

FREEPORT BOROUGH

Ordinance No. 163

AN ORDINANCE OF THE BOROUGH OF FREEPORT, COUNTY OF ARMSTRONG, STATE OF PENNSYLVANIA, PROVIDING FOR THE ASSESSMENT, LEVY AND COLLECTION OF A TAX FOR GENERAL REVENUE PURPOSES UPON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED ON AND AFTER THE 1ST DAY OF JULY, 1960, BY RESIDENTS OF THE BOROUGH OF FREEPORT, PENNSYLVANIA, AND ON THE NET PROFITS EARNED ON AND AFTER THE 1ST DAY OF JULY, 1960, OF BUSINESSES, PROFESSIONS AND OTHER ACTIVITIES CONDUCTED BY SUCH RESIDENTS; REQUIRING THE FILING OF DECLARATIONS AND RETURNS AND THE GIVING OF INFORMATION BY EMPLOYERS AND THOSE SUBJECT TO THE TAX, AND BY PERSONS MAKING INCOME PAYMENTS TO PERSONS WHOSE INCOME IS SUBJECT TO THE TAX; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX: AND DECLARING VIOLATIONS OF THE PROVISIONS OF THIS ORDINANCE AND IMPOSING PENALTIES FOR SAID VIOLATIONS.

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE BOROUGH OF FREEPORT, COUNTY OF ARMSTRONG, STATE OF PENNSYLVANIA, AND IT IS HEREBY ORDAINED AND ENACTED BY AUTHORITY OF THE SAME:

Section 1. DEFINITIONS. Unless otherwise expressly stated, the following terms shall have, for the purpose of this ordinance, the meaning herein indicated except where the context indicates or requires a different meaning.

"ASSOCIATION" shall mean a partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.

"BOROUGH" shall mean the Borough of Freeport, Armstrong County, Pennsylvania.

"BUSINESS" shall mean any enterprise, activity, agency, profession, trust or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, agent, broker, copartnership, association or any other entity.

"COMPENSATION EARNED", "COMPENSATION PAID", or "EARNINGS" shall mean all salaries, wages, commissions, bonuses, incentive payments and/or other

sums 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; but shall not include periodic payments for sick or disability benefits, old age benefits, retirement pay, pensions, unemployment compensation, public assistance, nor any payment of wages, salary or compensation paid by the United States to any person for service in the Army, Navy or Air Force of the United States or in any reserve component thereof, nor in the service of the National Guard or state guard of any state of the United States, nor for a bonus or other compensation paid for such service by the United States or any state thereof, nor for income derived from rent, interest or dividends, unless it be part of an operation of a business, profession or enterprise.

"CORPORATION" shall mean a 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.

"COUNCIL" shall mean the Town Council of the Borough of Freeport.

"EMPLOYER" shall mean 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" 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.

"PERSON" shall mean every natural person, co-partnership, firm, 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" shall mean an individual, co-partnership, association or other entity domiciled in the Borough of Freeport, Pennsylvania.

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"TAX COMMISSIONER" shall mean the person appointed by the Borough to collect taxes imposed under this ordinance.

"TAXPAYER" shall mean a person, whether an individual, co-partnership, association or any other entity required hereunder to file a return of earnings or net profits, or to pay a tax thereon.

"TAXABLE PERIOD" shall mean the calendar year, a fiscal year, or period of less than twelve months for which a return is required to be filed by a taxpayer.

The singular shall include the plural and the masculine shall include the feminine and the neuter.

Section 2. IMPOSITION OF TAX. The following annual taxes are hereby imposed for general revenue purposes:

A. An annual tax of five-tenths of one per cent (.5%) of all salaries, wages, commissions and other compensation earned on and after the 1st day of July 1960 by residents of the Borough.

B. An annual tax of five-tenths of one per cent (.5%) of the net profits, earned on and after the 1st day of July 1960, of businesses, professions and other activities conducted by residents of the Borough.

The taxes levied under Sub-section A of this Section shall relate to and be imposed upon salaries, wages, commissions and 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 Sub-section 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 as owner or proprietor either individually or in association with some other person or persons.

Said taxes shall first be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after the 1st day of July, 1960, and with respect to the net profits of businesses, professions or other activities earned on and after the 1st day of July, 1960.

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Provided, however: that where the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable only to that part of the net profits for the fiscal year as shall be earned on and after the 1st day of July 1960.

Section 3. TAX COMMISSIONER. The Borough Tax Commissioner 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, and shall pay over to the Treasurer of the Borough the amount of the taxes collected in accordance with the rules and regulations prescribed and relating to the administration and enforcement of the provisions of this ordinance but at least monthly, at which time the Tax Commissioner shall make a report to the Council under oath or affirmation of the total monies received by or through him, and with such report shall pay over to the Borough Treasurer the amount then in his hands due the Borough. The Tax Commissioner, with the approval of Council, 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, including provision for the re-examination and correction of returns and payments. Such rules and regulations shall be inscribed by the Tax Commissioner in a book kept for that purpose and shall be open to the inspection of all taxpayers.

