

ORDINANCE NO. 1960-9

An Ordinance providing for the assessment, levy and collection of a tax for general borough purposes upon all salaries, wages, commissions and other earned income on and after the 1st day of January, 1961, by residents of the Borough of West Newton and on all salaries, wages, commissions and other earned income on and after the 1st day of January, 1961, by non-residents of the Borough of West Newton for work done or services performed or rendered in the Borough of West Newton, and on all net profits of businesses, professions or other activities earned on and after the 1st day of January, 1961, and conducted by residents of the Borough of West Newton and on all net profits of businesses, professions or other activities earned on or after the 1st day of January, 1961, conducted in the Borough of West Newton by non-residents of the Borough of West Newton.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Council of the Borough of West Newton pursuant to 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.

SECTION 1. 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 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, 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, 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 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 operations 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 "non-resident" shall include natural persons, co-partnerships, association, 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, the officers thereof.

(h) The term "resident" shall mean an individual, co-partnership, association or other entity domiciled in the Borough of West Newton.

(i) The term "taxpayer" shall mean a person, whether an individual, copartnership, association, or any other entity, required hereunder to file a return on earnings or net profits or to pay a tax thereon.

(j) Other activities shall mean investments in real or personal property of whatever nature or character.

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:

(a) One half of one per cent on all salaries, wages, commissions and other compensation earned on and after the 1st day of January, 1961, by residents of the Borough of West Newton.

(b) One half of one per cent on all salaries, wages, commissions and other compensation earned on and after the 1st day of January, 1961, by nonresidents of the Borough of West Newton for work done or services performed or rendered in the Borough of West Newton.

(c) One half of one per cent on all net profits of businesses, professions or other activities earned on and after the 1st day of January, 1961, conducted by residents of the Borough of West Newton.

(d) One half of one per cent on all profits of businesses, professions or other activities earned on or after the 1st day of January, 1961, conducted in the Borough of West Newton, by non-residents of the Borough of West Newton.

The taxes levied under (a) and (b) 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 (c) and (d) 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 owners 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 calendar year for which the tax is levied.

PROVIDED, however, that when the fiscal year of a business, profession, or other activity differs from the calendar year, the tax shall be applicable to the net profits of the fiscal year, but for the tax levied on net profits in the year 1961 the tax shall be applicable only to the portion of the net profits of the fiscal year 1961 as were earned on and after January 1, 1961.

SECTION 3. _____, or his successor, hereinafter called Collector, 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 each receipt. The Borough Solicitor is empowered to prescribe rules and regulations relating to any matter or things pertaining to the administration and enforcement of the provisions of this ordinance. Such rules and regulations shall be inscribed by the Collector in a book kept for that purpose and open to the inspection of the public.

SECTION 4. Every person whose earnings or profits are subject to the tax imposed by this ordinance shall, on or before April 15, 1961, make and file an estimated return with the Collector. Such an estimated return shall be filed on a form prescribed by the Borough Solicitor, furnished at the expense of the Borough, and obtainable from the Collector. The information on such estimated return shall include: the name and address of the taxpayer, his place of employment or business, the aggregate amount of compensation or net profits estimated to be earned by him during the year and subject to such tax, the amount of tax due to the Borough of West Newton under this ordinance, the amount of tax on salaries, wages, commissions, and other compensation or net profits paid by such taxpayer during the period covered by such estimated return to the Borough of West Newton and/or to any other political subdivision of the Commonwealth of Pennsylvania, not including any school district comprising part or all of the area of the Borough of West Newton together with such other pertinent information as may be required.

PROVIDED, however, that where an estimated return is made for a fiscal year or for any other period different from a calendar year, such estimated return shall be made within 75 days after the beginning of such fiscal year or other period.

The person making such an estimated return shall, at the time

of filing thereof, pay to the Collector the amount of tax as shown thereon, less any credits or deductions allowed pursuant to Section 5 of the Act of 1947 P. L. 1145 and its amendments for payment for any concurrent period of a like tax to any other political subdivision of this Commonwealth by any resident of such other political subdivision.

PROVIDED, however, that any taxpayer shall pay such tax, or the balance of such tax as shown on the estimated return, in equal installments, the first installment thereof on or before April 15, 1961, the second installment thereof on or before July 15, 1961, the third installment thereof on or before October 15, 1961, and the final installment on or before January 15, 1962.

PROVIDED, further, that any taxpayer shall on or before April 15, 1962, or on or before fifteen days after the close of a fiscal year file a final return showing the exact amount of tax due for the preceding tax year, less any credits heretofore paid, and pay the balance due as shown by said return at the time or claim a refund if tax has been overpaid.

PROVIDED, further, that in any case where the sale 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 by such employee has been deducted by his employer and return thereof made to the Collector, such employee shall not be required to file a return thereof. However, if such employee shall also be subject to a like tax imposed by any other political subdivision within this Commonwealth, such employee shall file a return with the Collector who is hereby authorized to refund to such employee any difference to which he shall be entitled under the provisions of Section 5 of the Act of 1947, P.L. 1145 and its amendments.

SECTION 5. Every employer within the Borough of West Newton shall deduct monthly or more frequently than monthly, at the time of payment of compensation due him to any employee, the tax of 1% of the amount of the compensation for such period. The tax so deducted may be paid by the employer to the Collector at the time said deduction is made or may be paid monthly or quarterly at the election of the employer, but must be paid on or before the 30th day of the month succeeding the period selected. Each employer shall, on or before the 31st day of January in each year, or more frequently if he so desires, make a return to the Collector of the tax so deducted and paid during the period covered by said return. Such return shall be made on a form prescribed by the Borough Solicitor, procured at the expense of the Borough, and furnished by or obtainable from the Collector; it shall set forth the name and residence of such employee of such employer during all or part of the preceding year or other period, the amount of compensation earned by each of such employees during the preceding year or other period, and any other pertinent information that may be required.

PROVIDED, however, that the failure or omission by an employer, either residing within or outside of the Borough of West Newton to deduct such tax and to make such return to the Collector shall not relieve an 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. The Collector or any other person designated by Borough Council 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 is hereby directed and required to give to the Collector or such other authorized person the means, facilities, and opportunities 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 the Borough Council may compel the production of books, papers, and records and the attendance of all persons before such Collector, whether

as parties or witnesses, whom the Collector believes to have knowledge of such income.

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 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 7. All taxes imposed by 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 persons upon whom such taxes are imposed shall be further liable to a penalty of 1/2 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 8. All taxes imposed by this ordinance, together with all interest and penalties, shall be recoverable by the Collector as other debts of like amount are recoverable.

SECTION 9. Any person convicted before the Burgess or Justice of the Peace of the Borough 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 Collector 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 not exceeding \$100 for each and every offense, payable to the Borough Treasurer, and the costs of prosecution thereof, and, in default of payment thereof, to undergo imprisonment in the County Jail for a period not exceeding 30 days.

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 to procure a return shall not excuse him from making a return.

SECTION 10. 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 11. If any sections, 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 section 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.

SECTION 12. This ordinance shall become effective January 1, 1961.

ORDAINED AND ENACTED by the Borough of West Newton at a meeting held the 9th day of December, 1960.

ATTEST:
B. T. Lash

Secretary

/s/ James L. Welsh

President of Council

Examined and approved this 9th say of December 1960.

Robert C. Umbarger

Burgess