

CITY OF PHILADELPHIA
NEW BUSINESSES REGULATIONS
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NEW BUSINESSES REGULATIONS

PREFACE

The Council of the City of Philadelphia approved an Ordinance (Bill No. 110548-A) on November 3, 2011 amending The Philadelphia Code (“Code”), principally Title 19, entitled “Finances, Taxes and Collections,” and such other provisions as appropriate, to reduce the tax burden on existing and new businesses and to eliminate, waive, or reduce certain fees and permit charges; all under certain terms and conditions. The Ordinance amended Section 19-2602 entitled “Licenses” and added a new Chapter (Chapter 19-3800) entitled “New Businesses.” The Ordinance was signed by the Mayor on November 14, 2011.

The Department of Revenue under the authority set forth in Section 19-3800(7) of the Code, and by virtue of the authority granted to the Revenue Commissioner under Section 1-104 of the Code, has promulgated the following regulations regarding status as a “New Business” and those fees charged for licenses and registrations which shall be waived pursuant to provisions of Chapter 19-3800.

The Ordinance and these regulations shall take effect beginning with Tax Year 2012, except for the amendments to Section 19-2602 of the Code which shall take effect January 1, 2014 whereby no fee shall be charged for issuance of the Commercial Activity License.

Enrolled Bill No. 110548-A (approved November 14, 2011) did not provide for a section number or related heading under Chapter 19-3800 of the Code; “§19-3801. New Businesses.” was added by the Code editor. As such, the Department of Revenue, as codified under §19-3801(7) of the Code, is authorized to promulgate regulations implementing the provisions of Chapter 19-3800.

The “Commercial Activity License” referenced in Section 201 was formerly known as the “Business Privilege License”. “Business Privilege License” was changed to “Commercial Activity License” by Bill No. 110758 (signed by the Mayor on December 21, 2011), effective May 1, 2012.

Bill No. 120774-A (signed by the Mayor on January 14, 2013) amended §19-3801(2)(c) of the Code to make conforming changes whereby the reference is to Section A-907 (relating to zoning and planning) of Title 4 instead of Section 14-706 (Title 14). As a result, the conforming change was made to Section 201 of these regulations.

On June 25, 2013, an Ordinance (Bill No. 130445) was signed by the Mayor which amended §19-3801(2) of the Code. This Ordinance added a provision whereby, effective Tax Year 2013, the Net Profits Tax imposed by §19-1502 of the Code shall be imposed with respect to the income of the New Business at the rate of zero-percent (0%) – with respect to first two years that the business qualifies as a New Business. This provision is not retroactive to Tax Year 2012.

**ARTICLE I
GENERAL PROVISIONS**

Section 101. Definitions.

For the purpose of these regulations, the following definitions shall apply:

- (a) “Code.” The Philadelphia Code.
- (b) “Department.” The Revenue Department.
- (c) “Family member.” A parent, spouse, life partner, child, sibling or like relative-in-law of an owner of a New Business or affiliate.
- (d) “New Business.” A business that is now subject to the tax imposed under Section 19-2603 of the Code but was not subject to it at any time during the five Tax Years preceding the first Tax Year engaged in business within Philadelphia.
 - (i) An existing business that is not subject to the tax imposed under Chapter 19-2600 of the Code because it is not currently engaged in business within the City of Philadelphia is eligible to qualify as a New Business upon engaging in such business within Philadelphia if it meets the requirements of the preceding definition.

Examples:

- 1. A person operated a business in Philadelphia and ceased to be in business in Tax Year 2006. The same person reopened the same or similar business in Tax Year 2012. The business would qualify as a New Business.
- 2. A person operated a business in Philadelphia that closed in Tax Year 2010. The same person opened an entirely different business in Tax Year 2012. The business opened in Tax Year 2012 would qualify as a New Business unless excluded from the term “New Business” as described under paragraph (ii) of this subsection.
- 3. A person operating a business in Philadelphia over the years closed the business in Tax Year 2010. The person reopened the same or similar business in Tax Year 2012. The business opened in Tax Year 2012 would not qualify as a New Business.
- 4. A person operating a business in Philadelphia over the years opened a new location in Tax Year 2012. The business location opened in Tax Year 2012 would not qualify as a New Business.
- 5. A business is located outside Philadelphia and was never subject to the tax imposed under Chapter 19-2600 of the Code. The person opens a location in

Philadelphia in Tax Year 2012. The business opened in Philadelphia in Tax Year 2012 would qualify as a New Business.

