



ReveNews

Winter 2012 Edition

Michael A. Nutter, Mayor

Keith J. Richardson, Revenue Commissioner

Commissioner's Welcome

Happy New Year to All!

As we embark on a new year, the Nutter Administration has worked with City Council this past fall to implement the most significant tax reform changes in over 25 years. In this ReveNews legislative updates, you will have an opportunity to review changes made to the Business Privilege Tax which will be renamed to the Business Income and Receipts Tax effective May 1, 2012. Beginning in 2013, taxpayers will be able to take an exclusion of \$50,000 that will increase over the following years to \$100,000 in 2015. The city will also be implementing Single Sales Factor which will have a positive effect on Philadelphia based businesses.

The department continues to target delinquents who owe the city. We are currently working on our "pension project." Former city employees owe \$13 million and we plan to implement withholding up to 25% of their monthly pension check until the debt to the City is paid entirely. We will be increasing the number of properties sold at Sheriff Sales from approximately 200 to 600 monthly.

- Commissioner Keith J. Richardson

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Legislation Update

Generating the Birth of New Businesses and the Creation of Jobs, Bill No. 110548-A

Passed by the City Council on November 3, 2011, Bill No. 110548-A was signed by the Mayor on November 14, 2011. The Bill is composed of two parts:

The first part amends Chapter 19-2600 of the Philadelphia Code, entitled the Business Privilege Tax, and eliminates the \$300 permanent and the alternative \$50 annual Business Privilege License fee. This law shall take effect beginning Tax Year 2014 and should apply to all new businesses.

The second part adds a new chapter (Chapter 19-3800) to the Philadelphia Code entitled "New Businesses." With respect to the first two years that a business qualifies as a New Business: (a) The Business Privilege Tax shall be imposed on the New Business at the rate of zero (0) percent and (b) all fees charged by the City to the New Business for various licenses and registrations, including the Business Privilege License fee, shall be waived; however, all such licenses and registrations shall continue to be required to the extent applicable to the New Business. This Chapter applies only to businesses that qualify as a New Business and shall take effect beginning Tax Year 2012. Under this ordinance:

1. A New Business is defined as a business that was not subject to the Business Privilege Tax at any time during the five (5) Tax Years preceding Tax Year 2012.
2. The bill provides various situations that exclude a new business from qualifying as a New Business for the purpose of this Chapter. For example, the term New Business does not include a business that is primarily engaged in holding, selling, leasing, transferring, managing or developing real estate.
3. As a condition of maintaining New Business status, the business must 1) as of the 12-month anniversary of becoming subject to the Business Privilege Tax and continuously thereafter through the 18-month anniversary of becoming subject to such tax, have at least three full-time employees who are not family members and who work in the City at least sixty percent (60%) of the time; 2) as of the 18-month anniversary of becoming subject to the Business Privilege Tax and continuously thereafter through the 24-month anniversary of being subject to such tax, have at least six full-time employees who are not family members and who work in the City at least sixty percent (60%) of the time; and 3) must file with the Department of Revenue a New Business Waiver Application, in such form as the Department shall determine, setting forth the New Business's commitment to meet the employment and other requirements of this Chapter and such other information as the Department shall require.
4. At the end of its second anniversary of becoming subject to Business Privilege Tax, a New Business shall cease to be a New Business.
5. A business that otherwise qualifies as a New Business does not lose its status as such if it ceases to exist prior to the end of its second anniversary.
6. The Department of Revenue is authorized to promulgate regulations including regulations regarding the determination of whether a business qualifies as a New Business, what documentation must be submitted by a business claiming "New Business" status and a certification that the business was not formed for the purpose of evading or avoiding payment of taxes or fees that would otherwise be due. If the Department finds that a taxpayer claiming the status of a New Business was not entitled to that status, the taxpayer shall be liable for any unpaid taxes, including any charges, interest, penalties and costs that are applicable under the law.

The New Business Waiver Application form is now the second page to the City's business registration form. The revised form will be on Department of Revenue's website soon and can be filed on-line at <https://ework.phila.gov/revenue/>. The Department anticipates having the regulations completed by the end of March, 2012.

