

Legislation Details (With Text)

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On agenda: **Final action:**

Title: Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Income and Receipts Tax," by providing certain exclusions; revising certain tax rates; and creating certain fresh food tax credits; and amending Chapter 19-1200 of The Philadelphia Code, entitled "Parking Tax," by providing for scheduled reductions in the rate of the tax and by making certain technical amendments; all under certain terms and conditions.

Sponsors: Councilmember Quiñones Sánchez, Councilmember Green, Councilmember Henon, Councilmember Jones, Councilmember Johnson, Councilmember Squilla, Councilmember O'Neill

Indexes: BUSINESS INCOME AND RECEIPTS TAXES, PARKING TAX

Code sections: 19-1200 - Parking Tax, 19-2600 - Business Income and Receipts Tax

Attachments: 1. Bill No. 13053001, As Amended.pdf

| Date | Ver. | Action By | Action | Result | Tally |
|------------|------|----------------------|--|--------|-------|
| 9/18/2014 | 1 | CITY COUNCIL | ORDER THE BILL PLACED ON NEXT WEEK'S SUSPENSION CALENDAR | Pass | |
| 1/23/2014 | 1 | CITY COUNCIL | READ AND ORDERED PLACED ON NEXT WEEK'S SECOND READING CALENDAR | | |
| 12/12/2013 | 1 | CITY COUNCIL | ORDERED PRINTED AND PLACED ON NEXT FIRST READING CALENDAR | Pass | |
| 12/12/2013 | 1 | CITY COUNCIL | ORDERED PRINTED AND PLACED ON NEXT FIRST READING CALENDAR | | |
| 12/11/2013 | 0 | Committee on Finance | HEARING NOTICES SENT | | |
| 12/11/2013 | 0 | Committee on Finance | HEARING HELD | | |
| 12/11/2013 | 0 | Committee on Finance | AMENDED | | |
| 12/11/2013 | 1 | Committee on Finance | REPORTED FAVORABLY | | |
| 6/13/2013 | 0 | CITY COUNCIL | Introduced and Referred | Pass | |

Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Income and Receipts Tax," by providing certain exclusions; revising certain tax rates; and creating certain fresh food tax credits; and amending Chapter 19-1200 of The Philadelphia Code, entitled "Parking Tax," by providing for scheduled reductions in the rate of the tax and by making certain technical amendments; 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 INCOME AND RECEIPTS TAX.

§19-2601. Definitions.

* * *

Contractor. A person whose business is furnishing labor or both labor and materials in connection with all of any part of construction, alteration, repair, or demolition of buildings, roads, bridges, sewers, water and gas mains, and every other structure, as an improvement, alteration, or development of real property. For purposes of this definition, a person is a “contractor” regardless of whether the person is a general contractor or a subcontractor.

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:

* * *

(15) In the case of a contractor, receipts received by the contractor and paid to a subcontractor for work done or materials supplied in connection with any real property located in the City of Philadelphia provided that: (a) to the extent the recipient subcontractor is subject to the provisions of this Chapter, the recipient subcontractor has a current commercial activity license, as required pursuant to § 19-2602; (b) there is a written agreement between the contractor and the subcontractor stating the exact amount payable from the contractor to the subcontractor; and (c) the contractor completes and files a written certification, in a form satisfactory to the Revenue Department, detailing such expenditures to subcontractors.

(16) Beginning with the tax year 2015 and thereafter, for any business that includes the gross receipts portion of the business income and receipts tax in the price it charges to customers and includes a line item for such cost on invoices or other written billing documents provided to customers, the portion of such receipts received from customers that comprise the gross receipts tax, provided the business files a written certification, in a form satisfactory to the Revenue Department, detailing such pass-through costs.

(17) Beginning with the tax year 2015 and thereafter, the portion of such receipts received from customers that comprise the parking tax paid to the City under Chapter 19-1200, provided the business files a written certification, in a form satisfactory to the Revenue Department, detailing such pass-through costs.

* * *

Residential Rental Business. A Business consisting of more than twenty (20) residential rental units and whose principal Receipts are rental income from residential property .

