

ORDINANCE # 45

An Ordinance of the Township of Pymatuning, Mercer County, Pennsylvania, providing for the assessment, levy and collection of a tax for general revenue purposes upon salaries, wages, commissions and other compensation earned by residents of the Township of Pymatuning, and on salaries, wages, commissions and other compensation earned by non-residents of the Township of Pymatuning for work done or services performed or rendered in the Township of Pymatuning, and on the net profits of businesses, professions or other activities conducted by such residents, and on the net profits of businesses, professions or other activities conducted in the Township of Pymatuning by non-residents; requiring the filing of returns and the giving of information by employers and those subject to said tax; imposing upon employers the duty of collecting tax at source; providing for the administration, collection and enforcement of the tax and imposing penalties.

BE IT ORDAINED AND ENACTED by the Supervisors of Pymatuning Township, and it is hereby ordained and enacted by the authority of the same.

SECTION 1. Unless otherwise expressly stated, the following terms shall have, for the purpose of this ordinance, the meaning herein indicated, except where context 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, agency, profession, trust, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, agent, broker, co-partnership or association.

"COMPENSATION EARNED". 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.

"COMPENSATION PAID". The same meaning shall be ascribed to it as "Compensation Earned".

"EARNINGS". The same meaning shall be ascribed to it as "Compensation Earned".

"EMPLOYER". An 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.

"NET PROFITS". 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.

"NON RESIDENT". An individual domiciled outside the Township of Pymatuning.

"PERSON". Every natural person, corporation, co-partnership, fiduciary or association. 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.

"RESIDENT". An individual domiciled in the Township of Pymatuning.

"TAXPAYER". A person, whether an individual, co-partnership, association, or 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 masculine shall include the feminine and the neuter.

SECTION 2. "IMPOSITION OF TAX". An annual tax for general revenue purposes of 10 mills on each dollar, or so much thereof as may lawfully be assessed, is hereby imposed on (a) salaries, wages, commissions and other compensation earned on and after January 1, 1965, by residents of the Township of Pymatuning; and on (b) salaries, wages, commissions and other compen-

sation earned on and after January 1, 1965 by non-residents of the Township of Pymatuning for work done or services rendered or performed in the Township of Pymatuning; and on (c) the net profits earned on and after January 1, 1965 of businesses, professions or other activities conducted by such residents, and on (d) the net profits earned on and after January 1, 1965 of businesses, professions or other activities conducted in the Township of Pymatuning by non-residents.

The taxes levied under (a) and (b) of this section shall relate to and be imposed upon salaries, wages, commissions or other 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 as owner or proprietor individually.

Said taxes shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned and the net profits earned from January 1, 1965 to December 31, 1965.

SECTION 3. "RECEIVER OF TAXES". The Township Secretary of the Township of Pymatuning, or such other person as the Supervisors may designate, is hereby designated as receiver of 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 such taxpayer under this ordinance and the date of each receipt. The Township Secretary is empowered to prescribe the 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 Township Secretary in a book kept for that purpose, and shall be open to the inspection of the public.

SECTION 4. "RETURNS AND PAYMENT OF TAX". Every person whose earnings or net profits are subject to the tax imposed by this ordinance shall, on or before April 15, 1966, make and file a return with the Township Secretary or any other person designated by the Township Supervisors. Such return shall be filed on a form prescribed by the Township Secretary or other person designated by the Township Supervisors furnished at the expense of the Township and obtainable from the Township Secretary. The information on such return shall include: the name and address of the taxpayer, his place of business, or employment, the aggregate amount of salaries, wages, commissions, and other compensation or net profits earned by him during the preceding year and subject to such tax, the amount of tax due to the Township of Pymatuning 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 return to any other political subdivision of the Commonwealth of Pennsylvania, not including any School District comprising part or all of the area of the Township of Pymatuning, 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 returns shall be made within 105 days after the close of such fiscal year or any other period.

The person making such a return shall at the time of filing thereof pay to the Township Secretary or such other person designated by the Supervisors, the amount of tax as shown thereon, less any credits or deductions allowed pursuant to Section 5 of the Act of the General Assembly approved June 25, 1947, P. L. 1145, as amended, for payment for any concurrent period of a like tax to any other political sub-division of this Commonwealth by any resident of such other political sub-division.