Major Business Tax Reform and Tax Relief Bill, Bill No. 110554

Passed by the City Council on November 3, 2011, Bill No. 110554 was signed by the Mayor on November 14, 2011. Bill No. 110554 contains four (4) items of amendment to Chapter 19-2600 of The Philadelphia Code:

1. Additional across-the-board exclusion from Taxable Receipts received by any business subject to the Business Privilege Tax. This exclusion phases-in beginning in Tax Year 2014 with an exclusion of the first \$50,000 in taxable receipts. The exclusion will increase to the first \$75,000 for tax year 2015 and will reach the maximum with the first \$100,000 exclusion of taxable receipts for tax year 2016 and thereafter;
2. A deduction for the pro rata portion of net income attributable to the receipts exclusion provided under the first item;
3. A Single Sales Factor Apportionment Tax Credit and
4. A suspension of the scheduled receipts tax-rate reduction and for a lower net income tax-rate reduction than the scheduled rate reduction.

Item #1 and Item #2:

The combined exclusions from both the gross receipts and the net income tax base of the Business Privilege Tax provide a significant tax relief for small and start-up Philadelphia businesses. The following examples illustrate the significance of this tax relief for small and start-up businesses.

Example: Assume that 1) a person is operating a business entirely within Philadelphia, 2) the total gross receipts from the business activity is \$100,000 and 3) the net income is \$50,000.

BPT Due for Tax Year 2012 and Tax Year 2013

Gross Receipts Tax	$\$100,000 \times .00141 = \$ 141.50$
Net Income Tax	$\$ 50,000 \times .0645 = \$3,225.00$
Total BPT	\$3,366.50

BPT Due for Tax Year 2014

Gross Receipts tax base	$\$100,000 - \$50,000 = \$50,000$
Net Income tax base	$\$50,000 - (\$50,000 \times \$50,000 / \$100,000) = \$25,000$
Gross Receipts Tax	$\$50,000 \times .001415 = \$ 70.75$
Net Income Tax	$\$25,000 \times .0643 = \$1,607.50$
Total BPT	\$1,778.25

TAX RELIEF = $\$3,366.5 - \$1,778.25 = \$1,558.25$
Percentage of Tax Relief $\$1,558.25 / \$3366.5 = 46\%$

BPT Due for Tax Year 2015

Gross Receipts tax base	$\$100,000 - \$75,000 = \$25,000$
Net Income tax base	$\$50,000 - (\$50,000 \times \$75,000 / \$100,000) = \$50,000 - \$37,500 = \$12,500$
Gross Receipts Tax	$\$25,000 \times .001415 = \$ 35.00$
Net Income Tax	$\$12,500 \times .0641 = \801.00
Total BPT	\$836.00

TAX RELIEF = $\$3,366.5 - \$836.00 = \$2,530.50$
Percentage of Tax Relief = $\$2530 / 3367 = 75\%$

BPT Due for Tax Year 2016 and thereafter

Gross Receipts tax base $\$100,000 - \$100,000 = 0$

Net Income tax base	$\$50,000 - (\$50,000 \times \$100,000 / \$100,000) = \$50,000 - \$50,000 = 0$
Gross Receipts Tax	$\$0 \times .001415 = \0
Net Income Tax	$\$0 \times .0639 = \0
Total BPT	\$0

TAX RELIEF = $\$3,366.50$
Percentage of Tax Relief = $\$3367 / \$3367 = 100\%$

Item #3: Single Sales Factor Apportionment Tax Credit

The proposal contained in this bill takes into consideration the administration's budgetary concerns and provides for a "single sales factor apportionment tax credit" designed to establish by regulation the SSFF for the apportionment of net income beginning tax year 2015.

This is how it works:

First, the business shall determine its current BPT liability using the regulatory mandated three-factor apportionment formula. Second, it determines its single sales factor apportionment liability using SSFF. If the liability determined using the regular method is more than the liability determined using the SSFF, the difference is the amount of the single sales factor apportionment tax credit base (the "base"). For tax years 2013 and 2014, the tax credit amount shall be a percentage of the base as determined by the Revenue Department by regulation to be fiscally prudent in light of the City's budget needs. For tax year 2015 and thereafter, the bill doesn't give the Department of Revenue the mandate to determine by regulation the tax credit amount; instead, tax credit amount shall be 100% of the single sales factor apportionment tax credit base. This effectively establishes, by ordinance of the City Council, an SSFF as an alternative apportionment formula to the regulatory mandated three-factor apportionment formula taxpayers may use if they choose to do so.

