



Legislation Text

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Amending Chapter 19-3200 of The Philadelphia Code, entitled "Keystone Opportunity Zone," to provide for the contingent exemption, abatement or credit of certain taxes within specified geographical areas, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-3200 of The Philadelphia Code is amended to read as follows:

CHAPTER 19-3200. KEYSTONE OPPORTUNITY ZONE

§19-3201. Designation of Zone.

* * *

(2) The areas of the City generally known as follows, and more fully defined in Section 2 of the ordinance enacting this subsection, shall each separately be designated a Philadelphia Keystone Opportunity Expansion Subzone, and shall collectively be designated as the Philadelphia Keystone Opportunity Expansion Zone:

- (a) Northeast Philadelphia Airport Subzone.
- (b) Upper Delaware River Subzone.
- (c) Central Delaware River Subzone.
- (d) Lower Delaware River Subzone.
- (e) Frankford/Torresdale Subzone.
- (f) West Philadelphia Subzone.
- (g) Upper Schuylkill River Subzone.
- (h) Lower Schuylkill River Subzone.

§19-3202. Definitions.

The following words and phrases when used in this Chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

(13) “Zone.” The Philadelphia Keystone Opportunity Zone or the Philadelphia Keystone Opportunity Expansion Zone.

§19-3203. Authorization of Exemption, Abatement or Credits from Certain Taxes.

Effective as of January 1, 1999, and continuing through and including December 31, 2010, *with respect to real property or business activity, as applicable, attributable to the Keystone Opportunity Zone; and effective as of January 1, 2001, and continuing through and including December 31, 2013, with respect to real property or business activity, as applicable, attributable to the Keystone Opportunity Expansion Zone*, the following provisions shall apply:

* * *

§19-3204. [Qualified Businesses] Conditions for Exemptions, Abatements and Credits.

* * *

(2) *Approval by DCED. Any taxpayer claiming an exemption, abatement or credit under this chapter must, by December 31 of each year for which the exemption, abatement or credit is claimed, apply for and receive approval from DCED of eligibility for the benefit, as set forth in Sections 906 and 907 of the Act, as amended.*

[(2)] (3) Relocation. * * *

§19-3205. Conditions for Real Estate Tax Exemption.

* * *

(3) Application deadlines.

* * *

(c) *The provisions of this subsection relating to application deadlines shall not apply to real property located in the Philadelphia Keystone Opportunity Expansion Zone.*

* * *

§19-3209. Conditions for Sales and Use Tax Exemption.

(1) [Real property] *Construction contracts. For any construction contract performed within the Zone, [The] the exemption from sales and use tax under this Chapter shall only apply to the sale at retail or use of building machinery and equipment to a qualified business, or to a construction contractor pursuant to a construction contract with a qualified business, for the exclusive use, consumption and utilization by the qualified business at its facility in the Zone. For the purposes of this exemption, building machinery and equipment shall include distribution equipment purchased for the exclusive use, consumption and utilization in a facility located within the Zone.*

* * *

§19-3210. Conditions for Wage Tax Exemption.

(1) Residency. In order to qualify each year for an exemption from wage tax under this Chapter, a person shall be domiciled and shall reside in the Zone for a period of 184 consecutive days *during each taxable year*, which may begin on the date of designation of the Zone by DCED or on the date the person first resides within the Zone.

[(2) Duty of employee. In order to qualify for an exemption from wage tax under this Chapter, a resident of the Zone shall furnish to his or her employer proof of residency, as prescribed by the Department. Employees who claim such exemptions must notify their employer of any changes in residence within twenty (20) days of any such change.

(3) Duty of employer. Within twenty (20) days after an employer receives proof of residency from an employee pursuant to subsection (2), the employer shall forward a copy of that information to the Department. The information shall not be given retroactive effect for withholding purposes. The employer shall not withhold tax under Section 19-1504 or 19-2806 from the compensation paid to a resident of the Zone. If an employee fails or refuses to furnish proof of residency, or furnishes information that the employer reasonably and in good faith believes to be inaccurate, the employer shall withhold the full rate of tax from the employee's total compensation.]

(2) Notwithstanding any exemption provided by this Chapter, the employer of any person claiming such exemption shall remain subject to Sections 19-1504 and 19-2806 relating to tax withholding. Any taxpayer claiming an exemption from wage tax pursuant to this Chapter may file a claim for refund with the Department of Revenue pursuant to Section 19-1703.

* * *

§19-3213. Recapture.

