



Text File

Introduced: 7/1/2016

Bill No: 2016-0593, Version: 4

Committee: Committee on Finance and Law

Status: Passed Finally

Ordinance amending the Pittsburgh Code of Ordinances, Title Two: Fiscal; Article X: Business Related Fees; Chapter 271 Nonresidents Sports Facility Usage Fee, to clarify defined terms in order to more effectively ensure disclosure by Nonresident Contracting Parties, Qualified Managing Entities, and Promoters of information regarding performances so that the city can enforce the existing fee, and institute a fine or penalty to the venue Nonresident Contracting Party for non-compliance.

WHEREAS, the City of Pittsburgh desires to identify all entities and individual performers Nonresident Contracting Parties doing business within the City for taxation purposes; and

WHEREAS, the Finance Department is charged with collecting a fee from all Qualified Managing Entities and individual performers Nonresident Contracting Parties using Publicly Funded Facilities within the City in a fair and equitable manner; and

WHEREAS, it is imperative that the City have a means of identifying and contacting all Nonresidential Contracting Parties using Publicly Funded Facilities in order to effectively enforce the existing fees levied on the Nonresident Contracting Parties.

The Council of the City of Pittsburgh hereby enacts as follows:

Section 1.

CHAPTER 271: - NONRESIDENT SPORTS FACILITY USAGE FEE

§ 271.01 - DEFINITIONS.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(a) NONRESIDENT CONTRACTING PARTY. A person not domiciled within the City of Pittsburgh who enters into a binding agreement with a Publicly Funded Facility or facility manager to engage in or conduct an event or performance for compensation. This may include, but is it not limited to entertainers, performers, touring companies, promoters, booking agents, artist management companies, and other related positions.

[a] **(b) CURRENT YEAR.** The calendar year for which the fee is levied.

[b)] **(c) DOMICILE.** The voluntary fixed place of habitation of a person. Actual residence is not necessarily domicile. In the intention of the taxpayer, domicile is permanent rather than transitory. In the case of a business, the domicile is that place considered as the center of

business affairs and the place from which its functions are discharged.

[(c)] **(d) EARNED INCOME.** Salaries, wages, commissions, bonuses, incentive payments, fees, tips and all other forms of compensation, whether based on profits or otherwise, earned by a person or a personal representative for services rendered, whether directly

or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness or disability or payments arising under workers' compensation acts, occupational disease acts and similar legislation.

[(d)] **(e) [EMPLOYER.] QUALIFIED MANAGING ENTITY.** A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one (1) or more [persons] **Nonresident Contracting Parties** for a salary, wage, commission or other compensation.

(f) EMPLOYEE. Any person in the services of a Qualified Managing Entity, under an appointment or contract of hire.

[(e)] **(g) NONRESIDENT.** A person domiciled outside the City.

[(f)] **(h) PERSON.** A corporation, partnership, business trust, association, estate, trust, foundation or natural person.

(i) PROMOTER. Any person business entity, and any agent or representative of the person business entity, who engages with a Publicly Funded Facility regarding the organization, marketing, engaged in the sale or offering for sale of tickets to an event.

[(g)] **(j) RESIDENT.** A person domiciled within the City.

[(h)] **(k) PUBLICLY FUNDED FACILITY.** Any sports stadium or arena in the City which has been constructed or maintained, in whole or in part, through the use of public funds.

Publicly Funded Facilities include: PPG Paints, David Lawrence Convention Center, Heinz Field, PNC Park, the Peterson Event Center, and Stage AE.

Publicly Funded Facilities include stadiums and arenas located on the following parcels: 1001-1035 5TH AVE, 1000 FORT DUQUESNE BLVD, 100 ART ROONEY DR, 115 FEDERAL ST, 1304 FORBES AVE, 400 N SHORE DR.

Publicly Funded Facilities include, but are not limited to: 1001-1035 Fifth Avenue, Pittsburgh, PA 15219 (also known as : PPG Paints Arena), 1000 Fort Duquesne Boulevard, Pittsburgh, PA 15222 (also known as: David L. Lawrence Convention Center), 100 Art Rooney Avenue, Pittsburgh, PA 15212 (also known as: Heinz Field), 115 Federal Street, Pittsburgh, PA 15212 (also known as: PNC Park), 3719 Terrace Street, Pittsburgh, PA 15261 (also known as: Petersen Events Center), and 400 North Shore Drive, Pittsburgh, PA 15212 (also known as: Stage AE).

[(i)] **(l) TAXPAYER.** A person required hereunder to file a return and pay the fee based on income earned.

[(j)] **(m) TREASURER.** The "City Treasurer."