However, this ordinance further provides that "there shall be no credit in any year in which, pursuant to Department of Revenue regulations, taxable income is apportioned exclusively based on [SSFF]." This means that the Department of Revenue by regulations may establish SSFF as mandatory apportionment formula for all taxpayers and thereby eliminates the Single Sales Factor Apportionment Credit rule provided under the ordinance.

Item #4: Eliminating the Gradual Receipts Tax-Rate Reduction and Lowering the Net income Tax-Rate Scheduled Reductions

Prior to this amendment, the Philadelphia Code provided for gradual reduction of the Receipts Tax Rate to Zero (0) and for the Net Income portion of the tax to 6% by year 2022. This bill eliminates the receipts tax rate reduction and provides the application of the current tax rate of 1.415 mills for the current year and all the years thereafter. The bill also lowers the gradual net income tax reduction previously provided by ordinance for tax years 2014 through 2022 and postponed the application of the 6% tax rate from tax year 2022 to 2023.

[An Ordinance to Change the Names of "Business Privilege Tax" and "Business Privilege License", Bill No. 110758](#)

Passed by the City Council on December 8, 2011 and signed by the Mayor on December 21, 2011, Bill No. 110758 amends Chapter 19-2600 of The Philadelphia Code, entitled "Business Privilege Taxes," to change the name of the Business Privilege Tax to the Business Income and Receipts Tax and the Business Privilege License to the Commercial Activity License, and to make conforming amendments throughout The Philadelphia Code.

With the passage of the two major business tax-reform legislations, Bill Nos. 110548-A and 11054, the time is ripe for a change of this designation signaling the downing of a new era in Philadelphia's business climate. By substantially reducing the business tax burden of small and start-up businesses operating within Philadelphia and by eliminating the \$300 business license fee new businesses have to pay to start a business within Philadelphia, these tax reform ordinances send a clear message that Philadelphia welcomes businesses to open their shops within the City.

[An Ordinance Amending the CDC Tax Credit Program, Bill No. 110561](#)

Bill No. 110561 was passed by the City Council on October 13, 2011 and was signed by the Mayor on October 26, 2011. The bill amends subsection 19-2604(6) of The Philadelphia Code, under which businesses that enter into agreements to make contributions to Community Development Corporations and Nonprofit Intermediaries receive business privilege tax credits for their contributions. The amendment reduces the amount of tax credit a business shall receive from \$100,000 to \$85,000 per year and the amount a business is required to contribute from \$100,000 to \$85,000. Under this bill, the number of businesses that may enter into a contribution agreement with the City to participate in the program is increased from thirty (30) to thirty-five (35).

The provisions of this Ordinance shall take effect immediately. The reduction in the amount of the annual tax credit from \$100,000 to \$85,000 shall not apply to any business that has executed a contribution agreement before the date this Ordinance became law. However, if any such contribution agreement is terminated before the end of its term and after the date this Ordinance became law, then the reduction in the amount of the tax credit from \$100,000 to \$85,000 shall apply to any business that executes a new agreement for the number of years remaining in such terminated agreement under the provisions of §19-2604(6) (e) of the Code.

Regulation Update

Amendment to Section 302 of the Business Privilege Tax Regulations - Exclusions from the Receipts Tax Base This amendment to the BPT regulations was made pursuant to an ordinance of the City Council (Bill No. 110373) that provides for certain exclusions relating to investments made under the federal New Market Tax Credit program -. For tax year 2011 and thereafter, any interest or fees received on loans made under the Federal New Markets Tax Credit program, Section 45D of the Internal Revenue Code (26 U.S.C. § 45D) shall be excluded from receipts for the purposes of the Business Privilege Tax.

