

AMENDMENT TO THE DEPARTMENT OF
REVENUE BUSINESS PRIVILEGE TAX
REGULATIONS

CREDITS

Section 501. Credits For Contributions to Community Development
Corporations.

A. Definitions

1. Applicant. A [b]Business or two Businesses applying jointly that applies to enter[s] into a [c]Contribution [a]Agreement with the City of Philadelphia.

2. Business. Any person or entity subject to the Business Privilege Tax under Philadelphia Code §19-2603, as it may be amended.

[2.] 3. Code. The Philadelphia Code, as amended.

[3.] 4. Community. A geographic location within the City of Philadelphia (but not the entire City) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation.

[4.] 5. Contribution [a]Agreement.

a. A written agreement between the [a]Applicant and the City of Philadelphia whereby the [a]Applicant agrees to contribute \$100,000 per year for ten consecutive years to a Qualifying Community Development Corporation (QCDC) that does not already have a Sponsor providing funds under this program. Refer to Section 501([c]C) for early termination of a [c]Contribution [a]Agreement.

b. In the event that two Businesses apply jointly, the Contribution Agreement shall include:

i. A schedule of Payments, and

ii. The proportionate share of the total annual
contribution each Business shall contribute.

6. Ordinance. Philadelphia Code §19-2604, as it may be amended.

[5.] 7. Department. Department of Revenue.

[6.] 8. Economic Development. Activities that increase economic opportunity for individuals or that stimulate or retain businesses or permanent jobs. For purposes of this Tax Credit, economic development does not include activities for the development of housing, education, recreation, or religious facilities, or related activities.

[7.] 9. Qualifying Community Development Corporation ("QCDC"). A QCDC is an organization that meets all of the following requirements:

- a. The organization is a nonprofit organization, which has a ruling from the Internal Revenue Service that the organization is exempt from income taxation under the provisions of section 501(c)(3) of the Internal Revenue Code.
- b. The organization is a community development corporation ("CDC") that promotes economic development in economically distressed neighborhoods. For purposes of [n]f this regulation only, examples of economic distress include but are not limited to high unemployment, vacant commercial industrial properties, or blighting effects of deferred public or private maintenance to commercial areas of a neighborhood.
- c. The organization is [an association or corporation] organized under Pennsylvania law as a non profit corporation.

- d. The organization engages in community development activities (which must include economic development activities) primarily within an identified geographic area.
- e. The organization engages in activities that improve the physical, economic or social environment of an economically distressed area by addressing one or more critical economic problems of the area.
- f. The organization engages in community economic development activities that increase economic opportunity for individuals, or stimulate or retain businesses and/or permanent jobs.
- g. The organization has prior experience [of] conducting economic development activities in the City of Philadelphia. The “prior experience” requirement can be met if the organization has developed a clearly defined plan for undertaking economic development activities which address the specific issues of economic distress in its community and has engaged employees or consultants at the time of its application to undertake these activities.
- h. The organization must be in full compliance with all applicable Federal, State, and City laws, ordinances, and resolutions.

10. Sponsor. An Applicant, as defined above, that enters into a Contribution Agreement with the City of Philadelphia.

[8.] 11. Tax Credit. A credit pursuant to subsection (6)(b) of the Ordinance against the [b]Business [p]Privilege [t]Tax liability of [businesses] a Sponsor of [that sponsor] a Qualifying Community Development Corporation, by

contributing \$100,000 per year over a ten-year period. A credit of \$100,000 per year will be applied against the [Applicant's] Sponsor's [b]Business [p]Privilege [t]Tax liability for each year the [Applicant] Sponsor contributes \$100,000 in cash to a QCDC. If the Sponsor consists of two Businesses, the Tax Credit is each co-Sponsor's proportionate share of the total contribution as established in the Contribution Agreement, as may be amended.

B. Eligibility

1. [Applicant] Sponsor - Eligibility

[a. An applicant must be a business, as defined in Section 101 (D) of these regulations.]

[b. An Applicant] a. A Sponsor must be [a business] in full compliance with all applicable Federal, State, and City laws, ordinances and resolutions.

