

Legislation Text

File #: 121037-A, Version: 2

Amending Chapter 19-2600 of The Philadelphia Code, entitled "Business Income and Receipts Taxes," by, including but not limited to, modifying certain definitions, 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 TAXES.

§19-2601. Definitions.

* * *

Net Income.

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(c) The collector shall establish rules and regulations and methods of apportionment and allocation and evaluation so that only that part of such net income or net operating loss which is properly attributable and allocable to the doing of business in the city of the first class levying the tax shall be taxed hereunder. The collector may make an apportionment and allocation with due regard to the nature of the business concerned on the basis of mileage, the ratio of the taxable receipts of the taxpayer from within the city to the total receipts of the taxpayer, the ratio of the value of the tangible personal and real property owned or leased and situated in the city levying the tax to the total tangible personal and real property of the taxpayer wherever owned and situated, the ratio of the wages, salaries, commissions and other compensation paid by the taxpayer within the city levying the tax to the total wages, salaries, commissions and other compensation paid by the taxpayer, and any other method or methods of apportionment and allocation other than the foregoing, calculated to effect a fair and proper apportionment and allocation. The net income of a person which is described as being subject to a tax pursuant to Article VII, VIII, IX or XV of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971, shall be allocated, and apportioned to a city of the first class in accordance with a fraction of which the numerator shall be "receipts" as defined and limited in this Section, and the denominator shall be receipts regardless of whether received in or apportionable to the city of the first class.

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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. *For purposes of determining the source of receipts of a Software Company the Market Based Sourcing Rule shall apply in accordance with Section 408(8) of the Department of Revenue Business Privilege Tax Regulations so that the source of receipts from the sale of products and services shall be deemed to be the location where the recipient receives the benefit of the products and services.* Receipts of any business shall exclude:

* * *

Software Company. A persons whose business is categorized as computer systems design and related services (NAICS 5415, 54151, 541512), computer software publishing (NAICS 51121), internet publishing and broadcasting (NAICS 51611), internet web service provider (NAICS 51811), data processing, hosting and related services (NAICS 518210), and financial transaction processing and clearing (NAICS 52232).

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

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(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] *income and receipts* 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. *For purposes of determining the taxable receipts of the business from within the City of Philadelphia for purposes of this subsection (i), the source of receipts from the sale by a software company of products or services shall be deemed to be the location where the recipient receives the benefit of the products and services, also known as market based sourcing. The Department may promulgate regulations to implement this definition.*

(ii) Current Business [Privilege] *Income and Receipts* Tax Liability. A business' liability for the net income portion of the business [privilege] *income and receipts* 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.]

business, and furthermore, for software companies, if market based sourcing is not used for determining the taxable receipts from within the City.

(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] *income and receipts* 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] *income and receipts* 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,] *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.] *the formula set forth in the definition of Single Sales Factor Apportionment Liability.*

(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.

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Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.