City of Philadelphia – Department of Revenue

AMENDMENT TO THE CITY OF PHILADELPHIA'S GENERAL TAX REGULATIONS

A new Section 506 entitled "Amnesty Program" is added to the City of Philadelphia's General Tax Regulations and reads as follows:

Section 506. Tax Amnesty Program.

1. The Amnesty Program (the "Program") established by the Department of Revenue (the "Department") pursuant to Section 19-513 of The Philadelphia Code is available for the period beginning May 3, 2010 and ending June 25, 2010, as further described in this Regulation (the "Amnesty Period").

2. The Program shall apply to any taxes imposed and collected by The City of Philadelphia (the "City") or the School District of Philadelphia (the "School District") originally due and payable on or after February 1, 1986 and on or before June 30, 2009 (the "Eligibility Period").

3. a. Delinquent taxpayers that are eligible for the Program and comply with the requirements of this Regulation will satisfy their eligible tax delinquencies for all taxes imposed by or for the City or School District except for the Sales and Use Tax and Hotel Occupancy Tax imposed pursuant to Section 19-2701 and the General Acute Care Hospital Assessment and High Volume Medicaid Hospital Assessment imposed pursuant to Section 19-3502 (the "Eligible Taxes"), through the filing of any delinquent returns and the payment of all tax principal plus half (50%) of accrued interest plus all lien charges and court costs, with waiver of the accrued penalties, fines and 50% of accrued interest.

   b. For purposes of this Regulation, a taxpayer is "delinquent" with respect to payment of a tax or the filing of a return if the due date has passed and the taxpayer has not paid the tax in full or filed the return, as applicable.

   c. For purposes of this Regulation, if applicable law requires the payment of an estimated tax amount, the payment is "due and payable" only when the final payment or reconciliation of tax principal is due, and not on the due date of the estimated tax payment. This excludes estimated 2009 Business Privilege Tax from the Program. However, 2009 Wage (including Earnings) and Liquor by the Drink Taxes due and payable on or before June 30, 2009 may be eligible.

4. The Program shall be available to any taxpayer who is delinquent in the payment of tax as of the first day of the Amnesty Period, except that the Program shall not be available to a taxpayer who:

a. Received notice that the taxpayer is the subject of a criminal investigation for an alleged violation directly relating to any law imposing a City of Philadelphia or School District of Philadelphia tax;

b. Has been named as a defendant in a criminal complaint alleging any violation directly relating to a City of Philadelphia or School District of Philadelphia tax; or

c. Participated in any prior tax amnesty program of the City or was an officer of a company that participated in any such prior program.

The exceptions set forth in paragraphs 4.a and 4.b above shall not apply if the taxpayer has been notified that the investigation has concluded and no charges will be filed, or if no charges have been filed and all potentially applicable statutes of limitation have expired, or if all filed charges have been withdrawn, or if the taxpayer has been acquitted of all such charges.

5. If a taxpayer is delinquent in the filing of any return as of the beginning of the Amnesty Period, the taxpayer shall not be eligible for participation in the Program unless, by the close of the Amnesty Period, the taxpayer has filed all delinquent returns (whether or not the taxpayer is claiming Amnesty as to debts associated with such returns) and has so certified in the Amnesty Agreement described in paragraph 10 below.

6. No abatement shall be available under the Program for any interest, penalty, or fine paid prior to the start of the Amnesty Period. Taxpayers who have entered into payment agreements for delinquent taxes before the Amnesty Period shall be eligible for the Program with respect to such taxes so long as:

a. All payments due under the prior agreement between July 1, 2009 and the start of the Amnesty Period are current. Any that are not current at the start of the Amnesty Period must first be made current without the benefit of the Program. The requirements of this subparagraph (a) shall not apply to a payment agreement as to which the taxpayer was already in default as of July 1, 2009.

b. The payment agreement does not reflect any abatement of tax principal in settlement of litigation, unless the taxpayer has first paid all abated principal for all tax years and waived any claim to a refund or credit.

c. Notwithstanding the above, taxpayers that choose to participate in the Program instead of an existing payment agreement will not receive the benefit of principal, interest, penalty or other charges that were to be abated under the terms of the payment agreement, even as to payments already made pursuant to the payment agreement. In other words, the taxpayer must

choose between the benefits of the payment agreement as a whole and the benefits of the Program.

