



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

BILL NO. 100202

Introduced March 25, 2010

Councilmembers Clarke and Reynolds Brown

**Referred to the
Committee of the Whole**

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by providing for the “Anti-Obesity Tax Credit,” under which qualifying businesses can receive a credit against the Business Privilege Tax for engaging in certain practices to curb obesity among consumers, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-2600 of The Philadelphia Code is hereby amended as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

* * *

§ 19-2604. Tax Rates, Credits, and Alternative Tax Computation.

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(10) Anti-Obesity Tax Credit.

(a) Definitions. For purposes of this subsection, the following definitions shall apply:

(.1) Qualifying Expenditure. An expenditure made by a business that materially promotes anti-obesity efforts, as defined by regulations of the Board of Health. Such regulations may include as qualifying expenditures:

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(A) Additional value, in excess of the face value of food stamps accepted as payment, granted by a business toward a purchase of certain Designated Foods.

(B) The cost of installation of equipment to expand or add capacity for selling certain designated foods. Such capacity may include, but need not be limited to, refrigerated display cases for selling produce, and bins for selling certain Designated Foods in bulk.

(C) Any other expenditure deemed by the Board of Health effective in promoting anti-obesity efforts, including increasing consumption of Designated Foods or categories of foods, or decreasing consumption of other Designated Foods or categories of foods.

(.2) Designated Foods. Any food designated by regulation of the Board of Health as either relatively high in calories, fat or saturated fat, or relatively low in calories, fat or saturated fat, as applicable; or otherwise designated by the Board as particularly effective in promoting or retarding obesity.

(b) Application. A food establishment seeking an Anti-Obesity Tax Credit must file an Anti-Obesity Tax Credit Application, in the form and manner prescribed by the Revenue Department, that includes the following:

(.1) The location of the business;

(.2) Proof of all qualifying expenditures for which the credit is claimed;

(.3) Certification by the Department of Health that the claimed expenditures are Qualifying Expenditures. The Department of Health may require, at its option, that the taxpayer enter into an Anti-Obesity Tax Credit Agreement with the Department of Health, prior to the commencement of the Tax Year for which the credit is being claimed, setting out the proposed Qualifying Expenditures; and that the taxpayer satisfy an Anti-Obesity Credit Audit, after the close of the Tax Year for which the credit is being claimed, pursuant to which the Department of Health will determine whether the claimed expenditures satisfy the requirements of this Section and the implementing regulations.

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(d) Tax Credits. Upon review and approval of an Anti-Obesity Tax Credit Application, the Revenue Department shall allow a credit against business privilege tax liability equal to twenty-five percent (25%) of the Qualifying Expenditures, not to exceed \$100,000 credit for any individual taxpayer; or \$10,000,000 for all taxpayers, cumulatively, in any given Tax Year. Credits shall be allocated on a pro rata basis, in the event total allowable credits would exceed \$10,000,000. Any claimed credit that exceeds the foregoing limits may not be carried forward to subsequent years.

(e) Repayment of Tax Credits. A taxpayer that has received a credit under this subsection must repay the tax credit to the City if the taxpayer fails to maintain any improvement for which credit was claimed for at least seven (7) years. The Revenue Department may waive such repayment if it determines the failure to maintain the improvement was because of a natural disaster or other act of God, an act of terrorism, or similar circumstances beyond the control of the taxpayer.

(f) The Revenue Department shall by December 31 of each year submit a written report to the Mayor, with a copy to the President and Chief Clerk of Council, summarizing the City's experience during the prior year with the tax credit provided under this subsection.

(g) The provisions of this subsection, relating to Anti-Obesity Tax Credit, shall be effective beginning in the first Tax Year following the adoption of implementing regulations by the Board of Health and the Revenue Department.

Explanation:

Italics indicate new matter added.

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