

ORDINANCE NO. 416

AN ORDINANCE IMPOSING A TAX FOR GENERAL PURPOSES ON SALARIES, WAGES, COMMISSIONS AND OTHER COMPENSATION EARNED DURING THE PERIOD JANUARY 1, 1964 THROUGH DECEMBER 31, 1964 BY RESIDENTS AND NON-RESIDENTS OF THE BOROUGH OF MONROEVILLE, AND ON THE NET PROFITS EARNED DURING SAID PERIOD FROM BUSINESSES, PROFESSIONS OR OTHER ACTIVITIES CONDUCTED BY RESIDENTS AND NON-RESIDENTS OF THE BOROUGH OF MONROEVILLE; REQUIRING THE FILING OF DECLARATIONS AND RETURNS; THE GIVING OF INFORMATION BY EMPLOYERS AND BY THOSE SUBJECT TO THE TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT SOURCE; PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE ORDINANCE; AND IMPOSING PENALTIES FOR VIOLATION THEREOF.

BE IT ENACTED by the Council of the Borough of Monroeville under the authority of the Act of Assembly of the Commonwealth of Pennsylvania of June 25, 1947, P.L. 1145 and its amendments as follows:

SECTION ONE: Definitions. The following words and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates or required a different meaning:

"Association" - A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

"Business" - An enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association or any other entity.

"Corporation" - A corporation or joint stock association organized under the laws of the United States, the State of Pennsylvania, or any other state, territory, foreign country or dependency.

"Earnings" - Salaries, wages, commissions and other compensation as defined in this ordinance.

"Employee" - A natural person, partnership, association, or any other entity employed by an employer 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 in such business, profession or enterprise, but without deduction of taxes based on income.

"Person" - A natural person, partnership, corporation, fiduciary or association. Whenever used in any section 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, partnership, association, or other entity domiciled in the Borough of Monroeville.

"Non-resident" - An individual, partnership, association, or other entity not domiciled in the Borough of Monroeville.

"Salaries, wages, commissions and other compensation" shall include salaries, wages, commissions, bonuses, incentive payments, fees, tips, and other forms of compensation or remuneration that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property, but shall not include periodic payments for sick or disability benefits and those commonly recognized as an old-age benefits, retirement pay, or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, nor public assistance or unemployment compensation payments, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy or Air Force of the United States nor any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for such service.

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

"Collector" - The person or persons appointed or designated by the Council of the Borough of Monroeville to collect the tax herein provided for.

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

SECTION TWO. Imposition of Tax. A tax for general revenue purposes of one percentum (1%) is hereby imposed on the following:

(a) Salaries, wages, commissions and other compensation earned during the period January 1, 1964 through December 31, 1964, by residents of the Borough of Monroeville, and non-residents to the extent of their income is earned within the Borough of Monroeville.

(b) Net profits, earned during the period January 1, 1964 through December 31, 1964, of businesses, professions and other activities conducted by residents and non-resident of the Borough of Monroeville.

The tax levied under (a) herein shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer, or paid on his behalf, to any employee. The tax levied under (b) herein shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person or owner or any proprietor, either individually or in association with some other person or persons.

SECTION THREE. Declaration and Payment of Tax.

(a) Net Profits

(1) Every taxpayer who anticipates any net profits shall,

on or before April 15, 1964, make and file with the Collector on a form prescribed by the Collector, a declaration of his estimated net profits during the period January 1, 1964 through December 31, 1964, setting forth the estimated amount of net profits anticipated by him during the said period and subject to the tax, the amount of tax imposed by this ordinance on such estimated net profits, and such other information as the Collector may require. The taxpayer making the declarations shall, at the time of filing thereof, pay to the Collector the estimated amount of the tax shown as due thereon. Provided, however, that the taxpayer shall have the right to pay the estimated tax in four (4) quarterly installments as follows: the first installment at the time of filing the declaration on or before April 15, 1964, the second on or before July 15, 1964, the third on or before October 15, 1964 and the final installment on or before January 15, 1965.

(2) Any taxpayer who first anticipates any net profits after April 1, 1964, shall make and file the declaration hereinabove required on or before April 15, 1964, July 15, 1964, October 15, 1964 or January 15, 1965, whichever of these dates next follows the date on which the taxpayer first anticipates such net profits. The taxpayer making the declaration shall, at the time of filing thereof, pay to the Collector the estimated amount of tax shown as due thereon. Provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the said installment payment dates which remain after the filing of the declaration.