7. Subject to the provisions of paragraph 6, the Department shall abate attorney fees associated with a particular delinquency to the extent payment is made directly to the City's Tax Amnesty Administrator during the Amnesty Period and the taxpayer files a timely and complete Amnesty Application with Amnesty Agreement and Certification, as described below and participates in the Program as to the delinquency associated with the attorney fees.

8. In the event that, on or after July 1, 2009, the City or School District has secured a judgment for delinquent taxes, or a court decree or writ in aid of execution on a judgment for delinquent taxes, then such taxes shall be ineligible for abatement of interest or penalties under the Program. July 1, 2009 is hereby established as the Closing Date pursuant to Section 19-513(2)(e), because the Revenue Commissioner has determined that this date will maximize the overall collections of the City and School District.

9. *Taxpayer Application*.

   a. Taxpayers wishing to participate in the Program must file an application ("Amnesty Application") with the Tax Amnesty Administrator including all information requested on the Amnesty Application form provided by the City or the Tax Amnesty Administrator.

   b. The Amnesty Application, blank copies of which will be available on the Amnesty Website established by the Tax Amnesty Administrator, must be completed and filed during the Amnesty Period, together with the Amnesty Agreement and Certification described in paragraph 10, in the manner set forth in the Amnesty Application.

10. *Amnesty Agreement and Certification*. The Amnesty Application, which will be available on the Amnesty Website, shall include each taxpayer's agreement and certification to the following, in the manner set forth in the Amnesty Application:

    a. The taxpayer's acknowledgement of the type, years, and amount of each tax delinquency and each fine, and agreement that the amounts stated represent no less than the amounts in fact due to the City and/or School District.

    b. The taxpayer's certification that any and all returns for Eligible Taxes that should have been filed at any time since February 1, 1986, but had not been filed as of the commencement of the Amnesty Period, will have been filed through the Tax Amnesty Administrator and will be complete by the end of the Amnesty Period. For purposes of this Regulation, a taxpayer who has filed a final return for a tax period need not file any estimated return that may have been required.

c. The taxpayer's representation of the amount being paid to the City through the Tax Amnesty Administrator during the Amnesty Period, broken down by tax type, years, and amount of principal, interest, lien charges, and court costs.

d. The taxpayer's consent and agreement that the City may apply all amounts paid to taxes and fines owed irrespective of the extent to which the taxpayer qualifies for Amnesty, so long as the City first applies payments pursuant to subparagraph (c) above to the extent the taxpayer in fact qualifies for Amnesty.

e. The taxpayer's consent and agreement that the Department may reassess and collect from the taxpayer all amounts abated pursuant to the Program, and all interest, penalty, and attorney fees that would have accrued had such amounts not been abated, if within three (3) years after the end of the Amnesty Period the taxpayer either:

   i. Becomes six (6) or more months late in filing or paying any Eligible Tax to the Department;

   ii. The Department notifies the taxpayer that the taxpayer omitted the disclosure or filing of any return whose disclosure or filing was required pursuant to the Program; or

   iii. The Department notifies the taxpayer that the taxpayer substantially understated the tax principal liability as to taxes for which interest and penalty were abated under the Program; or

   iv. The Department determines that any taxpayer certification in connection with Amnesty or the Amnesty Application or Agreement was false, or that the taxpayer has violated any provisions of the Amnesty Agreement.

   The three-year and six-month periods set forth in this subparagraph (e) shall each be tolled by the pendency of a timely filed administrative or judicial appeal by the taxpayer or the City as to an Eligible Tax for any period as to which payment was due after June 30, 2009. For purposes of this subparagraph (e) only, a delinquency for a tax period for which payment was originally due and payable before February 1, 1986 shall not be considered six or more months late; and a delinquency for a tax period originally due and payable during the Eligibility Period, but which because of financial inability as discussed in paragraph 10(j) below the taxpayer does not discharge during the Amnesty Period, shall not be deemed to become six or more months late during the three year period.

f. The taxpayer's covenant and agreement that the taxpayer shall not seek and the Tax Review Board ("Board") shall not grant any abatement of principal, or

any further abatement of interest or penalties, on any Eligible Taxes as to which the taxpayer has received any abatement under the Program.

