

CASS TOWNSHIP
SCHUYLKILL COUNTY, PENNSYLVANIA

ORDINANCE NO. 2012-04

**AN ORDINANCE OF THE TOWNSHIP OF CASS, A
SECOND CLASS TOWNSHIP, IN THE COUNTY OF
SCHUYLKILL AND COMMONWEALTH OF
PENNSYLVANIA, AMENDING THE EXISTING CASS
TOWNSHIP AMUSEMENT TAX ORDINANCE TO
CODIFY AND UPDATE SAME.**

The Board of Supervisors of Cass Township, Schuylkill County, Pennsylvania (the "Township"), hereby enacts and ordains as follows:

WHEREAS, Cass Township had previously adopted an Amusement Tax Ordinance; and

WHEREAS, on March 26, 2009, various ordinances of Cass Township including the Cass Township Amusement Tax Ordinance were codified and are now referred to as the Cass Township Code; and

WHEREAS, the Board of Supervisors amended the Ordinance on March 29, 2012; and

WHEREAS, the Board of Supervisors wishes to update and revise the Amusement Tax Ordinance in its entirety in order to provide for administrative provisions concerning the collection of the tax, schedule of the collection of tax, certain exemptions to update the law with current Pennsylvania statutes; to make both the producers and owners of real estate responsible for payment of the tax; to define words used in the Ordinance and to require further filing reports concerning payment of the tax.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE Board of Supervisors of Cass Township, Schuylkill County, Pennsylvania, that the Cass Township Amusement Tax Ordinance, 8 Cass Code §301, et seq., is amended in its entirety to read as follows:

Section 301. Title

This Ordinance shall be known as the "Cass Township Amusement Tax Ordinance".

Section 302. Citation

This Ordinance shall be cited as 8 Cass Code §301, et seq.

Section 303. Scope

This Ordinance is meant to implement the provisions of the Local Tax Enabling Act, 53 P.S. § 6924.101, et seq., and Act 50 of 1998, 53 Pa.C.S.A. §8421-8428, which allows for the imposition of an amusement tax.

Section 304. Definitions

AMUSEMENT – All manner and form of entertainment, cultural or otherwise, including but not limited to, theatrical or operatic performances, concerts, lectures, exhibits, moving-picture shows, vaudeville and circuses; all forms of entertainment, cultural, or otherwise, amusement parks and places or areas of exhibition, including boxing and sparring exhibitions, skating, golfing, tennis, hockey, bathing, swimming, riding, dancing, automobile racing, horse racing and other forms of diversion, sport, recreation or pastime, as well as all other methods of obtaining monetary admission charges, donations, contributions or monetary charges of any character from the general public or a limited or selected number thereof.

ESTABLISHED PRICE – Regular monetary charge of any character whatever, including moneys, fees, membership fees (periodical or otherwise), donations and contributions, fixed and exacted or in any manner fixed and received by producers or owners, as herein defined, from the general public or a limited or selected number thereof directly or indirectly, for such admission or for the privilege to attend, witness or engage in any amusement as herein defined.

EVENT – An amusement held on a particular day or days.

MUNICIPAL AMUSEMENT TAX COLLECTOR – Any individual, partnership, association, corporation, governmental body or elected or appointed Township official so designated by resolution of the Township to participate in any audit, collection or other administrative process on behalf of the Township.

OWNER – Any person, agent, operator, firm or corporation having a legal or equitable interest in the place of amusement; or recorded in the official records of the state, county or municipality as holding title to the place of amusement; or otherwise having control of the place of amusement, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court. Owner shall also include the lessor or lessee of any leasehold, leasehold improvement or leasehold interest.

PERSON – Every individual person, copartnership, association, unincorporated enterprise owned or operated by two or more persons or corporation, domestic or foreign. Whenever used in any clause prescribing and imposing a penalty, or both, the term “person,” as applied to copartnerships or associations, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof. The word “person” shall not include an entity which for tax purposes is considered as a nonprofit organization.

