

## Local Services Tax

Act 7 of 2007 amended the Local Tax Enabling Act, Act 511 of 1965,<sup>1</sup> to change, among other things, the name of the emergency and municipal services tax (EMST)<sup>2</sup> to the Local Services Tax (LST). Municipalities and school districts<sup>3</sup> are authorized to impose the LST on persons employed within the jurisdiction a combined annual rate of no more than \$52 per year.<sup>4</sup> The LST can be levied at any time during the fiscal year.

If the LST is levied at an annual combined rate exceeding \$10, the tax must be withheld on a pro rata share basis by an employer. The pro rata share of the LST assessed on an individual for a payroll period is determined by dividing the combined rate of the LST levied for the calendar year by the number of payroll periods established by the employer for the calendar year.<sup>5</sup> For example, if a political subdivision levies a \$52 LST and an employee has 24 pay periods in a year, then the employee's pro rata share would be \$2.16<sup>6</sup> per pay period (\$52 divided by 24).

Act 511 requires every political subdivision levying the LST at a rate exceeding \$10 per year to exempt individuals having income from all sources<sup>7</sup> of less than \$12,000. Every political subdivision levying the LST at a rate of \$10 or less has the option of exempting persons whose income is less than \$12,000 per year.<sup>8</sup> Disabled veterans or any reservist or national guardsman called to active duty are also exempt from payment of the LST.<sup>9</sup>

An individual may annually claim an exemption from the LST if he or she reasonably expects to receive earned income and net profits from all sources of less than \$12,000 in a calendar year. To claim an exemption, an individual must annually file an exemption certificate with the political subdivision levying the LST. If an individual's income subsequently exceeds \$12,000 in a calendar year, or if a person becomes ineligible for the exemption for some other reason, the employer

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<sup>1</sup> 53 P.S. § 6924.101 et seq. (formerly 53 P.S. § 6901 et seq.).

<sup>2</sup> Act 222 of 2004 amended Act 511 to change the name of the Occupational Privilege Tax to the EMST and permitted municipalities and school districts to impose on persons employed within the jurisdiction a combined annual EMST of no less than \$10 and no more than \$52 beginning on or after January 1, 2005.

<sup>3</sup> A school district may levy that LST only if it had levied an Occupational Privilege Tax and subsequently an EMST, but the maximum amount is \$5, and the municipality must provide the tax to the school district out of the maximum LST collected. Act 511, § 301.1(f)(9).

<sup>4</sup> Act 511, § 301.1(f)(9)(vi). However, with court approval, a distressed municipality may levy a local services tax at a rate of up to \$156 per year. *See* Municipalities Financial Recovery Act, Act 47 of 1987, § 123. *See also*, *Deskbook* article "Municipal Fiscal Distress and Recovery."

<sup>5</sup> *Id.* § 301.1(f)(9)(i).

<sup>6</sup> Employers are to round down the amount collected to the nearest 100<sup>th</sup> of a dollar.

<sup>7</sup> For purposes of the LST, "income from all sources" would be defined as and limited to earned income and net profits earned within a political subdivision.

<sup>8</sup> Act 511, § 301.1(d).

<sup>9</sup> *Id.* § 301.1(c).

must withhold the LST for the remainder of the calendar year as follows: (1) a lump sum amount equal to what would have been withheld had the exemption not been claimed in that year will be withheld from the employee's first paycheck immediately following notification that he or she is no longer eligible for an exemption from the LST; and (2) subsequent to the withholding of the lump sum payment, the LST will be deducted on a pro rata share basis considering the number of the employee's remaining paychecks for the rest of that calendar year. In the event the employment of the individual subject to LST is later severed in that calendar year, the person will be liable for any outstanding balance of the LST.<sup>10</sup>

LST funds must be used by a municipality<sup>11</sup> for: (1) emergency services, which include emergency medical services, police services and fire services; (2) road construction and maintenance; (3) reduction of property taxes; or (4) property tax relief through the use of homestead/farmstead exclusions.<sup>12</sup> A municipality is required to use at least 25 percent of LST revenue for police, fire and emergency medical services.<sup>13</sup>

Only one municipality may levy the LST per payroll period against an individual, except when a school district also levies the tax subject to the restrictions noted above.<sup>14</sup> The municipality of the employee's primary employment has priority in levying the tax. No taxpayer is liable for more than \$52 in LST in any calendar year, regardless of the number of taxing jurisdictions in which he or she is employed.<sup>15</sup>

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<sup>10</sup> Act 511, § 301.1(e).

<sup>11</sup> Act 511, § 330(c) excludes school districts from use of the LST.

<sup>12</sup> In accordance with 53 Pa.C.S. Ch. 85 Subch. F (relating to homestead property exclusion).

<sup>13</sup> Act 511, § 330.

<sup>14</sup> See also Act 511, § 301.1(f)(9).

<sup>15</sup> In the case of concurrent employment, the priority for the imposition of the LST by a taxing jurisdiction is as follows: (1) where the person is primarily employed or has his or her principal office; (2) where the person resides and works; and (3) where the person is employed closest to his or her place of residence.