(3) The Collector is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payment of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has over-estimated his anticipated net profits.

(4) On or before April 15, 1965, every taxpayer who has received net profits shall make and file with the Collector, on a form prescribed by him, a final return showing all of his net profits for the period January 1, 1964 through December 31, 1964, the total amount of tax due, the amount of estimated tax paid under the provisions of this section, and the balance due. Provided, however, that any taxpayer may, in lieu of paying the fourth installment of his estimated tax, elect to make and file with the Collector on or before January 15, 1965, the final return as hereinabove required. At the time of filing the final return, the taxpayer shall pay the balance of tax due or shall make demand for refund or credit in the case of overpayment.

(5) Every taxpayer who discontinues business prior to December 31, 1964 shall, within fifteen (15) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(b) Salaries, Wages, Commissions and Other Compensation

Every taxpayer who is employed on a salary, wage, commission or other compensation basis and who receives any earnings from which the tax imposed by this Ordinance has not been collected at the source in accordance with the provisions of Section 4 of this Ordinance shall, on or before April 15, 1964, October 15, 1964, and January 15, 1965 make and file with the Collector, on a form prescribed by the Collector, a return setting forth the aggregate amount of salaries, wages, commissions and other compensation earned by him during the

said periods ending March 31, 1964, June 30, 1964, September 30, 1964 and December 31, 1964, respectively, and subject to the tax, together with such other information as the Collector may require. Every Tax payer making such return shall, at the time of filing thereof, pay to the Collector the amount of tax shown as due thereon.

SECTION FOUR. Collection at Source.

(a) Every person within the Borough of Monroeville who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants:

(1) Shall on or before January 1, 1964, or within fifteen (15) days after becoming an employer, register with the collector his name and address and such other information as the Collector may require.

(2) Shall deduct monthly, or more often than monthly, at the time of payment thereof, the tax imposed by this Ordinance on the salaries, wages, commissions and other compensation due his employee or employees and shall on or before April 30, 1964, July 30, 1964, October 31, 1964 and January 31, 1965 file a return on a form prescribed by the Collector and pay to the Collector the amount of tax deducted during the said periods or any part thereof, ending March 30, 1964, June 30, 1964, September 30, 1964 and December 31, 1964 respectively

(b) Every person not within the Borough of Monroeville who employs one or more residents of the Borough of Monroeville on a salary, wage, commission or other compensation basis, other than domestic servants:

(1) Shall on or before April 30, 1964 or within fifteen (15) days after becoming an employer of a resident of the Borough of Monroeville register with the Collector his own name and address and such other information as the Collector may require.

(2) Shall deduct monthly, or more often than monthly at the time of payment thereof, the tax imposed by this Ordinance on the salaries, wages, commissions and other compensation due his employee or employees and shall on or before April 30, 1964, July 31, 1964, October 31, 1964 and January 31, 1965 file a return on a form prescribed by the Collector and pay to the Collector the amount of tax deducted, during the said periods or any part thereof, ending March 31, 1964, June 30, 1964, September 30, 1964 and December 31, 1964, respectively. Provided, that as to any particular person subject to this paragraph (Section four (b) (2)), any other schedule for the filing of returns and the payment of taxes deducted which is mutually agreed upon between said person and the Collector and approved in writing by both shall be substituted for the schedule set forth in this paragraph.

(c) On or before February 29, 1965, every employer subject to the provision of Section Four (a) of this Ordinance and every employer who shall have elected to comply with the provisions of Section Four (b) of this Ordinance shall file with the Collector on forms prescribed by him:

(1) An annual return showing the total amount of salaries, wages, commissions and other compensation paid to persons subject to this tax, the total amount of tax deducted, and the total amount of tax paid to the Collector for the period January 1, 1964 through December 31, 1964.

(2) A return for each resident and/or non-resident of the Borough of Monroeville employed during all or any part of the period January 1, 1964 through December 31, 1964, setting forth the employer's name, address and Social Security number, the amount of salaries, wages, commissions or other compensation paid to the employee during said period, the amount of tax deducted, the amount of tax paid to the collector, and such other information as the Collector may require. Every employer shall furnish a copy of the individual return to the employee for whom it is filed.

