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CITY OF PHILADELPHIA
BUSINESS INCOME AND RECEIPTS TAX REGULATIONS
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ARTICLE III
TAX ON RECEIPTS

SECTION 301. DEFINITION OF RECEIPTS.

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SECTION 302. EXCLUSIONS FROM RECEIPTS.

The following receipts shall be excluded from "receipts" as defined in Section 19-2601 of the Philadelphia Code and shall be omitted from the tax base in computing the tax on gross receipts.

(A) Reimbursement of expenses, but only if the taxpayer actually incurred such expenses and did so as agent of another from whom he receives reimbursement in the exact amount he expended.

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(V) For the tax year 2011 and thereafter, any interest or fees received on loans made under federal New Markets Tax Credit program, section 45D of Internal Revenue Code, 26 U.S.C. § 45D.

(W) For Tax Year 2014, the first $50,000 ; for Tax Year 2015, the first $75,000 ; for Tax Year 2016 and thereafter, the first $100,000 in taxable receipts received by any person or business subject to the Business Income and Receipts Tax under Chapter 19-2600 of the Philadelphia Code.

Example 1: A taxpayer operates its business entirely within Philadelphia. The total receipts of the business is $85,000 and the taxable receipts before the statutory exclusion provided under this subsection shall be $85,000. Accordingly,

- For Tax Year 2014, the taxpayer shall exclude $50,000 from the $85,000 taxable receipts and shall pay the gross receipts portion of BIRT on $35,000 of receipts. This represents a 59% reduction in the gross receipts tax base.
- For Tax Year 2015, the taxpayer shall exclude $75,000 from the $85,000 taxable receipts and shall pay the gross receipts portion of BIRT on $10,000 of receipts. This represents 88% reduction in the gross receipts tax base.
- For Tax Year 2016 and thereafter, the taxpayer shall exclude the entire $85,000 and pay no gross receipts portion of BIRT. This represents 100% reduction in the gross receipts tax base.

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ARTICLE IV
TAX ON NET INCOME

SECTION 401. IRREVOCABLE ELECTION OF "NET INCOME" COMPUTATION METHOD.

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SECTION 402. CORPORATIONS PARTICIPATING IN THE FILING OF A CONSOLIDATED RETURN.

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SECTION 403. NET INCOME METHOD I.

(A) General.

Method I Net Income shall be the net gain from the operation of a business, profession or other activity after provision for all allowable 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, and without deduction of fines and penalties, and as allocated and apportioned as provided in this Article and after adjustment for the distributive share of net income or loss received by one partner from a partnership where the receiving partner's ownership of capital at the end of the year is at least twenty-percent (20%) as reported on Schedule K-1 of Federal Form 1065 of the distributing partnership. The rules and regulations applicable to determining taxable net profits for the Net Profits tax imposed in Chapter 19-1500 of The Philadelphia Code shall be the rules and regulations applicable to determining taxable net income for Net Income Method I.

(B) Adjustments to Net Income

A taxpayer shall deduct the pro rata portion of net income attributable to receipts that are excluded under subsection (W), Section 302 of these Regulations; such deduction is computed as follows:

1) For Tax Year 2014:

The lower of Taxable Receipts or $50,000	x	$\dfrac{\text{Taxable Net Income}}{\text{Taxable Receipts}}$

2) For Tax Year 2015:

The lower of Taxable Receipts or $75,000	x	$\dfrac{\text{Taxable Net Income}}{\text{Taxable Receipts}}$

3) For Tax Year 2016 and the years thereafter:

The lower of Taxable Receipts or $100,000	x	Taxable Net Income / Taxable Receipts

Example 1: A taxpayer is operating a business entirely within Philadelphia. The total receipts and net income of the business is $85,000 and $30,000 respectively. As such, the taxpayer's taxable receipts and taxable net income shall be the same as its total receipts and net income respectively. Based on this information,

- For Tax Year 2014, the lower of taxable receipts, which is $85,000, or $50,000 is $50,000. As such, the taxpayer shall deduct a pro rata share of net income in the amount of $50,000 * ($30,000 / $85,000) = $17,647. The taxable net income after the statutory deduction shall be $30,000 – $17,647 = $12,353. This represents a 59% reduction in taxable net income.

- For Tax Year 2015, the lower of $85,000 taxable receipts or $75,000 is $75,000, and the taxpayer shall deduct a pro rata share of net income in the amount of $75,000 * ($30,000 / $85,000) = $26,470. The taxable net income after the deduction shall be $30,000 – $26,470 = $3,530, and this represents 88% reduction in taxable net income.

- For Tax Year 2016 and the years thereafter, the lower of $85,000 taxable receipts or $100,000 is $85,000. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $85,000 * ($30,000 /$ 85,000) = $30,000. This represents a 100% reduction in taxable net income.

