

Chapter 24

Taxation; Special

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Part 1**Admissions Tax****§24-101. Short Title.**

This Part shall be known and may be cited as "Cumberland Township Admissions Tax Ordinance of 1977."

(*Ord. 38, 5/12/1977, §1*)

§24-102. Definitions.

The following words and phrases when used in this Part shall have the meaning ascribed to them in this Section except where the context clearly indicates a different meaning:

Activities - all manner and form of entertainment, amusement, recreation, education, exhibition, or sport including, but not limited to, theatrical performances, lectures, motion picture exhibitions, historical exhibitions, and/or displays, swimming or bathing pools, either natural or man-made, amusement parks, museums, golf courses, stadia, circus, carnivals, fairgrounds, athletic events, dances, musicals or concerts, and all other forms and manner of sport, recreation, past time, diversion or edification. [*Ord. 63*]

Admission - monetary charges of any character whatever, including monies, donations, rentals or contributions charged to or paid by the general public or a limited or selected number thereof, directly or indirectly, for the right or privilege to enter into a place, indoors or outdoors, within the Township and/or for the right or privilege of attending, viewing or engaging in activities as herein defined.

Collector - any person who collects admissions either directly or indirectly.

Person - any individual, partnership, limited partnership, estate, trust, association, firm or corporation. Whenever used in any clause prescribing and imposing a civil or criminal penalty, the term "person," as applied to a partnership, limited partnership, firm or association, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.

Township - Cumberland Township, Adams County, Pennsylvania.

(*Ord. 38, 5/12/1977, §2; as amended by Ord. 63, 10/13/1987*)

§24-103. Tax Amount.

There shall be levied, assessed, collected and paid a tax of 10% of the amount paid for admission to any place or activity within the Cumberland Township to be paid by the person so admitted and collected and remitted to the Township by the person charging such admission fees.

(*Ord. 38, 5/12/1977, §3; as amended by Ord. 39, 1/1/1979; and by Ord. 62, 9/22/1987*)

§24-104. Effective Date of Tax.

The tax hereby imposed shall be for a period of 1 year from the effective date hereof

and shall be for general revenue purposes.

(*Ord. 38, 5/12/1977, §4*)

§24-105. Collection of Tax.

It shall be the duty and responsibility of the operators of all activities and places of admission covered by this Part to collect the tax imposed by this Part, and the collectors shall be liable to the Township as agents thereof to collect, compute, account for and remit said tax revenue. Collectors may deduct an amount equivalent to 2% of the total sum collected as compensation for the costs of collection.

(*Ord. 38, 5/12/1977, §5; as amended by Ord. 61, 6/1/1987*)

§24-106. Monthly Payment of Tax.

On or before the fifteenth day of each month following the collection of any admissions as defined herein, the collection of said admissions should transmit to the Secretary of the Board of Supervisors of Cumberland Township a report of the total admissions charged or collected the previous month and the total amount of tax due and, at the same time, shall pay to the Secretary of the said Board the total amount of tax due for the operations of the preceding month.

(*Ord. 38, 5/12/1977, §6*)

§24-107. Appointed Agents Shall Keep Accurate Records.

Each person operating an activity or place of admission as defined herein within Cumberland Township shall keep an accurate record of all admissions charged or collected and the Township Supervisors, or their properly appointed agent, shall have access to the books and records relating to the number of admissions charged or collected of the person conducting such activity or place of admission, at reasonable times for the purpose of verifying and ascertaining the number of paid admissions received or charged by such person, provided that any information gained by the Township Supervisors, or their duly authorized agent, as a result of any reports, investigations or verifications required or authorized by this Part shall be confidential except for official purposes, and any disclosure of any information contrary to the provisions of this Section shall constitute a violation of this Part.

(*Ord. 38, 5/12/1977, §7*)

§24-108. Enforcement.

The Chairman of the Board of Supervisors of Cumberland Township is hereby charged with the enforcement of this Part.

(*Ord. 38, 5/12/1977, §8*)

§24-109. Penalty.

If any tax levied in pursuance of this Part shall not be paid when due, a penalty of 6% of the amount of tax due and unpaid shall be added thereto.

(*Ord. 38, 5/12/1977, §9*)

§24-110. Legal Action to Be Taken for Failure to Pay Tax.

The Chairman of the Board of Supervisors of Cumberland Township, in his capacity as enforcer of this Part, may sue in any court with jurisdiction for the recovery of taxes, interest and penalties due and unpaid under this Part, provided that the election to pursue a civil remedy by the enforcer shall not be a bar to any criminal prosecution.