(d) Every employer who is subject to, or has elected to comply with the provisions of Section 4 of this Ordinance, and who discontinues business prior to December 31, 1964, shall within fifteen (15) days after discontinuance of business, file the returns hereinabove required and pay the tax due.

(e) The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Ordinance relating to the filing of declarations and returns.

SECTION FIVE. Powers and Duties of Collector.

(a) It shall be the duty of the Collector to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

(b) The Collector is hereby charged with the administration and enforcement of the provisions of this Ordinance, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including provision for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Ordinance.

(c) The Collector and employees designated by Council are 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 declaration or return, or, if no declaration or return was filed, to ascertain the tax due. Every employer or supposed employer and every taxpayer or supposed taxpayer is hereby directed and required to give to the Collector or to any agent designated by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(d) Any information gained by the Collector, his agents or by any other official or agent of the Borough of Monroeville as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

(e) Any person aggrieved by any action of the Collector shall have the right of appeal as provided by law.

SECTION SIX. Suit for Collection of Tax.

(a) In addition to other remedies now or hereafter provided by law, all taxes imposed by the Ordinance, together with all interest and penalties due thereon shall be recoverable in an action of assumpsit brought in the name of the Collector.

(b) Any such suit brought by the Collector to recover the tax imposed by this Ordinance shall be begun within six (6) years after such tax is due or within six (6) years after a declaration or return has been filed, whichever date is later. Provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the Collector reveals a fraudulent evasion of taxes, including, but not limited to, substantial understatement of taxes deducted or of actual or estimated net profits or earnings;

(2) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Ordinance, or

(3) Where any person has deducted taxes under the provisions of this Ordinance and has failed to pay the amounts so deducted to the Collector.

SECTION SEVEN. Interest and Penalties.

If for any reason the tax is not paid when due, interest at the rate of six percentum (6%) per annum on the amount of said tax, and an additional penalty of one-half of one percentum (.5%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

SECTION EIGHT. Payment under Protest and Refunds.

The Collector is hereby authorized to accept payment under protest of the amount of tax claimed by the Borough of Monroeville in any case where any person disputes the validity or amount of the Borough's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Collector, the amount of overpayment shall be refunded to the person who paid under protest.

SECTION NINE. Fines and Penalties for Violation of Ordinance.

(a) Any person who fails, neglects or refuses to make any declaration or return required by this Ordinance or by any rule or regulation promulgated pursuant thereto; any employer who fails, neglects or refuses to permit the Collector or any agent designated by him to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the

amount of his net profits or earnings shall, upon conviction thereof before any Justice of the Peace or Magistrate, be sentenced to pay to the Borough of Monroeville a fine of not more than One Hundred (\$100.00) Dollars for each offense and costs, and in default of payment of said fine and costs to be imprisoned in the Allegheny County Jail or the Allegheny County Workhouse for a period not exceeding thirty (30) days.

(b) Any person who divulges any information which is confidential under the provisions of Subsection (d) of Section 5 of this Ordinance shall, upon conviction thereof before any Justice of the Peace or Magistrate, be sentenced to pay to the Borough of Monroeville a fine of not more than One Hundred (\$100.00) Dollars for each offense and costs, and in default of payment of said fine and costs, to be imprisoned in the Allegheny County Jail or Allegheny County Workhouse for a period not exceeding thirty (30) days.

(c) The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this Ordinance.

(d) The failure of any person to receive or procure the forms required for making the declaration or returns required by this Ordinance shall not excuse him from making such declaration or return.

SECTION TEN. Severability.

The provisions of this ordinance are severable. If any sentence, clause or section 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 of this Ordinance. It is hereby declared to be the intent of the Council of the Borough of Monroeville that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

SECTION ELEVEN. Effective date.

The provisions of this Ordinance shall become effective on the first day of January, 1964.

SECTION TWELVE. Repealer.

All Ordinances and all parts thereof which are inconsistent herewith shall be and the same are hereby repealed.

Adopted this 14th day of November, 1963.

BOROUGH OF MONROEVILLE

By S/A. O. Strathern
President of Council

Attest:

S/Gladys Diller
Secretary

Examined and approved by me this 25th day of November, 1963.

S/John J. Duncan
Mayor