6. A person located outside Philadelphia, but doing business in Philadelphia over the years, opens a business location in Philadelphia in Tax Year 2012. The business opened in Tax Year 2012 would not qualify as a New Business.

(ii) Exclusions. The term “New Business” does not include:

- (.1) a business affiliated with or sharing substantial common ownership or control with a business that has filed a tax return as required under Chapter 19-2600 of the Code;
- (.2) a business created through an ownership change of a business that has filed a tax return as required under Chapter 19-2600 of the Code, including, but not limited to:
 - (A) a merger, acquisition or reorganization;
 - (B) the transfer of an existing business to a person who maintains the same or substantially similar business;
 - (C) the closing of an existing business and its subsequent reopening as the same or similar business;
- (.3) a business formed for the purpose of evading or avoiding payment of taxes or fees that would otherwise be due but for the provisions of Chapter 19-3800 of the Code and these regulations; or
- (.4) a business, the primary business activity of which is holding, selling, leasing, transferring, managing or developing real estate. A real estate broker, title company, management company or other similar business whose activity is managing, leasing or selling real estate owned by unrelated persons is not excluded from the term “New Business”, provided that the business is a New Business as defined in Section 101 of these regulations.

Examples:

1. A person operated a business in Philadelphia beginning in Tax Year 2012 and closed the business in Tax Year 2013. The same person opened the same or similar business in Tax Year 2014. The business opened in Tax Year 2012 would qualify as a New Business. The business opened in Tax Year 2014 would not qualify as a New Business.

2. A person operated a law firm in Philadelphia beginning in Tax Year 2012 and closed the business in Tax Year 2013. The same person opened a grocery store in Tax Year 2014. The business opened in Tax Year 2012 would qualify as a New Business. The business opened in Tax Year 2014 would also qualify as a New Business.
 3. An individual operating a business in Philadelphia over the years as a sole-proprietor closed the business in Tax Year 2010. The same individual incorporates the business and opens the same or similar business in Tax Year 2012. The business opened in Tax Year 2012 would not qualify as a New Business.
 4. A person operating a business over the years in Philadelphia sold the business in Tax Year 2012. The business continued to operate in Philadelphia under the new ownership. The business opened in Tax Year 2013 would not qualify as a New Business.
 5. A person started a business that is subject to the business tax in Tax Year 2012. The same person is also affiliated by ownership with another business that opened in Philadelphia during Tax Year 2013. The business with the start date in Tax Year 2012 would qualify as a New Business. The business that started its activity in Philadelphia in Tax Year 2013 would not qualify if it is engaged in the same or similar business to that of the business opened in 2012.
- (e) “Person.” Any individual, partnership, limited partnership, association, corporation, estate or trust. When used in any provision prescribing or imposing a penalty, the term “person”, as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (f) “Tax Year”. A twelve month period from January 1 to December 31, inclusive.

Section 102. Status as a New Business.

- (a) At the end of its second anniversary of becoming subject to the tax imposed under Chapter 19-2600 of the Code, a New Business shall cease to be a New Business.
- (b) 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 tax imposed under Chapter 19-2600 of the Code, the business altogether ceases to exist as a business.

ARTICLE II
IMPOSITION AND RATE OF TAX

Section 201. Tax Rates and Fees.

- (a) Notwithstanding any provision to the contrary, but subject to the conditions set forth in Section 301 of this regulation, with respect to the first two Tax Years that a business qualifies as a New Business:
- (i) The business taxes imposed by Section 19-2603 of the Code shall be imposed on the New Business at the rate of zero (0) percent.
 - (ii) All fees charged by the City to the New Business for the following licenses and registrations shall be waived, provided that all such licenses and registrations shall continue to be required to the extent applicable to the New Business:
 - (.1) Amusement license.
 - (.2) Food establishment license.
 - (.3) Sidewalk café license.
 - (.4) Curb market license.
 - (.5) Street vendor license.
 - (.6) Sidewalk sales license.
 - (.7) Center City vending license.
 - (.8) Neighborhood vending license.
 - (.9) Newsstand license.
 - (.10) Handbill distribution license.
 - (.11) Weights and measures registration.
 - (.12) Waste collection and recycling licenses.
 - (.13) Towing license.
 - (.14) Auto repair shop license or permit.
 - (.15) Hazardous chemical license or permit.
 - (.16) Commercial Activity License.
 - (iii) The fees required by Section 4-200.0 Subcode A-907 of the Code (relating to zoning and planning) shall be waived for the New Business, provided that all other requirements of that Section shall remain in effect.¹
 - (iv) Beginning Tax Year 2013, the Net Profits Tax imposed by Section 19-1502 of the Code shall be imposed with respect to the income of the New Business at the rate of zero (0) percent.²

