

**BOROUGH OF AVALON**

**ORDINANCE NO. 1290**

**AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA AMENDING BOROUGH OF AVALON ORDINANCE NO. 1169, TO CHANGE THE TITLE IN THE CAPTION AND SECTION I TO "EMERGENCY AND MUNICIPAL SERVICES TAX"; REPLACING REFERENCES WITHIN THE ORDINANCE OF "OCCUPATIONAL PRIVILEGE TAX" AND "TAX COLLECTOR" TO "EMERGENCY AND MUNICIPAL SERVICES TAX" AND "EMERGENCY AND MUNICIPAL SERVICES TAX COLLECTOR"; AMENDING SECTION III TO INCREASE THE AMOUNT OF TAX FROM \$10 TO \$52; AMENDING SECTION III TO EXEMPT CERTAIN PERSONS FROM THE EMERGENCY AND MUNICIPAL SERVICES TAX; REQUIRING PAYMENT OF THE EMERGENCY AND MUNICIPAL SERVICES TAX ON OR BEFORE APRIL 30, 2006 OR OTHER SUBSEQUENT THREE-MONTH PERIODS; AND REPEALING ANY AND ALL OTHER INCONSISTENT ORDINANCES.**

**SECTION 1: ENACTING CLAUSE.**

Be it ordained and enacted by the Council of the Borough of Avalon and it is hereby ordained and enacted by the authority of the same, that from and after the effective date of this Ordinance, the following Ordinance shall be in full force and effect in the Borough of Avalon.

**SECTION 2: CONFLICT AND REPEALER OF OTHER ORDINANCES.**

Those sections of Ordinance No. 1169 and/or all other Ordinances or parts of all other Ordinances are repealed insofar as they conflict with the provisions of this Ordinance; however, such repeal shall not affect any act done or any liability or violation accrued under any such prior Ordinance herein repealed or superseded. Furthermore, all such liabilities or violations of any repealed or superseded Ordinances shall continue and may be enforced in the same manner as if such repeal or supersession had not been made. Moreover, any offense or violation committed and any penalty or forfeiture incurred under any such Ordinance herein repealed or superseded, may be prosecuted in the same manner as if this Ordinance had not been approved.

**SECTION 3: ORDINANCE NO. 1169 - RE-TITLED.**

The title of Ordinance No. 1169 is hereby amended to change the title thereof to Emergency and Municipal Services Tax and the rate of the tax is hereby changed from \$10.00 to \$52.00 per year.

**SECTION 4: STRIKING ALL REFERENCES TO OCCUPATION PRIVILEGE TAX.**

Section I of Ordinance No. 1169 and all other provisions of the Ordinance are amended to strike all reference to "occupational privilege tax" and "tax collector" and replace such references with "emergency and municipal services tax" or "emergency and municipal services tax collector."

**SECTION 5: PURPOSE OF TAX CHANGED; RESTRICTED USE.**

Section III of Ordinance No. 1169 is amended and all funds derived by the Borough of Avalon from the emergency and municipal services tax may only be used by the Borough for: 1) Police, fire and/or emergency services; or 2) Road construction and/or maintenance; or 3) Reduction of property taxes.

**SECTION 6: TAX RATE INCREASE.**

Section III of Ordinance No. 1169 is amended and the rate of tax is increased from \$10.00 to \$52.00 upon the privilege of engaging in an occupation within the Borough of Avalon.

**SECTION 7: EXEMPTION FROM EMERGENCY AND MUNICIPAL SERVICES TAX.**

Section III of Ordinance No. 1169 is amended and any person whose total **earned** income from all sources is less than twelve thousand (\$12,000) dollars per annum is exempt from paying the emergency and municipal services tax in the Borough of Avalon.