(n) USER. Any person required hereunder to remit the usage fee.

§ 271.02 - LICENSE FEE.

A license fee equal to three (3) percent of **taxable** earned income **allocable to the days worked in a Publicly Funded Facility** is hereby imposed upon each nonresident who uses a publicly funded facility to engage in an athletic event or otherwise render a performance for which a **such** nonresident receives remuneration.

§ 271.03 - COLLECTION [AT SOURCE.] **AND REGISTRATION.**

(a) Every [employer] **Qualified Managing Entity** who employs one (1) or more [persons] **Nonresident Contracting Party** who earn compensation as the result of services performed within the City **and every Nonresident Contracting Party who earns compensation for services at a Publicly Funded Facility**, which services require the use of a publicly funded facility, shall deduct monthly, or more often than monthly, the license fee imposed by this chapter based on the earned income **allocable to the services in a Publicly Funded Facility** paid or payable to any nonresident employee, and shall, on or before April 30th of the current year, July 31st of the current year, October 31st of the current year, and January 31st of the succeeding year, file a return on a form prescribed by the Treasurer and pay to the Treasurer the amount of fees deducted during the preceding three-month periods ending March 31st of the current year, June 30th of the current year, September 30th of the current year and December 31st of the current year, respectively.

(b) **Every Employer Qualified Managing Entity not registered with the City employing or contracting with Nonresidents receiving Earned Income within the City shall, within fifteen (15) days of first becoming an Employer employing one (1) or more Nonresident Contracting Parties, register with the Treasurer the Qualified Managing Entity's Employer's name, address, and such other information as the Treasurer may require. Every registration shall be made upon a form authorized and furnished by the Treasurer. Every Person completing this form shall certify the correctness thereof.**

(c) **Every Nonresident Contracting Party not registered with the City employing or contracting with Nonresidents receiving Earned Income within the City shall, within fifteen (15) days of entering into an agreement with a Publicly Funded Facility to engage in event held in a Publicly Funded Facility for which compensation is earned, register with the Treasurer with the Nonresident Contracting Party's name, address, and any other information as the Treasurer may require. Every registration shall be made upon a form authorized and furnished by the Treasurer. Every Person completing this form shall certify the correctness thereof.**

§ 271.04 - DIRECT PAYMENT BY TAXPAYERS.

The failure of any [employer] **Qualified Managing Entity or Nonresident Contracting Party** to

deduct the fee as prescribed in Section 271.03 shall not relieve any person from the duty to file a return and pay the fee directly to the Treasurer.

§ 271.05 - ALLOCATION OF INCOME EARNED.

[For purposes of allocating income earned by professional athletes, and for all other employees of a professional sports team, the allocation shall be based on the number of days worked within the City versus the total number of days worked during the entire year. For all other employees and self-employed individuals, the allocation shall be in direct correlation to the amount or percentage of income attributable to such individuals' usage of a publicly funded facility.]

(a) Members of Nonresident professional athletic teams, other than professional football teams calculate a "total games played within the City of Pittsburgh" versus "total games played (including exhibition, preseason, regular season and post-season games)" fraction. Multiply that fraction against the player's total compensation [earned income from the team. In determining "games played" include exhibition games that are officially sanctioned by the team's league office in both the numerator and denominator of this fraction.

Earned Income from the team x (Total games played in PGH in the respective Publicly Funded Facility / Total games played) x .03

(b) Members of Nonresident professional football teams calculate a "total duty days within the City of Pittsburgh" versus "total duty days" fraction. Multiply that fraction against the player's total compensation. In determining "duty days", include preseason and regular season practice sessions; preseason and regular season games; and post-season games and practice sessions that are officially sanctioned by the team's league office in both the numerator and denominator of this fraction.

Earned Income from the team x (Total duty days in PGH in the respective Publicly Funded Facility / Total duty days) x .03

(c) Nonresident Non-Player Personnel are apportioned on the basis of working days per year. These include team employees, such as coaches, trainers and any other persons required to travel with the team and perform services on behalf of the team; game officials. Divide the total number of working days within the city of Pittsburgh by the total number of working days in the year to arrive at the working days apportionment fraction.

Earned Income from the team x (Total work days in PGH in the respective Publicly Funded Facility / Total work days) x .03

(d) Entertainers are apportioned based on earned income attributable for the performance in the city's Publicly Funded Facility

Earned Income for performance in the respective Publicly Funded Facility x .03

(e) Generally, the taxpayer's apportionable income for the City of Pittsburgh would correspond to the apportionable income reported to PA as earned in the City of Pittsburgh.

