

 R. C. No. 189 - 22 - 23. By FINANCE AND PERSONNEL COMMITTEE. March 20, 2023.

Your Committee to whom was referred R. O. No. 101-22-23 by City Clerk submitting a claim from Pessefall Law, LLC for alleged unlawful tax against Midstate Amusement Games, LLC; recommends filing the claim.

_____	_____
_____	_____
_____	_____
	Committee

I HEREBY CERTIFY that the foregoing Committee Report was duly accepted and adopted by the Common Council of the City of Sheboygan, Wisconsin, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dated \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, City Clerk  
Approved \_\_\_\_\_ 20\_\_\_\_. \_\_\_\_\_, Mayor

II

19

R. O. No. 101 - 22 - 23. By CITY CLERK. February 6, 2023.

Submitting a claim from Pessefall Law, LLC for alleged unlawful tax against Midstate Amusement Games, LLC.

FAP

---

CITY CLERK

#20-22 MKC  
JAN 31 '23 10:38

1/31/23  
103617  
H3

# Pessefall Law, LLC

2512 N. 89th Street  
Wauwatosa, WI 53226  
doug@pessefall-law.com • (414) 698-1301

January 31, 2023

## CLAIM OF UNLAWFUL TAX

HAND DELIVERED

Ms. Meredith DeBruin  
Clerk  
City of Sheboygan  
828 Center Avenue, Suite 103  
Sheboygan, WI 53081

Re: Midstate Amusement Games, LLC  
Parcel No. 59281860858P

Dear Ms. DeBruin:

On behalf of Midstate Amusement Games, LLC ("Claimant"), we hereby serve this claim of unlawful tax ("Claim") on the City of Sheboygan ("City") with respect to the above-referenced personal property account ("Property"). You are directed to serve a copy of any notice of allowance or disallowance on the undersigned agent of the Claimant.

1. This Claim is brought pursuant to Wis. Stat. § 74.35 for a refund of unlawful taxes collected from the Claimant by the City for the 2022 tax year, plus interest as provided by law, with respect to certain property located in the City and known by the personal property tax Account Number 59281860858P.

2. At all times relevant to this Claim, the Claimant was the owner of the Property, was responsible for the payment of taxes imposed with respect to the Property and the prosecution of tax disputes involving the Property, and is authorized to bring this Claim in its own name.

3. The City is a body corporate and politic, duly organized as a municipal corporation under Wisconsin law, with its principal office located at 828 Center Avenue, Suite 103, Sheboygan, Wisconsin 53081.

4. The basis for this Claim is that one or more palpable errors specified in Wis. Stat. § 74.33(1) were made. Specifically, the Property included machinery, tools and/or patterns exempt from taxation pursuant to Wis. Stat. § 70.111(27); the Property included assets no longer

used in a trade or business as of the assessment date; the Property included real property that was not subject to personal property tax and was, therefore, subject to double taxation; and/or the assessment of the Property violated the Uniformity, Due Process and Equal Protection clauses of the Wisconsin Constitution.

5. The Claimant timely filed a Statement of Personal Property on which the Claimant reported all of its assessable personal property located within the City as of January 1, 2022 ("Statement"). The Statement properly excluded personal property that was exempt by law from taxation.

6. Notwithstanding the Statement, the City assessed the Property subject to this claim, which was assessed by the City at \$540,000.00 as of January 1, 2022 ("Assessed Value").

7. Based on the Assessed Value, the City issued the Claimant a 2022 tax bill in the amount of \$10,400.71 ("Tax Bill").

8. The Claimant timely paid the Tax Bill issued by the City, and is aggrieved by the levy and collection of an unlawful tax against the Property.

9. The amount of this Claim is \$10,400.71, plus interest.

By this letter, the Claimant stated a valid claim to recover the unlawful tax paid with respect to its Property. The Claimant respectfully requests the City to grant this Claim within 90 days from the date of service hereof.

Yours very truly,

*s/Douglas A. Pessefall*

Douglas A. Pessefall