

Chapter 309 - ADMISSIONS TAXES

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Sec. 309-1. - Definitions.

For the purpose of this chapter the words and phrases as defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

(C.O. 309; renumbered to C.M.C. 309-1, eff. Jan. 1, 1972)

Sec. 309-1-A. - Admission.

"Admission" shall include seats, chairs, tables and benches, reserved or otherwise, and other similar accommodations and charges made therefor.

(C.O. 309; renumbered to C.M.C. 309-1-A, eff. Jan. 1, 1972)

Sec. 309-1-A1. - Amounts Paid for Admission.

"Amounts paid for admission" shall be deemed to exclude any city or state taxes paid or received in respect of such admission.

(C.O. 309; renumbered to C.M.C. 309-1-A1, eff. Jan. 1, 1972; a. Ord. 199-1992, eff. June 5, 1992)

Sec. 309-1-P. - Person.

"Person" shall include individuals, firms, partnerships, associations, and corporations, municipalities, and other political subdivisions of the state.

(C.O. 309; renumbered to C.M.C. 309-1-P, eff. Jan. 1, 1972)

Sec. 309-1-T. - Treasurer.

"Treasurer" shall mean the city treasurer of the city of Cincinnati.

(C.O. 309; renumbered to C.M.C. 309-1-T, eff. Jan. 1, 1972)

Sec. 309-3. - Rate of Tax.

For the purpose of providing revenue to defray a portion of current expenses and other expenditures of the city of Cincinnati, there is hereby levied:

- (a) A tax of 3 percent on the amounts paid for admission to any place in the city of Cincinnati, including admission by season ticket or subscription, and including resale of admissions.
- (b) A tax of 3 percent on the amounts paid for admission to any public performance for profit at any place in the city of Cincinnati in case the charge for admission is in the form of a service charge or cover charge, or a similar charge in whatsoever form, provided, that if such charge is in the form of a fixed minimum service charge to the admittee which includes provision of food, beverages or similar services, the tax shall be computed upon one-third of such fixed minimum service charge.
- (c) A tax of 3 percent on the annual membership dues paid to every club or organization maintaining a golf course in the city of Cincinnati, and a tax of 3 percent on green fees, paid to golf courses in the city of Cincinnati, either under club or private ownership.

The above taxes are to be paid by the purchaser or payor, collected by the vendor as trustee for the city of Cincinnati, and returned and paid by the vendor in the manner and subject to the interest provided in Section 309-9. The amounts taxed hereunder shall include service charges paid in connection with sales of admissions; and in the case of resale of admissions shall be reduced by the price paid for such admissions by the reselling vendor, provided that such price is verifiable to the satisfaction of the city treasurer.

(C.O. 309-1; renumbered to C.M.C. 309-3, eff. Jan. 1, 1972; a. Ord. No. 388-1976, eff. Oct. 1, 1976; a. Ord. 199-1992, eff. June 5, 1992)

Sec. 309-5. - Admission, Exempt From Tax.

No tax shall be levied under this chapter on the following:

- (a) During the period January 1, 1959, to December 31, 1959, any admission of \$1.05 or less.
- (b) During the period January 1, 1959, to December 31, 1959, the first 55¢ of any admission in excess of \$1.05.
- (c) After December 31, 1959, the first \$1.05 of any admission.

- (d) Any admissions, all the proceeds of which inure:
- (1) Exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies or organizations for the prevention of cruelty to children or animals, or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual;
 - (2) Exclusively to the benefit of persons in the military or naval forces of the United States, or of national guard organizations, reserve officers' associations or organizations, posts, or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in the state of Ohio, and if no part of their net earnings inure to the benefit of any private stockholder or individual;
 - (3) Exclusively to the benefit of employees or employee organizations of any Hamilton County municipal corporation or the dependents or heirs of such members;
 - (4) Exclusively to the benefit of a county agricultural society if no part of the net earnings of said society inures to the benefit of any private stockholder or individual.

The exemption from tax provided by this section shall not be allowed in case of admissions to any athletic game or exhibition, the proceeds of which inure wholly or partly to the benefit of any college or university.

Furthermore, the exemption from the tax provided by this section shall not be allowed in case of admissions to any event the proceeds of which inure wholly or partly to the benefit of any promoter for profit.

