

## Legislation Details (With Text)

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<b>On agenda:</b>		<b>Final action:</b>		11/3/2011	
<b>Title:</b>	Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Privilege Taxes," by providing certain exclusions, modifying certain definitions, and revising certain tax rates, all under certain terms and conditions.				
<b>Sponsors:</b>	Councilmember Sanchez, Councilmember Green, Councilmember Reynolds Brown, Councilmember Goode, Councilmember O'Neill, Councilmember Miller, Councilmember DiCicco, Councilmember Kenney, Councilmember Tasco, Councilmember Kelly, Councilmember Jones, Councilmember Krajewski, Councilmember Blackwell				
<b>Indexes:</b>	BUSINESS PRIVILEGE LICENSE				
<b>Code sections:</b>	19-2600 - Business Privilege Tax				
<b>Attachments:</b>	1. CertifiedCopy11055401.pdf				

Date	Ver.	Action By	Action	Result	Tally
11/14/2011	1	MAYOR	SIGNED		
11/3/2011	1	CITY COUNCIL	READ AND PASSED	Pass	16:0
10/27/2011	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY'S FIRST READING CALENDAR		
10/27/2011	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
10/27/2011	1	CITY COUNCIL	ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR		
10/24/2011	0	Committee on Finance	HEARING NOTICES SENT		
10/24/2011	0	Committee on Finance	HEARING HELD		
10/24/2011	0	Committee on Finance	AMENDED		
10/24/2011	1	Committee on Finance	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
9/8/2011	0	CITY COUNCIL	Introduced and Referred	Pass	

Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Privilege Taxes," by providing certain exclusions, modifying certain definitions, and revising certain tax rates, 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 amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES.

§19-2601. Definitions.

\* \* \*

Net Income.

(a) "Net income" shall, at the option of the taxpayer, which option shall not be revokable by the taxpayer after it has been exercised as provided for by the collector, be either:

(1) The net gain from the operation of a business, after provision for all allowable costs and expenses actually incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, without deduction of taxes based on income, *subject to a deduction for the pro rata portion of net income attributable to receipts that are excluded under paragraph (13) of the definition of "receipts" of this Section*; or

(2) The taxable income from any business activity as returned to and ascertained by the Federal Government prior to giving effect to the exclusion for dividends received and net operating loss, subject to the following adjustments:

(i) A deduction for dividends, interest and royalty income and other receipts excluded from the definition of receipts under paragraphs (5) and (7) of that definition, but only to the extent that such dividends, interest, royalty and other receipts are included in taxable income as returned to and ascertained by the Federal Government as heretofore defined.

(ii) A deduction for net income attributable to receipts that are excluded under paragraph (6) or (9) of the definition of "receipts" of this Section.

(iii) A deduction for income received from all obligations of the United States, including stocks, bonds and Treasury notes and other obligations of the United States.

(iv) An increase for interest expense attributable to these stocks, bonds and Treasury notes and other obligations of the United States or any of its political subdivisions which is exempt from taxation of income under the laws of the United States or of the Commonwealth. The increase shall not exceed the deduction claimed in subparagraph (iii).

(v) A deduction for net income of persons registered under the Pennsylvania Securities Act of 1972 other than the net income attributable to commissions and similar charges on account of transactions effected for persons residing or having their principal place of business within a city of the first class; or

(3) *The taxable income from any business activity as returned to and ascertained by the Federal Government prior to giving effect to the exclusion for dividends received and net operating loss, subject to the following adjustments:*

(i) *A deduction for dividends, interest and royalty income and other receipts excluded from the definition of receipts under paragraphs (5) and (7) of that definition, but only to the extent that such dividends, interest, royalty and other receipts are included in taxable income as returned to and ascertained by the Federal Government as heretofore defined.*

(ii) *A deduction for net income attributable to receipts that are excluded under paragraph (6) or (9) of the definition of "receipts" of this Section.*

(iii) *A deduction for income received from all obligations of the United States, including stocks, bonds and Treasury notes and other obligations of the United States.*

(iv) *An increase for interest expense attributable to these stocks, bonds and Treasury notes and other obligations of the United States or any of its political subdivisions which is exempt from taxation of income under the laws of the United States or of the Commonwealth. The increase shall not exceed the deduction claimed in subparagraph (iii).*

(v) *A deduction for net income of persons registered under the Pennsylvania Securities Act of 1972 other than the net income attributable to commissions and similar charges on account of transactions effected for persons residing or having their principal place of business within a city of the first class.*

(vi) *A deduction for the pro rata portion of net income attributable to receipts that are excluded under paragraph (13) of the definition of "receipts" of this Section.*

\* \* \*

Receipts. Cash, credits, property of any kind or nature, received from conducting any business or by reason of any sale made, including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares or merchandise or services rendered or commercial or business transactions, without deduction therefrom on account of the cost of property sold, materials used, labor, service or other cost, interest or discount paid or any other expense. For the purpose of determining receipts from the business of insurance, such receipts shall mean those from premiums received from risks within the city of the first class, whether by mutual or stock companies, domestic or foreign, without any deductions therefrom for any cost or expenses whatsoever; except, premiums shall not include return premiums, dividends paid or credited to policyholders, if such dividends are in the nature of an adjustment of the premiums charged, and premiums received for reinsurance. Receipts from a person engaged in the business of insurance shall also include receipts from rental real estate situated in cities of the first class, but shall not include interest, dividend and capital gain receipts. Nothing in this definition shall preclude the taxation of other nonpremium business receipts of persons engaged in the business of insurance. Receipts of any business shall exclude:

\* \* \*

*(13) For tax year 2014, the first \$50,000 in taxable receipts received by any person or business subject to the business privilege tax under this Chapter; for tax year 2015, the first \$75,000 in taxable receipts received by any person or business subject to the business privilege tax under this Chapter; for tax year 2016 and thereafter, the first \$100,000 in taxable receipts received by any person or business subject to the business privilege tax under this Chapter.*

\* \* \*

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

(1) Every business shall pay an annual tax on each dollar of annual receipts at the millage rate shown in the second column of the following chart ("Receipts rate in mills"), and an annual tax on net income at the percentage rate shown in the third column ("Net income rate %"), except that a regulated industry shall only pay an annual tax on each dollar of annual receipts at the millage rate shown in the second column, and in an amount not to exceed the percentage of net income shown in the third column:

Tax year (s)	Receipts rate in mills	Net income rate %
* * *	* * *	* * *
2008 through 2013	1.415 mills	6.45%
2014	[1.325 mills] 1.415 mills	[6.40%] 6.43%
2015	[1.25 mills] 1.415 mills	[6.35%] 6.41%
2016	[1.1 mills] 1.415 mills	[6.30%] 6.39%
2017	[1.0 mills] 1.415 mills	[6.25%] 6.35%
2018	[0.85 mills] 1.415 mills	[6.20%] 6.30%
2019	[0.75 mills] 1.415 mills	[6.15%] 6.25%
2020	[0.50 mills] 1.415 mills	[6.10%] 6.20%
2021	[0.25 mills] 1.415 mills	[6.05%] 6.15%
2022 [and thereafter]	[0.0 mills] 1.415 mills	[6.00%] 6.10%
2023 and thereafter	1.415 mills	6.00%

\* \* \*

(12) *Single Sales Factor Apportionment Tax Credit*

(a) *Definitions.*

(i) *Single Sales Factor Apportionment Liability.* A business' liability for the net income portion of the business privilege tax if the business' taxable income was apportioned based solely on the ratio of taxable receipts of the business from within the City of Philadelphia to the total receipts of the business.

(ii) *Current Business Privilege Tax Liability.* A business' liability for the net income portion of the business privilege tax if, pursuant to Revenue Department regulations, taxable income is apportioned, in whole or in part, based on factors other than the ratio of taxable receipts of the business from within the City of Philadelphia to the total receipts of the business.

(b) *Tax Credit.*

(i) Starting in tax year 2013, businesses shall be eligible to receive a non-refundable single sales factor apportionment tax credit against their business privilege tax liability as set forth below. Any unused tax credits may not be carried forward.

(ii) The single sales factor apportionment tax credit shall be calculated as follows: For the given tax year, the applicant business shall determine its current business privilege tax liability minus its single sales factor apportionment liability, which resulting number shall be the "single sales factor apportionment tax credit base." The amount of the single sales factor apportionment tax credit shall be as follows: for tax years 2013 and 2014, the single sales factor apportionment tax credit amount shall be whatever percentage of the single sales factor apportionment tax credit base as is determined by the Revenue Department by regulation to be fiscally prudent in light of the City's budget needs; and for tax year 2015 and thereafter, the single sales factor apportionment tax credit amount shall be 100% of the single sales factor apportionment tax credit base; provided that there shall be no credit in any year in which, pursuant to Revenue Department regulations,

*taxable income is apportioned exclusively based on the ratio of taxable receipts of the business from within the City of Philadelphia to the total receipts of the business.*

*(iii) The Department of Revenue may, by regulation, detail the documentation that a business must submit with its tax return to support the tax credits provided by this subsection.*

*(c) Reporting.*

*(i) The Department of Revenue 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 tax year with the single sales factor apportionment tax credit. The first such report shall be submitted by December 31, 2015.*

\* \* \*

§ 19-2610. Estimated Tax Payments.

The Department shall promulgate regulations to provide for estimated tax payments to be paid concurrently with the filing of any return, and for credits to be granted on any overpayment of estimated tax payment. *Estimated business privilege tax payments for any given Tax Year shall be calculated without taking into account any reductions in tax rates or changes to apportionment formulas required by Bill No. 110554 for such Tax Year.* The Department shall also promulgate regulations to provide for transition rules. Failure to make an estimated payment pursuant to these regulations shall subject a taxpayer to interest, penalties and costs as provided in Section 19-509.

\* \* \*

SECTION 2. It is the legislative intent of the Council that if any provision of this Ordinance is determined to be unenforceable or invalid under any applicable law then such determination shall not affect the remaining provisions of this Ordinance.

**Explanation:**

*Italics* indicate new matter added.

[brackets] indicates matter deleted