Provided, further: That in case where the sole income of any person

subject to tax under this ordinance is in the form of compensation paid by an employer of Pymatuning Township and where the entire tax due by such employee has been deducted by such employer and return thereof made to the Township Secretary, such employee shall not be required to file a return thereof. However, if any such employee shall also be subject to a like tax imposed by any other political sub-division within this Commonwealth, such employee shall file a return with the Township Secretary who is hereby authorized to refund such employee any difference to which he shall be entitled under the provisions of Section 5 of the Act of General Assembly approved June 25, 1947, P. L. 1145, as amended.

SECTION 5. "COLLECTION AT SOURCE." Every employer who employs within the Township of Pymatuning one or more persons on a salary, wage, commission or other compensation basis and every employer doing business in the Township of Pymatuning who employs outside of the Township of Pymatuning one or more residents thereof, on a salary, wage, commission or other compensation basis, shall deduct monthly, or more often than monthly, at the time of payment thereof, the tax hereinbefore set forth in Section 1, on each dollar of salaries, wages, commissions or other compensation due by the said employer to said employee. Such employer shall, within 30 days next succeeding March 31, 1965, and within 30 days next succeeding each quarter period of a year thereafter, make a return and pay over to the Township Secretary the amount of tax so deducted. Such return shall be on a form prescribed by the Township Secretary, procured at the expense of the Township and furnished by or obtainable from the Township Secretary; it shall set forth the total number of employees of such employer during all or part of the preceding quarter period of the year, the amount of salaries, wages, commissions or other compensation earned by such employees during the preceding quarter period of the year, and any other pertinent information that may be required.

Provided, further: That on or before the 28th day of February, 1966, every

employer who has filed returns of tax withheld and returned tax quarterly throughout the year, shall be required to file a complete and legible copy of a form similar to Form W-2 of the Internal Revenue Service of the United States Treasury Department for each employee which must set forth the full name and residence of each employee, his or her Social Security account number, name and address of employer, total salaries, wages, commissions and other compensation paid during the previous year, and the beginning and separation dates of less than calendar year employees.

Provided, however: That the failure or omission by an employer, either residing within or outside of the Township of Pymatuning, to deduct such tax and to make such return to the Township Secretary or such other person as the township supervisors may designate, 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. "ENFORCEMENT: RULES AND REGULATIONS: INQUISITORIAL POWERS OF THE TOWNSHIP SECRETARY":

A. The Township Secretary is hereby empowered 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 provisions for the re-examination and correction of returns and payments alleged or found to be incorrect or as to which an overpayment or underpayment is claimed or found to have occurred.

B. The Township Secretary or any other person designated by Township Supervisors for that purpose, is hereby charged with the enforcement of the provisions of this ordinance. He 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 the said Township Secretary or such other authorized person the name, facilities and opportunity for such examinations and investigations as are hereby authorized.

The Township Secretary or other person charged with the enforcement of the provisions of this ordinance 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 Township Supervisors may compel the production of books, papers, and records and the attendance of all persons before such Township Secretary or such other person as is authorized, whether as parties or witnesses, whom he believes to have knowledge of such income.

C. Any information gained by the Township Secretary or any other officials or agents of the Township 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: "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 cent per annum, and the persons upon whom such 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 8. "COLLECTION OF UNPAID TAXES". All taxes imposed by this ordinance, together with all interest and penalties, shall be recoverable by the Township as other debts of like character are recoverable.

SECTION 9. "VIOLATIONS, PENALTIES". Any person convicted before any Justice of the Peace of the Township 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 Township Secretary 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 payment of the whole or any part of the tax imposed under this ordinance shall be subject to a fine or penalty not exceeding \$100.00 for each and every offense, and the costs of prosecution thereof, and in default 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 or procure a return shall not excuse him from making a return.

SECTION 10. "APPLICABILITY". This ordinance shall not apply to any person or property as to whom or which it is beyond the legal power of the Township Supervisors to impose the tax or duties herein provided for.

SECTION 11. "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 Township Supervisors 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. "REPEAL". Any ordinance or part of any ordinance conflicting with this ordinance is hereby repealed insofar as the same affects this ordinance.

SECTION 13. This ordinance shall go into effect January 1, 1965.

SECTION 14. This ordinance is enacted under the authority of the Act of June 25, 1947, P. L. 1145, and its amendments.

Ordained and Enacted this *12* day of *November*, 1964.

Wayne Hurst

Herbert C. Johnson

L E McKnight

Supervisors