PLACE OF AMUSEMENT – Any place, indoors or outdoors, above or below ground, within the Township where the general public or a limited or selected number thereof may, upon payment of an established price, attend, witness or engage in any amusement, as herein defined including, but not limited to, places or areas of exhibition, theaters, opera houses, auditoriums, moving-picture houses, amusement parks, stadiums, arenas, baseball parks, skating rinks, circus or carnival tents or grounds, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, racetracks, roof gardens, cabarets, nightclubs and other like places.

PRODUCER – Any person, as herein defined, conducting any place of amusement, as herein defined, where the general public or a limited or selected number thereof may, upon the payment of an established price, attend or engage in any amusement.

TEMPORARY AMUSEMENT – An amusement to be conducted at one location for a period of less than one month.

TOWNSHIP – The area within the corporate limits of the Township of Cass.

Section 305. Levy of Tax

A tax is hereby imposed upon the sale of admission to places of amusement or for the privilege of attending, witnessing or engaging in any amusement at the rate of ten (10%) percent of the established price charged the general public or a limited or selected group thereof by any producer for such admission or privilege, which shall be paid by the person acquiring the same or the owner.

Section 306. Exemptions

The Township hereby exempts from the amusement tax any admission price collected by a volunteer firehouse, a religious institution, a political party, the Saint Nicholas Catering hall, a non-profit sportsman/gun club, a school sanctioned booster club, a non-profit civic or charitable organization such as a Lions Club or a Masonic Lodge, and the Minersville Area School District.

The Township hereby exempts all events held at a facility owned by and for the sole benefit of a volunteer firehouse, a religious institution and the Minersville Area School District.

The Township hereby exempts any membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control.

Section 307. Payment of Tax by Producers and Owners

Section 307.1. Producers or owners shall collect the tax imposed by this Ordinance and shall be liable to the Township as hereinafter provided in this Ordinance. Producers and owners shall be jointly and severally liable for the payment of this amusement tax.

Section 308. Filing of Reports; Payment of Tax

Section 308.1. For the purpose of ascertaining the amount of tax payable by producers or owners to the Township, it shall be the duty of every producer or owner:

Section 308.1.1. Except as hereinafter provided, conducting a place of amusement on or before the 10th day of each month after the effective date of this Ordinance, to transmit to the Township on a form prescribed and prepared by it, a report of the amount of tax collected by it during the preceding month, which report shall clearly show the date or dates the amusement was held, the number and price of all tickets sold at each event, the number of free tickets issued at each event, the number of rain checks granted at each event, the total amount of tax collected for each event and such other information as the Township may require. This report shall also show the amount of any monetary admission charge, donation, contribution or monetary charge of any character received from the general public or a limited or selected number thereof.

Section 308.1.2. In order to facilitate the auditing of tax collection, every producer or owner shall use a ticket box to be supplied by the Township which will be secured by the Township at the end of each event. The tickets shall then be counted by the Township to verify the amount shown by the producer or owner in a report noted herein. The tickets will be returned to the producer or owner within two (2) weeks from the date the box had been secured.

Section 308.1.3. In order to facilitate the auditing of tax collection, every producer or owner shall use tickets numbered sequentially for each category of tickets sold at each event. These tickets shall be printed in such a manner to allow, for auditing purposes, the Township to check the ticket numbers to verify tickets sold by following the numerical sequence from beginning to end for each event.

Section 308.1.4. Conducting a temporary place of amusement, to file a report with the Township or its duly authorized agent within 48 hours after each performance.

Section 308.1.5. In reports required under this section, to include or set forth such information as the Township shall prescribe.

Section 308.1.6. At the time of making every report required by this section, to compute and pay to the Township, or its designee, the taxes collected by it and due the Township, during the period for which the report is made. The amount of all taxes imposed under the provisions of this Ordinance shall in the case of places of permanent amusement, be due and payable on the 10th day of the next succeeding month, and, in the case of temporary forms of amusement, it shall be due and payable on the day the reports in such case are required to be made under this section, and all such taxes shall bear interest at the rate of half of one (1%) percent per month or fractional part of a month from the date they are due and payable until paid.