(C.O. 309-2; a. Ord. No. 469-1958, eff. Dec. 31, 1958; a. Ord. No. 432-1967, eff. Nov. 22, 1967; renumbered to C.M.C. 309-5, eff. Jan. 1, 1972; a. Ord. No. 125-1972, eff. Mar. 29, 1972; a. Ord. No. 359-1974, eff. Aug. 7, 1974; a. Ord. No. 184-1976, eff. Mar. 5, 1976; a. Ord. No. 327-1979, eff. Aug. 1, 1979)

Sec. 309-7. - Price to be Marked on Ticket.

The price, inclusive of any federal and city tax, at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped or written on the face or back of that part of the ticket which is to be taken up by the management of the theatre, opera, or other place of amusement, together with the name of the vendor if sold other than at a ticket office of the place of amusement.

(C.O. 309-3; a. Ord. No. 469-1958, eff. Dec. 31, 1958; renumbered to C.M.C. 309-7, eff. Jan. 1, 1972)

Cross reference— Penalty, § 309-99-A.

Sec. 309-9. - Monthly Reports; Contents; Payments of Tax.

Every person receiving any payments for admission, dues or fees, taxable under this chapter, shall, on or before the twentieth day of each calendar month, make a return in duplicate to the treasurer in such form as the treasurer may prescribe, showing the number of taxable admissions issued or disposed of and/or the amount of taxable dues and/or fees collected during the preceding calendar month, the amount of tax hereby imposed on the same, and such other facts and information as the treasurer may

require in the form of returns prescribed by the treasurer; one copy of such return shall be for the use of the treasurer and the other shall be filed by the treasurer in the office of the director of finance of Cincinnati. The person making the return shall certify that it is complete, true and accurate.

All such returns shall be held confidential by the treasurer and auditor and shall not be available for inspection unless ordered by a court of competent jurisdiction, except that the treasurer may furnish copies to the internal revenue department and to the city manager or person designated by the city manager.

Each person making such return shall, at the time of making the same, pay the amount of taxes shown thereby to the treasurer. Such payments shall be paid into the city treasury. The treasurer may adopt uniform rules and regulations not inconsistent with the section governing the method of making returns and payments.

If the tax imposed by this chapter is not paid when due, there shall be added as a part of the tax interest at the rate of one percent a month from the time when the tax became due until paid.

(C.O. 309-4; renumbered to C.M.C. 309-9, eff. Jan. 1, 1972; a. Ord. No. 388-1976, eff. Oct. 1, 1976; a. Ord. No. 337-1979, eff. Aug. 1, 1979; a. Ord. No. 70-1981, eff. Feb. 25, 1981)

Sec. 309-11. - Administration of Chapter; Adoption of Rules and Regulations; Records; Bond.

The treasurer shall have power to adopt and promulgate such rules and regulations as the treasurer may deem necessary to carry out the provisions of this chapter.

Each person required by this chapter to collect and pay, or to pay the taxes imposed hereby shall keep such records or receipts, issuance of complimentary tickets, and otherwise, together with the ticket stubs, and other pertinent documents, in such form as the treasurer may by such regulation require. Such records and other documents shall be open at any time during business hours to the inspection of the treasurer, and shall be preserved for a period of three years, unless the treasurer shall in writing consent to their destruction within that period, or in writing require that they be kept longer.

The treasurer may require any person required by this chapter to collect and pay or to pay the tax hereby imposed to file with the treasurer a bond subject to the approval of the city solicitor of Cincinnati, with security to the approval of the city auditor of Cincinnati, and in such amount as the treasurer may fix, conditioned for the collection and payment, or the payment of any such taxes due or which may become due from such person. Such bond when approved by the treasurer shall be deposited in the treasurer's office. In lieu of such bond, securities approved by the treasurer may be deposited with the treasurer and shall be kept as security for the payment of such tax, interest or penalty, or both. The treasurer may sell any securities so deposited at public or private sale without notice to the depositor thereof, if it becomes necessary so to do in order to recover the amount of such tax, interest or penalty, or both, due or unpaid. Upon any such sale the surplus, if any, above such amounts so due and unpaid shall be returned to the depositor of the securities.

The treasurer may by such regulations permit any person making a refund of any payment upon which a tax is collected under this chapter to repay therewith the amount of the tax collected on such payment, and provide for the crediting of the amount so repaid against amounts included in any subsequent return.

