

CITY OF PHILADELPHIA
LAW DEPARTMENT

MEMORANDUM

TO: Frank Breslin, Revenue Commissioner

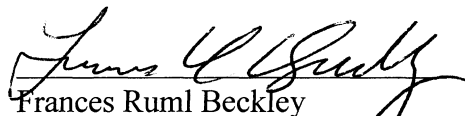
CC: Marisa Waxman, Deputy Commissioner, Policy
Joseph F. Procopio, Jr., Manager – Technical Staff

FROM: Frances Ruml Beckley, Senior Attorney

DATE: February 8, 2016

SUBJECT: Promulgation by the Department of Revenue of Income Tax Regulations for Low-Income Refunds

I have reviewed the attached additions to the Department of Revenue's Income Tax Regulations, dated February 5, 2016. These regulations provide guidance for the Low-Income reduced rates for Wage and Net Profits Tax. I find the attached amended regulations to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may now forward these regulations to the Department of Records where they will be made available for public inspection.


Frances Ruml Beckley
Senior Attorney, Legislation and Appeals

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DEPARTMENT OF RECORDS
2016 FEB -8 AM 10:41

Article VI of the Income Tax Regulations (previously deleted) is being amended to add a new Section 601 entitled *Refunds and Forgiveness of Poverty Income*. Section 601 is being added as a result of City Council Bill No. 140140 (enacted on June 17, 2014) that provides for refunds and forgiveness of Wage Tax and/or Net Profits for Low Income Residents and Low Income Non-residents at a rate that is one half of one percent (0.5%) less than the rate otherwise applicable to a Resident and Non-resident respectively.

CITY OF PHILADELPHIA
INCOME TAX REGULATIONS

ARTICLE VI

[(Deleted*)]

MISCELLANEOUS PROVISIONS

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Section 601. Refunds and Forgiveness of Poverty Income.

(a) Definitions – For purposes of this section, the following terms are defined as follows:

- 1. Low Income Non-Resident. A Non-Resident who is entitled to refund and/or forgiveness of taxes pursuant to the State Low-Income Tax Provisions, including those who are eligible for the maximum refund and/or forgiveness available and those who are entitled to less than the maximum percentage amount.**
- 2. Low Income Resident. A Resident who is entitled to refund and/or forgiveness of taxes pursuant to the State Low-Income Tax Provisions, including those who are eligible for the maximum refund and/or forgiveness available and those who are entitled to less than the maximum percentage amount.**
- 3. State Low-Income Tax Provisions. The Commonwealth of Pennsylvania's law providing for the refund and forgiveness of the Pennsylvania Personal Income Tax ("PIT") based on poverty income as set forth in Section 304 of the Tax Reform Code of 1971 (Act of March 4, 1971, P.L. 6, No.2) as added by the Act of March 13, 1974 (P.L. 179, No. 32) and as amended from time to time. (See 72 P.S. § 7304.)**

- (b) Wage Tax – Beginning with calendar year 2015 and for each calendar year thereafter, the rate of Wage Tax imposed on a Low Income Non-Resident and a Low Income Resident shall be one half of one percent (0.5%) less than the rate imposed on a Non-resident and Resident respectively during such periods.
- (c) Net Profits Tax - Beginning with calendar year 2015 and for each calendar year thereafter, the rate of Net Profit Tax imposed on a Low Income Non-Resident and a Low Income Resident shall be one half of one percent (0.5%) less than the rate imposed on a Non-resident and Resident respectively during such periods.
- (d) Earnings Tax - Beginning with calendar year 2015 and for each calendar year thereafter, the rate of Earnings Tax imposed on a Low Income Non-Resident and a Low Income Resident shall be one half of one percent (0.5%) less than the rate imposed on a Non-resident and Resident respectively during such periods.
- (e) Upon approval of a complete application on the appropriate form or return specified by the Department, a Low Income Non-Resident and a Low Income Resident shall be entitled to a refund or credit of any Wage Tax, Earnings Tax, and/or Net Profit Tax paid or due in excess of the rates specified in subsections (b) and (c) of this section. An application shall not be deemed complete until all information required by the Department has been provided by the applicant and verification of the Pennsylvania PIT Schedule SP data has been provided by the Commonwealth of Pennsylvania.
- (f) Any person who is requesting a refund or credit as specified by this section who has filed a Pennsylvania PIT Schedule SP (“Special Tax Forgiveness”) with the Pennsylvania Department of Revenue for the relevant calendar year must attach a signed copy of that schedule to the Department’s form. The Department shall use any data from the Pennsylvania PIT Schedule SP verified by the Commonwealth of Pennsylvania to determine eligibility for the refund as provided by this section.
- (g) Appeal process for denied applications – Tax Review Board. If the Department has determined that an applicant is ineligible for the refund or credit, the Low Income Resident and/or Low Income Nonresident may appeal the Department’s decision to the Tax Review Board. A petition for review must be filed with the Tax Review Board within sixty (60) days after the mailing date of the Department’s denial notice or letter. Every petition for review must state the reasons upon which the petitioner relies and must include certification by the petitioner that the facts set forth therein are true and correct.
- (h) No refund shall be granted if there is not sufficient funds in the employer’s Wage Tax account.

- (i) No refund shall be granted to an applicant that is not compliant with all Philadelphia taxes and Water charges.
- (j) Penalty for false applications/fraud – Pursuant to Section 1-109(1) of the Code, any applicant who knowingly makes a false or fraudulent application or tax return will be subject to a fine of not more than \$300. If a refund or credit is granted and the Department subsequently discovers that a false or fraudulent application or tax return was filed, the applicant shall be subject to all taxes rightfully due as well as all interest, penalties, costs and fines as allowed by applicable law.
- (k) Employer Disclosures – For calendar year 2015 and for each calendar year thereafter, each employer that withholds the Wage Tax shall provide each employee from whom it withholds the tax a copy of the application (as prepared by the Department) at the same time it provides the employee with his or her Federal Form W-2.
 - 1. For purposes of this subsection, “same time” is defined as the time before the last date that a Federal Form W2 can timely be provided to an employee.
 - 2. Disclosures may be either in paper or electronic formats.
 - 3. Penalty for failure to provide disclosure materials – Pursuant to Section 1-109(1) of the Code, any employer who fails to provide an employee with a copy of the application as required by this subsection shall be subject to a fine of not more than \$300 for each employee who fails to receive the application.
- (l) Employer Withholding – Notwithstanding the refund as provided by this section, an employer must continue to withhold and remit the full Wage Tax rate on a Low Income Non-Resident and a Low Income Resident as would be applicable to a Non-resident and Resident respectively.

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DEPARTMENT OF REVENUE
2016 FEB -8 AM 10:42

_____ Underline and **bold** denotes new matter

[] Brackets and **bold** denote matter deleted



Date: 2/5/16

Frank Breslin CPA, Revenue Commissioner