¹ Amended by Regulation filed with the Department of Records January 15, 2014 (effective February 14, 2014).

² Added by Regulation filed with the Department of Records January 15, 2014 (effective February 14, 2014).

- (b) The fees specified in paragraphs (a)(ii) and (a)(iii) of this section that would be waived for a qualifying New Business shall not be refunded if the business paid such fees prior to filing a New Business Waiver Application as required by Section 301 of this regulation and later determines that it qualifies for status as a “New Business” and subsequently files a New Business Waiver Application.

**ARTICLE III
EMPLOYMENT REQUIREMENTS**

Section 301. Conditions for Tax and Fee Relief.

(a) Employment Requirement.

(i) As a condition of maintaining “New Business” status, a business must:

(.1) as of the 12-month anniversary of becoming subject to the tax imposed under Chapter 19-2600 of the Code 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 of the time; and

(.2) as of the 18-month anniversary of becoming subject to the tax imposed under Chapter 19-2600 of the Code 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 of the time.

(b) Opportunity to cure.

If it is determined that, after a New Business hires the required number of qualifying employees, the number of qualifying employees subsequently drops below the required minimum, the business shall cease to be a New Business and shall be liable retroactively for all taxes, fees and charges as if it had never been a New Business, provided that, if the owner demonstrates that the shortfall was temporary and has been or will be cured within 30 days of the shortfall’s first occurrence, the Department shall continue to treat the business as a New Business if all other conditions for qualifying as a New Business have been met.

(c) New Business Waiver Application.

In order to claim any of the waivers or benefits set forth in Section 201 of this regulation, a New Business must file with the Department a New Business Waiver Application, in such form as prescribed by the Department, 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. The Application for status as a “New Business” shall be filed at the time the business submits an Application for Philadelphia Business Tax Account Number and the Commercial Activity License. In no instance shall the application for status as a “New Business” be submitted later than April 15th of the year following the first Tax Year.

ARTICLE IV RETURNS

Section 401. Returns and Filing Requirements.

- (a) Every New Business must file a tax return on the prescribed form available from the Department in accordance with provisions under Chapter 19-2600 of the Code and the regulations promulgated thereunder.
- (b) Every New Business must file Wage Tax Returns on the prescribed forms available from the Department in accordance with provisions of the Income Tax Regulations and under Chapter 19-1500 of the Code entitled “Wage and Net Profits Tax”.
 - (i) Upon filing an Application for Philadelphia Business Tax Account Number, the Commercial Activity License and a New Business Waiver Application, a qualifying New Business shall automatically be registered for withholding and remittance of Philadelphia City Wage Tax. The taxable monthly payroll will be used to determine if the New Business shall remit City Wage Tax quarterly, monthly, semi-monthly or weekly. If the business has not hired an employee as of the date business began in Philadelphia or upon filing for the business tax account number, the business shall be registered as a quarterly filer for Wage Tax.
- (c) A New Business shall be required to file Wage Tax Returns with the City even if the business has not hired employees by the fourth quarter of the New Business’s start date in Philadelphia and no wage tax is due. In such an instance, the business shall file the tax returns and report wages and tax due as ‘zero’ for the applicable filing periods.
- (d) Nothing in Chapter 19-3800 of the Code and these regulations shall affect requirements in the Code that certain tax returns or other financial information be filed.

ARTICLE V
INTEREST, PENALTIES and COSTS

Section 501. Interest, Penalties, Fees and Charges.

- (a) 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, fees and charges that would otherwise have been due, and shall be subject to the provisions of Section 19-509 (“Interest, Penalties and Costs”), Section 9-102 (“Licenses and Permits”), and all other provisions applicable to the nonpayment of taxes, fees and charges.