(*Ord. 38, 5/12/1977, §10*)

§24-111. Violating or Failing to Pay Tax.

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$600 plus all court costs. No judgement shall commence or be imposed, levied or payable until the date of the determination of a violation by a district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgement pursuant to the applicable rules of civil procedure, at which time, in addition to any penalties, the violator shall be liable for any attorney's fees and costs incurred by the Township. Each day that a violation continues or each Section of this Part which shall be found to have been violated shall constitute a separate violation.

(*Ord. 38, 5/12/1977, §11; as amended by Ord. 05-112, 7/26/2005*)

Part 2**Local Services Tax****§24-201. Title.**

This Part shall be known and may be cited as the "Township of Cumberland Local Services Tax Ordinance."

(Ord. 07-118, 12/27/2007, §101)

§24-202. Authority.

This Part is enacted under the authority of the Local Tax Enabling Act, as amended by Act No. 7 of 2007, 53 P.S. §6901 *et seq.*

(Ord. 07-118, 12/27/2007, §102)

§24-203. Purpose.

The purpose of this Part is to provide revenue for police, fire and emergency services; road construction and maintenance; the reduction of property taxes and for such other purposes as may be specified for such tax from time to time by the laws of the Commonwealth of Pennsylvania.

(Ord. 07-118, 12/27/2007, §103)

§24-204. Definitions.

The following words and phrases when used in this Part shall have the meanings ascribed to them in this Section except where the context clearly indicates or requires a different meaning:

Board of Supervisors - the Governing Body of the Township of Cumberland.

Collector - the person or firm, from time to time, designated by motion of the Board of Supervisors of the Township of Cumberland to collect and administer the provisions of this Part and collect the tax levied by this Part. Until changed by subsequent motion, the collector shall be the same person or firm last designated to collect the emergency and municipal services tax for the Township of Cumberland.

Combined rate - the aggregate annual rate of the levied by a school district and the Township of Cumberland located in whole or in part within the school district.

Earned income - "compensation" as determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code, Pt. I, Subpt. B, Art. 4 (relating to personal income tax) not including, however, wages or compensation paid to individuals on active military service. Employee business expenses are allowable deductions as determined under Article III of the Tax Reform Code of 1971. Any housing allowance provided to a member of the clergy shall not be taxable as earned income.

Employer - an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage,

commission, fee or other compensation basis, including a self-employed person.

He, his or him - singular and plural number and male, female and neuter gender.

Individual - any person engaged in any occupation, trade or profession within the jurisdictional limits of the Township of Cumberland whose total earned income and net profits within the Township of Cumberland are greater than \$12,000 per calendar year.

Net profits - the net income from the operation of a business, profession, or other activity, (except from corporations), determined under §303 of the Act of March 4, 1971, P.L. 6, No. 2, known as the "Tax Reform Code of 1971," and regulations in 61 Pa.Code, Pt. I, Subpt. B, Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming the term shall not include:

- (1) Any interest generated from monetary accounts or investment instruments of the farming business.
- (2) Any gain on the sale of farming machinery.
- (3) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- (4) Any gain on the sale of other capital assets of the farm.

Occupation - any trade, profession, business or undertaking of any type, kind or character including services, domestic or other, carried on or performed within the jurisdictional limits of the Township of Cumberland for which compensation is charged and/or received, whether by salary, wages, commissions, fees or net profits for services rendered.

Reserve component of the Armed Forces - the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, The Pennsylvania Army National Guard or the Pennsylvania Air Guard.

Tax - the local services tax levied in this Part.

Year - a calendar year.

(Ord. 07-118, 12/27/2007, §104)

§24-205. Levy.

The Township of Cumberland hereby levies and imposes on every individual engaging in an occupation within the jurisdictional limits of the Township of Cumberland a tax in the amount of \$52 per annum, beginning the first day of January, 2008, and continuing on a calendar basis annually thereafter, until modified or repealed by subsequent ordinance. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township of Cumberland.

(Ord. 07-118, 12/27/2007, §105)

§24-206. Restricted Use.