Council shall designate the number and qualifications of other employees in the office of the Tax Commissioner and shall fix the compensation of all such employees.

The Tax Commissioner and such other employees of his office as shall be employed therein shall give such bond to the Borough as Council shall require, to be approved in such form as Council shall direct, conditioned for the faithful performance of the duties of the Tax Commissioner and his employees.

Section 4. RETURNS AND PAYMENT OF TAX.

A. Every taxpayer under this ordinance shall make and file with the Tax Commissioner on a form prescribed by the Tax Commissioner on or before the 30th day of September 1960 and on or before the 30th day of April in each calendar year thereafter a declaration of his estimated earnings and net profits as defined herein during the period from the 1st day of July 1960 to the 31st day of December 1960 and thereafter for the period in each year commencing the 1st day of January and ending the 31st day of December, commencing the 1st day of January 1961, setting forth his estimated earnings and net profits anticipated by him during the said period subject to the tax herein imposed, together with such other information as the Tax Commissioner may require.

B. The declaration shall show the estimated amount of tax imposed by this ordinance on such estimated net profits and earnings. The taxpayer making the declaration shall at the time of filing thereof pay to the Tax Commissioner the estimated amount of tax shown as due thereon, provided, however, that the taxpayer shall have the right to pay the estimated tax as shown in his declaration in four quarter annual installments as follows: for the year 1960, the 30th of September 1960 and the 31st day of January 1961; for the year 1961 and thereafter, the 30th day of April, the 30th day of June, the 30th day of September and the 31st day of January, respectively. Provided that any taxpayer may pay the tax on his actual earnings for any particular quarter annual period in lieu of paying his estimated tax.

C. Every person whose earnings or profits are subject to the tax imposed by this ordinance shall on or before the 30th day of April of every calendar year, beginning with the year 1961, make and file a return with the Tax Commissioner for the preceding calendar year. Such return shall be filed on a form prescribed by the Tax Commissioner, furnished at the expense of the Borough, and obtainable from the Tax Commissioner. 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 or net profits earned by him during the preceding year, and subject to such tax, the amount of tax due to the Borough 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 sub-division of the Commonwealth of Pennsylvania, not including any school district comprising part or all of the area of the Borough, 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 or other period. The person making such a return shall at the time of the filing thereof pay to the Tax Commissioner the amount of the tax as shown to be due, less any credits or deductions allowed under the authority of Act No. 481 of the Legislature of Pennsylvania approved June 25, 1947, P. L. 1145, as amended.

Section 5. ENFORCEMENT; RULES AND REGULATIONS; INQUISITIONAL POWERS OF THE TAX COMMISSIONER. The Tax Commissioner or any other person designated by 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 Tax Commissioner or such other authorized person the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Tax Commissioner 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 Tax Commissioner may compel the production of books, papers, and records and the attendance of all persons before said Tax Commissioner, whether as parties or witnesses, whom the Tax Commissioner believes to have knowledge of such income.

Any information gained by the Tax Commissioner or any other employee, agent or other official 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

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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 and any person divulging such information, whether or not at the time of divulging it a Tax Commissioner, employee, agent or other official as aforesaid, shall, upon conviction, be fined not more than one hundred dollars (\$100.00) and costs for each offense, and upon default of payment of said fine and costs may be sentenced to the County jail for a period not exceeding thirty (30) days for each offense.

Section 6. INTEREST AND PENALTIES. 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 six (6%) per cent per annum, and the person from whom such taxes are due shall be further liable to a penalty of one-half of one per cent ($\frac{1}{2}\%$) of the amount of the unpaid tax for each month or fraction of a month for the first six months of non-payment.

Section 7. COLLECTION OF UNPAID TAXES. All taxes imposed by this ordinance, together with all interest and penalties shall be recoverable by the Borough Solicitor as other debts of like amount are recoverable.

Section 8. VIOLATIONS; PENALTIES. Any taxpayer, employer or person who shall fail, neglect or refuse to make any return required by this ordinance, or any taxpayer or employee who shall refuse to pay the tax, penalties and interest imposed by this ordinance, or any person who shall refuse to permit the Tax Commissioner or any duly authorized agent or employee to examine his books, records and papers, or who shall knowingly make any incomplete, false or fraudulent return, or who shall attempt to do anything whatever to evade payment of the whole or any part of the tax, shall, upon conviction, be fined not more than one hundred dollars (\$100.00) and costs for each offense, and upon default of payment of said fine and costs may be sentenced to the County jail for a period not exceeding thirty (30) days for each offense. The failure of anyone required to file a return to receive or procure a return form shall not excuse him from making a return or from paying the tax.

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Section 9. 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 to impose the tax or duties herein provided for.

Section 10. 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 that this ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

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

Section 12. EFFECTIVE DATE. This ordinance shall become effective thirty (30) days after the approval of the ordinance.

DONE, ORDAINED AND ENACTED by regular meeting of the Town Council of the Borough of Freeport this 6th day of April, 1960.

ATTEST:

Clara A. Schmitt
Secretary

[Signature]
President of Council

Examined and approved this 8th day of April, 1960.

[Signature]
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