

ORDINANCE NO. ____1961-6

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, 1962, 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, 1962, 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, 1962, 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, 1962, 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, co-partnership, 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, 1962, 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, 1962, by non-residents 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, 1962, 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, 1962, 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 1962 the tax shall be applicable only to the portion of the net profits of the fiscal year 1962 as were earned on and after January 1, 1962.

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, 1962, 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.

PROVIDE, 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 14, 1962, the second installment thereof on or before July 15, 1962, the third installment thereof on or before October 15, 1962, and the final installment on or before January 15, 1963.

PROVIDED, further, that any taxpayer shall on or before April 15, 1963, 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 theretofore, 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 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 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 divergence 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 $\frac{1}{2}$ 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, 1962.

ORDAINED AND ENACTED BY the Council of the Borough of West Newton at a meeting held the 10th day of November, 1961.

ATTEST:

/s/ B. T. Lash
Secretary

/s/ James L. Welsh
PRESIDENT OF COUNCIL

Examined and approved this 19th day of November 1961.

ATTEST:

/s/ B. T. Lash
Secretary

//s/ Robert C. Umbarger
~~Borough~~ Mayor

To THE MAYOR AND TOWN COUNCIL OF THE BOROUGH OF WEST NEWTON,
WESTMORELAND COUNTY, PENNSYLVANIA

Petition for Annexation of Real Estate in
South Huntingdon Township, Westmoreland County
Pennsylvania to the Borough of West Newton,
Westmoreland County, Pennsylvania.

We, the undersigned, being a majority of the freeholders
in the proposed territory to be annexed to the Borough of West
Newton from the Township of South Huntingdon, hereby petition
and request the Borough of West Newton, Westmoreland County,
Pennsylvania, to annex to the said Borough all of the following
described real estate:

ALL THAT CERTAIN piece or parcel of land lying and situate
in the Township of South Huntingdon, County of Westmoreland and
Commonwealth of Pennsylvania, bounded and described as follows,
to wit:

BEGINNING at a borough monument in the concrete pavement in
Robertson Street and on line dividing West Newton Borough and
South Huntingdon Township and on line of land now or formerly
of Mon Yough Realty Corp; thence along line dividing West
Newton Borough and South Huntingdon Township, North 72° 58'
West 211.14 feet to a point on the easterly side of the right-of-
way line of the B. & O. Railroad Company; thence along the
right-of-way line of said railroad company North 16° 39' 40" East
137.04 feet to an iron pin; thence continuing along the right-of-
way line of said railroad in a northerly direction 2370 feet,
more or less, to the line of land, now or formerly, of Pittsburgh
Consolidation Coal Company; thence along line of land of same
North 65° 15' East 294.6 feet to a point on line of land, now
or formerly, of Joseph Zumbro; thence along line of land of same
South 36° 21' East 568.65 feet to a point; thence continuing along
line of land of same South 7° 28' East 666.12 feet to a point;
thence continuing along line of land of same South 82° 15' East
91.6 feet to a point in Pennsylvania State Highway Route No. 180
L.R. 64114; thence through said Highway, South 25° 05' East 59
feet to a point; thence continuing through same, South 14° 06'
East 194.5 feet to a point; thence continuing through same South
7° 40' West 186.3 feet to a point; thence continuing through
same, South 20° 07' West 416.9 feet to a point; thence along the
northeasterly line of a street 40 feet in width, as shown in
West Newton Land and Improvement Company's Plan of Lots, North
76° 48' West 58 feet to a point on line of Lot No. 143, as
shown in said plan; thence along line of Lot No. 143, as shown
in said plan North 1° 51' East 122.39 feet to a point on the
southerly side of an alley 12 feet in width, as shown on said
plan; thence along the southerly side of said alley North 76°
48' West 47.09 feet to a point on line of Lot No. 141 in said
plan; thence along line of Lot No. 141, as shown in said plan,
South 13° 12' West 120 feet to a point on the northerly side
of said street 40 feet in width, as shown on said plan; thence
along the northerly line of said street, North 76° 48' West
180 feet to a point on the easterly side of a street 41 feet in
width, as shown in said plan; thence along the easterly side of
said street, as shown in said plan, South 13° 12' West 100.00
feet to a point on line of lot No. 103, as shown on said plan;
thence along said line of said Lot No. 103 South 76° 48' East
120 feet to a point on the westerly side of an alley 12 feet
in width, as shown in said plan; thence along the westerly side
of said alley, as shown in said plan, South 13° 12' West 430
feet to a point on the southerly side of a street 40 feet in
width, as shown in said plan; thence along the southerly side
of said street, as shown in said plan, South 76° 38' East 132
feet to a point on the westerly side of Pennsylvania State
Highway Route No. 180, L.R. 64114; thence along the westerly
side of said highway, South 13° 12' West 443.22 feet, more or
less, to a point on the line dividing West Newton Borough and
South Huntingdon Township; thence along said dividing line
North 72° 39' West 343 feet, more or less to an iron pin; thence,
continuing along line of land of same, North 82° 24' West 62.50

feet to a point; thence continuing along line of land of same, South 17° 50' West 4.30 feet to the borough monument in the concrete pavement at Robertson Street, the place of beginning.

Dated:

Nov. 11, 1961
Nov. 13, 1961
Nov. 13, 1961
Nov. 14, 1961
Nov. 14, 1961

Frank Allsby
Fannie Miles
Houston Miles
Allen Thomas
Jennie Fluker

Dec. 8, 1961

Borough of West Newton

James L. Welsh
 President

Attested to this 8th day of December 1961:

B. T. Lash
 Secretary

COMMONWEALTH OF PENNSYLVANIA
 COUNTY OF WESTMORELAND

) SS:

Before me, the undersigned authority, personally appeared Allen Thomas, one of the petitioners in the above petition, who, duly sworn according to law, deposes and says that the facts set forth therein are true and correct.

Sworn to and subscribed before me)
 this 16 day of November, 1961,)
Benjamin T. Lash)
 Notary Public

Allen Thomas

I, Allen Thomas, one of the petitioners of the within petition, do hereby certify that a copy of the within petition without signatures, has been filed with the Supervisors of the Township of South Huntingdon, Westmoreland County, Pennsylvania prior to its presentation to the Borough of West Newton, Westmoreland County, Pennsylvania.

Allen Thomas