Example 2: A Taxpayer's total receipts and net income are the same as Example 1 above except that the taxpayer operates its business both inside and outside Philadelphia with 75% property, 75% payroll and 25% receipts factors within Philadelphia. Accordingly, the taxable receipts is $85,000 * 25% = $21,250. Based on this information,

- For Tax Year 2014, the lower of $21,250 taxable receipts or $50,000 is $21,250. For Tax Year 2014, the applicable apportionment formula is a three-factor formula with a double-weighted receipts factor. Using this apportionment formula, the average apportionment factor shall be (75% + 75% + 25% + 25%) / 4 = 50%, and the apportioned net income before the statutory deduction is $30,000 * 50% = $15,000. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $21,250 * ($15,000 /$21,250) = $15,000. As a result of this statutory deduction, the taxable net income for Tax Year 2014 will be ZERO - a 100% reduction in taxable net income.

- For Tax Year 2015, the lower of $21,250 taxable receipts or $75,000 is $21,250. For Tax Year 2015 and thereafter, the applicable mandatory apportionment formula is single-receipts factor formula. Using this apportionment formula, the apportionment factor will be 25% and the apportioned net income before the statutory deduction will be $30,000 * 25% = $7,500. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $21,250 * ($7,500 / $21,250) = $7,500. This represents 100 % reduction in taxable net income.

- For Tax Year 2016 and the years thereafter, the lower of $21,250 taxable receipts or $100,000 is $21,250. Using single-receipts factor formula, the apportionment factor will be 25% and the apportioned net income before the statutory deduction will be $30,000 * 25% = $7,500. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $21,250*($7,500 /$ 21,250) = $7,500. This represents a 100% reduction in taxable net income.

Example 3: A Taxpayer's total gross receipts and net income are the same as Example 1 and 2 above. The taxpayer does not have a business location within Philadelphia but generates 50% of its receipts from activities within Philadelphia and, accordingly, its taxable receipts will be $85,000 * 50% = $42,500.

- For Tax Year 2014, the lower of $42,500 or $50,000 is $42,500. Using the three-factor apportionment formula with a double-weighted receipts factor, the average apportionment factor = (0% + 0% + 50% + 50%) / 4 = 25%, and the apportioned net income before the statutory deduction will be $30,000 * 25% = $7,500. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $42,500 * ($7,500 / $42,500) = $7,500. As a result of this statutory deduction, the taxable net income for Tax Year 2014 shall be reduced from $7,500 to ZERO - a 100% reduction in taxable net income.

- For Tax Year 2015, the lower of $42,500 taxable receipts or $75,000 is $42,500. Using the single-receipts factor apportionment formula, the apportionment factor will be 50% and the apportioned net income before the statutory deduction will be $30,000 * 50% = $15,000. This means that the taxpayer shall deduct a pro rata share of net income in the amount of $42,500 * ($15,000 / $42,500) = $15,000. This represents 100 % reduction in taxable net income.

- For Tax Year 2016 and the years thereafter, the lower of $42,500 taxable receipts or $100,000 is $42,500. Using the single-sales factor apportionment formula, the taxable net income shall be $15,000, and the taxpayer shall deduct a pro rata share of net income in the amount of $42,500 * ($15,000 / $42,500) = $15,000. This represents 100 % reduction in taxable net income.

Example 4: A Taxpayer's total receipts and net income are $1,000,000 and $500,000 respectively. The taxpayer does not have a business location within Philadelphia but generates 10% of its receipts from activities within Philadelphia and, as a result, its taxable receipts shall be $1,000,000 *10% = $100,000.

- For Tax Year 2014, the lower of $100,000 taxable receipts or $50,000 is $50,000. Using the three-factor apportionment formula with a double-weighted receipts factor, the average apportionment factor = (0% + 0% + 10% + 10%) / 4 = 5%, and the apportioned net income before the statutory deduction will be $500,000 * 5% = $25,000. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $50,000 * ($25,000 / $100,000) = $12,500. As a result of this statutory deduction, the taxable net income for Tax Year 2014 shall be $12,500; this represents a 50% reduction in taxable net income.

- For Tax Year 2015, the lower of $100,000 taxable receipts or $75,000 is $75,000. Using the single-receipts factor apportionment formula, the apportionment factor will be 10% and the apportioned net income before the statutory deduction will be $500,000 * 10% = $50,000. Accordingly, the taxpayer shall deduct a pro rata share of net income in the amount of $75,000 * ($50,000 / $100,000) = $37,500. This represents a 71% reduction in taxable net income.

- For Tax Year 2016 and the years thereafter, the statutory deduction equals the taxable receipts, which is $100,000. Using the single-sales factor apportionment formula, the taxable net income shall be $50,000, and the taxpayer shall deduct a pro rata share of net income in the amount of $100,000 * ($50,000 / $100,000) = $50,000. This represents 100 % reduction in taxable net income.

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SECTION 404. NET INCOME METHOD II.

(A) General.

