



City of Philadelphia

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

BILL NO. 070306

Introduced April 19, 2007

Councilmember DiCicco and Council President Verna

**Referred to the
Committee of the Whole**

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Privilege Taxes," by amending the definition of "Net Income" with respect to the portion of net income that is properly attributable and allocable to the doing of business in Philadelphia and therefore subject to tax, and by making technical amendments; and by making certain legislative findings with respect to manufacturing; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Legislative Findings. The Council finds that:

(a) Manufacturing is one of the original building blocks of Philadelphia. In fact, many neighborhoods grew up around these factories, and generations of citizens have found some of the highest paying jobs in the city, right around the corner from their residences. Over the past few years, manufacturing has consistently ranked as the number three or four largest contributor to revenue for the City of Philadelphia (ahead of education). In spite of a dramatic reduction in force (250,000 manufacturing jobs in 1970 to approximately 40,000 in 2005), the quality of jobs represented by this sector has made it a valuable link in the economy of both city and region.

(b) While the City has spent millions of dollars to address social service needs, there is a recognition that without adequate, well paying jobs, it will be impossible to stabilize the City's neighborhoods.

(c) Manufacturers are facing daunting challenges. Because of intense global competition, manufacturers can not raise prices despite rising costs. The costs of doing business in the City continue to increase due to external impositions including taxes, legal and regulatory fees, energy and health care costs. A recent study shows that

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these costs add about 22 percent to the cost of doing business here, almost equal to the total cost of production in China.

(d) Despite these challenges, manufacturing still has a larger impact on economic growth than any other sector: creating a dollar's worth of goods generates an additional \$1.50 in other economic activities ranging from shipping to retail sale.

(e) In addition to these challenges, the current net income apportionment formula negatively impacts manufacturers to a greater extent than other types of businesses. The current three-factor apportionment formula utilizes a company's gross receipts, payroll and property. Because manufacturers typically have a substantial investment in plant and equipment, they tend to pay substantially higher taxes than their competitors located outside the City. In addition, because of their hard cost investments, manufacturers pay a proportionately higher tax than other industries when located within the City.

(f) By simplifying the formula and removing the impact of a taxpayer's property and payroll from the apportionment calculation, the playing field for manufacturers will be level. While it is unlikely the new apportionment will attract new businesses, it is reasonable to expect that our existing manufacturers will be more willing to invest in equipment, property and people.

SECTION 2. Chapter 19-2600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

§19-2601. Definitions.

In addition to the definitions provided in the Act of May 30, 1984, P.L. 345, No. 69, known as the First Class City Business Tax Reform Act, and Chapter 19-500 of this Title, the following definitions shall apply:

* * *

Net Income.

* * *

(c) The collector shall establish rules and regulations and methods of apportionment and allocation and evaluation so that only that part of such net income or net operating loss which is properly attributable and allocable to the doing of business in

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the city of the first class levying the tax shall be taxed hereunder. [The collector may make an apportionment and allocation with due regard to the nature of the business concerned on the basis of mileage, the ratio of the taxable receipts of the taxpayer from within the city to the total receipts of the taxpayer, the ratio of the value of the tangible personal and real property owned or leased and situated in the city levying the tax to the total tangible personal and real property of the taxpayer wherever owned and situated, the ratio of the wages, salaries, commissions and other compensation paid by the taxpayer within the city levying the tax to the total wages, salaries, commissions and other compensation paid by the taxpayer, and any other method or methods of apportionment and allocation other than the foregoing, calculated to effect a fair and proper apportionment and allocation.] *Such rules and regulations shall include the following provisions for the apportionment of business income to Philadelphia:*

(i) *For manufacturers, business income shall be apportioned to Philadelphia based solely on a fraction of which the numerator shall be receipts of the taxpayer in Philadelphia during the tax period, and the denominator shall be receipts of the taxpayer everywhere during the tax period.*

(ii) *For all other persons except persons subject to tax pursuant to Article VII, VIII, IX or XV of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, business income shall be apportioned to Philadelphia based on the average of the following three ratios, provided that the "receipts" ratio set forth in (A) shall be given double weight: (A) the ratio of the taxable receipts of the taxpayer in Philadelphia to the total receipts of the taxpayer everywhere; (B) the ratio of the value of the tangible personal and real property owned or leased and situated in Philadelphia to the total tangible personal and real property of the taxpayer wherever owned and situated; and (C) the ratio of the wages, salaries, commissions and other compensation paid by the taxpayer within Philadelphia to the total wages, salaries, commissions and other compensation paid by the taxpayer.*

(iii) *The net income of a person which is described as being subject to a tax pursuant to Article VII, VIII, IX or XV of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, shall be allocated, and apportioned to [a city of the first class] Philadelphia in accordance with a fraction of which the numerator shall be "receipts" as defined and limited in this Section, and the denominator shall be receipts regardless of whether received in or apportionable to [the city of the first class] Philadelphia.*

(e) *The collector may by regulation permit a taxpayer to petition for an alternative method of apportionment if the regularly applicable apportionment method does not fairly represent the taxpayer's business activity in Philadelphia.*

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([d]f) After apportioning and allocating net income, apportioned and allocated net operating losses carried forward shall be deducted.

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SECTION 3. This Ordinance shall take effect beginning with tax year 2008.