Section 308.1.7. To submit to the Township a true and correct copy of the producer's or owner's Schedule C, Form 1065 or Form 1120, whichever is applicable, of its United States income tax return on or before the 10th day of the month following the month in which the producer or owner filed its aforesaid income tax return. In the event that a producer or owner files an amended Schedule C, Form 1065 or Form 1120, whichever is applicable, the producer or owner shall submit a true and correct copy of such schedule or form to the Township on or before the 10th day of the month following the month in which the amended schedule or form was filed.

Section 308.2. Any information gained by the Township, or its agents, or by any other official or agent of the Township 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.

Section 309. Penalty for Nonpayment

If for any reason the tax is not paid when due, interest at the rate of six (6%) percent on the amount of the tax shall be calculated beginning with the due date of such tax and a penalty of five (5%) percent shall be added to the amount of tax owed for nonpayment thereof.

Section 310. Examination and Retention of Records

If the Township, or its designated representative, is not satisfied with the report and payment of the tax made by any producer or owner, under the provisions of this Ordinance, the Township is hereby authorized and empowered to make a determination of the tax due by such producer or owner, based upon the facts contained in the report or upon any information within its knowledge, and for this purpose, the Township, its agents or representatives, is authorized to examine the books, papers, tickets, ticket stubs and records of any producer or owner taxable under this Ordinance to verify the accuracy of any report or payment made under the provisions thereof or to ascertain whether the taxes imposed by this Ordinance have been paid. All

producers or owners shall retain all tickets or ticket stubs, and any other record of a monetary admission charge, donation, contribution or monetary charge of any character which did not generate or use a ticket or ticket stub, for each event for a period of three (3) years after the event is held and the stubs returned to the owner or producer pursuant to Section 308.1.2. The Township shall have the right to enter any place of amusement in order to check attendance at same for purposes of enforcing this Ordinance. This right includes, but is not limited to, posting an inspector or inspectors at entrances to tally the number of people attending an event. Producers or owners shall cooperate with the Township with regard to any inspection described herein as well as examination of books and records. Any representative so designated to enter the premises shall not be required to pay an admission fee by a producer or owner.

Section 311. Estimation of Tax

If any producer or owner shall neglect or refuse to make any report and payment of tax required by this Ordinance or if, as a result of an investigation by the Township, a report is found to be incorrect, the Township shall estimate the tax due by such producer or owner and determine the amount due by it for taxes, penalties and interest thereon.

Section 312. Tax Collector Empowered to Promulgate Additional Measures

The Township is hereby authorized and directed to make and keep such records, prepare such forms and take such other measures as may be necessary or convenient to carry this Ordinance into effect and may, in its discretion, require reasonable deposits to be made by an applicant for temporary permits.

Section 313. Suit for Collection

Section 313.1. In the event that any tax under this Ordinance remains due or unpaid thirty (30) days after the date above set forth, the Township may sue for the recovery of any tax due or unpaid under this Ordinance, together with interest and penalties.

Section 313.2. Where suit is brought for the recovery of this tax, the producer or owner liable thereof shall in addition be responsible and liable for the costs of collection including counsel fees and court costs.

Section 314. Jurisdiction and Validity

Section 314.1. Nothing contained in this Ordinance shall be construed to empower the Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township under the Constitution of the United States and the laws of the Commonwealth.

Section 314.2. If the tax hereby imposed under provisions of this Ordinance is held by any court of competent jurisdiction to be in violation of the Constitution of the United States or the laws of the Commonwealth as to any individual, the decision of the court shall not affect or impair the right to impose or collect such tax or the validity of the tax imposed on other persons or individuals as hereinafter provided.

Section 315. Violations and Penalties

Any person, partnership, corporation, bureau or utility, or the partners or officers thereof, who or which violates any of the provisions of this Ordinance shall, upon conviction thereof in a summary proceeding or upon verdict in a civil enforcement proceeding, be sentenced to pay a fine in accordance with 1 Cass Code §107, Penalties.

