

#7

AN ORDINANCE TO LEVY AND COLLECT AN ANNUAL TAX FOR THE PRIVILEGE OF ENGAGING IN OR CARRYING ON A BUSINESS OR OCCUPATION WITHIN THE CITY OF BEECH BOTTOM. (Page 32, Recorder's Book The following ordinance was unanimously accepted. Motion by Mr. Wallace, Seconded by Mr. Campbell.)

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEECH BOTTOM:

SECTION 1. (Object and Purpose). It is the object and purpose of this ordinance to exercise the privileges granted by House Bill No. 1, West Virginia Legislature, First Extraordinary Session, 1947, passed June 23, 1947, and passed to its provisions to levy and collect an annual privilege tax upon any business or occupation carried on within the City of Beech Bottom taxable under Article 13, Chapter 11, Official Code of West Virginia, 1931 as amended.

SECTION 2. (Definition). As used in this Ordinance unless the context otherwise requires:

- (a) "Person" means any individual, firm, company co-partnership, joint adventure, association, corporation, trust or any other group or combination acting as a unit.
- (b) "Tax payer" means any person liable for the tax imposed by this Ordinance.
- (c) "Sales" includes the exchange of properties as well as the sale thereof for money, every, closed transaction constituting a sale.
- (d) "Gross Income" means the gross receipts of the taxpayer received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in including interest, discount, rentals, royalties, fees or other emoluments however designated and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties, interest or discount paid or any other expenses whatsoever.
- (e) "Tax year" means either the calendar year or the taxpayer's fiscal year when the taxpayer has secured permission from the State Tax Commissioner to use the same as his tax period in lieu of the calendar year.
- (f) "Business" as used in this Ordinance, shall include all activities engaged in or caused to be engaged in with the object of gain or economic benefit either direct or indirect. The product of raw materials of manufactured products, which are used or consumed in the main business, shall be deemed business engaged in and shall be taxable in the class in which it falls.

- (g) "Gross Proceeds of Sales" means the value actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind. The words "Gross Income" and "Gross Proceeds of Sales" shall not be construed to include cash discounts allowed and taken on sales; the proceeds of the sale of goods, wares or merchandise returned by customers when the sale price is refunded either in cash or by credit; or the sale price of any article accepted as part payment on any new article sold, if the full sale price of the new article is included in the "Gross Income: or "Gross Proceeds of Sales."
- (h) "Service business or calling" shall include all non-professional activities engaged in for other persons for a consideration, which involve the rendering of a service as distinguished from the product or sale of tangible property, but shall not include the services rendered by an employee to his employer.
- (i) "Wholesaler" means person conducting a regularly organized jobbing or wholesale business, known to the trade as such and selling to retailers or to other wholesalers, in wholesale quantities and at wholesale prices.

SECTION 3. (Imposition of Tax). There is hereby levied and shall be collected an annual privilege tax upon every person who is engaged in or who is carrying on within the city of Beech Bottom any business, service business or calling or other activity taxable under Article 13, Chapter 11 of the Official Code of West Virginia 1931 as amended.

SECTION 4. (Person Subject to Tax) The following persons shall be subject to said tax:

- (a) Persons engaged or continuing in the business of producing any material resource products.
- (b) Person engaging or continuing in the business of manufacturing, compounding or preparing for sale, profit, or commercial use either direct or through the activity of others in whole or in part any article, substance or commodity.
- (c) Persons engaging in the business of selling any tangible property whatsoever, real or personal, including the sale of goods and the service incident thereto in hotels, restaurants, cafeterias, confectioneries and other business eating places, except sales by any person engaging in the business of horticulture, agriculture, or grazing or of selling stocks, bonds, or other evidence of indebtedness.
- (d) Persons engaged in the business of public service or as a public utility except railroad, railroad car, express, pipe line, telephone and telegram, water carrier by steamboat or steamship companies, motor vehicle carriers, municipally owned water plants and municipally owned electrical plants producing or purchasing electricity and distributing same;
- (e) Persons engaging in the business of contracting;

Amendment to Ordinance #7 Ordinance to Levy and Collect Business or Occupation Tax Section 4, (e) Business of Contracting

- (e) Persons engaged in the business of contracting;
 - (1) Contractors/sub-contractors will supply the official contract to the Mayor and Village Council of Beech Bottom prior to the start date of the project and a list of all sub-contractors.

