

INCOME TAX ORDINANCE NO. 221

PROVIDING FOR THE ASSESSMENT, LEVY AND COLLECTION OF A TAX, FOR GENERAL REVENUE PURPOSES UPON SALARIES, WAGES, COMMISSIONS AND OTHER EARNED INCOME DURING THE YEAR 1964 BY RESIDENTS OF THE BOROUGH OF SOUTHMONT, AND ON THE NET PROFITS EARNED DURING THE YEAR 1964 OF BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY SUCH RESIDENTS.

BE IT RESOLVED by the Council of the Borough of Southmont, Cambria County, Pennsylvania, and it is hereby resolved by authority of the same, and in pursuance of authority granted to Boroughs in the Commonwealth of Pennsylvania by an Act of General Assembly approved the 25th day of June, 1947, P.L. 1145, and its amendments, as follows:

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SECTION 1: - DEFINITIONS: Unless otherwise expressly stated, the following terms shall have, for the purpose of this ordinance, the meaning herein indicated:

- (a) The term "association" shall mean a partnership, limited partnership, or any form of unincorporated enterprises, owned by two or more persons.
- (b) The term "business" shall include 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 other entity.
- (c) The term "compensation earned" or "compensation paid" or "earnings" shall mean all salaries, wages, commissions, 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 employer for services rendered.
- (d) The term "corporation" shall mean any corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, or foreign country or dependence.
- (e) The term "employer" shall mean any 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.
- (f) The term "net profits" shall mean 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.
- (g) The term "person" shall include natural person, co-partnership, association, firm or fiduciary; whenever used in any clause prescribing and imposing a penalty, the term "person" as herein applied to associations, shall mean the partners or members thereof and as applied to corporations, the officers thereof.
- (h) The term "resident" shall mean an individual, co-partnership, association, or other entity domiciled within the limits of the Borough of Southmont.

- (i) The term "taxpayer" shall mean a person, whether an individual, co-partnership, association, or any other entity, required hereunder to file a return on earnings, wages, salaries, commissions, other earned income or net profits or to pay a tax thereon.
- (j) The term "non-resident" shall mean an individual, co-partnership, association, or other entity domiciled outside the limits of the Borough of Southmont.
- (k) The singular shall include the plural and the masculine shall include the feminine and the neuter.
- (l) The term "Borough" shall mean the Borough of Southmont, Cambria County, Pennsylvania, and the term "council" shall mean the Council of said Borough.

Section 2: IMPOSITION OF TAX: The following taxes are hereby imposed for general Borough purposes:

- (a) One-half ( $\frac{1}{2}$ ) per cent of all compensation earned by residents during the year beginning January 1, 1964 and ending December 31, 1964.
- (b) One-half ( $\frac{1}{2}$ ) per cent of all net profits earned in or by businesses, professions, and other activities conducted by residents during the year beginning January 1, 1964 and ending December 31, 1964.

The Taxes levied under (a) of this Section shall relate to and be imposed upon compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The taxes levied under (b) of this Section shall relate to and be imposed upon 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. Such taxes shall be levied with respect to the compensation or net profits earned during the year beginning January 1, 1964, and ending December 31, 1964.

SECTION 3: APPOINTMENT OF COLLECTOR: Robert M. Smith, First National Bank Building, Johnstown, Pennsylvania, is hereby designated Receiver of the Taxes imposed by this Ordinance. He shall collect and receive all such taxes, shall furnish a receipt for their payment, and shall keep a record showing the amount received by him from each taxpayer under this Ordinance and the date of such receipt. He shall continue to act as such Receiver and Collector until his removal by the Council of the Borough of Southmont, or his resignation.

The Solicitor for the Borough is empowered to 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 Receiver in a book kept for that purpose and open to the inspection of the public.

SECTION 4: RETURNS: Every person whose earnings or profits are subject to the tax imposed by this Ordinance shall, on or before April 15, 1965, make and file a return with the Receiver. The return of April 15, 1965, shall be for the period covered by this earned income tax ordinance. Such return shall be filed on a form prescribed or approved by the Solicitor, furnished at the expense of the Borough and obtainable from the Secretary of the Council or the Receiver. The information on such return shall include: name and address of the taxpayer, his place of employment or business, the aggregate amount of compensation or net profits earned by him during the year covered by this Ordinance and subject to such tax, the amount of tax due to the Borough under this Ordinance, together with such other pertinent information as may be required.

Provided: That in any case where the sole income of any person subject to tax under this Ordinance is in the form of compensation paid by an employer and where the entire tax due from such employee has been deducted by his employer and return thereof made to the Receiver, such employee shall not be required to file a return thereof.

SECTION 5: COLLECTION AT SOURCE: Every employer within the limits of the Borough of Southmont, shall, and every employer without the limits of the Borough of Southmont is hereby requested to deduct monthly or more frequently than monthly, at the time of payment of compensation due by him to any employee which is taxable hereunder, the tax herein imposed of one-half ( $\frac{1}{2}$ ) per cent of the amount of the compensation for such period. Such employer shall make a quarterly return for each quarter of the year 1964, on or before the 15th day of the month next following such quarter, and pay over to the Receiver the amount of tax so deducted. Such return shall be on a form prescribed by the Solicitor, procured at the expense of the Borough and furnished by or obtainable from the Secretary of the Borough or the Receiver; it shall set forth the name and address of each such employee of such employer, the amount of compensation earned by each of such employees during the proceeding quarterly period and any other pertinent information that may be required.