**SECTION 8: DEFINITIONS.**

**The following words and phrases when used in this Ordinance shall have the meaning ascribed to them in this section, except where the content clearly indicates or requires a different meaning:**

**“Earned Income.” Compensation as determined under section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the “Tax Reform Code of 1971,” and regulations in 61 Pa.Code Pt. I Subpt. B, Art. V (relating to personal income tax).**

**Employee business expenses are allowable deductions as determined under Article III of the "tax Reform Code of 1971." The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.**

**SECTION 9: DEDUCTION OF THE EMERGENCY AND MUNICIPAL SERVICES TAX.**

Section IV, subsection 2 of Ordinance No. 1169 is amended and each employee-taxpayer, beginning after January 1, 2006 and for succeeding years as long as this tax is in existence, and whose earned income from all sources is over twelve thousand (\$12,000) dollars per annum, then each employer shall deduct at least twenty-five (25%) percent of the EMS Tax from compensation payable to the taxpayer, file a return on a form prescribed by the EMS Tax Collector, and pay to the tax Collector the full amount of all such taxes deducted on or before April 30, 2006 and each subsequent year. Thereafter, as to each taxpayer for whom no prior deduction has been made for the then current fiscal year, who is employed for any length of time in any of the subsequent three-month periods ending June 30, September 30, and December 31 of the current tax year, each employer shall deduct the EMS Tax from compensation payable to the taxpayer, file a return on a form prescribed by the tax Collector, and pay the tax Collector the full amount of all taxes deducted for each such three-month period on or before July 31, October 31 of the current tax year or before January 31 of the following year, respectively. Employers shall not be required to deduct the EMS Tax from any employee if the employee's earnings during the fiscal year do not exceed \$12,000.00. Examples of minimum deductions are as follows:

<u>Current Fiscal Year</u>	<u>Minimum Quarterly Deduction</u>	<u>Minimum Deduction Each Following Quarter</u>
1 <sup>st</sup> Quarter	\$13.00	\$13.00
2 <sup>nd</sup> quarter	\$17.34	\$17.33
3 <sup>rd</sup> quarter	\$26.00	\$26.00
4 <sup>th</sup> quarter	\$52.00	-"

If an employee-taxpayer earning \$12,000.00 per year or less has the EMS tax withheld from his/her paycheck, then that employee-taxpayer must apply with the Avalon Tax Office for a rebate of the monies withheld. An employee-taxpayer who earns \$12,000.00 per year or less, as a result of not having worked in Avalon Borough for an entire year, where that year begins on January 1, 2006, and on January 1 of each succeeding year, must also apply with the Avalon Tax Office for a rebate of the monies withheld.

**SECTION 10: DUTY TO FILE ORDINANCE WITH DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.**

The Borough Manager shall file an exact copy of this Ordinance with the Department of Community and Economic Development, together with the name, position and phone number of the Emergency and Municipal Services Tax Collector or Officer responsible for compliance with this Ordinance.

**SECTION 11: OTHER PROVISIONS OF ORDINANCE NO. 1169 IN FULL FORCE.**

All remaining provisions of Ordinance No. 1169 shall remain unchanged and in full force and effect.

**SECTION 12: SEVERABILITY.**

The provisions of this Ordinance shall be severable. If any provision, section, clause, sentence, phrase or word of this Ordinance is for any reason held unconstitutional, invalid or illegal by any court of competent jurisdiction, that judicial holding shall not affect the validity of any other portion of this Ordinance. It is hereby declared as the legislative intent that this Ordinance would have been enacted had such unconstitutional, invalid, or illegal portion not been included. Council of the Borough of Avalon does not intend to violate the Constitution of the Commonwealth of Pennsylvania or the Constitution of the United States of America.

**SECTION 13: EFFECTIVE DATE.**

This Ordinance shall be effective January 1, 2006.

ORDAINED AND ENACTED into law this 20<sup>th</sup> day of Dec, 2005.

ATTEST:

  
Harry W. Dilmore  
Secretary

BOROUGH OF AVALON

BY   
Edward Klicker  
President

SEAL

Examined and approved by me this \_\_\_\_ day of  
\_\_\_\_\_, 2005.

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Daniel K. Bricmont, Esq., Mayor