

April 9, 2020 (REVISED)

Use & Occupancy Tax guidance during the COVID-19 coronavirus closure of non-essential businesses

Businesses ordered to close beginning March 17, 2020 as a result of safety measures enacted by the Mayor of Philadelphia are not subject to the Use & Occupancy (U&O) Tax while occupancy of their place of business is prohibited.

The Philadelphia Department of Revenue has not changed its Use & Occupancy Tax regulations. Due dates to pay the tax remain the same. We are publishing this guidance at a time when many nonessential businesses have been ordered to close and cease operations. Businesses that are ordered to close by order of the Mayor beginning March 17, 2020, are not considered to “occupy” the space.

Taxpayers can find definitions of nonessential businesses from [Mayor Kenney’s Stay-at-home order](#) and [Governor Wolf’s order of business closures](#).

Businesses deemed essential, whether they choose to operate or not, are subject to Use & Occupancy Tax. Businesses continuing operations, businesses that have employees on-site, or businesses that maintained employee occupancy to their place of business throughout the Mayor’s order, are also subject to U & O Tax. Landlords should file and remit the U & O Tax collected from the tenants of the property still using their space for business purposes.

When filing, taxpayers should use “Line 3 - Non-taxable Exempt Amount” of the filing form to indicate the portion of their property that was not occupied through the closure order.

Landlords who do not remit the tax, but have collected it through regular rent collection, must refund applicable portions of the tax to tenants.

Once the order to close non-essential businesses is lifted, all property legally available for business purposes, that has not been vacated, is subject to Use & Occupancy Tax.