The Township of Cumberland shall use the revenue derived from this tax for the

following purposes; provided, however that no less than 25 percent of the funds derived from this tax shall be used for emergency services, as defined herein:

- A. Emergency services, which shall include emergency medical services, police services and/or fire services.
- B. Road construction and/or maintenance.
- C. Reduction of property taxes.
- D. Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S., Ch.85, Subch. F. (relating to homestead property exclusion), and, in accordance with §22.6 of Act 7 of 2007, 53 P.S. §6022.6, as amended from time to time.

(Ord. 07-118, 12/27/2007, §106)

§24-207. Duty of Employer.

1. Each employer with the Township of Cumberland and each employer situate outside the Township of Cumberland who engages in business with the Township of Cumberland, is hereby charged with the duty of collecting the tax from each of the employees engaged by the employer and performing work for the employer within the Township of Cumberland. Each person subject to the tax shall be assessed a pro rata share of the tax for each payroll period in which the person is engaging in an occupation.

2. The pro rate share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest $\frac{1}{100}$ of a dollar.

3. Employer collection of the local services tax shall be made on a payroll period basis for each payroll period, beginning with the first payroll period in which the person is engaging in an occupation.

4. No employer shall be held liable for failure to withhold the local services tax or for payment of the withheld tax money to the Township of Cumberland if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed.

(Ord. 07-118, 12/27/2007, §107)

§24-208. Returns.

Employers are required to make and file a local services tax quarterly return 30 days after the end of each quarter of a calendar year. The local services tax quarterly return shall list the name, address, Social Security number of the employee; the physical address of the employee's place of employment; the number of payroll periods for which the local services tax was withheld and the amount of local services tax being remitted for each employee.

(Ord. 07-118, 12/27/2007, §108)

§24-209. Dates for Determining Tax Liability and Payment.

Each employer shall use his employment and payroll records from the first day of January to March 31 each year for determining the number of employees from whom said tax shall be deducted and paid over to the collector on or before April 30 of the same calendar year. Supplemental reports shall be made by each employer on July 30, October 30 and January 31 for new employees as reflected on his employment and payroll records from April 1 to June 30, July 1 to September 30 and October 1 to December 31, and payments on these supplemental reports shall be made on July 30, October 30 and January 30, respectively.

(*Ord. 07-118, 12/27/2007, §109*)

§24-210. Individuals Engaged in More Than One Occupation.

1. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during the payroll period, the priority of claim to collect the local services tax shall be in the following order:

A. The political subdivision in which a person maintains his or her principal office or is principally employed.

B. The political subdivision in which the person resides and works, if the tax is levied by that political subdivision.

C. The political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

2. In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides:

A. A recent statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of local services tax withheld.

B. A statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence.

3. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. It is the intent of this Section that no person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

(*Ord. 07-118, 12/27/2007, §110*)

§24-211. Exemptions to the Local Services Tax.

1. The local services tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

2. The Local Tax Enabling Act, as amended, requires municipalities and school districts who levy the local services tax at a combined rate exceeding \$10 to exempt any person from the local services tax whose total earned income and net profits from all sources within the Township of Cumberland is less than \$12,000 for the calendar year in which the local services tax is levied.

Each political subdivision levying the local services tax hereby exempts the

following persons from the local services tax:

A. Any person whose total earned income and net profits from all sources within the Township of Cumberland is less than \$12,000 for the calendar year in which the local services tax is levied.

B. Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service connected disability declared by the United States Veterans' Administration or its successor to be a total 100 percent permanent disability.

C. Any person who serves as a member of a Reserve Component of the Armed Forces and is called to active duty at any time during the taxable year. A "Reserve Component of the Armed Forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, The Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

3. A person seeking to claim an exemption from the local services tax must annually file an exemption certificate with the collector of the tax for the political subdivision levying the tax and file a copy of the certificate with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Township of Cumberland of less than \$12,000 in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Township of Cumberland for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax.

4. Upon receipt of the exemption certificate and until otherwise instructed by the collector of the tax for the Township of Cumberland, the employer shall not withhold the tax from the person during the calendar year or remainder of the calendar year for which the exemption certificate applies. With respect to a person who claimed an exemption from the local services tax, upon notification to an employer by the person or by the collector of the tax for the Township of Cumberland, that the person has received earned income and net profits from all sources within that Township of Cumberland equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within that Township of Cumberland in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person as follows:

A. If a person who claimed an exemption for a given calendar year from the local services tax becomes subject to the tax for the calendar year, the employer shall withhold the tax for the remainder of that calendar year.

B. The employer shall withhold from the person, for the first payroll period after receipt of the notification under the above paragraph, a lump sum equal to the amount of the tax that was not withheld from the person due to the exemption certificate filed by the person, plus the per payroll amount due for that first payroll period.

