

LOCAL SERVICES TAX ("LST") REGULATIONS

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ARTICLE 1: INTRODUCTION

Section 101 - Purpose of Regulations. These regulations are issued by the Chief Financial Officer of Lower Merion Township pursuant to the Code of the Township of Lower Merion, Chapter 138, Article II, Local Services Tax, referred to in these Regulations as the "LST". These regulations are issued as an aid to the taxpayer to explain the meaning and scope of certain parts of the LST, including the process for exemption and application for refund. The Regulations are not intended to encompass all of the provisions of the LST or to be construed as taking the place of the Ordinance. These regulations are intended to conform to the Local Taxpayers Bill of Rights, 53 Pa.C.S .A. 8421, and should be construed accordingly.

Section 102 - Effective Date of Regulations. These regulations shall become effective on March 1, 2023.

Section 1.03 – Definitions. Words used in the Local Services Tax Ordinance, and/or these Regulations, but not defined in the Ordinance, the Regulations, by state statute, or by the Pennsylvania judiciary, will be interpreted using the common and ordinary meaning afforded to such words in a local services tax context.

AUTOMATED CLEARING HOUSE PAYMENT “ACH”

Payment made using the Automated Clearing House System through the payor’s bank.

COLLECTOR

The Chief Financial Officer of the Township of Lower Merion or their designated representative.

DATA FILE

An electronic file delivered to the Collector in the form of an email attachment, USB drive, excel spreadsheet or other electronic information containing the employee names, employees’ home address, social security numbers and employer’s identification, including name and business account number. All data files shall be in Microsoft Word or Excel Format or searchable Portable Document Format (pdf).

EARNED INCOME

Compensation as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, § 13, 53 P.S. § 6913, as amended.

EMPLOYER

An individual, partnership, association, limited-liability corporation, limited-liability partnership, corporation, governmental body, agency, or other entity employing one or more persons on a salary, wage, commission, or other compensation basis, including a self-employed person.

INDIVIDUAL

Any person engaged in any occupation, trade or profession within the Township of Lower Merion.

OCCUPATION

Any trade, profession, business or undertaking of any type, kind, or character, including services, domestic or other, carried on or performed within the Township of Lower Merion for which compensation is charged or received, whether by means of salary, wages, commission, or fees for services rendered.

POLITICAL SUBDIVISION

Any county, city, borough, incorporated town, township, school district, vocational school district with the authority to levy the local services tax.

TAX

The local services tax at the rate fixed in §138-16 of the Local Services Tax Ordinance.

TAX YEAR

The period from January 1 until December 31 in any year; a calendar year.

TOWNSHIP

The Township of Lower Merion.

Section 104 - The LST. The LST replaced the tax known as the Emergency Municipal Services Tax ("EMST") and is levied upon all persons employed within Lower Merion Township who earn Twelve Thousand Dollars (\$12,000.00) or more per year in gross income.

Section 105 - Administration of LST. The LST shall be administered by the Chief Financial Officer of Lower Merion Township or their designee. All questions and requests for additional information:

LST Tax Collector
Finance Department
Township of Lower Merion
75 East Lancaster Ave.
Ardmore, PA 19003
610-645-6142

Businessstax@lowermerion.org

Section 106 - Forms. All forms required for the reporting and payment of the LST are available at the Township Building or on the Township website www.lowermerion.org. From the home page, select the "Forms and Permits" button and then click on Finance. Any information filed electronically using a data file does not require use of the LST forms.

ARTICLE 2 - COLLECTION AND PAYMENT OF TAX

Section 201 - Rate of Tax: Each natural person who exercises the privilege of engaging in an occupation within the Township and earning twelve thousand dollars (\$12,000.00) or more per year for any length of time during any tax year shall pay the tax for that year in the amount of Fifty-two Dollars (\$52.00).

Section 202 - Payment of Tax. The tax shall be withheld by all employers within the Township on a pro rata basis using the number of payroll periods within the year paid by the employer. The tax is divided by the annual number of payroll periods of the employer and is withheld in equal amounts during each payroll period.