(C.O. 309-5; renumbered to C.M.C. 309-11, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)

Sec. 309-13. - License Required; Application; Contents; Fee; Issuance; Restrictions; Renewal; Suspension or Revocation; Liability of Owner of Premises; Exemptions.

No person shall conduct any form of amusement at any permanent or temporary place of amusement or any itinerant form of amusement within the city of Cincinnati, without a license therefor, as hereinafter provided.

Every person desiring to conduct any such amusement at any permanent or temporary place of amusement or any itinerant form of amusement within this city, shall file an application for a permanent, temporary, or itinerant form of amusement license or licenses, as the case may be, with the treasurer. Every application for such license or licenses shall be made upon a form prescribed, prepared, and furnished by the treasurer, and shall set forth the name under which the applicant conducts or intends to conduct an amusement, whether the applicant conducts or intends to conduct a permanent or temporary form of amusement, the location of the permanent or temporary place of amusement, and such other information as the treasurer may require. If the applicant has or intends to have more than one place of amusement within the city, the application shall state the location of each place of amusement, and in the case of itinerant form of amusement, the date and length of time such amusement is to be conducted at each place. In the case of an application for a license for a temporary place of amusement, the application shall state the name and address of the owner, or lessee, or custodian of the premises upon which such amusement is to be conducted, and any other information prescribed by the treasurer for purposes of identification. The application shall be signed and verified by oath or affirmation by the person conducting the amusement if a natural person, or in the case of an association, by a member or partner thereof, or in the case of a corporation by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the signer's authority. At the time of making such application, the applicant shall pay to the treasurer a fee of \$50.00 for each license.

Upon approval of the application and the payment of any license fee or fees therein required, the treasurer shall grant and issue to each applicant (unless withheld for a cause) a permanent, temporary, or itinerant amusement license for each place of amusement within this city set forth in the application.

An amusement license shall be valid only for the person in whose name it is issued and for the conduct of amusements at the place designated therein and shall not be assignable. It shall be conspicuously displayed at the place or places for which issued during the period of ticket sale and conduct of amusement. All licenses for permanent places of amusement shall be for a period of 12 months following the date upon which they are issued, unless sooner surrendered by the licensee, or suspended or revoked for cause by the treasurer. Licenses for temporary places of amusement or for forms of itinerant amusement shall expire at the time specified therein. The holder of an itinerant amusement license shall notify the treasurer promptly of any change in the original contemplated itinerary, either as to date or time of the conduct of the amusement at each place.

Licenses issued for permanent places of amusement under the provisions of this chapter may be renewed annually upon application made to the treasurer and the payment of a renewal fee of \$50.00.

The treasurer may suspend or after hearing revoke an amusement license whenever the holder thereof has failed to comply with any of the provisions of this chapter or any rules or regulations of the treasurer prescribed, adopted and promulgated under this chapter. Upon suspending or revoking any amusement license the treasurer shall require the holder thereof to surrender immediately all licenses or duplicates thereof issued to such holder, and the holder shall surrender promptly all such licenses to the treasurer as required. Whenever the treasurer suspends an amusement license, the holder shall be

notified immediately and afforded a hearing, if no hearing has already been afforded and one is desired. After such hearing the treasurer shall either rescind the order of suspension or upon good cause appearing therefor shall continue the suspension or revoke the license.

No owner, lessee or custodian of the premises upon which an amusement is to be conducted, shall lease or permit the same to be used by any person who is not the owner of a license duly issued by the treasurer hereunder. Any such owner, lessee or custodian who leases to or permits such premises to be used for such purpose, to a person who is not the owner of a license duly issued hereunder, shall be liable for the amount of taxes levied under the provisions of this chapter in connection with any amusement so conducted upon such premises, and such taxes shall be a lien upon such premises.

When an exemption from the payment of the admission tax is granted by the treasurer for a given amusement or series of amusements in accordance with the provisions of Section 309-5, such exemption shall be considered as the equivalent of the license herein provided for. The exemption form as executed on behalf of the treasurer shall be displayed in the same manner as is provided for the license.

(C.O. 309-6; a. Ord. No. 90-1969, eff. Apr. 1, 1969; renumbered to C.M.C. 309-13; eff. Jan. 1, 1975; a. Ord. No. 327-1975, eff. Sept. 1, 1975; a. Ord. No. 282-1979, eff. Sept. 1, 1979; Emer. Ord. 463-2010, § 5, eff. Dec. 30, 2010)

Cross reference— Penalty, § 309-99.

