

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVY AND COLLECTION OF A TAX, FOR GENERAL BOROUGH PURPOSES, UNDER THE AUTHORITY OF THE ACT OF DECEMBER 31, 1965, P.L. 1257 (53 P. S. 6901, ET SEQ.), KNOWN AS THE LOCAL TAX ENABLING ACT, UPON SALARIES, WAGES, COMMISSIONS, AND OTHER COMPENSATION EARNED AFTER THE 1st DAY OF JULY, 1977, BY THE RESIDENTS OF THE BOROUGH OF WEST KITTANNING, AND ON SALARIES, WAGES, COMMISSION AND, OTHER COMPENSATION EARNED AFTER THE 1st DAY OF JULY, 1977, BY NON-RESIDENTS OF THE BOROUGH OF WEST KITTANNING, FOR WORK DONE OR SERVICES PERFORMED OR RENDERED IN THE SAID BOROUGH, AND ON THE NET PROFITS EARNED AFTER THE 1st DAY OF JULY, 1977, OF BUSINESS, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED BY SUCH RESIDENTS AND ON THE NET PROFITS EARNED AFTER THE 1st DAY OF JULY, 1977, OF BUSINESS, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED IN THE SAID BOROUGH BY NON-RESIDENTS; AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

The BOROUGH OF WEST KITTANNING hereby ordains as follows; under the authority of the Act of December 31, 1965, P. L. 1257 (53 P. S. 6901, et seq.), known as the Local Tax Enabling Act:

SECTION 1. Unless otherwise expressly stated, the following terms shall have, for the purpose of this Ordinance, the meanings respectively herein indicated:

- (a) The term "association" shall mean a partnership, limited partnership, or any other form of unincorporated enterprise, 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 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 agent, by 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 of America, the Commonwealth of Pennsylvania, or any other State territory or foreign Country or dependency;
- (e) The term "employer" shall mean any individual, co-partnership, association, corporation, ~~governmental body or unit or agency or any other~~

entity, who or which employs one or more persons on a salary, wage, commission or other compensation basis;

- (f) The term "net profits" shall mean the net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income;
- (g) The term "non-resident" shall mean an individual, co-partnership, association or other entity domiciled outside the Borough of West Kittanning;
- (h) The term "person" shall include natural person eighteen (18) years of age or older, co-partnership, association, corporation, firm or fiduciary. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to associations, shall mean the partners or members thereof; and as applied to corporations, shall mean the officers thereof;
- (i) The term "resident" shall mean an individual, co-partnership, association, or other entity domiciled in the Borough of West Kittanning,;
- (j) The term "taxpayer" shall mean a person, whether an individual, co-partnership, association or other entity, required hereunder to file a return on earnings or net profits or to pay a tax thereon.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 2. The following taxes are hereby imposed for general Borough purposes, under the authority of the Act of December 31, 1965, P. L. 1257, (53 P. S. 6901, et seq.), known as the Local Tax Enabling Act:

- (a) 1% of all compensation paid after July 1, 1977, to residents;
- (b) 1% of all compensation paid after July 1, 1977, to non-residents for work done or services rendered in the Borough of West Kittanning;
- (c) 1% of the net profits earned after July 1, 1977, of businesses, professions and other activities conducted by residents;
- (d) 1% of all net profits earned after July 1, 1977, of businesses, professions and other activities conducted in the Borough of West Kittanning.

by non-residents;

SECTION 3. The Borough Council shall have the authority to appoint an individual receiver of the taxes imposed by this Ordinance. He shall be bonded by a good and reliable bonding company at all times for all money coming into his hands for Borough purposes under this Ordinance, the costs of which bond shall be paid by the Borough. He shall collect and receive all such taxes, shall furnish a receipt for their payment when requested so to do by any taxpayer, and shall keep a record showing the amounts received by him from each taxpayer under this Ordinance and the date of the receipt of such payment. The Borough Council may from time to time 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 appointed receiver of the taxes into a book kept for that purpose and open to the inspection of the public. Such rules and regulations shall have the same force and effect as if they had been incorporated into this Ordinance.

SECTION 4. Every person whose earnings or net profits are subject to any tax imposed by this Ordinance shall, on or before the 15th day of April of each year make and file a return with the receiver of the taxes imposed by this Ordinance for the preceding calendar year. Such return shall be filed on forms prescribed by the Borough Solicitor, furnished at the expense of the Borough and obtainable from the receiver of the taxes. The information on such return shall include the name and address of the taxpayer; his place of employment or business; the aggregate amount of compensation paid to him or net profits earned by him during the preceding calendar year; the amount of tax due to the Borough of West Kittanning under this Ordinance; the amount of tax on salaries, wages, commissions and other compensation or net profits paid by such taxpayer for the period covered by such return to any other political subdivision of the Commonwealth of Pennsylvania, including the Armstrong School District, together with such other pertinent information as may be required, PROVIDED, however, that where a return is made for a fiscal year or for any other period different from a calendar year such return shall be made within seventy-five (75) days after the close of such fiscal year.

