinquent Taxes, including, but not limited to, court costs, Sheriff's fees and postage expenses.
10. "Fines and Penalties" shall mean those Fines and Penalties imposed by a court of competent jurisdiction pursuant to the LTEA and any other applicable law.
11. "Gross Collections" shall mean all Taxes due, including the Tax principal plus accumulated penalties and interest and Fines and Penalties.
12. "Initial Delinquent Collection Fee" shall mean a Cost of Collection recovered by Tax Officer from Delinquent Employers and Delinquent Taxpayers. Liability for the Initial Delinquent Collection Fee shall commence in accordance with Article IV of this Ordinance.

13. "Tax Officer" shall include its owners, shareholders, directors, employees, agents and legal counsel, their owners, shareholders, partners, employees and agents.
14. "Taxpayer(s)" shall mean any individual, including self-employed individuals, required under the LTEA to file a return of a Tax or to pay a Tax.
15. "Succeeding Year" shall mean the calendar year following the Current Year.

ARTICLE III. COSTS OF COLLECTION APPROVED.

1. Expenses. Expenses shall be recovered by Tax Officer as part of Delinquent Employer Taxes and Delinquent Taxes collected.
2. Initial Delinquent Collection Fee. The Initial Delinquent Collection Fee shall be ten percent (10%) of Gross Collections calculated on the first of the month for the entire month, or part thereof, in which Delinquent Employer Taxes and Delinquent Taxes are paid-in-full.
3. Delinquent Collection Fee. The Delinquent Collection Fee shall be twenty percent (20%) of Gross Collections calculated on the first of the month for the entire month, or part thereof, in which Delinquent Employer Taxes and Delinquent Taxes are paid-in-full.
4. Fines and Penalties. Fines and Penalties shall be in the amounts approved by a court of competent jurisdiction.

ARTICLE IV. EFFECTIVE DATES APPROVED.

1. This Ordinance shall take effect on the date of enactment.
2. Costs of Collection and Fines and Penalties shall apply to Delinquent Employer Taxes and Delinquent Taxes relating to Taxes for the 2011 Tax year and for all prior Tax years still due and owing as of the effective date of this Ordinance.
3. Expenses shall be recovered from Delinquent Employers and Delinquent Taxpayers from the date on which Taxes became Delinquent Employer Taxes and Delinquent Taxes.
4. The Initial Delinquent Collection Fee shall accrue as follows:
 - a. Delinquent Employers.
 1. The Initial Delinquent Collection Fee shall commence for all Taxes still due and owing for Tax years 2011 and prior on the effective date of this Ordinance and shall continue through the

last day of the Required Notice described in Article V, Section 1, of this Ordinance, at which time the Initial Delinquent Collection Fee shall cease.

2. The Initial Delinquent Collection Fee shall commence for all delinquent Local Services Taxes due and owing for Tax year 2012 and subsequent Tax years on the first (1st) day of the Succeeding Year, and shall continue through the last day of the Required Notice described in Article V, Section 1, of this Ordinance, at which time the Initial Delinquent Collection Fee shall cease.
3. Delinquent Earned Income Tax and Net Profits Tax collection responsibilities for Tax year 2012 and for all subsequent Tax years shall cease as of December 31, 2011 as such collections shall thereafter transfer to the Southwest Allegheny County Tax Collection District. The Initial Delinquent Collection Fee shall continue for Tax year 2011 and prior.

b. Delinquent Taxpayers.

1. For Tax years 2011 and prior, the Initial Delinquent Collection Fee shall commence on the effective date of this Ordinance and shall continue through the last day of the Required Notice described in Article V, Section 1, of this Ordinance, at which time the Initial Delinquent Collection Fee shall cease.
2. The Initial Delinquent Collection Fee shall commence for all delinquent Local Services Taxes due and owing for Tax year 2012 and subsequent Tax years on the first day of the Succeeding Year, and shall continue through the last day of the Required Notice described in Article V, Section 1, of this Ordinance, at which time the Initial Delinquent Collection Fee shall cease.
3. Delinquent Earned Income Tax collection responsibilities for Tax year 2012 and for all subsequent Tax years shall cease as of December 31, 2011 as such collections shall thereafter transfer to the Southwest Allegheny County Tax Collection District. The Initial Delinquent Collection Fee shall continue for Tax year 2011 and prior.

5. Delinquent Collection Fee. For both Delinquent Employers and Delinquent Taxpayers, the Delinquent Collection Fee shall commence on the first day following the last day of the Required Notice described in Article V, Section 1, of this Ordinance and shall continue until the end of the month in which the Delinquent Employer Taxes and Delinquent Taxes are paid-in-full.

6. Fines and Penalties. Fines and Penalties shall be recoverable from the date awarded by a court of competent jurisdiction.

ARTICLE V. PROCEDURES APPROVED.

1. Required Notice. Tax Officer shall mail, by first-class mail, a written notice to each Delinquent Employer and Delinquent Taxpayer known to Tax Officer advising them of the balance due for Delinquent Employer Taxes and Delinquent Taxes, including Costs of Collection ("Required Notice"). The Required Notice shall be deemed received on the next date following the mailing date and shall provide the Delinquent Employer and Delinquent Taxpayer thirty (30) days in which to pay the Delinquent Employer Taxes and Delinquent Taxes in full.
2. Any balance due for Delinquent Employer Taxes and Delinquent Taxes remaining following the thirtieth (30th) day after the Required Notice shall no longer be subject to the Initial Delinquent Collection Fee, but shall be subject to the Delinquent Collection Fee regardless of whether there exists an agreement to pay the Delinquent Employer Taxes or Delinquent Taxes in installments or following any forbearance.
3. Costs of Collection shall be recoverable as part of the Delinquent Employer Taxes and Delinquent Taxes, as well as in any legal proceeding initiated by counsel for Tax Officer, including claims filed in Federal Bankruptcy Court proceedings.
4. Tax Officer shall assess and collect Costs of Collection in accordance with the LTEA and as otherwise authorized by applicable law. Tax Officer shall retain Costs of Collection and one-half (1/2) of any Fines and Penalties recovered. The remaining one-half (1/2) of any Fines and Penalties recovered shall be paid to the Township.

ARTICLE VI. MISCELLANEOUS PROVISIONS.

Fines and Penalties shall be in addition to any Costs of Collection due. Tax Officer shall charge and recover Costs of Collection from any Delinquent Employer or Delinquent Taxpayer even after a court awards Fines and Penalties, unless otherwise provided by applicable law.

ARTICLE VII. SEVERABILITY.

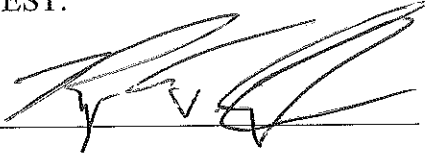
The provisions of this Ordinance are severable. If any provision or part thereof is held to be illegal or invalid, the remaining provisions shall remain in full force and effect.

ARTICLE VIII. REPEAL OF PRIOR ORDINANCES.

Any ordinance or part of any ordinance conflicting with this Ordinance is repealed to the extent of such conflict.

ORDAINED AND ENACTED this 24th day of October, 2012.

ATTEST:



TOWNSHIP OF SOUTH FAYETTE

By: Deon Gabriel
