

ORDINANCE NO. 151

IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED ON AND AFTER JANUARY 1, 1950, BY RESIDENTS OF THE BOROUGH OF SOUTH-MONT AND ON THE NET PROFITS EARNED ON AND AFTER JANUARY 1, 1950 OF BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CON-DUCTED BY SUCH RESIDENTS; REQUIRING THE FILING OF RETURNS AND THE GIVING OF INFORMATION BY EMPLOYERS AND THOSE SUBJECT TO THE SAID TAX, IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT SOURCE; CREATING THE OFFICE OF COLLECTOR OF BOROUGH INCOME TAX FOR THE ASSESSMENT AND COLLECTION OF THE SAID TAX; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF THE SAID TAX AND IMPOSING PENALTIES.

Section 1. Be it enacted and ordained by the Council of the Borough of Southmont, Cambria County, Pa.. and it is hereby enacted and ordained by the Authority of the same.

Section 1. The Council of the Borough of Southmont ordains, that the following words, when used in this ordinance, shall have the meaning ascribed to them in this section, except where the context clearly indicates or requires a different meaning.

DEFINITIONS

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

"Business" An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, copartnership association or any other entity.

"Collector" The Collector of Borough income tax for the Borough of Southmont.

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

"Employer" An individual, copartnership, 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.

"Net Profits" The net profit 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, copartnership, fiduciary association or corporation (except any corporation which is exempt from this tax under the Act of Assembly No. 481, approved June 25, 1947, as amended) Whenever used in any clause prescribing and imposing a penalty the term "person" as applied to associations, shall mean the partners or mem-bers thereof, and as applied to corporations, the officers thereof.

"Residents" An individual, copartnership, association or other entity domiciled in the Borough of Southmont.

"Taxpayer" A person whether an individual, copartner-ship, 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 mascu-line shall include the feminine and the neuter.

Section 2. Imposition of Tax. An annual tax for general revenue puposes of one (1%) per cent is hereby imposed on (a) all salaries, wages, commissions and other compensation earned on and after January 1, 1950, by the residents of the Borough of Southmont, and on (b) the net profits earned on and after January 1, 1950 of businesses, professions or other activities conducted by such residents.

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The tax levied under (a) 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 (b) herein shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as 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 salaries, wages, commissions and other compensations earned from and after January 1, 1950, and with respect to the net profits of businesses, professions or other activities earned during that part of the calendar year 1950, beginning from and after January 1, 1950 provided, however, that where the fiscal year of the business, profession or other activity differs from the Calendar year the tax shall be applied to that part of the net profits for the fiscal as shall be earned from and after January 1, 1950.

Section 3. Appointment of Collector of Borough Income Tax. The office of Collector of borough income tax is hereby created for the assessment and collection of the tax imposed by this ordinance whose term of office and compensation shall be fixed by the Borough Council.

Section 4. Returns and Payment of Tax. Each taxpayer whose earnings or profits are subject to the tax imposed by this ordinance shall on or before March 15 of each year, make and file a return with the Collector on a form furnished by or obtainable from the Collector, setting forth the aggregate amount of salary, wages, and other compensation, or net profits earned by him during the preceding year and subject to the said tax, together with such other pertinent information as the Collector may require. Provided however, that when the return is made for a fiscal year or other period different from the Calendar year, the return shall be made within seventy-five days from the end of the said fiscal year or other period.

The return shall also show the amount of the tax imposed by this ordinance on such earnings and profits. The taxpayer making the return shall at the time of filing thereof, pay to the Collector the amount of taxes shown as due thereon. Provided further, however, that where any portion of the tax so due shall have been deducted at the source and shall have been paid to the Collector by the person making such deduction pursuant to the provisions of Section 5 of this ordinance or where any portion of said tax shall have been paid by such taxpayer pursuant to the provisions of Section 6 of this ordinance, credit for the amount so paid shall be deducted from the amount to be due and only the balance, if any, shall be due and payable at the time of filing said return.

The Collector is hereby authorized to provide by regulations, subject to the approval of the Borough Solicitor, that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, or commissions of an employee, and paid by him or them to the collector, shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this ordinance is such salary, wage or commissions.