A Provision for Mandatory and Voluntary Electronic Filing and Payments, Bill No. 100224 - Bill No. 100224 adds a new Section 19-511 to the Philadelphia Code entitled "Electronic Payments and Filings". This ordinance gives the Department of Revenue the authority to promulgate regulations to specify the taxes, terms and conditions under which taxpayers would be required to file and pay electronically. The ordinance also provides for penalties for those taxpayers who fail to comply with the Department's electronic filing and electronic payment requirements. The Department promulgated six (6) regulations as a result of this Council Bill. The amendments are to the following regulations:

[General Section Tax Regulation Section 203 - Electronic Filing and Payment](#)

[Income Tax Regulation Section 304 - Employer/Payroll Services - Electronic Filing and Payment](#)

[Tobacco and Tobacco - Related Products Tax Regulation Section 103 - Returns and Payment of Tax](#)

[Liquor Sales Tax Regulation Section 302 - Electronic Filing and Payment](#)

[Parking Tax Regulation Section 304 - Electronic Filing and Payment](#)

[Vehicle Rental Tax Regulation Section 303 - Electronic Filing and Payment](#)

Pennsylvania's Act 32 of 2008 and Philadelphia Wage Tax

There has been much confusion as to how Pennsylvania's Act 32 of 2008 impacts the City of Philadelphia's ability to collect the Philadelphia Wage Tax withheld from Philadelphia residents working at employer locations outside Philadelphia but within the Commonwealth of Pennsylvania. Pennsylvania Department of Community and Economic Development (DCED) incorrectly posted on their website that such employers remit Philadelphia Wage Tax withholdings to the tax officer/collector for their county. We have contacted the Pennsylvania Department of Community and Economic Development (DCED) to communicate our understanding of the implications of Act 32 as it relates to the Philadelphia Wage Tax withheld by such employers. The DCED has sought and received advice from their legal council that agrees with our understanding of the provisions of Act 32 of 2008. Accordingly, they have agreed to post the following understanding on their website to inform all affected employers and the general public that the previously posted information is incorrect.

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An employer who maintains a location within the Commonwealth of Pennsylvania and employs one or more residents of the City of Philadelphia must withhold and remit the Philadelphia Wage Tax directly to the City of Philadelphia - Department of Revenue. This requirement which was effective August 15, 1994 (Act 48 of 1994) is found in the Personal Income Tax section of the Tax Reform Code of 1971- more specifically at 72 P.S. § 7359 (Savings clause and limitations). The provisions of Pennsylvania's Act 32 (which amends the Local Tax Enabling Act) do not amend or impact the language of (and the requirements) of 72 P.S. § 7359. As such, no Pennsylvania employer who is required to withhold the Philadelphia Wage Tax from Philadelphia resident employees should send the amount withheld to a local tax collector. Act 32 notwithstanding, Pennsylvania employers who employ Philadelphia residents will still be required to withhold the Philadelphia Wage Tax and remit the money directly to the Philadelphia Department of Revenue.

2012 Real Estate Taxes Due March 31

If you pay your current year real estate taxes before March 1, 2012 you will receive a 1% discount on your bill. The 2012 taxes are due in full by March 31, 2012. You can view and pay your balance on-line with a credit card with a 2.49% processing fee or e-check with a \$1.50 processing fee at www.phila.gov/revenue/realestatetax. Failure to pay your real estate bill in full by March 31, 2012 will lead to additions being added to your bill starting in April. If you cannot pay the entire amount in full, then you may make a partial payment which will reduce the amount of penalties and/or collection agency fees that will be applied. You will still be subject to a lien charge, capitalization for any unpaid balances, interest and penalty starting January 1, 2013. The City of Philadelphia offers an Installment Plan for current year taxes and a Senior Citizen Tax Freeze if you meet certain income and/or age requirements. The information on these various programs is included with your annual real estate tax bill that you should have received already and must be filed immediately if you have not already done so.

Sheriff's Sales and Large Water Delinquencies Now Posted!