Examples:	Weekly payroll	52 pay periods per year - tax withheld at \$1.00 per pay period.
	Bi-weekly payroll	26 pay periods per year - tax withheld at \$2.00 per pay period.
	Monthly payroll	12 pay periods per year - tax withheld at \$4.33 per pay period.

Self-employed individuals and those with irregular pay periods shall pay the entire tax within 30 days of the end of the first quarter of each year unless eligible and approved for an exemption through the filing of an exemption certificate. If filing for an exemption, self employed individuals must still file an annual LST return even if the amount due is zero.

Section 203 - Persons Exempt from Tax. The following persons are exempt from the LST:

- A. Minimum Income. Any person whose total earned income, including tips and commissions and net profits from all sources connected to Lower Merion Township is less than \$12,000.00 in any calendar year is exempt from payment of the tax for that calendar year. For purposes of the income test, earnings, and net profits from business activities outside of Lower Merion Township but related to a person's employer or primary place of business within Lower Merion Township is considered as being earned within the Township.
- B. Disabled Veterans. By state law, any person who served in any war or armed conflict of the United States and received an honorable discharge from active services, if as a result of military service, the person has a service-connected disability as declared by the United States Veterans Administration to be a total (one hundred percent) disability.
- C. Reservists on Active Duty. Any person who serves as a member of a reserve component of the armed forces and is on or is called to active duty for at least three weeks at any time during the calendar year, is exempt from the LST for that year. Regular training and two-week training periods are not considered active duty for purposes of exemption from the LST.

Section 204 - Procedure for Claiming Exemption. Any person seeking exemption from the LST must annually file an exemption certificate with the Township and their employer. The forms for exemption are available at the Township Building or on the Township website. All supporting documentation requested by the form must be attached before the exemption form can be processed. Even with an approved exemption, self employed individuals are still required to file a quarterly LST return even if the amount due is zero.

Any person claiming exemption for minimum income must affirm that they reasonably expect to receive earned income and net profits from all sources connected to the Township of Lower Merion of less than \$12,000.00. Attached to the exemption form must be the last pay stub from the previous calendar year or their W-2 form for employment within or related to Township of Lower Merion. If the minimum income claim is the result of special circumstances, a statement to that effect must be attached to the exemption certificate.

If during the year a person who has filed an exemption certificate earns \$12,000.00 or more within or related to Lower Merion Township in the aggregate must notify the Township and their employer must immediately withhold the amount due and owing to that point in the year from the next pay period.

The Collector shall make the final determination on exemption based upon the certificate filed and all supporting documentation.

Any person claiming exemption as a disabled veteran shall provide a copy of the declaration of disability from the Veterans Administration to the Township.

Any person claiming exemption on the basis of active-duty military service shall attach a copy of their order to active duty to the exemption certificate and submit the forms to the Township.

Section 205 - Duties of Employer. Each employer who has a business location within the Township of Lower Merion, engages in business in the Township or employs persons who regularly work at locations within the Township is required to collect the tax from its employees and remit the tax to the Township quarterly.

An employer is not generally responsible for investigating exemption claims, monitoring tax exemption eligibility, or exempting any employee from the LST. However, if at any time during the year, an employer has paid an employee who claimed an exemption under the Minimum Income provision, an aggregate of \$12,000.00 or more, the employer must withhold and remit the tax in accordance with the Ordinance and these regulations.

Section 206 - Return. Unless providing an electronic data file, each employer must prepare and file a return showing the computation of the tax on forms provided by the Township. Forms are available at the Township Building or on the Township website - www.lowermerion.org. under the Finance Department, Business Tax Division. Each form must be signed by an authorized representative of the employer and by the person preparing the return if different. Each data file

presented must be attested by an authorized representative of the employer and by the person preparing the return, if different.