(1) General rule. If any qualified business located within the Zone has received an exemption, abatement or credit under this Chapter and subsequently relocates outside of the Zone *within five years*, that business shall refund to the City or School District, as applicable, the following:

(a) If a qualified business relocates within three years from the date of [any claim] *first locating in the Zone*, 66% of all the exemptions, abatements or credits [previously received due] *attributed to that qualified business's participation in the Zone shall be refunded.*

(b) If a qualified business relocates within three to five years from the date of [any claim] *first locating in the Zone*, 33% of all exemptions, abatements or credits [previously received from] *attributed to that qualified business's participation in the Zone shall be refunded.*

(c) If the qualified business was located within a facility operated by a nonprofit organization to assist in the creation and development of a start-up business, no exemption, abatement or credit shall be refunded.

[(2) Determination of claim date. For purposes of this section, an exemption, abatement or credit is

deemed to be claimed on the later of:

- (a) The date the return or other report for the tax or fee is due;
- (b) The date the return is filed; or
- (c) The date the tax or fee would be paid.]

[(3)] (2) * * *

§19-3214. Delinquent or Deficient State or City Taxes.

(1) Persons. No person may claim or receive an exemption, abatement or credit under this Chapter unless that person is in full compliance with all state and local tax laws, [and related] ordinances and resolutions.

* * *

(4) Later compliance and eligibility.

(a) Any person or qualified business that is not eligible to claim an exemption, abatement or credit due to noncompliance with any state or local tax law may become eligible if that person or qualified business subsequently comes into full compliance with all state and local tax laws to the satisfaction of the Commonwealth Department of Revenue or the Department within the calendar year in which the noncompliance first occurred. If full compliance is not attained by [December 31 of the calendar year in which] *February 5 of the calendar year following the calendar year in which* noncompliance first occurred, then that person or qualified business is precluded from claiming an exemption, abatement or credit for that calendar year, whether or not full compliance is achieved [in subsequent calendar years] *subsequently*.

§19-3215. Code Compliance.

(1) General rule. A person or qualified business shall be precluded from claiming any exemption, abatement or credit provided for in this Chapter if that person or qualified business owns real property in the Zone and the real property is not in compliance with all applicable State and local zoning, building and housing laws, ordinances or codes and the real property owner has not filed an affidavit with the Department attesting to compliance for that calendar year before December 31 with all applicable State and local zoning, building and housing laws, ordinances or codes. For purposes of this subsection, real property is not in compliance with all applicable State and local zoning, building and housing laws if liens have been placed on such property by the City with respect to prior violations of any State or local zoning, building and housing laws and such liens have not been satisfied. *The requirement to file an affidavit shall not apply with respect to benefits relating to real property in the Philadelphia Keystone Opportunity Expansion Zone.*

* * *

SECTION 2. The areas of the City bounded as set forth in the following eight subsections are hereby each designated as Philadelphia Keystone Opportunity Expansion Subzones, and collectively the eight Subzones are hereby designated as the Philadelphia Keystone Opportunity Expansion Zone. The descriptions set forth below

shall control over the general “known-as” descriptions set forth in Section 1 of this Ordinance.

- (a) Northeast Philadelphia Airport Subzone, more specifically defined in the attached Exhibit 1.
- (b) Upper Delaware River Subzone, more specifically defined in the attached Exhibit 2.
- (c) Central Delaware River Subzone, more specifically defined in the attached Exhibit 3.
- (d) Lower Delaware River Subzone, more specifically defined in the attached Exhibit 4.
- (e) Frankford/Torresdale Subzone, more specifically defined in the attached Exhibit 5.
- (f) West Philadelphia Subzone, more specifically defined in the attached Exhibit 6.
- (g) Upper Schuylkill River Subzone, more specifically defined in the attached Exhibit 7.
- (h) Lower Schuylkill River Subzone, more specifically defined in the attached Exhibit 8.

SECTION 3. This ordinance shall be effective January 1, 2001; provided, however, that the addition to The Philadelphia Code of Section 19-3201(2), relating to the Philadelphia Keystone Opportunity Expansion Zone, the amendment to the definition of “Zone” set forth in Section 19-3202(13), and Section 2 of this Ordinance, shall become effective only if the Commonwealth’s Department of Community and Economic Development designates a Keystone Opportunity Expansion Zone in Philadelphia, and only for such period of time as the Commonwealth provides for exemptions, abatements or credits with respect to sales and use tax, personal income tax, corporate net income tax and capital stock franchise tax for businesses and residents in such zone, as set forth in The Pennsylvania Keystone Opportunity Zone Act, P.L. 705, No. 92, as amended, and only in such Expansion Zone as is designated by the Commonwealth.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.