C. The amount of tax withheld per payroll period for the remaining payroll

periods in that calendar year shall be the same amount withheld for other employees.

5. In the event the employment of a person subject to withholding of the local services tax under this exception is severed in that calendar year, the person shall be liable for any outstanding balance of tax due and the Township of Cumberland may pursue collection under this act.

6. Except as provided for in subsection .4 above, Employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local services tax.

7. Employers shall be responsible for retaining a copy of all exemption certificates filed by employees within a given calendar year for a minimum of 3 years. Employers who have failed to withhold the local services tax from an employee or employees, and do not have copies of the employee exemption certificate or certificates, will be held responsible for the payment of the tax as if the tax had been originally levied against the employer.

(Ord. 07-118, 12/27/2007, §111)

§24-212. Self-Employed Individuals.

All self-employed individuals and individuals whose employer is not required to withhold local taxes (certain State and Federal agencies) will be billed quarterly for the local services tax. The full amount of tax must be paid by the date indicated on such billing. If such taxpayer qualifies for a low-income exemption, the taxpayer may complete the required exemption certificate or make application for a refund of the tax paid.

(Ord. 07-118, 12/27/2007, §112)

§24-213. Employees and Self-Employed Individuals Residing Beyond the Limits of the Township of Cumberland.

All employers and self-employed individuals residing or having their place of business outside the Township of Cumberland but who engage in any occupation within the Township of Cumberland, do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part with the same force and effect as though they were residents of the Township of Cumberland. Further, any individual engaged in an occupation within the Township of Cumberland and an employee of a nonresident employer may for the purpose of this Part be considered a self-employed person and in the event this tax is not paid, the collector shall have the option of proceeding against either the employer or employee for collection of this tax as hereinafter provided.

(Ord. 07-118, 12/27/2007, §113)

§24-214. Administration of Tax.

1. It shall be the duty of the collector to accept and receive payments of this tax and keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received. It shall be the duty of the collector to accept and keep a record of the information submitted by employers relating to the number of employees subject to the tax, the number of employees exempt

from the tax, the employee exemption certificates and refunds of the tax paid to individuals and employers. It further shall be the duty of the collector, on behalf of the Township of Cumberland, to provide a taxpayer a receipt of payment upon written request of the taxpayer.

2. The collector is hereby charged with the administration and enforcement of this Part 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 Part, including provisions for the examination of the payroll records of any employer subject to this Part; the examination and correction of any return made in compliance with this Part; and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right to appeal to the Court of Common Pleas of Adams County as in other cases provided.

3. The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer; or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination. (Ord. 07-118, 12/27/2007, §114)

§24-215. Suit for Collection.

1. In the event any of the tax under this Part remains due or unpaid 30 days after the due date set forth above, the collector may sue for the recovery of such tax due or unpaid together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of 6 percent per annum on the amount of said tax, and an additional penalty of 10 percent shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection, including, but not limited to, attorney's fees.

(Ord. 07-118, 12/27/2007, §1115)

§24-216. Fine and Penalty.

Whoever makes any false or untrue statement on any return required by this Part, or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment, or who fails or refuses to file any return required by this Part, or fails or refuses to pay the tax herein levied shall, upon conviction, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, be sentenced to a term of imprisonment not to exceed 30 days. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Part.

(Ord. 07-118, 12/27/2007, §116)

§24-217. Refunds.

1. Refunds are to be paid within 75 days of a refund request or 75 days after the last day the employer is required to remit the for the last quarter of the calendar year,

under §9 of Act 7, whichever is later and shall not be subject to interest if paid within the allowed time.

2. Refunds shall only be provided for amounts overpaid in a calendar year that exceed \$1.

A. *Refund Due to Duplication of Payment.* If at any time during the calendar year a taxpayer pays more than \$52 in combined local services tax, the taxpayer may apply for a refund of the amount over \$52. The proper refund request form must be completed and signed by the taxpayer and necessary documentation must be included. These refunds may be processed at the time they are received, unless there is reason to believe the Township of Cumberland will not receive the tax from the employer.

B. When an individual's "earned income and net profits" only, for the calendar year is less than the \$12,000 exemption at the end of the calendar year, any taxpayer who qualifies may complete a refund application and include a copy of the necessary documentation.

(Ord. 07-118, 12/27/2007, §117)