Section 207 - Self-Employed Individuals. Each self-employed individual who performs services of any type or kind or engages in any occupation or profession in Lower Merion is subject to the LST and payment of the tax is due within 30 days of the end of the first quarter of each year unless eligible and approved for an exemption through the filing of an exemption certificate.

Section 208 - Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the LST shall be in the following order:

- A. First, the political subdivision in which a person maintains their principal office or is principally employed;
- B. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of a dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

Section 209 - Non-Residents Subject to LST. All employers and self-employed individuals residing or having their places of business outside of Lower Merion Township but who perform services of any type or kind or engage in any occupation or profession within Lower Merion Township are subject to the LST just as if they were residents of the Township.

Anyone engaged in an occupation within the Township of Lower Merion and any employee of a nonresidential employer will be considered a self-employed person, and in the event their tax is not paid, the Township can collect the tax either from the employer or the employee.

Section 210 - Due Dates for Returns. Each employer must file an LST Return for each calendar quarter EXCEPT for self-employed individuals and other single pay period filers who have filed and paid the full \$52 LST in a single quarter. The returns are due on or before the last day of the month following each calendar quarter: April 30, July 31, October 31, and January 31. If any due date falls on a Sunday or legal holiday the returns will be timely filed if received by the Township on the next business day. Returns submitted by mail are deemed to be filed on the date of the U.S. postmark. Returns submitted by any other means, including private delivery services, are deemed filed on the date received by the Township. Any employer or employer's agent required to file electronically; the information shall be noted as received by the Township when the Township receives notification of the electronic delivery of the data file.

Section 211 – Registration Required. Any business or person not otherwise required to file for business registration under Article III or Article IV of Chapter 138 but is responsible for the collection or payment of Local Services Tax must obtain an annual registration on a form provided by the Township Business Tax Office. Said registration must be obtained by April 15 of each year.

This section shall apply to self-employed individuals as well as companies not otherwise required to obtain a Business Registration under the Township’s Business Privilege Tax and Mercantile License Tax Codes.

ARTICLE 3- ADMINISTRATION OF TAX

Section 301 - Administration of Tax. The Chief Financial Officer of the Township shall make and adopt regulations for the collection of the tax in accordance with the Township Ordinances and LST Act, SB 218.

Section 302 - Collection of Tax. The tax shall be collected by the Chief Financial Officer or their designee.

Section 303 - Duties of Collector. The Collector accepts and receives payments of the tax and keeps a record showing the amount received from each employer or self-employed person together with the date the tax was received.

Section 304 - Audit or Review of Records. The Collector is authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the amount due. Such examination may occur at the same time as any other examination or audit is scheduled by the Collector for other taxes, including but not limited to Business Privilege and/or Mercantile License Tax. Each employer is required to provide the Collector with the means, facilities, and opportunity for such examination.

Section 305 - Jeopardy Assessment of Tax. In the event an employer or self-employed individual does not have sufficient records to support the correct calculation of the tax or fails to make books and records available for examination, the Collector is authorized to ascertain the tax due using estimates.

Section 306 - Interest, Penalties, Suits for Collection.

- A. Penalty and Interest. If for any reason the quarterly returns are not filed, or the correct tax is not paid when due, interest at the rate of 1-1-2% per month or fraction of a month on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 10% shall be added to the flat rate of such tax. In situations in which the taxpayer has filed all returns in a timely fashion and in the evaluation of the Collector has made a good faith effort to comply with the LST ordinance, the penalty may be waived if it is being imposed based on a first offense.
- B. Collection. In the event that any tax remains due or unpaid 30 days after the due date, the Township may sue for the recovery of tax due, together with interest and

penalty. The person liable for unpaid tax is also responsible and liable for the Township's costs of collection.

- C. Fines. Anyone who fails to comply with this ordinance in any way may be subject to a \$600.00 fine for each failure to comply. Such person shall also be responsible for the costs of prosecution, and, if such person fails to pay such fines and costs, may be subject to imprisonment for not more than 30 days. The action to enforce such fines and costs may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article. Each incidence of non-compliance shall be considered a separate offense.

