

ORDINANCE NO. 1048

AN ORDINANCE imposing an annual tax for general revenue purposes on salaries, wages, commissions and other compensation earned on and after the first day of January, 1966, by residents of the Borough of Donora, and on salaries, wages, commissions and other compensation earned on and after the first day of January, 1966, by non-residents of the Borough of Donora for work done or services performed or rendered in the Borough of Donora, and on the net profits earned on and after the first day of January, 1966, of businesses, professions or other activities conducted by residents, and on the net profits earned on and after the first day of January, 1966, of businesses, professions or other activities conducted in the Borough of Donora by non-residents, requiring the filing of returns and giving of information by employers and those subject to the said tax; imposing on employers the duty of collecting the tax at source; providing for the administration, collection and enforcement of the said tax; and imposing penalties.

BE IT ENACTED AND ORDAINED by the Mayor and Town Council of the Borough of Donora, and it is hereby enacted and ordained under the authority of the Act of the General Assembly on June 25, 1947, P. L. 1145, and its amendments, as follows:

SECTION I. DEFINITIONS. Unless otherwise expressly stated, the following terms shall have, for the purpose of this Ordinance, the meaning herein indicated:

"Association." A partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.

"Business." Any enterprise, activity, profession, or undertaking of any nature conducted for profit, or ordinarily conducted for profit, whether by an individual, co-partnership, association, or any other entity.

"Compensation Earned" or "Compensation Paid" or "Earnings." All Salaries, wages, commissions, or bonuses, incentive payments, and-or other forms of compensation or remuneration in cash or in property, received by an individual and paid, directly or through an agent, by an employer for services rendered.

"Corporation." A corporation or joint stock association organized under the laws of the United States, and State of Pennsylvania, or any other State, territory, or foreign country or dependency.

"Employer." An individual, co-partnership, association, corporation, governmental body or unit or agency, or any other entity, who or that employs one or more persons on a salary, wage, commission or other compensation basis.

"Net Profits." The net gain from the operation of a business, profession, or enterprise, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, and without deduction of taxes based on income.

"Person." Every natural person, co-partnership, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

"Resident." An individual, co-partnership, association, or other entity, domiciled in the Borough of Donora.

"Non-Resident." An individual, co-partnership, association, or other entity, domiciled outside the Borough of Donora.

"Taxpayer." A person, whether an individual, co-partnership, association, or any other entity, required hereunder to file a return of earnings or net profits, or to pay a tax thereon.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

SECTION II. IMPOSITION OF TAX. An annual tax for general revenue purposes of one per centum (1%) is hereby imposed on (a) salaries, wages, commissions and other compensation earned on and after the first day of January, 1966 by residents of the Borough of Donora; and on (b) salaries, wages, commissions and other compensation earned on and after the first day of January, 1966 by non-residents of the Borough of Donora for work done or services performed or rendered in the Borough of Donora, and on (c) net profits earned on and after the first day of January, 1966, of businesses, professions or other activities conducted by residents; and on (d) the net profits earned on and after the first day of January, 1966, of businesses, professions or other activities conducted in the Borough of Donora by non-residents.

The tax levied under (a) and (b) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under (c) and (d) herein shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person or persons.

Said tax shall first be levied, collected and paid with respect to the salaries, wages, commissions and other compensation and the net profits of businesses, professions, or other activities earned on and after the first day of January, 1966.

SECTION III. Returns and payment of tax. Each person whose earnings or profits are subject to the tax imposed by this Ordinance shall on or before the 15th day of April, 1966 make and file with the Borough Tax Collector an estimate of net income, on a form furnished by or obtainable from the Borough Tax Collector setting forth the estimated amount of salaries, wages, commissions and other compensation or net profits expected to be earned by him during the year and subject to the said tax, together with such other pertinent information as the Borough Tax Collector may require. Any taxpayer filing said estimate of net income shall use as his estimate his preceding year's net income.

Such returns shall also show the estimated amount of the tax imposed by this Ordinance on such estimated earnings and profits. The person making the said return shall, at the time of filing thereof, pay to the Borough Tax Collector, the estimated amount of tax shown as due thereon; PROVIDED, HOWEVER, that the taxpayer shall have the right to pay the estimated tax, or the balance of the estimated tax as shown on the return, in four quarterly installments, the first installment thereof at the time of the filing of the return on or before April 15, 1966, and the other installments thereof on or before July 15, 1966, October 15, 1966, and January 15, 1967. On or before April 15, 1967, the taxpayer shall file a complete return of his net income for the year 1966 and pay the balance of the tax or make demand for a refund for overpayment, as the case may be; PROVIDED, FURTHER, That where any portion of the tax due shall have been deducted at source and shall have been paid to the Borough Tax Collector by the person making the said deduction, credit for the amount so paid shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of the filing of the said return, or as hereinabove provided; PROVIDED, FURTHER, That the Borough Tax Collector is authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by him or them from the salary, wages or commissions of an employee, and paid by him or them to the Borough Tax Collector shall be accepted as the return required of an employee whose sole income subject to the tax under this Ordinance is such salary, wages, or commissions.

The Borough Council shall prescribe rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance. Such rules and regulations shall be inscribed by the Borough Secretary in a book kept for that purpose and open to the inspection of the public.