(1) Method II Net Income shall be the portion of the taxpayer's adjusted taxable income (or loss) from any business activity as properly returned to and ascertained by the Federal Government prior to giving effect to the exclusion for dividends received and for net operating losses, which is apportioned to Philadelphia, plus the taxpayer's nonbusiness income which is allocated to Philadelphia. The adjustments to taxable income (or loss) are provided in subsections (B)(1) through (B)(6).

(2) Taxable income as properly returned to the Federal Government means the taxable income (or loss) as should have been reported to the Internal Revenue Service on a tax return form, in accordance with the Internal Revenue Code, the Regulations issued thereunder, applicable rulings and court decisions. In the case of a partnership, joint venture, association, syndicate, pool or similar organization, or an S corporation, taxable income from any business activity as returned to and ascertained by the Federal Government shall mean "Ordinary income

(loss)" as reported on Form 1065, U.S. Partnership Return of Income, or on Form 1120S, U.S. Income Tax Return for an S Corporation, subject to the following adjustments to reflect items of income and expense passed through separately on Schedule K-1 to the partners, joint ventures, etc., or shareholders:

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(3) The above referenced items are not to be construed as an all inclusive list. The tax base is the actual earnings of the business without recognition of Federal characterizations which are commonly referred to as pass through items.

(4) All businesses must allocate non-business income after making the prescribed adjustments to net income.

(B) Adjustments to Net Income.

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1) A taxpayer shall reduce net income or increase net loss by the amount of interest and dividends earned on and the net gains from the transfer of all direct obligations of the United States Government, Pennsylvania and its political subdivisions, including stocks, bonds and Treasury notes and other direct obligations of the United States Government or Pennsylvania and its political subdivisions, and a taxpayer shall increase net income or reduce net losses by the amount of any net losses from the transfer of all direct obligations of the United States Government or Pennsylvania and its political subdivisions, including stocks, bonds and Treasury notes and other direct obligations of the United States Government or Pennsylvania and its political subdivisions.

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8) A taxpayer shall deduct the pro rata portion of net income attributable to receipts that are excluded under subsection (W), Section 302 of these Regulations; refer to the formula and the examples provided under subsection 403(B) of these Regulations on how the deduction is computed.

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SECTION 408. APPORTIONMENT OF INCOME BY ALL PERSONS OTHER THAN PERSONS WHO ARE SUBJECT TO A TAX PURSUANT TO ARTICLES VII (BANK SHARES TAX), VIII (TITLE INSURANCE AND TRUST COMPANIES SHARES TAX), IX (INSURANCE PREMIUMS TAX) OR XV (MUTUAL THRIFT INSTITUTIONS TAX) OF THE REFORM CODE OF 1971, AND PRIVATE BANKS.

Except as otherwise provided in other sections of this regulation and in subsection (H) of this section, for all Tax Years prior to Tax Year 2015, a taxpayer's net income after adjustments and allocation shall be apportioned to Philadelphia in accordance with a formula composed of a property factor, a payroll factor and a receipts factor.

(A) Property Factor.

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(C) Receipts Factor.

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(F) Application of Fraction. The amount of apportioned net income (or loss) to be included in the measure of the tax is determined by multiplying the weighted average of factors computed pursuant to subsection 408 (E) by the net income (or loss) after adjustments and allocation of nonbusiness income.

(G) Single Sales Factor Apportionment. For Tax Year 2015 and the years thereafter, a taxpayer's net income after adjustments and allocation shall be 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 as determined in accordance with subsection (C) of this Section. For purposes of determining the taxable receipts of the business from within the City of Philadelphia, the source of receipts from the sale by a Software Company (as defined by Section 101DD of these Regulations) 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.

[(G)] (H) Other Methods of Apportionment. If the regularly applicable apportionment method does not fairly represent the taxpayer's business activity in Philadelphia, the taxpayer may petition for, or the Department may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

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[(H)] (I) Pilot Programs:

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ARTICLE V

CREDITS

SECTION 501. CREDITS FOR CONTRIBUTIONS TO COMMUNITY DEVELOPMENT CORPORATIONS AND NONPROFITS INTERMEDIARIES.

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Section 507. Single Sales Factor Apportionment Tax Credit. Added by regulation submitted to the Department of Records on November 5, 2013 (effective December 5, 2013).

A. Definitions. In this Section, the following definitions shall apply:

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B. Tax Credit

1. Pursuant to §19-2604(12)(b)(i) of the Code, businesses shall be eligible to receive a nonrefundable Single Sales Factor Apportionment Tax Credit against their Business Income and Receipts Tax liability, starting in tax year 2013. Any unused tax credits may not be carried forward.

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3. To be fiscally prudent in light of the City's budget needs, the Department has determined for tax year 2013 <u>and tax year 2014</u> that the Single Sales Factor Apportionment Tax Credit amount shall be zero-percent of the single sales factor apportionment tax credit base.

This amendment is effective for tax year 2014 and thereafter.

[ ] Denotes deleted matter.
___ Underlining indicates new matter added.

Date: 9/30/14

Clarena I. W. Tolson

Revenue Commissioner and Chief Collections Officer