g. The taxpayer's consent and agreement that any refunds or credits otherwise due to the taxpayer and paid within 180 days of the expiration of the Amnesty Period shall carry no interest.

h. The taxpayer's certification that the taxpayer has not previously participated in any prior City tax amnesty program and was not an officer of any entity that previously participated in any prior City tax amnesty program.

i. The taxpayer's certification that all taxes for which the taxpayer is liable have been disclosed and that contemporaneously with the Amnesty Agreement (or no later than the close of the Amnesty Period) all returns are being filed.

j. The taxpayer's certification that full payment of principal, interest, lien charges, and court costs is being made on all Eligible Taxes relating to the Eligibility Period, except and to the extent that the taxpayer does not have the financial ability to make payments in any amount greater than actually paid during the Amnesty Period. The City and School District will not abate accrued interest, penalties, fines, or attorney fees for a given tax year except and to the extent the taxpayer has paid full principal and half interest.

11. *Who Must File.*

a. A taxpayer must file the Amnesty Application, including the Amnesty Agreement and Certification.

i. If two or more people share the same tax account, as with an unincorporated business or with real estate, either of which is owned by more than one person, then any of the co-owners in whom the tax account is registered with the City may file, with or without the joinder of any other co-owner.

ii. If two or more people otherwise share the same tax liability, as with a business and a person responsible for remitting trust taxes collected by the business for the City or the School District (as with Wage Tax or Liquor by the Drink Tax), then any of the co-responsible parties may file.

iii. If a partnership or other legal entity is the taxable entity under The Philadelphia Code and Revenue Regulations, as with Real Estate Tax or Wage Tax accounts, then the filing must be made by the entity.

iv. If the individual submitting the Amnesty Application, Amnesty Agreement, and Certification on behalf of the taxpayer is not the taxpayer, then the filer must certify to authorization to bind the taxpayer.

b. A co-owner or co-responsible party may join in an Amnesty Application, Amnesty Agreement, and Certification, or may file a separate Amnesty Application, Amnesty Agreement, and Certification, during the Amnesty Period.

c. A co-owner or co-responsible party that does not join in an Amnesty Application, Amnesty Agreement, and Certification, and does not file a separate Amnesty Application, Amnesty Agreement, and Certification, during the Amnesty Period shall have no right to the benefits of the Program if revoked by the City pursuant to paragraph 10.e above.

d. A taxpayer on whose behalf another person has submitted an Amnesty Application, Amnesty Agreement, and Certification shall have no right to the benefits of the Program if revoked by the City pursuant to paragraph 10.e above due to misrepresentations of the individual, even if the individual did not in fact have the authority to bind the taxpayer.

e. As to real estate taxes, if the owner of record is deceased and title has not been formally vested by will or intestate succession, then any person claiming rights to the property may file an Amnesty Application and make an Amnesty Agreement and Certification as if such person were the taxpayer of record, provided that such person further certifies to the death and lack of succession and agrees in writing that neither the Application nor the Agreement nor the payment nor anything in connection with the Program shall convey recognition by the City or School District as owner of the property, nor shall such person be entitled to any refund from the City or School District in the event such person is determined not to be owner, or full owner, of the property.

12. Participation in the Program shall not relieve a taxpayer of any right or obligation to file an amended tax return at a later date as to an Eligible Tax from the Eligibility Period. However, if the amended return shows that the taxpayer must pay additional tax principal, then the taxpayer must **immediately** pay full interest and penalty on the amount of the additional principal, calculated from the due date of the original tax principal had the filing for that tax period been correct. Failure to pay such amount within thirty (30) days shall be grounds for revocation of all Amnesty abatements pursuant to paragraph 10(e)(i) above.

13. No refund or credit shall be allowed for any interest, addition to tax, penalty, fine, attorney fee, cost, or other charge paid by the taxpayer prior to the Amnesty Period.

14. Any timely filed Amnesty Application and/or Amnesty Agreement and Certification may be amended, with supplemental payment, if received by the Tax Amnesty Administrator no later than June 30, 2010, which for such

purposes only shall be deemed to be within the Amnesty Period. The Commissioner shall have the discretion to extend this date for the purposes of amended Amnesty Applications but not for purposes of payments.

15. No future amnesty program, if any, shall permit abatement of interest or penalty with respect to any taxes first due on or before June 30, 2009.

_____ denotes new language.

[ ] denotes deleted language.