On Revenue's delinquencies website, <http://www.phila.gov/revenue/delinquencies/>, the department is now publishing its list of monthly Sheriff's Sales. This list will be refreshed every month with the new properties for Sheriff's Sale. The City's Sheriff's Sales are normally held on the third Wednesday of every month. That screen also has a link to the upcoming Tax Sales to be held on our behalf by co-counsel Linebarger, Goggan Blair & Sampson, LLP. Also listed on that website are some of the City's largest water delinquencies and largest business tax delinquencies. These lists will be refreshed every quarter.

City Pensioners Must Pay if They Owe Delinquent Taxes

In November 2011 the City of Philadelphia sent out letters to 2,500 recipients and beneficiaries of city pension checks that are not current on their city and school district taxes. The letter warns them that the City can withhold up to 25% of their pension checks to pay their outstanding tax liabilities. The outstanding taxes total \$13 million. City pension check recipients will be given an opportunity to come into payment agreements to avoid pension check withholding that will commence early next year. The City had a similar initiative, beginning in 2009 in cooperation with the City Controller's Office, warning City employees of paycheck withholding to offset delinquent city and school district taxes. The City has collected about half, \$3.4 million, of the original delinquency through lump sum payments, payment agreements and paycheck withholding.

Don't Fall Behind During Winter Moratorium

Most people know that the shut-off of residential water service for non-payment is suspended from December 01 through March 31; this is known as the Winter Moratorium. Commercial accounts are not covered by the moratorium and are subject to termination of service when the account becomes delinquent for one billing cycle and the balance is over \$75.00. During moratorium, customers should continue to pay their monthly water/sewer/stormwater bill to avoid dealing with a large delinquent balance in April. The Water Revenue Bureau recommends that customers with delinquent balances call our Customer Service Center at 215-686-6880, Monday through Friday, 8:00 A.M. to 5:00 P.M., to make arrangements to pay their balance or apply for assistance. Keep in mind, even during moratorium, residential service can be terminated for theft of service violations and for accounts illegally restored, after previously being shut off.

The Office of Business Services

The Office of Business Services (OBS) is the City's one-stop-shop for business related services. Representatives are ready to help your business with a wide range of issues, from navigating the permitting process to identifying loan programs for which your business might qualify. When you contact OBS, a business liaison will be assigned to your company-your liaison will be your partner in moving your business forward. OBS works in partnership with other City agencies and regional organizations to direct you to the latest programs and initiatives available to grow your business. To contact the Office of Business Services, call the Client Services Hotline at 215.683.2014, or email business@phila.gov.

Philadelphia Extends the Annual Tax Filing and Payment Deadline

According to the newsletter issued on January 4, 2012 (IR-2012-1), Internal Revenue Service announces that for the 2012 tax filing season taxpayers have until April 17 to file their tax returns. The City allows the same extension to make it easier for taxpayers by making the federal and the city taxes due on the same day. Accordingly, the deadline of any city annual tax returns or payments customarily due on the 15th of April - Business Privilege Tax, Net Profits Tax, School Income Tax and Earnings Tax, annual reconciliations have been automatically extended to April 17, 2012.

ROAD Program

The Department of Revenue offers the ROAD program (Returns On A Disk) for tax preparers who submit Business Privilege Tax, Net Profits Tax, Wage Tax and School Income Tax returns. These returns can be filed electronically by using "ROAD". The program eliminates computation errors and the need for blank tax returns. Payments must be mailed into the office or submitted using our ACH Credit or ACH Debit option. The application can be found on our website at <http://www.phila.gov/revenue/elecfilling.html#ROAD>. Please email us at egovservices@phila.gov or call 215-686-6628 to learn more.

File and Pay Taxes On-line

File and pay your current Business Privilege Tax, Net Profits Tax, School Income Tax and Wage Tax Annual Reconciliation on-line at <https://ework.phila.gov/revenue/>. Pay your real estate taxes on-line at <http://www.phila.gov/revenue/RealEstateTax/> and pay your water bills online at <https://secure.phila.gov/PaymentCenter/AccountLookup/>.

E-check and credit cards are the accepted online payment options. The E-Check processing fee is \$1.50 for transaction amounts up to \$10,000 and \$12.00 for transaction amounts >\$10,000. The credit card processing fee is 2.49%.