Section 5. Collection at Source. Each employer within the Borough of Southmont who employs one or more persons on a salary, wage, commissions or other compensation basis shall deduct, monthly or more often than monthly, one per cent of salaries,

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wages, commissions or other compensation due by the said employer to the said employee and shall make a quarterly return for each quarter of every calendar year on or before the 15th day of the month following the termination of and the quarter for which the return is made and pay to the Collector the amount of tax so deducted. Said return shall be on a form or forms furnished by or obtainable from the Collector and shall set forth the names and residence 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 by each of such employees, together with such other pertinent information as the Collector may require; Provided however, that the failure or omission by any employer, either residing within or outside 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 Collector.

Section 6. Declarations. Every taxpayer who anticipates any income which is not subject to the provisions of Section 5 hereof, shall file a declaration of the estimated tax for that part of the taxable year beginning January 1, 1950, and ending December 31, 1950. Such declaration shall be filed on or before March 15th of each year during the life of this ordinance by all such taxpayers. Such declaration shall be filed upon a form furnished by the Borough of Southmont which form may simply state that the figures used in making such declaration are the figures used in making the declaration of the estimate for the federal income tax, provided that it is understood that such figures may be modified according to the provisions of this ordinance so that the declaration required by this section shall set forth only such income as is taxable under the provisions of this ordinance.

Such declaration of estimated tax to be paid to the Borough of Southmont shall be accompanied by a payment of at least one-fourth ($\frac{1}{4}$) of the estimated annual tax and at least a similar amount for such year be paid on or before June 15, September 15, and December 15, for such year. Provided, however, that such estimate may be amended at the time of the making of any quarterly payment, and further provided that on or before March 15th of the following year that for which such declaration was filed, a final return shall be filed and any balance which may be due the Borough of Southmont shall be paid therewith. Should it then appear that such taxpayer has paid more than the amount of tax to which the Borough of Southmont would be entitled under the provisions of this ordinance, a refund of the amount so over paid shall be made.

Section 7. Duties of Collector. It shall be the duty of the Collector to collect and receive the tax imposed by this ordinance. It shall also be the duty of the Collector in addition to keeping the records now required by law and ordinance, to keep a record showing the amount received by him from each taxpayer and the date of such receipt.

Section 8. Enforcement, Rules and Regulations; Inquisitorial powers of the Collector.

A. The Collector is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered subject to the approval of the Borough Solicitor 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

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the provisions of the re-examination and correction of returns and payments.

B. The 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 Collector or his duly authorized agent or employee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Collector is hereby authorized to examine any person under oath concerning any income which was or should have been returned for 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 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 the 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 three hundred (\$300.00) Dollars and costs for each offense, or to undergo imprisonment for not more than ninety days for the non-payment of such fine or penalty and costs within ten days from the imposition thereof.

Section 9. 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 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 10. 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 recoverable.

Section 11. Violations, Penalties. Any person 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 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 or avoid the payment of the whole or any part of the tax, shall be subject to a fine or penalty of one hundred (\$100.00) Dollars and costs for each such offense, or to undergo imprisonment for not more than thirty days for the non-payment of such fine and 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 any taxpayer to receive or procure a return form shall not excuse him from making a return.

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Section 12. Applicability. This ordinance shall not apply to any person or property as to whom or which it is beyond the legal power of Council to impose the tax or duties herein provided for.

Section 13. 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 effect 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 Council that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 14. Effective Date. This ordinance shall go into effect January 1, 1950.

Passed finally in Council Nov. 14, 1949.

G. Martin Fox
President of Council

Attest:
M.T. Cunningham
Secretary

Approved:
Lyman R. Angus
Burgess

Certification

I, M.T. Cunningham, Secretary of the Borough of Southmont hereby certify the within to be a true and correct copy of Ordinance No. 151 enacted by the Council of the Borough of Southmont at the time and place before indicated.

ORDINANCE NO. 152

Ordinance fixing the salary of the Burgess after February 1, 1950.