

City of Philadelphia – Department of Revenue

New Business Privilege Tax Developments

- **Bill No. 110554 (Sanchez / Green)**. This bill makes the following amendments to the Business Privilege Tax:
 - ❖ For tax year 2014, the first \$50,000 in taxable receipts is excluded from the definition of *Receipts*. For tax year 2015, the first \$75,000 and for tax year 2016 and thereafter, the first \$100,000 in taxable receipts is to be excluded from the definition.
 - ❖ Amends the definition of *Net Income* to provide for a pro-rata deduction for the net income attributable to the first \$50,000, \$75,000, \$100,000 etc. receipts exclusion noted above.
 - ❖ Starting in tax year 2013 and continuing for tax year 2014, provides for a nonrefundable single sales factor tax apportionment credit in a percentage to be determined by the Revenue Department (by regulation) to be fiscally prudent in light of the City's budget needs. The single sales factor apportionment tax credit shall be calculated by determining the Current Business Privilege Tax Liability (as defined) minus the Single Sales Factor Apportionment Liability (as defined) to arrive at the %single sales factor apportionment tax credit base+. (*Note: the Single Sales Factor Apportionment Liability is what the net income portion of the tax would be using the ratio of taxable Philadelphia receipts to the total receipts of the business*). For tax year 2015 and thereafter, the single sales tax apportionment credit percentage shall be 100%. The Revenue Department may by regulation detail the documentation that a business must submit with its tax return to support this apportionment credit.
 - ❖ Halts the planned reductions in the Receipts tax millage rate and retains the present 1.415 mills to 2023 and thereafter. The planned reductions in the Net income rate would be slowed down and be reduced from the present rate of 6.45% to 6% as of 2023.

- **Bill No. 110548-A – Kenney** - This bill makes the following amendments to the Business Privilege Tax:
 - ❖ Effective January 1, 2014, eliminates the fee for issuance of the Business Privilege License. (*Note – a business will still be required to obtain a Business Privilege License.*)
 - ❖ Adds a new Chapter 19-3800 entitled *New Businesses* to the Philadelphia Code.
 - ❖ Defines a *New Business* as one not subject to the Business Privilege Tax at any time during the five (5) years preceding Tax year 2012. An existing business that is not subject to the tax because it is not currently engaged in business within the City of Philadelphia would meet the definition.
 - ❖ For the first two (2) years that a business qualifies as a New Business the BPT tax rate will be zero percent (0%). In addition, all fees charged by the City for various listed licenses (inclusive of the Business Privilege License) shall be waived.
 - ❖ Exclusions from the term *New Business*:
 - ✓ A business affiliated with or sharing substantial common ownership or control with a business that has filed a BPT return.
 - ✓ A business created through an ownership change of a business that has filed a BPT tax return. This includes (but is not limited to) a merger, acquisition, reorganization or the transfer of an existing business to a person who maintains the same or substantially similar business; and the closing of an existing business and its subsequent reopening as the same or similar business.
 - ✓ A business formed for the purpose of evading or avoiding payment of taxes and fees that would otherwise be due but for the provisions of this new chapter of the Philadelphia Code; or
 - ✓ A business, the primary business activity of which is holding, selling, leasing, transferring, managing or developing real estate.
 - ❖ Conditions for Tax and Fee Relief. Employment Requirement. . As of the 12 month anniversary of becoming subject to the BPT and continuously thereafter through the 18 month anniversary of being subject to the tax, the New Business must have at least three (3) full-time employees who are not family members and work in the City at least sixty (60%) percent of the time.

As of the 18 month anniversary and continuously thereafter through the 24 month anniversary of being subject to the tax, the New Business must have at least six (6) full-time employees who are not family members and who work in the City at least sixty (60%) of the time. At the end of its second anniversary of becoming subject to the BPT, a New Business shall cease to be a New Business.

- ❖ Opportunity to Cure . If it is determined that, after a New Business hires the required number of qualifying employees, the number subsequently drops below the required minimum, the business shall cease to be a New Business and shall be retroactively liable for all taxes and fees. If the owner demonstrates that the shortfall was temporary and has been or will be cured within 30 days of the shortfalls first occurrence, the Revenue Department will continue to treat the business as a New Business if all other qualifying conditions are met.

- ❖ New Business Waiver Application . In order to claim any of the benefits of a New Business, a New Business Waiver Application must be filed with the Revenue Department setting forth the New Business's commitment to meet the employment and other requirements as set forth in this new Chapter to the Philadelphia Code.

- ❖ If the Revenue 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, fees and charges that would have otherwise been due and shall be subject to the provisions of Philadelphia Code § 19-509 (*Interests, Penalties and Costs*), § 9-102 (*Licenses and Permits*) and all other provisions applicable to the nonpayment of taxes fees and charges.

- ❖ A business that otherwise qualifies as a New Business does not lose its status as such if, prior to the end of its second anniversary of becoming subject to the BPT, the business ceases to exist.

- ❖ Nothing in this new Chapter shall affect requirements in the Code that certain tax returns or other financial information be filed. (*Note: The New Business will still be required to file the BPT return. The tax rate will be zero percent (0%). Unincorporated businesses will therefore lose the BPT credit that is applied against the Net Profits Tax.*)