ARTICLE 4 - REFUNDS AND DISPUTES

Section 401 - Refunds to Exempt Employees. The Collector shall determine eligibility for exemption and provide refunds to exempt persons who have paid tax to the Township. Claims for refunds by exempt persons will be denied in cases where the employer failed to remit the withheld LST to the Township. No refund shall be made if the refund amount is less than \$1.00.

Section 402 - Refund of Overpayments.

- A. Any taxpayer who has made an overpayment of the LST tax to the Township may file a written request with the Collector for a refund or credit. Forms and instructions for applying for a refund can be obtained at the Township building or on the Township website www.lowermerion.org under Business Tax Division subsection in the Finance Department section. A request for a refund must be made within 3 years of the due date for filing the tax return, or one year after actual payment of the tax, whichever is later. If no return (or report) is required, the request shall be made within 3 years after the due date for payment of the tax or within one year after actual payment of the tax, whichever is later. A request for a refund shall not be considered complete and filed unless and until all information necessary for the Township to determine the merits of the request have been received by the Township. A request for refund shall not be considered a Petition for Administrative Appeal and shall not preclude a taxpayer from submitting a Petition for Administrative Appeal in accordance with the Township's Local Taxpayer Bill of Rights upon denial of payment of a refund. Refunds will not be issued if a taxpayer is delinquent in other Township obligations.
- B. Any refund of LST must be applied for by the employee. No employer may claim a refund of over paid LST.
- C. Requests for refunds will not be accepted until after the tax year is complete. No refund will be paid during the tax year that the refund is being applied for.

Section 403 - Interest on Overpayments. All overpayments of LST due to the Township shall bear simple interest from the date of the overpayment until the date of resolution. (See 53 Pa. C.S. Section 8426). Interest shall not accrue if an overpayment is refunded or applied against any other tax, interest, or penalty due the Township within the 75 day period described in paragraph B.

- A. Rate of interest. Interest on overpayments shall be allowed and paid at the same rate as the Commonwealth is required to pay pursuant to Section 806.1 of the Act of April 9, 1929 (P.L. 343, No. 176), known as The Fiscal Code.
- B. 75 Days before interest accrues. No interest shall be allowed if an overpayment is refunded (or applied against any other tax, interest, or penalty due the Township) within 75 days after the last date prescribed for filing the report of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.
- C. No interest on overpayments of penalty and interest. Overpayments of interest or penalty shall not bear any interest.

Section 404 - Dishonored Payments. If any form of payment (check or electronic) received in payment of taxes is returned unpaid by the bank, there shall be added to the tax due, the sum charged for dishonored payments as established by the Township. In addition, penalty and interest may be due if a dishonored payment causes a return or payment to be received after the due date of the return.

ARTICLE 5 – Electronic Filings and Payments

Section 501 – When Electronic Filing Required. Any company, organization or individual that files forty (40) or more returns on behalf of itself or other employers, such as payroll processing companies shall file the relevant tax information by submitting a data file to the Township electronically. The data file may be presented on portable electronic storage (USB, etc.) or by emailed to LSTreturn@lowermerion.org as an attachment. Said data file shall be CSV text file and must include:

- A. The name, address and contact information for the company presenting electronic data files;
- B. The name and address of each employer whose employees pay LST to the Township;
- C. The Business Tax Account number, number of employees being reported and amount of LST paid for each employer;
- D. The names, address, amount paid and employee number of each employee reported by employer; and,
- E. The form of electronic payment to the Township, including Taxpayer’s financial institution.

Section 502 – Bulk Payments. Any company, organization or individual that files an electronic data file shall make payment for the total batch amount due in the form of one (1) physical check delivered to the Township by the tax due date or electronically to the Township through use of a financial institution in the Automated Clearing House system. Electronic payments shall be by electronic check, ACH, or another form of electronic payment pre-approved by the Township.