(2) Contractors/sub-contractors will be required to pay all Business or Occupation Tax prior to the start date of the project or the start date of their part of the project.

(Adopted April 19, 2005)

(3) Any pilot project-contractors/sub-contractors Business or Occupation Tax will be capped at \$500,000.00 per project. (Amended 11-17-2015)

- (f) Persons engaging in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating ring, race track, radio broadcasting station, or any other place at which amusements are offered to the public.
- (g) Persons engaging in any service business not otherwise specifically taxed under the provision of said Article 13, Chapter 11 Official code of West Virginia 1931 as amended;
- (h) Corporations or Associations engaging in the business of collecting incomes from the use of real or personal property or any interest therein, whether by lease, conveyance or otherwise and whether the return be in the form of rentals, royalties, face interest or otherwise.

Section 5. (Persons in Subject to Tax) This ordinance shall not apply to:

- (a) Insurance Companies which with the State of West Virginia shall tax upon premiums: Provide, however, that the said exemption shall not extend to that part of the gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices in this state, whether such income be in the form of rentals or royalties.
- (b) Persons engaged in the business of banking: Provided, however, that said exemption shall not extend to that part of the gross income of such persons which is received for the use of real property owned, other than the banking house or building in which the business of the bank is transacted, whether such income be in the form of rentals or royalties;
- (c) Non-profit cemetery companies organized or operated for the exclusive benefit of their members;
- (d) Societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit.
- (e) Corporations, Associations and Societies organized and operated exclusively for religious or charitable purpose: Provided, however, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of Article 4, Chapter 19 of the Code of West Virginia, 1931 as amended.
- (f) Building and loan associations and federal savings and loan associations.
- (g) Persons engaged in conducting the business of industrial loans under authority granted them by Article 7, Chapter 31, of the West Virginia Code 1931; Provided, however, that said exemption shall not extend to that part of the gross income of such persons which is received from the use of real property owned, other than the business house or building in which the business of the industrial loan company is transacted, whether such income be in the form of rentals or royalties.

SECTION 6. (Return of Tax) Persons subject to tax under this ordinance shall pay to the City of Beech Bottom, twenty (20%) per cent of the total amount of the privilege tax (Base rate and surtax) less exemptions due from and payable by said person to State of West Virginia under the provisions of Article 13, Chapter 11, Official Code of West Virginia, 1931, as amended, by reason or business or other activities of such taxpayer carried on within the City of Beech Bottom from and after the first day of January, 1955.

SECTION 7. (Payment of Tax) The tax imposed by this ordinance shall be paid in quarterly installments on or before the thirty days after the end of the calendar quarter in which it occurs. The taxpayer, within such thirty day periods after the end of each quarter, shall make out an estimate of the tax for which he is liable for such quarter, verify the same by oath, and make return thereof together with a remittance of the tax due thereon to the City Collector and Treasurer of the City of Beech Bottom. The said City Collector and Treasurer, as he determines it necessary to insure payment of the tax, may require return and payment under this section for other quarter year periods. The return and payment due under this section for the fourth calendar quarter may be consolidated with the return and payment required under Section 8 of this Ordinance. The said City Collector and Treasurer, subject to the approval of the Council, shall prescribe the forms and estimates required by this Section

SECTION 8. (Return and Remittance by Taxpayer) On or before thirty days after the end of the tax year, each person subject to tax under this ordinance shall make a return showing the total amount of the privilege tax (base rate and surtax, less exemptions) due from and payable by said person to the State of West Virginia for said tax year under the provisions of Article 13, Chapter 11, Official code of West Virginia 1931 as amended, by reason of business or other activities of such taxpayer carried on within the City of Beech Bottom, and shall compute thereon the amount of tax for which he is liable under this ordinance and shall transmit with such return to the Village of Beech Bottom Collector and Treasurer of the Village of Beech Bottom a Remittance payable to the Village of Beech Bottom; such return shall be verified by oath of the taxpayer, if made by an individual, or corporation; if made on behalf of a partnership, joint venture, association, firm, trust, or any other group or combination acting as a unit, shall make the oath on behalf of the taxpayer and if for any reason it is not practicable for the individual taxpayer to make the oath, the same may be made by any duly authorized agent. Remittance of the tax imposed by this ordinance shall be either in cash or by bank draft, certified check or money order. The City Collector and Treasurer shall issue his receipts to the taxpayer.