The person making such return shall, at the time of filing thereof, pay to the receiver of the taxes the amount of tax as shown thereon, less any credits of tax withheld by any employer from compensation earned, less any credits and deductions allowed pursuant to the Act of December 31, 1965, P. L.1257 (53

P.S. 6901, et seq.), known as the Local Tax Enabling Act, for payment for any concurrent period of a like tax to any political subdivision of this Commonwealth by any resident of such political subdivision. PROVIDED, however, that any taxpayer, other than those from the entire tax imposed by this Ordinance shall have been withheld by his employers from compensation earned, shall make and file with the receiver of taxes, on forms prescribing by him, a quarterly return on or before April 30 of the succeeding calendar year, July 31, of the succeeding year, October 31 of the current year and January 31 of the succeeding calendar year and on the same date thereafter, setting forth the aggregate amount of compensation, earned or net profits not subject to withholding by him during the three-months period ending March 31 of the succeeding year, June 30 of the succeeding year, September 30 of the current year and December 31 of the current year, and on the same date thereafter, respectively, and subject to the tax, together with such other information as the receiver of taxes may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of taxes shown as due thereon for each quarter. PROVIDED FURTHER, that in any case where the sole income of any person subject to any tax under this Ordinance is in the form of compensation paid by an employer and where the entire tax due by any employer shall have withheld by his employer and return thereof made to the receiver of the taxes, such employee shall not be required to file a return thereof. However, if such an employee shall be a non-resident of the Borough of West Kittanning and shall also be subject to a like tax imposed by any political subdivision within this Commonwealth of which he is a resident, such employee shall file a return with the receiver of taxes, who is hereby authorized to refund to such employee any difference to which he shall be entitled under the provisions of Section Five of the Act of December 31, 1965, P. L. 1257 (53 P. S. 6901, et seq.), known as the Local Tax Enabling Act.

SECTION 5. Every employer within the Borough of West Kittanning shall deduct monthly or more frequently than monthly, at the time of payment of compensation due by him to an employee, the tax of 1% of the amount of compensation for such period. Such employer shall, quarterly, make a return and pay over to the receiver of the taxes the amount of tax deducted, or the balance of any tax deducted and not previously, during such quarter, remitted to the receiver of the tax. Such quarterly returns shall be filed and the tax due therewith paid over on or before April 30 of the succeeding year, July 31 of the succeeding year, October 31 of the current year, and January 31 of the succeeding year and

on a like date thereafter for taxes deducted during the preceding three month periods ending March 31 of the succeeding year, June 30 of the succeeding year, September 30 of the current year, and December 31 of the current year and on the same date thereafter respectively. Such return shall be on a form furnished by or obtainable from the receiver of the taxes, and shall set forth the total amount of compensation paid by each employer during such quarter; the amount of tax withheld; previous remittances, if any, to the receiver of the taxes for the said quarter; and the balance remitted therewith. On or before February 28 of each succeeding year, there shall be filed an annual return, which return shall be on a form furnished by and obtainable from the receiver of the taxes, and shall set forth the name and residence of each employee of such employer during all or part of the preceding calendar year, the amount of compensation earned by each of such employees during the preceding calendar year, and any other pertinent information that may be required. PROVIDED, however, that the failure or omission by any employer, located either within or outside of the Borough of West Kittanning, to deduct such tax and to make such return to the receiver of taxes shall not relieve an employee from the payment of such tax and the compliance with such regulations, with respect to making returns and the payment thereof, as may be established under this Ordinance. Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements required and pay the tax due.

SECTION 6. The receiver of the taxes or any other person designated by the Borough Council for the purpose is hereby authorized to examine any of 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 is hereby directed and required to give to the receiver of the taxes or such other authorized person the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The receiver of the taxes, or any other person whom the Borough Council appoints, 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 Borough Council may compel the production of books, records, and papers and the attendance of all persons before such receiver of the taxes, whether as parties or as witnesses, whom the receiver of the taxes believes to have knowledge of such income.

SECTION 7. Any information gained by the receiver of the taxes or any other official or agent of the Borough as a result of any return, investigation, hearing or verification 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. Any disclosure of any such information, contrary to the provisions of this Section, shall constitute a violation of this Ordinance.

SECTION 8. All taxes imposed under this Ordinance remaining unpaid after they shall have become due shall bear interest in addition to the amount of the unpaid tax at the rate of 6% per annum, and the person against whom such tax is imposed shall be further liable to a penalty of 1% of the amount of the unpaid tax for each month or fraction of a month for the first six months of nonpayment.

SECTION 9. All taxes imposed by this Ordinance, together with all penalties, interest and costs, shall be recoverable by the Borough Solicitor as debts of like amount are by law recoverable.

SECTION 10. Any person convicted before a District Magistrate of violating 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 of the taxes or any other person to examine any of his books, papers or records; or of knowingly making any incomplete, false or fraudulent return or of doing or 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 not exceeding Five Hundred Dollars (\$500.00) and costs of prosecution, for each and every offense, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days.

SECTION 11. All expenses incurred in the administration of this Ordinance shall be paid by the Borough. The receiver of the taxes imposed by this Ordinance shall receive such compensation for his services and expenses as the Borough Council may direct by resolution.

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

SECTION 13. The said tax enacted under this Ordinance shall continue in force on a calendar year basis without annual reenactment unless the rate of tax is subsequently changed.

SECTION 14. 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, section or part thereof not been included herein.

DONE, ORDAINED AND ENACTED at a regular meeting of the Borough Council of the Borough of West Kittanning, held on the 31 day of June, 1977.

BOROUGH OF WEST KITTANNING

BY: Donald H. Morris
PRESIDENT

ATTEST:

Bernie Brown
SECRETARY

APPROVED THIS 31 DAY OF JUNE, 1977.

John C. Beech
MAYOR OF WEST KITTANNING BOROUGH