§ 271.06 - EXEMPTION FROM EARNED INCOME TAX.

The payment of the fee required by Section 271.03 shall exempt the individual on whose behalf payment was made from any liability for payment of any tax levied pursuant to Chapter 245 of this title and also from any tax imposed under Section 652.1 of the Act of March 10, 1949 (P. L. 30, No. 14) known as the Public School Code of 1949.

§ 271.07 - PENALTIES FOR LATE PAYMENTS.

If any tax is not paid on or before the respective due dates specified above, a penalty of one (1) percent of the amount of the unpaid fees shall be **[added] assessed** and collected for each month or fraction thereof during which the fees remain unpaid **but the amount shall not exceed fifteen percent (15%)**.

§ 271.08 - ADMINISTRATION AND ENFORCEMENT.

- (a) It shall be the duty of the Treasurer to collect and receive the fees and penalties imposed by this chapter. It shall also be the duty of the Treasurer to keep a record showing the date of the receipt.
- (b) The Treasurer is hereby charged with the administration and enforcement of the provisions of this chapter, and is empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the reexamination 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 chapter.
- (c) The Treasurer and designated agents are hereby authorized to examine the books, papers and records of any **[employer] Qualified Managing Entity** or supposed **[employer] Qualified Managing Entity**, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the fees due. Every **[employer] Qualified Managing Entity** or supposed **[employer] Qualified Managing Entity** is hereby directed and required to give to the Treasurer, or to any designated agent, the means, facilities and opportunity for the examinations and investigations, as are hereby authorized.
- (d) Any information gained by the Treasurer, by the Treasurer's agents, or by any other official or agent of the city, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this chapter, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
- (e) The Treasurer shall annually provide to all Publicly Funded Facilities a copy of applicable City Code, City Regulations, and current policies related to the Nonresident Sports Facilities Usage Fee.**

§ 271.09. VIOLATIONS AND FINES.

(a) Violations. No Person shall:

- (1) Fail, neglect or refuse to make any declaration or file a return as required under these Regulations;**
- (2) Fail, neglect, or refuse to pay or deduct in part or in whole the Usage Fee when it is due as required by these Regulations;**
- (3) Refuse to keep or supply to the Treasurer books, records, or accounts of any business, taxable or otherwise, to determine liability as required by these Regulations;**
- (4) Make any incomplete, false, or fraudulent return, or to attempt to avoid full disclosure of the amount of the usage fee due, or to avoid payment in part or in whole of the usage fee; or**
- (5) Divulge information which is confidential under Chapter 201.6 of the Code.**

(b) Fines. Pursuant to the Local Tax Enabling Act, as amended, in addition to any other penalties or enforcement of fees:

- (1) Any Employer Qualified Managing Entity required to collect, account for, and remit the Usage Fee who willfully fails to collect or truthfully account for and remit the Usage Fee to the City commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$2,500.00 or to imprisonment not exceeding two (6) months, or both;**
- (2) Any Employer Qualified Managing Entity or Nonresident Contracting Party who negligently or willfully refuses to file a Usage Fee return as required by these Regulations shall, upon conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) and/or to a term of imprisonment of not more than six (6) months;**
- (3) Any Employer Qualified Managing Entity or Nonresident Contracting Party who negligently or willfully makes any false or untrue statement on the Usage Fee return shall upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) and/or a term of imprisonment of not more than six (6) months;**
- (4) Any Employer Qualified Managing Entity or Nonresident Contracting Party who negligently or willfully fails to remit the entire amount of the usage fee, as determined and required by these regulations, shall upon conviction, be sentenced to pay a fine of**

not more than two thousand dollars (\$2,000) and/or to a term of not more than six (6) months;

- (5) **Any Person who willfully fails or refuses to appear before the Treasurer in person with the requested books, records, accounts, or other materials when required by the Code, or who willfully refuses to permit inspection by the Treasurer of those books, records, accounts, or**

other materials in the Person's custody or control when required by the Code, shall, upon conviction be sentenced to pay a fine of not more than five hundred dollars (\$500) and costs for each offense, and in default of payment thereof may be imprisoned for not more than fifty (50) days;

- (6) **The fines and terms of imprisonment imposed under this Section shall be in addition to any other relief granted to the City of a monetary nature under the provisions of these Regulations;**

- (7) **Each and every day that the violation continues shall constitute a separate offense for which a fine can be imposed;**

- (8) **Anyone found to be guilty of violations delineated in Section 503(b) may be denied future use of the Publicly Funded Facility.**

§ 271.[09]10 - COLLECTION.

The Treasurer may sue for the recovery of fees and penalties due and unpaid under this chapter.