

Statute of Limitations for Audit

Q: It is our understanding that the Philadelphia Department of Revenue (PHLDOR) has a policy of applying a three-year (3) statute of limitations when performing audits on business tax returns (i.e. Business Privilege Tax, Net Profits Tax, Wage Tax, etc.). However, Philadelphia Code § 19-510 provides a six-year (6) statute of limitations. How does the PHLDOR determine whether to apply the three or six year statute of limitations?

A: *Effective for audit examinations that were scheduled on or after April 1, 1993, the PHLDOR decided to administratively restrict the period for audit assessments to the three most recent tax years. This administrative policy was implemented based on the recommendation in City Council's **Report of the Select Committee on Business Taxes** that was issued in February 1993 and was seen as a way of giving taxpayers "a greater belief in the fairness of the system".*

A decision to depart from the three-year statute of limitations is made on a case-by-case basis. The Revenue Examiner, after conferring with his or her supervisor and / or the senior management of the Audit Division, may decide to expand the scope of the audit to six years where the underpayment of the tax due appears willful and is material in amount. The scope may also be expanded where a prior audit report documents errors the taxpayer continues to make on tax returns filed subsequent to the report. The scope may also be expanded where the PHLDOR receives third-party information on a particular taxpayer and in due diligence must follow-up on the accuracy and validity of the information. The PHLDOR is in the process of reviewing the conditions that would expand the audit period.