[c.] b. The [Applicant] Sponsor must contribute \$100,000 in cash per year in accordance with the [c]Contribution [a]Agreement.

[d.] c. The [applicant] Sponsor may not [provide funds] receive Tax Credits for providing funds to a QCDC that is already receiving funds under this program.

[e. An Applicant who is] d. A Sponsor currently participating in the Commonwealth of Pennsylvania Neighborhood Assistance Program/[Comprehensive Service Program] Neighborhood Partnership Program (NAP/[CS]NPP) or any successor or similar program shall not use [the NAP/CSP] such contributions as credit towards the Contributions to the City of Philadelphia's Business Privilege Tax Credits.

[f. applicant] e. Sponsor must be partnered with a Community Development Corporation that maintains its eligibility as a QCDC. [g.] f. On or before October 15th [November 15th] of each year, the [applicant] Sponsor must submit a renewal application and report form to the Department which at a minimum would include information detailing its payment to the QCDC for the current tax year, the QCDC's expenditures to date, [and] the QCDC's activities and accomplishments under this program, and a copy of the Contribution Agreement, if amended. The [applicant] Sponsor is responsible for obtaining any information or certification requested by the Department from the Applicant's partner, the QCDC. Failure to complete and file the renewal application and report form [by November 15th will] may result in the [applicant] Sponsor losing its eligibility to participate in the program for any future tax years.

2. Community Development Corporation – Eligibility

- a. A Community Development Corporation meeting the definition of a QCDC is eligible to partner with a[n applicant] Sponsor.
- b. To maintain its eligibility on an annual basis, a Community Development Corporation must continue to meet the definition of a QCDC and must expend the proceeds of the [c]Contribution [a]Agreement in a manner consistent with its status as a QCDC as reported in its annual renewal application.
- c. In the event a QCDC merges with another organization, and subject to the requirements of subsection D below:

The surviving organization shall submit an amended renewal application in accordance with the requirements of paragraph C(5) below to report the effective date of the merger, and, if the Department determines that the surviving organization meets the definition of a QCDC, the surviving QCDC shall continue the eligibility status of the merging QCDC;

If both the merging and the surviving organization are existing QCDCs, the surviving QCDC shall continue its own eligibility status with its own Sponsor and the merging QCDC's Sponsor's Contribution Agreement shall be terminated as of the effective date of the merger, unless the Sponsor of the surviving QCDC submits an amended renewal application containing an election that the QCDC has adopted the eligibility status of the merging organization and the merging organization's Sponsor, effective as of the effective date of the merger, in which case the Contribution Agreement of the surviving QCDC's Sponsor shall be terminated;

And further, in the event both the merging and the surviving organization are QCDCs, and the Sponsors of both QCDCs desire to jointly Sponsor the surviving QCDC, the original Sponsor of the surviving QCDC shall follow the procedures set forth in Paragraph C(3) below, if both Sponsors desire to Sponsor the surviving QCDC or if the original Sponsor seeks a new co-sponsor.

C. Termination and Modification of Contribution Agreement and Annual Renewal Application.

1. The [applicant] Sponsor may terminate its [c]Contribution [a]Agreement with the City at any time, but shall use its best efforts to terminate the Contribution Agreement on or before September 15th of any year. [An applicant] A Sponsor that terminates a [c]Contribution [a]Agreement will not lose any [t]Tax [c]Credits for which it was eligible for prior contributions made under the [c]Contribution [a]Agreement. The [applicant will] terminating Sponsor may not be eligible to apply for any future [t]Tax [c]Credit for contributions to a QCDC.
2. If [an applicant] a Sponsor terminates its [c]Contribution [a]Agreement, a new [a]Applicant may apply to receive [t]Tax [c]Credits under this section, provided that such [t]Tax [c]Credits shall be limited to the number of years that are remaining on the terminating [applicant's] Sponsor's [c]Contribution [a]Agreement. The new [a]Applicant must be nominated by the existing QCDC and must complete and file a [t]Tax [c]Credit application that is approved by the Department. The new [a]Applicant must enter into a [c]Contribution [a]Agreement with the City under which [it] the Applicant agrees to make cash contributions of \$100,000 per year to the same QCDC which was the recipient under the terminating [applicant's] Sponsor's [c]Contribution [a]Agreement and for the number of years remaining under that agreement.
3. In the event that a Sponsor that is comprised of a single Business wishes to add another Business as co-Sponsor to its Contribution Agreement:

