

Legislation Text

File #: 140209, **Version:** 1

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Income and Receipts Taxes,” by providing for certain exclusions and deferrals relating to businesses distressed as a result of nearby public works projects, 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 to read as follows:

CHAPTER 19-2600. BUSINESS INCOME AND RECEIPTS TAXES.

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

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(15) *Distressed Business Tax Credit.*

(a) *Definitions.*

(i) *Distressed Business.* A business that meets the eligibility criteria set forth under subsection (15)(b).

(ii) *Lost Net Income and Sales/Receipts.* The reduction between the net income and sales/receipts of a distressed business at the location where and in the tax year in which the business obstruction occurred, and the average net income and sales/receipts of the distressed business in the two preceding tax years.

(iii) *Public Works Project.* A publicly-funded construction project undertaken by the United States, the Commonwealth of Pennsylvania, the City, or other governmental or quasi-governmental agency, for the benefit or use of the general public. For purposes of this definition, “other governmental or quasi-governmental agency” shall include the Delaware River Port Authority and the Southeastern Pennsylvania Transportation Authority.

(b) *Eligibility.* This subsection (15) shall only apply to businesses that meet all of the following criteria:

(i) *Proximity.* The business must be within 100 feet of the site of a public works project.

(ii) Business obstruction. For at least thirty (30) days, the public works project must substantially obstruct customer access to the place of business, or substantially obscure the place of business such that the existence of the place of business or the fact that the business is open may not be ascertained from the street.

(iii) Lost net income and sales/receipts. A business must suffer loss of net income in an amount that is at least 10% of the business's total net income and loss of sales/receipts in the amount that is at least 10% of the business's total sales/receipts in the tax year in which the business obstruction occurred.

(c) Application. Application for the distressed business tax credit shall be on such form as the Department of Revenue specifies, and shall include documentation that the business meets all of the eligibility criteria under subsection (b). Such documentation shall include photographs clearly depicting the business obstruction under subsection (b)(ii); evidence documenting the proximity of the business to a public works project under subsection (b)(i); lost income pursuant to subsection (b)(iii); the duration of the public works project; and such other proof as the Department may require.

(d) Tax Credit.

(i) Starting in tax year 2015, for any tax year in which a distressed business experiences a business obstruction caused by a public works project, such business shall be eligible for a credit against its business income and receipts tax liability, in the amount of 20% of the business's lost sales/receipts amount, up to \$20,000 but no more than the after tax loss in net income.

(ii) In the event that the aggregate amount of distressed business tax credits to which distressed businesses are entitled in any tax year under subsection (d)(i) would exceed \$1,000,000, the amount of tax credit awarded to any single distressed business under subsection (d)(i) shall instead be computed as follows: (A) obtaining a reduction factor by dividing \$1,000,000 by the aggregate amount of all distressed business tax credits provisionally approved in that year under subsection (d)(i); and (B) multiplying the amount of the tax credit to which a distressed business would be entitled under subsection (d)(i) by the reduction factor.

(iii) Unused distressed business tax credits may not be carried forward.

(e) Regulations. The Department may issue regulations governing the implementation of this subsection (15), including the manner in which eligibility under subsection (15)(b) is determined.

SECTION 2. This Ordinance shall take effect beginning with Tax Year 2015. Nothing in this Ordinance shall affect the amount of estimated business privilege tax payments required to be paid in April 2015 for estimated Tax Year 2015 tax liabilities, and such estimated tax payments shall be calculated as if this Ordinance were not in effect for Tax Year 2015.

Explanation:

Italics indicate new matter added.