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Provided however: That the failure or omission by any employer, residing either within or outside of the limits of the Borough of Southmont to deduct such tax and to pay it to the Receiver and to make such return to the Receiver shall not relieve any employee from the payment of such tax and the compliance with such regulations, with respect to making returns and payment thereof, as may be established under this Ordinance.

SECTION 6: DECLARATIONS OF ESTIMATED TAX: Every taxpayer who anticipates any income which is not subject to the provisions of Section 5 hereof, shall on or before April 15, 1964, file a declaration of the estimated tax for the year covered by this Ordinance. Such declaration shall be filed upon a form furnished by the Secretary or the Receiver, which form may, if the taxpayer so desires and the Receiver approves, simply state that the figures used in making such declaration are the figures used in making his most recent 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 shall be accompanied by a payment of at least one-fourth ( $\frac{1}{4}$ ) of the estimated total tax and at least a similar amount for such year shall be paid on or before June 15, 1964, September 15, 1964 and January 15, 1965. 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 April 15, 1965, a final return shall be filed and any balance which may be due the Borough shall be paid therewith. Should it then appear that such taxpayer has paid more than the amount of tax to which the Borough would be entitled under the provisions of this Ordinance, a refund of the amount so overpaid shall be made.

SECTION 7: Every taxpayer who moves into the Borough after the effective date of this Ordinance shall within thirty (30) days thereafter file with the collector, on a form prescribed by the Tax Collector, a statement showing his residence, place of his employment, the name of his employer. If his income is not subject to withholding,

said taxpayer shall within sixty (60) days after moving into the Borough, file a declaration of the estimated tax for the remainder of the fiscal year covered by this Ordinance. Such declaration shall be in conformity with and subject to the preceeding provisions of this Ordinance, except as to the manner of payments, which shall be made in equal monthly amounts during the remainder of the first fiscal year of residency of said taxpayer.

SECTION 8: DUTIES OF RECEIVER: The Receiver or any other person designated by the Borough for the purpose 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 is made, to ascertain the amount of tax due by any person under this Ordinance. Every such employer or supposed employer or taxpayer or supposed taxpayer subject to the jurisdiction of the Borough is hereby directed and required to give to the Receiver or such other authorized person the means, facilities, and opportunity for such examinations and investigations as are hereby authorized. The Receiver 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, the Receiver may compel the production of books, papers, and records and the attendance of all persons before such Receiver, whether as parties or witnesses, whom the Receiver believes to have knowledge of such income.

Any information gained by the Receiver 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 use, and except in accordance with proper judicial order or as otherwise provided by law. Any disclosure of any such information, contrary to the provisions of this Section, shall constitute a violation of this Ordinance.

SECTION 9: INTEREST AND PENALTIES: All taxes imposed by this Ordinance remaining unpaid after they shall have become due shall bear interest on the amount of the unpaid tax at the rate of six (6%) per cent per annum, and the persons upon whom such taxes are imposed shall be further liable to a penalty of one-half ( $\frac{1}{2}$ ) Of one (1%) per cent of the amount of the unpaid tax for each month or fraction of a month for the first six months of non-payment.

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SECTION 10: COLLECTION OF UNPAID TAXES: All taxes imposed by this Ordinance, together with all interest and penalties, shall be recoverable by the Solicitor for the Borough as other debts of like amount and kind are recoverable. This provision shall not limit the Solicitor or the Borough in pursuing any other remedies.

SECTION 11: VIOLATIONS AND PENALTIES: Any person lawfully found to have violated any of the provisions or requirements of this Ordinance or of failing, neglecting, or refusing to pay any tax, penalties, or interest imposed under this Ordinance; or refusing to permit the Receiver or any other person authorized under this Ordinance to examine his books, records and papers, or of knowingly making any incomplete, false, or fraudulent returns, or of attempting to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this Ordinance, shall be liable to a fine or penalty of ONE HUNDRED -- (\$100.00) -- DOLLARS for each and every offense, and the costs of prosecution thereof. This fine or penalty shall be in addition to and separate from any other punishment or penalty now or hereafter provided for by the Legislature of the Commonwealth of Pennsylvania.

Provided: That 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 shall not excuse him from making a return.

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 the Borough of Southmont to impose the tax or duties herein provided for.

SECTION 13: CONSTRUCTION: If any Section, clause, or sentence 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 Council and Borough 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, 1964.

RESOLVED THIS 9th day of December, 1963.

BOROUGH OF SOUTHMONT, CAMBRIA COUNTY,  
PENNSYLVANIA

By: *G. Martin Joe*  
President of Council

ATTEST:

*Dethy M. Lupo*  
Secretary

Approved this 9th day of December, 1963.

*Robert Moore*  
Mayor

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