- a. The Sponsor shall issue written notice forthwith to the existing QCDC of its plan to amend the Contribution Agreement by adding a co-Sponsor willing to enter into a Contribution Agreement. The amended Contribution Agreement should include the proportionate shares of the total contribution of \$100,000 that the original Sponsor and the new co-Sponsor agree to contribute annually for the number of years remaining on the original Sponsor's Contribution Agreement.
- b. If the original Sponsor is unable or unwilling to enter into a new Contribution Agreement that includes a new co-Sponsor, the original Sponsor shall notify the QCDC that it will either (i) continue as Sponsor in accordance with the original Contribution Agreement, or (ii) terminate the original Contribution Agreement.

4. In the event a Sponsor is two Businesses and one Business terminates the Contribution Agreement under paragraph (6)(f) of the Ordinance:

- a. The terminating Business shall issue written notice forthwith to the City, the non-terminating Business, and the QCDC of the effective date of the termination.
- b. Before any other Applicant may apply, the non-terminating Business shall have the earlier of 90 days from receipt of notice of the termination of the Contribution Agreement and December 15th of any year, but shall use its best efforts to meet the deadline set forth in paragraph C(7) to: (i) apply for the remaining term of the Contribution Agreement, either by itself or jointly with a new Business by following the applicable procedure described in paragraph C(2), above, or (ii) notify the Department in writing that it will not apply.

[3.] 5. Upon the annual review of the [applicant's] Sponsor's renewal application and report form, the Department will determine before December 31st of each year whether the [applicant] Sponsor will be eligible to participate in this [t]Tax [c]Credit program for the following year. Failure of the Community Development Corporation to make expenditures of the \$100,000 annual contribution in furtherance of its qualified status as a QCDC [will] may result in the [applicant] Sponsor losing its eligibility to participate in this [t]Tax [c]Credit program for any future tax year. [An applicant] A Sponsor that is no longer eligible to participate in this [t]Tax [c]Credit program will not lose any [t]Tax [c]Credit for which it was eligible for prior contributions made under the [c]Contribution [a]Agreement.

[4.] 6. If [an applicant] a Sponsor is no longer eligible to participate in this [t]Tax [c]Credit program as a result of the disqualification of the QCDC, [the Revenue Commissioner may request that] new applications for [t]Tax [c]Credit may be submitted to Sponsor a new QCDC. A new [a]Applicant shall be selected in the same manner prescribed in Section 501(F)([3]2). A new [a]Applicant may apply to receive [t]Tax [c]Credits under this section, provided that such [t]Tax [c]Credit shall be limited to the number of years that are remaining on the terminating [applicant's] Sponsor's [c]Contribution [a]Agreement. The new [applicant] Sponsor must enter into a [c]Contribution [a]Agreement with the City under which it agrees to make cash contributions of \$100,000 per year to a new QCDC and for the number of years remaining under the terminated [c]Contribution [a]Agreement.

7. By October 15th of any year, a Sponsor may submit a written proposal to the Revenue Department for approval to amend a Contribution Agreement for

the following calendar year, except in the event of a merger of a QCDC, in which case the Contribution Agreement may be amended during the calendar year.

