

INTRODUCTION

This introduction is intended to give a brief explanation of the legal basis and the historical background of the Business Privilege Tax new “active presence” nexus standard for doing business in the City of Philadelphia. The Philadelphia City Council amended Section 19-2603 of the Philadelphia Code to provide for a new standard.

Under the new nexus standard, effective July 1, 1998, any person with an “active [business] presence” in Philadelphia who engages in the sale of tangible personal property, with a level of activity not exceeding “solicitation” is subject to the gross receipts portion of the tax. Prior to this amendment, such person was deemed not to be subject to the Business Privilege Tax at all. Prior to, and after the amendment, all taxpayers whose activities within Philadelphia exceed “solicitation” (i.e., do not fall under the protection of P. L. 86-272) will still pay both the gross receipts portion and the net income portion of the tax.

Practitioners and taxpayers should note that persons currently filing and paying the tax are not affected by this change. They should, however, be aware that this change affects taxpayers who have been and still are actively present in the City but have not been filing and paying the tax because of the “solicitation plus” standard the City previously applied to determine who is “doing business” in the City; these taxpayers are now liable for the gross receipts portion of the tax and are required to file the Business Privilege Tax beginning with the privilege year new-start return concurrent with the start of this activity.