

BOROUGH OF AVALON
ORDINANCE NO. 1317

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY IN THE COMMONWEALTH OF PENNSYLVANIA AMENDING BOROUGH OF AVALON ORDINANCE NO. 1290 AS FOLLOWS: CHANGING THE TITLE IN THE CAPTION AND IN SECTION III FROM THE "EMERGENCY MUNICIPAL SERVICES TAX" TO THE "LOCAL SERVICES TAX"; CHANGING THE DEFINITION OF "INCOME"; MODIFYING THE USES FOR WHICH THE TAX FUNDS MAY BE USED, SETTING FORTH DIFFERENT RULES ON EXEMPTIONS, WITHHOLDING, RECEIPTS, AND REFUNDS; 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Those sections of Ordinance No. 1290 and/or all other Ordinances or parts of all other Ordinances are repealed insofar as they conflict with the provisions of this Ordinance; however, such repeal shall not affect any act done or any liability or violation accrued under any such prior Ordinance herein repealed or superseded.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or violations of any repealed or superseded Ordinances shall continue and may be enforced in the same manner as if such repeal or supersession had not been made. Moreover, any offense or violation committed and any penalty or forfeiture incurred under any such Ordinance, herein repealed or superseded, may be prosecuted in the same manner as if this Ordinance had not been approved.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. 1290 - RE-TITLED.

The title of Ordinance No. 1290 is hereby amended to change the title thereof from the "Emergency and Municipal Services Tax" to the "Local Services Tax." However, the rate of \$52.00 per year, as set forth in Ordinance No. 1290, remains the same.

SECTION 4: STRIKING ALL REFERENCES TO THE "EMERGENCY MUNICIPAL SERVICES TAX" AND THE "EMERGENCY MUNICIPAL SERVICES TAX COLLECTOR."

Section IV of Ordinance No. 1290 and all other provisions of that Ordinance are hereby amended to strike all references to the "Emergency Municipal Services Tax" and the "Emergency Municipal Services Tax Collector" in favor of the "Local Service Tax" and the "Local Services Tax Collector."

SECTION 5: PURPOSE OF TAX CHANGED; RESTRICTED USE.

Section V of Ordinance No. 1290 is hereby amended so that at least 25% of all revenue derived from the Local Services Tax are used for police, fire, and emergency medical services. The remaining revenue may be used by the Borough in the following manner:

- a. Road construction and maintenance;

- b. Property tax reductions; and
- c. Property tax relief through a homestead/farmstead exclusion, where the implementation date for property tax reduction is as of January 1, 2009.

SECTION 6: NO TAX RATE INCREASE.

There shall be no tax rate increase above the \$52.00, as mandated by the State Legislature.

SECTION 7: EXEMPTIONS FROM THE LOCAL SERVICES TAX.

There shall be no change in the exemption for those earning less than twelve thousand (\$12,000) dollars per annum. Those persons earning less than twelve thousand (\$12,000) dollars per annum are exempt from paying the local services tax to the Borough of Avalon. In addition to this exemption, Section VII is hereby amended so that disabled veterans and members of the armed forces reserves on active duty are hereby exempt from paying the tax during the tax year they serve on active duty. However, this tax shall be pro-rated for those persons serving in the armed forces on active duty, where the tax years overlap. The Borough will provide uniform exemption forms, as prepared by the Department of Community and Economic Development (hereinafter, the "DCED"), that will be available for filing with the Borough.

SECTION 8: DEFINITIONS.

Consistent with Act 7, as enacted by the State Legislature, "earned income" is hereby redefined as income earned and net profits obtained from sources within the political subdivision known as the Borough of Avalon.

SECTION 9: DEDUCTION OF THE LOCAL SERVICES TAX.

Section IX of Ordinance No. 1290 is hereby amended so that each employer within the Borough of Avalon is hereby prohibited from withholding a lump sum of the total, annual Local Services Tax due from an employee's paycheck. From herein, beginning on January 1, 2008, each employer within the Borough is hereby directed to withhold a pro-rated amount of the total tax divided by the number of payroll periods. For example, two (\$2.00) dollars is to be withheld from each paycheck for bi-monthly pay periods, whereas one (\$1.00) dollar is to be withheld from each paycheck for weekly pay periods.

Employers shall not be required to deduct the Local Services Tax from any employees if the employee's earnings do not exceed twelve thousand (\$12,000.00) dollars per annum. Those persons anticipating an annual income of less than twelve thousand (\$12,000.00) dollars may file a certificate, as prepared by the DCED, with the Borough and the employer, along with supporting documentation such as a W-2 Form from the previous year. Once a certificate is filed, the employer shall not withhold the Local Services Tax.

If an employee ultimately earns more than twelve thousand (\$12,000.00) dollars during the tax year, the employer shall withhold the balance due in one lump sum.

After withholding, the employer is to remit to the Borough of Avalon the amount of Local Services Tax withheld within thirty (30) days after the end of each quarter (i.e., within thirty (30) days after April 30th, June 30th, September 30th, and December 31st).

The Borough of Avalon shall adopt regulations for backend refunds. Those who do not apply for a certificate may still apply for a refund at year's end.

The Borough of Avalon will provide a receipt to any tax payer upon request.

SECTION 10: DUTY TO FILE ORDINANCE WITH THE 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 Local Services Tax Collector or Officer responsible for compliance with this Ordinance.

SECTION 11: OTHER PROVISIONS OF ORDINANCE NO. 1290 IN FULL FORCE.

All remaining provisions of Ordinance No. 1290 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, and/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, and/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.

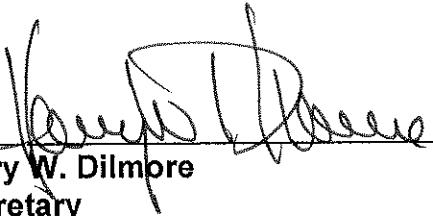
SECTION 13: EFFECTIVE DATE.

This Ordinance shall be effective January 1, 2008.

ORDAINED AND ENACTED into law this 16th day of October, 2007.

ATTEST:

BOROUGH OF AVALON



Harry W. Dilmore
Secretary

BY 

Edward Klicker
President

SEAL

Examined and approved by me this 24th day of
October, 2007.



David Haslett, Mayor