D. Tax Credit

1. [An applicant] A Sponsor must calculate its [b]Business [p]Privilege [t]Tax liability in accordance with Philadelphia Code §19-2600.
2. [An applicant] A Sponsor shall receive a [t]Tax [c]Credit of \$100,000 per year against its [b]Business [p]Privilege [t]Tax liability for each year the [business] Sponsor contributes \$100,000 in cash to a QCDC under the terms and conditions of this section and the Contribution Agreement. [Applicants whose] Sponsors with contributions [exceed] exceeding \$100,000 will not be entitled to any additional [t]Tax [c]Credit. [Applicants] Sponsors whose contributions are less than \$100,000 will not receive any [t]Tax [c]Credit. Sponsors are encouraged to make their full contributions to the QCDC on or before October 15th of each year.
3. Any [t]Tax [c]Credit not used in the period the contribution was made may not be carried forward or carried backward.
4. No credit will be given to any contribution made prior to receiving approval from the Department.
5. Tax [c]Credit shall be available to up to [ten applicants] thirty (30) Applicants that enter into a [c]Contribution [a]Agreement with the City.
6. Tax [c]Credits are non transferable and may be used only by the [contributing business] Sponsor.

7. A Sponsor must take the credit on the Privilege Year for which the Contribution is made. [Except as provided in [section 501 D (7) (i) (ii), the tax credit will begin in the base year rather than the privilege year in which the contribution was made. (Refer to section 203 of the BPT regulations)
 - (i) Applicants commencing business in Philadelphia during the calendar year preceding the tax year are required to take the credit on the privilege year in which the contribution was made.
 - (ii) Applicants subject to section 501 D (7) (i) may not carry forward the tax credit to the succeeding privilege year.]

E. Administrative Requirements

1. No [applicant] Sponsor may claim or receive a [t]Tax [c]Credit under this section unless the [applicant] Sponsor is in full compliance with all applicable Philadelphia tax laws, ordinances, and regulations.
2. If a[n applicant] Sponsor makes an annual payment of less than \$100,000 to a QCDC, the Sponsor [applicant] must petition the Revenue Commissioner to be reinstated in the program. Where the Sponsor consists of two businesses, the remaining co-sponsor which has paid its pro rata contribution must comply with paragraph C (4).

F. Procedure for Obtaining Tax Credit; Notice.

1. [A business that wants to apply for the tax credit,] An Applicant or Sponsor must complete the [t]Tax [c]Credit application or renewal form provided by the Department and must file the completed [application] form [with] as required by the Revenue Commissioner [, Room 630,

Municipal Services Building, 1401 JFK Boulevard, Philadelphia,
Pennsylvania 19102].

[2. The business must file the complete application form with the Department no earlier than 9:00 am, Eastern Time on September 23, 2002 unless a later date is specified by the Department. Applications received by the Department prior to 9:00 am, Eastern Time on September 23, 2002 will be deemed to have been received by the Department on September 23, 2002 between the hours of 9:00 am, Eastern Time and 4:00 pm Eastern Time, unless a later date is specified by the Department.]

[3. Up to ten (10) qualified Applicants will be selected on a “first come-first served” basis. When necessary the Department will choose among the applicants that apply on the same date on a random basis pursuant to a public drawing as specified by the Revenue Commissioner. Applications received on the same date by the designee of the Department between 9:00 am, Eastern Time, and 4:00 pm, Eastern Time, will be considered received at the same time.]

[4.] 2. If an [selected a]Applicant submits an incomplete application in good faith, the [a]Applicant will be notified by the Department that the application is incomplete. The [a]Applicant will be allowed 14 calendar days from the mailing date of the notice letter to cure the failure. If within 14 calendar days the failure is not cured to the satisfaction of the Revenue Commissioner, the application will be denied and another [a]Applicant will be selected on a “first come-first served basis” based on existing filed applications.

G. Appeal Rights

1. The Department shall mail notice of an adverse decision in accordance with the Contribution Agreement if the Department decides that:

- a. An organization is not a QCDC,
- b. A QCDC is no longer qualified, or
- c. A Sponsor is no longer eligible to receive the Tax Credit.

[A business] 2. Any aggrieved party may challenge an adverse decision of the Department by filing an appeal with the Office of Administrative Review within 30 calendar days of the mailing date of the adverse decision letter.

H. Reporting Requirements

By July 1st of each year, the Revenue Department shall submit a written report to the Mayor, with a copy to the President and Chief Clerk of Council, summarizing the City's experience during the prior calendar year with the Tax Credit provided under this Section.

[] Brackets denote deleted language
_____ Underlining denotes new language