SECTION 9. (Failure to make return) If any person fails or refuses to make a return, either in whole or in part, or if the council of the Village of Beech Bottom has reasonable grounds to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, it may proceed as it determines best to obtain information upon which to base the assessment of the tax. Council may make examination of the books, records and papers, and audit the accounts of any such person, and may take the evidence, on oath, of any person who, in its after procuring such information as it may be able to obtain as to any person failing or refusing to make a return, council shall proceed to assess the tax and shall notify the person assessed of the amount of such assessment. Such assessment of the tax by council shall be final as to any person who has refused to make a return.

SECTION 10. (Tax cumulative) The tax imposed by this ordinance shall be in addition to all other licenses and taxes levied by Ordinance as a condition precedent to engaging in any business, trade or calling. A person exercising the privilege taxable under this Ordinance, subject to the payment of all licenses and charges which are conditions precedent to exercising the privilege taxed, may exercise the privilege for the current tax year upon the condition that he shall pay the tax accruing under this ordinance.

SECTION 11. (Lien of tax due and unpaid; Penalties) A tax due and unpaid under this Ordinance shall be a debt to the Village of Beech Bottom. It shall be a personal obligation of the taxpayer and shall be a lien upon the property used in the business or occupation upon which such tax is imposed provided no such tax lien shall be enforceable against the purchaser (including a lien creditor) for valuable consideration without notice, unless designated in the office of the Clerk of the County Court of Brooke County, West Virginia. Before a Deed therefore to such purchaser is delivered for record to the Clerk of the County Court, a penalty of 5% of the tax shall be added for any default for thirty days or less and for each succeeding thirty days elapsing before payment, there shall be an additional penalty of 1%, all of which penalty shall be secured by the lien herein provided.

SECTION 12. (Collection by Suite; Payment by Receiver) The Village of Beech Bottom may collect taxes due and unpaid under this ordinance. Collect and accrued penalties, by action in assumption, motion for judgment, or other appropriate proceedings in the Circuit Court of Brook County to obtain an injunction restraining the further exercise of the privilege until full payment shall have been made of all taxes and penalties due under this ordinance. In any proceeding under this section upon judgment or decree for the Plaintiff, it shall be awarded its costs.

In event a business subject to the tax imposed by this ordinance shall be operated in connection with a receivership or insolvency proceeding, the Court under whose direction such business is operating shall, by the entry of open Order in the cause, make provision for regular payment of such taxes as the same becomes due.

SECTION 13. (Lien of Tax Upon Property or person selling or quitting Business) The tax imposed by this ordinance shall be a lien upon the property of any person subject to the provisions hereof who shall sell out his business or stock of goods, or shall quit business, and such person shall be required to make the return provided for under the terms and provisions of this Ordinance within thirty days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the money to cover the amount of such taxes due and unpaid until such time as the former owner shall produce a receipt from the Village of Beech Bottom showing that the taxes have been paid. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes shall be due and unpaid after thirty day period allowed, he shall be personally liable for the taxes accrued and unpaid on account of the operation of the business by the former owner.

SECTION 14. (Collect by District; Other remedies; Report of Collection) The Village of Beech Bottom may put a restraint upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness, or any taxpayer delinquent under this Ordinance for the amount of all taxes and penalties accrued and unpaid hereunder. The Village of Beech Bottom may require the assistance of the Sheriff of any County of the State in levying such distress in the county of which such Sheriff is an officer. A Sheriff so collected taxes due hereunder, shall be entitled to compensation in the amount of the tax due, but in no case shall such compensation exceed \$25.00. All taxes and penalties so collected shall be reported within thirty days by after collection to the Council of the Village of Beech Bottom, who shall prescribe general regulation the manner of remittance of such funds and of allowing the collecting officer the compensation due him under this section. The Lien collected by this Ordinance on real estate may be enforced by suit in equity.

SECTION 15. (Offenses, Penalties) It shall be unlawful for any person to refuse to make the return provided to be made under terms and provision of this Ordinance; or to make any false or fraudulent return or false statement in any return, with intent to defraud the City of Beech Bottom or to evade the payment of the tax, or any part thereof, imposed by this Ordinance; or for any to aid or abet another in any amount to evade the payment of the tax or any part thereof, imposed by this Ordinance; or for any officer of any corporation to make or permit to be made for any corporation or association any false return, or false statement in any return required in the Ordinance with the intent to evade the payment of any tax hereunder. And any person violating any of the provisions of this Section, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined not more than one hundred (\$100.00) dollars or imprisoned not exceeding thirty days in the County Jail or punished by both fine and imprisonment, at the discretion of the Court, within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intent aforesaid, shall be guilty of the offense of false swearing, and on conviction thereof, shall be punished in the manner provided by law. Any corporation for which a false return, or return containing a false statement, as aforesaid, shall be made, shall be guilty of a misdemeanor and shall be punished by a fine of not more the One Hundred (\$100.00) Dollars. The Circuit and Criminal Courts of the County in which the offender resides, or, if a corporation, in which it carried on business, shall have concurrent jurisdiction to enforce this section.