Sec. 309-15. - Refund.

The treasurer shall refund any tax or license fee erroneously paid or to the extent overpaid on license application or tax return or on assessment or other demand of the treasurer. The treasurer on application of the taxpayer or otherwise may determine the amount of any such erroneous payment or overpayment and certify such amount to the director of finance. The director of finance shall thereupon draw a warrant for such certified amount on the treasurer to the person entitled to such refund to be paid from current admissions tax receipts.

(C.O. 309-7; renumbered to C.M.C. 309-15, eff. Jan. 1, 1972)

Sec. 309-17. - Taxes Made a Lien.

The taxes imposed by this chapter shall be a lien upon all of the property of any person required to collect and pay or to pay the same. If such person shall sell out or quit business, such person shall be required to make out the return provided for under this chapter within 30 days after the date of sale of such business, or retirement therefrom, and the successor in business shall be required to withhold a sufficient amount of the purchase money to cover the amount of said taxes so collected and unpaid, together with interest, if any, until such time as the former owner shall produce a receipt from the treasurer showing that the taxes have been paid, or a certificate that no taxes are due.

If the purchaser of a business shall fail to withhold purchase money as above provided, and the taxes so collected shall be due and unpaid after the 30-day period allowed, the purchaser shall be liable for the payment of the taxes collected and unpaid on account of the operation of the business by the former owner, together with interest, as provided by this chapter.

The lien for unpaid taxes herein imposed shall not become effective until such time as the treasurer shall certify to the county auditor of Hamilton county the amount of taxes delinquent, and such

certification is placed on record by the county recorder of said county in a book maintained for that purpose.

(C.O. 309-8; renumbered to C.M.C. 309-17, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)

Sec. 309-19. - Treasurer May Make Additional Assessment; Notice, Hearing.

If not satisfied with the return and payment of taxes made by any person under the provisions of this chapter, the treasurer is hereby authorized and empowered to make an additional assessment of the tax due by such taxpayer, based upon the facts contained in the return or otherwise acquired. Promptly after the date of such additional assessment, the treasurer shall give or send by mail a notice thereof to such person, together with written notice of the time when, and the place where, such person may be heard on a petition for reassessment as hereinafter provided.

(C.O. 309-9; renumbered to C.M.C. 309-19, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)

Sec. 309-21. - Estimated Assessment Made; Penalty; Notice.

If a person whose duty it is to collect and pay or to pay the taxes imposed by this chapter shall neglect or refuse to file any return required by this chapter, or having tendered a return shall neglect or refuse to pay the amount of taxes imposed by this chapter as shown by such return, the treasurer shall make an estimated assessment of the probable amount of the taxes payable by the delinquent, to which shall be added a penalty of 10 percent of the amount assessed. The treasurer shall promptly thereafter give or send by mail notice of such estimated assessment and penalty to the person against whom the same shall have been made.

(C.O. 309-10; renumbered to C.M.C. 309-21, eff. Jan. 1, 1972)

Sec. 309-23. - Estimated Additional Assessment Made; Penalty; Notice; Hearing.

The treasurer shall have the power to make an estimated additional assessment to which shall be added a penalty of 10 percent of the assessment, against any person who has filed any return as required by this chapter but who refuses to permit the treasurer or a duly authorized deputy, to examine the books of account and papers pertaining to the business for which the return was made. The treasurer shall promptly thereafter give or send by mail notice of such estimated additional assessment and penalty to such person, together with written notice of the time when and the place where such person may be heard on a petition for reassessment, as hereinafter provided.

(C.O. 309-11; renumbered to C.M.C. 309-23, eff. Jan. 1, 1972)

Sec. 309-25. - When Taxes by Assessment are Due and Payable.

All taxes and penalties resulting from any assessment made by the treasurer shall be due and payable 10 days after notice thereof is given or sent by mail to the person against whom such assessment shall have been made.

(C.O. 309-12; renumbered to C.M.C. 309-25, eff. Jan. 1, 1972)

Sec. 309-27. - Application for Reassessment.

Any person against whom an additional assessment, estimated assessment, or estimated additional assessment shall be made by the treasurer may file an application for reassessment with the treasurer.

Such application shall be filed within 30 days after receipt of notice of such estimated assessment and penalty from the treasurer, and shall contain all the argument and reasons why such assessment and/or penalty should be reversed, vacated, or modified. Within 20 days of the filing of such application for reassessment, the treasurer shall redetermine the former assessment, estimated assessment, or estimated additional assessment and shall either affirm, reverse, vacate or modify the same.

