

December 7, 2020 (REVISED)

## Business Income & Receipts Tax (BIRT), Net Profits Tax (NPT) nexus and apportionment policies due to the COVID-19 pandemic

**To reduce complexity, the City of Philadelphia is temporarily updating its nexus and apportionment policies during the COVID-19 pandemic.**

### **Nexus:**

The Department of Revenue will temporarily waive the legal nexus threshold established under §19-2603 of the Philadelphia Code and under Section 103 of the BIRT Regulations, which considers the presence of employees working temporarily from home within Philadelphia as establishing sufficient nexus for out-of-Philadelphia businesses. This waiver applies if and when an employee works from home solely as a result of the COVID-19 pandemic.

This temporary guidance will be in effect until the earlier of June 30, 2021, or 90 days after the Proclamation of Disaster Emergency in Pennsylvania is lifted ("End Date"). This policy is consistent with guidance issued by the Pennsylvania Department of Revenue regarding Telework During the COVID-19 pandemic.

### **Determination of Taxable Receipts and Apportionment:**

Where Philadelphia non-resident employees – who have been performing services in their assigned business locations within Philadelphia and have not previously been required to work from home – are now temporarily working from home solely as a result of the COVID-19 pandemic, the Department of Revenue deems that such services are performed within Philadelphia for the purposes of sourcing receipts for BIRT and NPT.

Philadelphia resident employees who had been performing services for employers outside the City before the COVID-19 pandemic who are now temporarily working from their homes in Philadelphia are covered by this policy. Receipts from services performed by these Philadelphia resident employees at their Philadelphia homes solely as a result of the COVID-19 pandemic will *not* be sourced to Philadelphia for BIRT and NPT.

This special sourcing rule is an exception that applies only for the duration of the Governor and Mayor's emergency stay-at-home orders issued in response to the COVID-19 coronavirus health emergency. This guidance is an exercise of the Department's authority to provide for alternative apportionment when the ordinary rules would not accurately reflect the taxpayer's income attributable to the City.

We encourage taxpayers to file and pay on time. This helps ensure continuity of crucial City services.