

Legislation Text

File #: 100754, Version: 1

Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Privilege Taxes," by providing for exclusions and certifications for hobbies and other not-for-profit activities, under certain terms and conditions.  
*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Chapter 19-2600 of The Philadelphia Code is 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:

\* \* \*

Business. Carrying on or exercising for gain or profit within a city of the first class, any trade, business, including financial business as hereinafter defined, profession, vocation or commercial activity, including the partial or complete liquidation or sale of business assets, or making sales to persons within such city of the first class. "Business" shall not include the following:

\* \* \*

*(6) Any hobby or other not-for-profit activity, as set forth at 26 C.F.R. § 1.183-2. The determination of whether an activity is engaged in for profit is made by reference to objective factors, taking into account all of the facts and circumstances of each case. The Department of Revenue shall promulgate regulations setting forth the factors to be considered in making this determination, which regulations shall be consistent with 26 C.F.R. § 1.183-2. The relevant, non-exclusive factors set forth in 26 C.F.R. § 1.183-2 are: (1) the manner in which the person carries on the activity; (2) the expertise of the person carrying on the activity or such person's advisors; (3) the time and effort expended by the person in carrying on the activity; (4) the expectation that assets used in the activity may appreciate in value; (5) the success of the person in carrying on other similar or dissimilar activities; (6) the person's history of income or losses with respect to the activity; (7) the amount of occasional profits, if any, which are earned from the activity; (8) the financial status of the person carrying on the activity; and (9) elements of personal pleasure or recreation in carrying on the activity.*

\* \* \*

§ 19-2602. Licenses.

(1) Every person desiring to engage in or to continue to engage in any business within the City of Philadelphia shall, whether or not such person maintains a place of business in the City, prior to engaging in such business, procure a business privilege license from the Department of Licenses and Inspections. *A person*

*exclusively engaged in a hobby or other not-for-profit activity, excluded from the definition of business set forth in § 19-2601, shall not be required to procure or maintain a business privilege license.*

\* \* \*

§ 19-2606. Returns.

\* \* \*

*(3) A person exclusively engaged in a hobby or other not-for-profit activity, excluded from the definition of business set forth in § 19-2601, shall not be required to file a return. Any such person may, in response to any enforcement activity of the Department, submit a certification in form satisfactory to the Department (which certification shall include, if the Department so requires, documentation that the person has not taken deductions for such activity on the person's federal tax return) that the person is not engaged in business within the City, as defined in § 19-2601; and, to the extent the person's total receipts derived from hobby or other not-for-profit activity are less than \$3,000, the Department shall accept such certification as presumptive proof of no business income.*

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**Explanation:**

*Italics* indicate new matter added.