* * *

§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. *Beginning in tax year 2020, 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”), provided aggregate collections of the Wage Earning and Net Profits Tax, Real Estate Tax, Business Income and Receipts Tax, Real Estate Transfer Tax, and Sales Tax for the fiscal year immediately preceding the tax year exceed budget projections by \$20 million for that fiscal year; and further provided said excess collections have been verified by the Finance Director. Otherwise, each dollar of annual receipts shall be taxed at the millage rate in effect for the immediately preceding tax year:*

| Tax year(s) | Receipts rate in mills | Net income rate % |
|-------------------------------|--|-------------------|
| * * * | * * * | * * * |
| 2008 through 2014 | 1.415 mills | 6.45% |
| 2015 | [1.415] 2.2082 mills | [6.43%] 5.16% |
| 2016 | [1.415] 3.0021 mills | [6.41%] 3.87% |
| 2017 | [1.415] 3.7964 mills | [6.39%] 2.58% |
| 2018 | [1.415] 4.5578 mills | [6.35%] 1.29% |
| 2019 | [1.415] 5.2723 mills | [6.30%] 0.00% |
| 2020 | [1.415] 5.0649 mills | [6.25%] 0.00% |
| 2021 | [1.415] 4.9414 mills | [6.20%] 0.00% |
| 2022 | [1.415] 4.8209 mills | [6.15%] 0.00% |
| 2023 | [1.415] 4.7033 mills | [6.10%] 0.00% |
| 2024 [and thereafter] | [1.415] 4.5886 mills | [6.00%] 0.00% |
| 2025 | 4.4767 mills | 0.00% |
| 2026 | 4.3675 mills | 0.00% |
| 2027 | 4.2610 mills | 0.00% |
| 2028 | 4.1570 mills | 0.00% |
| 2029 and each year thereafter | Additional reduction of 0.200 mills per year until it reaches 0.00 mills | 0.00% |

* * *

(3) Alternative Receipts Tax Computation. A manufacturer (other than a regulated industry) shall at its option be permitted to compute the gross receipts tax on manufacturing sales at the rate shown in the following chart under the column entitled “Manufacturers,” multiplied by receipts from manufacturing sales after deducting the applicable cost of goods sold as determined under the rules provided by the Federal Internal Revenue Code. A wholesaler (other than a regulated industry) shall at its option be permitted to compute the

gross receipts tax on wholesale sales at the rate shown under the column entitled “Wholesalers,” multiplied by receipts from wholesale sales after deducting the applicable cost of goods and the applicable cost of labor. A retailer (other than a regulated industry) shall at its option be permitted to compute the gross receipts tax on retail sales at the rate shown under the column entitled “Retailers,” multiplied by receipts from retail sales after deducting the applicable cost of goods and the applicable cost of labor. *A Residential Rental Business (other than a regulated industry) shall at its option be permitted to compute the gross receipts tax on rental income at the rate shown under the column entitled “Residential Rental Business,” multiplied by receipts from rental income after deducting the applicable cost of labor, the applicable cost of utilities and the applicable cost of interest on debt:*

| Tax year(s) | Manufacturer (%) | Wholesalers (%) | Retailers (%) | Residential Rental Business (%) |
|-----------------------|------------------|-----------------|---------------|---------------------------------|
| *** | *** | *** | *** | |
| 2008 through 2014 | 2.34 % | 3.29 % | 0.78 % | |
| 2015 | [2.19 %] 2.4% | [3.08 %] 3.3% | [0.73 %] 0.8% | 4.5% |
| 2016 | [2.07 %] 2.4% | [2.91 %] 3.4% | [0.69 %] 0.9% | 4.5% |
| 2017 and thereafter | [1.82 %] 2.5% | [2.56 %] 3.5% | [0.61 %] 1.0% | 4.5% |
| [2017] | [1.65 %] | [2.33 %] | [0.55 %] | |
| [2018] | [1.40 %] | [1.98 %] | [0.47 %] | |
| [2019] | [1.24 %] | [1.75 %] | [0.41 %] | |
| [2020] | [0.83 %] | [1.17 %] | [0.27 %] | |
| [2021] | [0.43%] | [0.59%] | [0.14%] | |
| [2022 and thereafter] | [0.0%] | [0.0%] | [0.0%] | |

* * *

(11) *Fresh Food Tax Credit.*

(a) *Definitions.*

(i) *Fresh food. Unprepared fresh fruits and vegetables; unprepared meat, poultry, fish, or seafood (including steamed seafood); eggs; milk sold in pint, quart, half-gallon, or gallon quantities.*

(ii) *Fresh food retailer. A business that sells fresh food at retail. The following are examples of fresh food retailers: grocery stores, supermarkets, farmers’ markets, corner stores, and convenience stores.*

(b) *Tax Credit.*

(i) *Starting in tax year 2015, fresh food retailers shall be eligible to receive a non-refundable fresh food tax credit against their business income and receipts tax liability as set forth below; provided, however, that the total amount of such tax credit available to any single fresh food retailer shall not exceed the following amounts in the following tax years: for tax year 2015, 2.5% of the retailer’s total gross receipts tax liability; for tax year 2016, 13.5% of the retailer’s total gross receipts tax liability; and for tax year 2017 and thereafter, 22% of the retailer’s total gross receipts tax liability. Any unused tax credits may not be carried forward.*

