

WEST SHORE TAX BUREAU - EMPLOYER INFORMATION

EMERGENCY & MUNICIPAL SERVICES TAX

SECTION 1: Emergency and Municipal Services Tax:

Effective January 1, 2005, the Emergency and Municipal Services Tax (EMST) replaces the Occupational Privilege Tax (OPT). Like the OPT, the new tax is assessed on individuals who are engaged in an occupation in the political subdivision of the taxpayer's place of employment.

The maximum amount of the tax levy increased from \$10.00 to \$52.00 annually. Municipalities may enact the tax at any rate up to and including \$ 52.00.

Provisions in the law limit the total tax to \$52.00 annually and require that when a school district and a municipality within the school district's boundaries both levy the EMST, the school district's share of the tax shall remain what it was under the former Occupational Privilege Tax. The EMST is intended to offset a municipality's police, fire and/or emergency services expenses, the cost of road constructions and/or maintenance, or must be used to reduce property taxes.

SECTION 2. EMST Employer Withholding:

Employer withholding of the tax is mandated and is to occur **as soon as possible** each calendar year. Typically, that would mean the entire tax should be deducted from the first paycheck received by an employee working in a taxing area levying the tax.

The original language of the Local Tax Enabling Act states "...employers shall not be required by any local ordinance to withhold from compensation for any one of their employees for the occupational privilege tax more than one time in any fiscal period." 53 PS 6909 The EMST legislation did not change this withholding requirement.

Optionally, employers may deduct each employee's total liability over the first 4 pays (\$13.00 per pay) that are issued to the employee. However, if an employer chooses this option, and an employee leaves their employment prior to deduction of the full EMST liability, the employer must deduct the remaining balance of the tax from the employee's final pay or the employer will be responsible for the difference.

SECTION 3. Employer Withholding When Employee's Pay Is Insufficient To Comply With Above Provisions:

Realizing that on rare occasions employers issue paychecks for amounts so minimal that it may be difficult to comply with the withholding provisions outlined above, the following regulations may be followed:

If an employee's gross pay for the period is less than \$130.00, the employer may deduct 10% of the employee's gross pay and still be considered to be in compliance with withholding requirements. However, if it is the last check the employer will be issuing the employee, the employer must deduct as much of the employee's remaining EMST liability as possible even if such deduction would result in netting the paycheck to \$0.00.

As long as the provisions above are complied with, employers who fail to deduct the full EMST liability of an employee will not be responsible for any remaining balance not deducted. In other words, employers will not be held liable for any non-deducted portion of the withholding liability as long as the employer has withheld at least 10% of the employee's gross pay up to the \$10.00 or \$52.00 liability depending on employment location.

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Employers who make no deduction or deduct less than 10% of an employee's gross pay (when pay is insufficient) will be responsible for the difference between what was deducted and the employee's full EMST liability.

SECTION 4. Employer Withholding when "work location" is not clearly defined:

For employers with multiple work locations within the Taxing Jurisdictions administered by the West Shore Tax Bureau (see TABLE 1) you have the following options for employees that do not have a specific work site or base of operation:

If an employee's first work assignment for the calendar year is at a location within the Tax Jurisdictions listed in TABLE 1, you shall deduct \$52.00; then, if at a future date in the calendar year the employee were assigned to work at a location outside the listed Taxing Jurisdictions, no additional tax would be due.

If an employee's first assignment for the calendar year is at a location outside the listed Taxing Jurisdictions, the employer shall deduct the EMST according to that municipality's ordinance. If at a future date in the calendar year the employee is assigned to a location within the listed Taxing Jurisdictions, the employer must deduct an additional amount from the employee to arrive at the total stated tax amount for the Taxing Jurisdiction where the employee is currently employed.

An alternative for such employees, where it is highly probable that the employee will be assigned to work within one of the listed Taxing Jurisdictions sometime during the year, would be to withhold the stated amount of tax for that Taxing Jurisdiction based on the employee's future employment within that Taxing Jurisdiction. At year-end, such employee may apply for a refund of the EMST if the employee can demonstrate to the West Shore Tax Bureau that during the calendar year he/she worked primarily at a work location where the stated tax is less than what was withheld from the employee's compensation.

Employees, who have an easily determined base of operation (place of employment) that is outside the listed Taxing Jurisdictions, do not become subject to the listed Taxing Jurisdiction's EMST just because they may be occasionally sent from that location to a listed Taxing Jurisdiction.

SECTION 5. Self-Employed Individuals:

The West Shore Tax Bureau shall bill self-employed individuals or individuals whose employer is not required to withhold local taxes (certain state and federal agencies) annually for the Emergency and Municipal Services Tax.

The full amount of tax must be paid by the date indicated on such billing. If such taxpayer qualifies for a low-income exemption, that may now or in the future be established by the political subdivisions levying the tax, the taxpayer may complete the required application for a refund of the tax paid.

SECTION 6. Exemptions to the Emergency & Municipal Services Tax:

The law allows Municipalities enacting the EMST to set income exemptions up to \$ 12,000. Because these income exemptions refer to total income from all sources, the West Shore Tax Bureau is directing all employers to begin withholding the tax immediately when an individual begins employment within one of the Taxing Jurisdictions listed in TABLE 1. The employer shall not make determinations as to who will or will not earn income below the exemption limit. The tax must be withheld by the employer, or paid by the taxpayer as required by the political subdivision and these regulations. At the end of the

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calendar year, any taxpayer who qualifies for the low-income exemption may complete an application to have the tax refunded. The application is available from the West Shore Tax Bureau. For the purposes of this exemption, “income from all sources,” shall include all income reportable for Pennsylvania State Personal Income Tax purposes. That would include earned and unearned income, but would exclude pensions and social security income. Income reported jointly for Pennsylvania State Personal Income Tax purposes that cannot be easily assigned to a particular spouse shall be split between each spouse (e.g. interest earned on a joint savings account).

SECTION 7. Refunds Because of Duplication of Payment:

At anytime during the calendar year a taxpayer pays more than \$52.00 in combined EMST (or equivalent tax by another state or municipality of another state), the taxpayer may apply for a refund of the amount over \$52.00. The application for refund must be made to the tax collector for the Taxing Jurisdiction that was the last one to levy the tax on the taxpayer (e.g. if a taxpayer works in one municipality and pays \$52.00, and then changes jobs and the new employer withholds the \$52.00 for another municipality, the refund application must be made to the tax collector for the 2nd municipality).

The “Application For Emergency & Municipal Services Tax Refund” can be obtained by calling the West Shore Tax Bureau, Employer Services Department 717-761-4902 or by visiting the website www.westab.org.