SECTION IV. COLLECTION AT SOURCE. Each employer within the Borough of Donora who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, monthly or more often than monthly, at the time of the payment thereof, the tax of one per centum (1%) of salaries, wages, commissions or other compensation due by the said employer to the said employee, and shall make a quarterly return to the Borough Tax Collector for each quarter of the calendar year on or before the 15th day of the month following the termination of the quarter for which the return is made and shall, on or before said date, pay to the Borough Tax Collector the amount of the tax so deducted. Said return shall be on a form or forms furnished by or obtainable from the Borough Tax Collector and shall set forth the names and residences of each employee of said employer during all or any part of the preceding quarter, the amounts of salaries, wages, commissions or other compensation earned during such preceding quarter for which the return is made by each of such employees, together with such other pertinent information as the Borough Tax Collector may require: PROVIDED, HOWEVER, That the failure or omission by an employer, either residing within or outside of the Borough to make such return and-or pay such tax, shall not relieve the employee from the payment of such tax and the compliance with such regulations, with respect to making returns and payments thereof, as may be fixed in this Ordinance or established by the Borough Tax Collector.

SECTION V. DUTIES OF THE BOROUGH TAX COLLECTOR. It shall be the duty of the Borough Tax Collector to collect and receive the tax imposed by this Ordinance. It shall also be the duty of the Borough Tax Collector, in addition to keeping the records now required by law or ordinance, to keep a record showing the amount received by him from each taxpayer and the date of such receipt. He shall remit monthly to the Borough Treasurer the amount of taxes received by him.

SECTION VI. ENFORCEMENT RULES AND REGULATIONS, INQUISITORIAL POWERS OF THE BOROUGH TAX COLLECTOR.

(a) The Borough Tax Collector is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance, including provision for the re-examination and correction of returns and payments, alleged or found to be incorrect or as to which over-payment or under-payment is claimed or found to have occurred.

(b) The Borough Tax Collector or any agent or employee authorized in writing by him is hereby authorized to examine the books, papers and records of any employer, or supposed employer, or of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Ordinance. Every such employer or supposed employer or taxpayer or supposed taxpayer is hereby directed and required to give to the said Borough Tax Collector or his duly authorized agent or employee the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Borough Tax Collector is hereby authorized to examine any person under oath concerning any income which was or should have been returned to taxation, and to this end may compel the production of books, papers and records and the attendance of all persons before him whether as parties or witnesses, whom he believes to have knowledge of such income.

(c) Any information gained by the Borough Tax Collector or any other official or agent of the Borough as a result of any returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law, and any person or agent divulging such information, shall be subject to a fine or penalty of One Hundred Dollars (\$100.00) and costs for each offense, or to undergo imprisonment for not more than thirty days for the non-payment of such fine or penalty and costs within ten days from the imposition thereof.

SECTION VII. INTEREST AND PENALTIES. All taxes imposed by this Ordinance remaining unpaid after they become due shall bear interest in addition to the amount of the unpaid tax at the rate of six per centum (6%) per year, and the persons upon whom said taxes are imposed shall be further liable to a penalty of one-half of one per centum of the amount of the unpaid tax for each month or fraction of a month for the first six months of non-payment.

SECTION VIII. COLLECTION OF UNPAID TAXES. All taxes imposed by this Ordinance, together with all interest and penalties shall be recoverable by the Borough Solicitor as other debts of like amount are now recoverable.

SECTION IX. VIOLATIONS; PENALTIES. Any person convicted before any Justice of the Peace or the Mayor for violating any of the provisions or requirements of this Ordinance or who shall fail, neglect or refuse to make any return required by this Ordinance, or any taxpayer who shall fail, neglect or refuse to pay the tax, penalties and interest imposed by this Ordinance, or any person who shall refuse to permit the Borough Tax Collector or any agent or employee appointed by him in writing to examine his books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to avoid the full disclosure of the amount of earnings or profits to avoid the full disclosure of the amount of earnings or profits to avoid the payment of the whole or any part of the tax shall be subject to a fine or penalty of One Hundred Dollars (\$100.00) and costs for each such offense, or to undergo imprisonment for not more than thirty days for the non-payment of such fine or penalty and costs within ten days from the imposition thereof.

Such fine or penalty shall be in addition to any other penalty imposed by any other section of this Ordinance.

The failure of any employer or taxpayer to receive or procure a return form shall not excuse him from making a return.

SECTION X. APPLICABILITY. This Ordinance shall not apply to any person or property as to whom or which it is beyond the legal power of Borough Council to impose the tax or duties herein provided for.

SECTION XI. CONSTRUCTION. If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or part thereof not been included herein.

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SECTION XII. This Ordinance shall go into effect on the first day of January, 1966, and the tax levied hereunder shall be imposed for one (1) year only.

SECTION XIII. CONFLICTING ORDINANCES REPEALED OR MODIFIED. Any Ordinance or part of any ordinance conflicting with this Ordinance is hereby repealed or modified insofar as the same affects this Ordinance.

ORDAINED AND ENACTED into an Ordinance this 5th day of October, A. D. 1965.

ATTEST:

/s/ JAMES W. STEWART  
President of Council

/s/ THOMAS E. PETRUS  
Borough Secretary

APPROVED by me this 5th day of October, A. D. 1965.

ATTEST:

/s/ ALBERT P. DELSANDRO  
Mayor

/s/ THOMAS E. PETRUS  
Borough Secretary