(ii) *The fresh food tax credit shall be calculated as follows: For the given tax year, the applicant fresh food retailer shall determine the dollar value of its receipts from the sale of fresh foods that exceed ten percent (10%) of its overall receipts, which shall be the "fresh food tax credit base." The amount of the fresh food tax credit shall be as follows, subject to the limitations set forth in subsection (i) above: for tax year 2015, the fresh food tax credit amount shall be 0.4% of the fresh food tax credit base; for tax year 2016, the fresh food tax credit amount shall be 2.4% of the fresh food tax credit base; and for tax year 2017 and thereafter, the fresh food tax credit amount shall be 4.4% of the fresh food tax credit base.*

(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 Fresh Food Tax Credit. The first such report shall be submitted by December 31, 2016.*

* * *

§ 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 payments shall be calculated without regard to any changes in tax rates anticipated or enacted for the subject 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. Chapter 19-1200 of The Philadelphia Code is amended to read as follows:

CHAPTER 19-1200. PARKING TAX.

* * *

§ 19-1202. Imposition and Rate of Tax.

(1) * * *

(b) There is hereby imposed upon every person parking or storing a motor vehicle in or on any parking facility in the City, and upon every person who leaves a motor vehicle with a valet for parking in the City, [between July 1, 1989 and June 30, 2008, inclusive, a tax of fifteen percent (15%) of the amount charged for the transaction, and on July 1, 2008 and thereafter, a tax of twenty percent (20%) of the amount charged for

the transaction,] a tax which shall be calculated as a percentage of the amount charged for the transaction, at the rate set forth below, which tax shall be collected by the operator from the person parking or storing the vehicle, and shall be paid over to the City as provided herein. Pursuant to regulations to be issued by the Department, a valet parking operator shall be entitled to a credit against amounts remitted to the Department pursuant to Section 19-1203 in an amount equal to any parking tax paid by the valet parking operator to the operator of a parking facility on account of the parking of any motor vehicles with respect to which the valet parking operator collected and remitted a parking tax under this Section. *The rate of the tax shall be as follows:*

| <i>Fiscal Year</i> | <i>Tax rate</i> |
|----------------------------|-----------------|
| <i>1990 through 2008</i> | <i>15.0%</i> |
| <i>2009 through 2015</i> | <i>20.0%</i> |
| <i>2016</i> | <i>19.5%</i> |
| <i>2017</i> | <i>19.0%</i> |
| <i>2018</i> | <i>18.5%</i> |
| <i>2019</i> | <i>18.0%</i> |
| <i>2020</i> | <i>17.5%</i> |
| <i>2021 and thereafter</i> | <i>17.0%</i> |

[(c) If a court of competent jurisdiction enters a final order from which all appeals have been exhausted, holding that Bill No. 571 (approved June 5, 1985) was improperly enacted, and ordering that refunds of taxes paid pursuant to Bill No. 571 are required, then the tax rate for Fiscal Year 1986 is hereby set at twenty percent (20%). This provision shall take effect retroactively for Fiscal Year 1986. If a court of competent jurisdiction enters a final order from which all appeals have been exhausted, determining that the City lacked the authority to enact this subsection 19-1202(c), then the tax rate for Fiscal Year 1986 shall revert to ten percent (10%).]

[(d) If a court of competent jurisdiction enters a final order from which all appeals have been exhausted, holding that Bill No. 939 (approved June 11, 1986) was improperly enacted, and ordering that refunds of taxes paid pursuant to Bill No. 939 are required, then the tax rate for Fiscal Year 1987 is hereby set at seventeen and five-tenths percent (17.5%), and the tax rate for Fiscal Years 1988 and 1989 is hereby set at fifteen percent (15%). This provision shall take effect retroactively for Fiscal Years 1987, 1988 and 1989. If a court of competent jurisdiction enters a final order from which all appeals have been exhausted, determining that the City lacked authority to enact this subsection 19-1202(d), then the tax rate for Fiscal Years 1987, 1988 and 1989 shall revert to the tax rate for Fiscal Year 1986.]

SECTION 3. 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, except with respect to the addition to The Philadelphia Code of §19-2604(11), as added by Section 1, which subsection (11) is a unified provision and must be enforced or struck down in its entirety.

Explanation:

[Brackets] indicate matter deleted.

Italics indicate new matter added.