Section 316. Severability

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of Cass Township Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 317. Repealer

Any prior ordinance imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this Ordinance. Any other prior ordinance or part of any prior ordinance conflicting with the provisions of this Ordinance is rescinded insofar as the conflict exists. To the extent that this Ordinance is the same as any Ordinance in force immediately prior to adoption of this Ordinance, the provisions of this Ordinance are intended as a continuation of such prior ordinance and not as a new ordinance. If this Ordinance is declared invalid, any prior ordinance levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this Ordinance. If any part of this Ordinance is declared invalid, the similar part of any prior ordinance levying a similar tax shall remain in effect and shall not be affected by adoption of this Ordinance. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right or penalty or to punish any offense under the authority of any ordinance in force prior to adoption of this Ordinance. Subject to the foregoing provisions of this Section, this Ordinance shall amend and restate on the Effective Date any ordinance levying a tax on earned income or net profits in force immediately prior to the Effective Date.

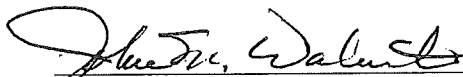
Section 318. Effective Date

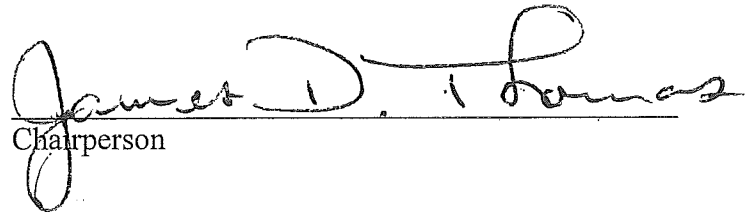
This Ordinance shall take effect immediately after the date of its enactment.

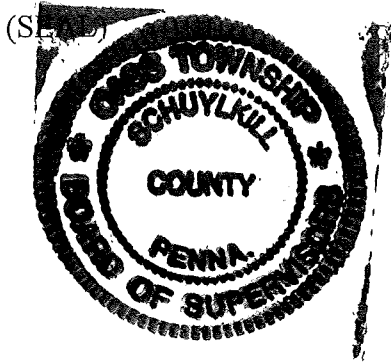
DULY ENACTED AND ORDAINED by the Board of Supervisors of Cass Township, Schuylkill County, Pennsylvania, this 26 day of JULY, 2012, in lawful session duly assembled.

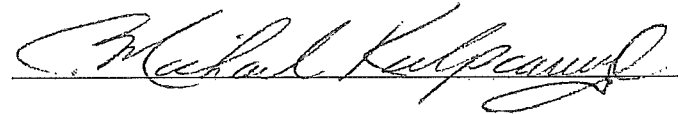
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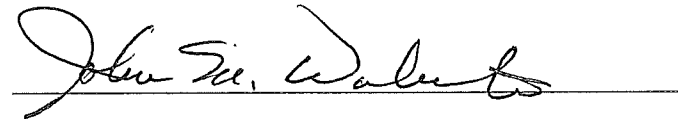
CASS TOWNSHIP BOARD OF
SUPERVISORS, CASS TOWNSHIP,
SCHUYLKILL COUNTY, PENNSYLVANIA


Assistant Secretary


Chairperson





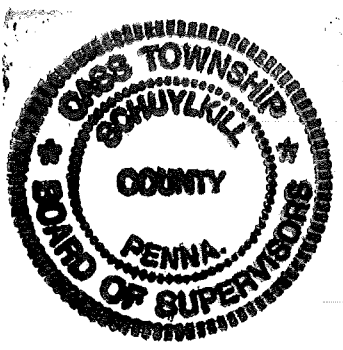


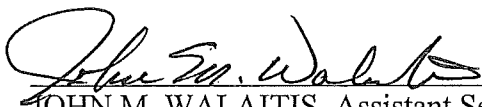
IN RE: AN ORDINANCE OF THE TOWNSHIP OF CASS, A SECOND CLASS TOWNSHIP, IN THE COUNTY OF SCHUYLKILL AND COMMONWEALTH OF PENNSYLVANIA, AMENDING THE EXISTING CASS TOWNSHIP AMUSEMENT TAX ORDINANCE TO CODIFY AND UPDATE SAME.

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by the Board of Supervisors of Cass Township, Schuylkill County, Pennsylvania, on the 26 day of JULY, 2012.

TOWNSHIP SEAL





JOHN M. WALAITIS, Assistant Secretary
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