SECTION 16. (Equitable and Uniform Rules) In any instance either the rules promulgated by the State Tax Commissioner under Article 13, Chapter 11 of the Official Code of West Virginia 1931 as amended, for determining a value on which privilege tax shall be levied are found to be inequitable or unfair for the purpose of ascertaining the tax due under the Ordinance, the Council of the City of Beech Bottom shall prescribe equitable and uniform rules for ascertaining such value.

SECTION 17. (Effective date) This Ordinance shall be in effect from and after the first day of January, 1955.

(Notes: See Recorder's Book, p. 39: to inform Valley Camp Store and Mumper's Confection)

p. 85: Mr. Pryor to see if tax applies to Rest Home and Pine Motel, July 8, 1957.

p. 86: Mr. Pryor states his opinion, will study further, July 22, 1957.

p. 259: Mr. Mumper made motion, seconded by Ferguson that sales tax be dropped. see
p. 259 for complete motion. See p. 86 for Mr. Pryor's opinion in this case.
p.259: Sept. 8, 1965, p.261, Oct. 13, 1965.

Bto policy schedule

VILLAGE OF BEECH BOTTOM
Beech Bottom, WV 26030

BUSINESS AND OCCUPATION TAX ESTIMATE

KIND OF BUSINESS		Use Separate Lines For Different Types Of Income Received	INSERT CLASS CODE	TAXABLE AMOUNT	RATE PER 100	TAX DUE
DATE BUSINESS BEGAN	DATE BUSINESS QUIT					
If Business Sold Furnish Name and Address of New Owner		Quarter Ended or Tax Year Ended				
			Date			

THIS RETURN WITH PAYMENT TO COVER TAX DUE MUST BE RECEIVED WITHIN ONE MONTH FROM END OF PERIOD COVERED THEREBY AND MUST BE SIGNED BY TAXPAYER

1. Gross Amount of Tax	
2. Penalty	
3. Amount Enclosed	

Add Penalty of 5% For First Month or Fraction Thereof And 1% For Each Succeeding Month Or Fraction Thereof Of Delinquency.

Signature of Taxpayer or Preparer _____ Date _____

WHITE -- CITY'S COPY CANARY FOR YOUR FILE

VILLAGE OF BEECH BOTTOM
Business and Occupation Tax Estimate

CLASS	BUSINESS CLASSIFICATIONS	RATE PER \$100
1	PRODUCTION: COAL	1.00
2	SAND, GRAVEL, OR OTHER MINERAL PRODUCTS NOT QUARRIED OR MINED	3.00
3	OIL, BLAST FURNACE SLAG	3.00
4	NATURAL GAS IN EXCESS OF \$5,000.00	6.00
5	LIMESTONE OR SANDSTONE QUARRIED OR MINED	1.50
6	TIMBER	1.50
7	OTHER NATURAL RESOURCE PRODUCTS	2.00
8	MANUFACTURED, COMPOUNDED OR PREPARED FOR SALE PRODUCTS	.30
9	SELLING TANGIBLE PROPERTY: RETAILERS	.50

CLASS	BUSINESS CLASSIFICATIONS	RATE PER \$100
10	WHOLESALEERS	.15
11	ELECTRIC POWER COMPANIES	4.00
12	NATURAL GAS COMPANIES	3.00
13	OTHER PUBLIC SERVICE OR UTILITY BUSINESS	2.00
14	CONTRACTING BUSINESS	2.00
15	AMUSEMENT BUSINESS	.50
16	RENTALS, ROYALTIES OR FEES	1.00
17	BANKING AND OTHER FINANCIAL INSTITUTIONS	1.00
18	SERVICES AND ALL OTHERS	1.00

Make check Payable and Remit Directly to:

VILLAGE OF BEECH BOTTOM
P.O. Box 100 - Beech Bottom, WV 26030

rate schedule policy adopted 2-16-16