Such determination shall be final, and the assessment, estimated assessment, or estimated additional assessment shall become payable 10 days after notice thereof is given or sent by mail to the person filing the application.

(C.O. 309-13; renumbered to C.M.C. 309-27, eff. Jan. 1, 1972)

Sec. 309-29. - Notices Authorized to be Mailed.

Any notice authorized or required under the provisions of this chapter may be given by mailing the same to the person for whom it is intended, in a post-paid envelope addressed to such person at the address given in the last return filed by the person pursuant to the provisions of this chapter, or if no return has been filed then to such address as may be obtainable. The mailing of such notice shall be prima facie evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this chapter by the giving of notice shall commence to run from the date of mailing such notice.

(C.O. 309-14; renumbered to C.M.C. 309-29, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)

Sec. 309-31. - Refunds; Application.

If within one year from the payment of any tax or penalty the payer thereof or the executors, administrators, successors or assigns of the payer shall make application for a refund thereof, for the benefit of the person from whom the same was collected, and the treasurer shall determine that such tax or penalty, or any portion thereof, was erroneously or illegally collected, and that the same can and will be duly refunded to the persons from whom the same was collected, the treasurer shall issue a certificate showing the amount so erroneously or illegally collected, in duplicate, to the city auditor, who shall thereupon draw a warrant for such certified amount on the treasurer to the person entitled to such refund, out of the "admission tax rotary fund." For like cause and within the same period, a refund may be so made on the initiative of the treasurer; but no refund shall be made of a tax or penalty paid pursuant to a determination of the treasurer as provided for in Section 309-27, unless the treasurer, after a hearing as in said section provided, or on motion of the treasurer, shall have reduced the tax or penalty or a court of competent jurisdiction shall have ruled that such determination was erroneous or illegal, in which event, a refund shall be made as herein provided, upon the termination of such appeal. An application for a refund made as herein provided shall be deemed a petition for reassessment within the meaning of Section 309-27, and the treasurer may receive additional evidence with respect thereto. After making a determination, the treasurer shall give notice thereof to the applicant.

(C.O. 309-15; renumbered to C.M.C. 309-31, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)

Sec. 309-33. - Moneys Received; Where Credited.

The moneys received under the provisions of this chapter shall be credited to the general fund of the city.

(C.O. 309-17; renumbered to C.M.C. 309-33, eff. Jan. 1, 1972)

Sec. 309-99. - Penalties.

No person shall conduct any form of amusement at any permanent or temporary place of amusement or any itinerant form of amusement without having a license therefor, as provided in this chapter.

No person charged by any section of this chapter with the duty of collecting or paying the taxes imposed by this chapter shall wilfully fail or refuse to charge and collect or to pay such taxes, or to make return to the treasurer as required by this chapter, or to permit the treasurer, or a duly authorized agent, to examine the books and other records, in or upon any premises where the same are kept, to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep for three years or such lesser or greater time as may be permitted or required by the treasurer such records, ticket stubs and other documents pertaining to the sale or other disposition of admissions, as may be required by the treasurer.

No holder of a license issued under the provisions of this chapter shall display such license, at the place for which such license was issued, during a period of suspension or after revocation of the same by the treasurer, and during a period of ticket sale and conduct of amusement.

Whoever violates any provision of this section shall be guilty of a minor misdemeanor. Upon conviction for a second or other subsequent offense an offender shall, if a corporation, be fined not more than \$500, or if an individual, or a member of a partnership, firm, or association, be fined not more than \$100 or imprisoned not more than 60 days or both.

(C.O. 309-16; a. Ord. No. 414-1970, eff. Dec. 23, 1970; renumbered to C.M.C. 309-99, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)

Sec. 309-99-A. - Violation of Section 309-7.

Whoever sells an admission ticket or card on which the name of the vendor and price is not printed, stamped, or written in accordance with Section 309-7, or at a price in excess of the price so printed, stamped or written thereon, shall be guilty of a minor misdemeanor.

(C.O. 309-3; a. Ord. No. 469-1958, eff. Dec. 31, 1958; renumbered to C.M.C. 309-99-A, eff. Jan. 1, 1972; a. Ord. No. 337-1979, eff. Aug. 1, 1979)