



Text File

Introduced: 1/10/2020

Bill No: 2020-0021, **Version:** 1

Committee: Committee on Finance and Law

Status: Passed Finally

Ordinance amending and supplementing the Pittsburgh Code at Title Two: Fiscal, Article I: Administration, by adding Chapter 212: Administrative Matters for Taxes and Fees.

The Council of the City of Pittsburgh enacts as follows:

Section 1. Title Two: Fiscal, Article I: Administration, shall provide as follows in Chapter 212: Administrative Matters for Taxes and Fees:

Chapter 212: - Administrative Matters for Taxes and Fees

§ 212.01 - DEFINITIONS

As used in this Chapter, certain terms are defined as follows:

- (a) **COLLECTED TAXES OR FEES** - The following taxes or fees are considered to be Collected Taxes or Fees under this Chapter: the Amusement Tax imposed under Title Two, Article VII, Chapter 241 of the City of Pittsburgh Code of Ordinances ("Code"); the Local Services Tax imposed under Title Two, Article VII, Chapter 252 of the Code; the Parking Tax imposed under Title Two, Article VII, Chapter 253 of the Code; and the Nonresident Sports Facility Usage Fee imposed under Title Two, Article X, Chapter 271 of the Code.
- (b) **PERSON** - any corporation, partnership, limited liability company, business trust, association, estate, trust, unincorporated entity, sole proprietorship, foundation, or natural person. Whenever used in any provision prescribing a fine or penalty, the word "person" as applied to partnerships shall mean the partners thereof, and as applied to corporations and unincorporated associations shall mean the officers thereof.
- (c) **RESPONSIBLE PERSON** - an officer of any corporation, an officer, director, or managing member of any unincorporated entity other than a partnership, the owner of a sole proprietorship, or the partner of a partnership, if: (a) such individual's job duties include the collection and remittance of the Collected Tax or Fee or signing the Collected Tax or Fee return; or (b) that individual has signing authority over the financial accounts of the entity and that person has the power or authority to decide which vendors get paid or not get paid and in what order vendors are paid. A *trustee ex maleficio* is a Responsible Person. An individual who has the power or authority to manage the day-to-day operations of the entity or hire and fire employees or agents is presumed to be a Responsible Person for that entity. An individual who has check signing authority and who signs the Collected Tax or Fee return is presumed

to be a Responsible Person for that entity.

(d) **TAX COLLECTOR** - any person charged with collecting and remitting any Collected Tax or Fee and filing any return, where the liability for the tax or fee is imposed on the Tax or Fee Payer.

(e) **TAX OR FEE PAYER** - The person upon whom the Collected Tax or Fee is imposed. For example, the Parking and Amusement taxes are imposed on the Patron, the Nonresident Sports Facility Usage Fee is imposed on the Fee Payer, and the Local Services Tax is imposed on the Taxpayer, as those terms are defined in the applicable Chapters of the Code imposing such tax or fee.

§ 212.02 - REFUNDS OF COLLECTED TAXES OR FEES TO THE TAX COLLECTOR

A refund of Collected Taxes or Fees will not be issued to the Tax Collector unless: (i) the Tax Collector provides proof to the Treasurer that the over-collected Taxes or Fees has been refunded to the Tax or Fee Payer; or (ii) the Tax Collector provides proof to the Treasurer that it made a computation error on the return and the Collected Tax or Fee to be refunded was never collected from the Tax or Fee Payer in the first instance.

§ 212.03 - TRUST FUND LIABILITY OF RESPONSIBLE PERSONS

(a) All Collected Taxes or Fees constitute a trust fund for the benefit of the City. Any Responsible Person of a Tax or Fee Collector who fails to remit, said Collected Taxes or Fees to the City, can be found personally liable to the City for said Collected Taxes or Fees under the common law doctrine of *trustee ex maleficio*. All Responsible Persons of the same legal entity are jointly and severally liable to the City for all withheld Collected Taxes. However, the City may not collect from all Responsible Persons of the same legal entity more than the total Collected Taxes or Fees withheld.

(b) Any Tax or Fee Collector required to collect a Collected Tax or Fee under Title Two of the City of Pittsburgh Code of Ordinances, who shall fail to collect the Tax or Fee, shall be liable for the Tax or Fee upon the full amount charged the Patron for the Parking Tax or Amusement Tax, the Earned Income received by the Taxpayer with regard to the Local Services Tax, or the Earned Income received by the Fee Payer with regard to the Sports Facility Usage Fee. A Responsible Person of the Tax or Fee Collector shall be secondarily liable for any unremitted Tax or Fee.

(c) Once the liability has been assessed against the Tax or Fee Collector has become final, no Responsible Person may challenge the amount of that liability when the assessment is made against a Responsible Person of the Tax or Fee Collector.

§ 212.04 - SMALL REFUNDS.

Any refund due for overpayment of any Tax or Fee, collected under Title Two, Article VII or Title Two, Article X of the City of Pittsburgh Code of Ordinances, which is less than one dollar (\$1) in amount shall be carried

Introduced: 1/10/2020

Bill No: 2020-0021, **Version:** 1

Committee: Committee on Finance and Law

Status: Passed Finally

forward by the Treasurer as a credit toward future obligations of the Tax or Fee payer involved. Any refund due which is less than ten dollars (\$10) in amount shall likewise be carried as a credit, unless the refund is expressly requested by the Tax or Fee payer in writing.