



Philadelphia Tax Reform Commission



**Final Report
November 15, 2003**

Volume II



CITY OF PHILADELPHIA

TAX REFORM COMMISSION
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November 15, 2003

To the Citizens of Philadelphia:

On behalf of the Philadelphia Tax Reform Commission, we are pleased to submit Volume II of our final report. Volume II contains a comprehensive legislative package that can be used to implement the Commission's tax reform recommendations.

This legislative package fully and accurately reflects the reform recommendations detailed in Volume I of the Commission's final report. We believe that enacting this legislative package is the best way to reduce Philadelphia's tax burden, create a fair tax system, and improve the local economy.

We appreciate the opportunity to be of service to our city and gratefully acknowledge all of those who assisted us in our work. We stand ready to answer any questions and assist in any manner you deem appropriate.

Respectfully submitted,

Edward A. Schwartz
Chair

Raymond Jones
Vice Chair

Al Taubenberg
Vice Chair

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Document Key

All changes to the current legislation and regulations are in bold (**Proposal**).

Additions of any language are in italics (*Proposal*).

Deletions of any language are within brackets (**[Proposal]**).

A deletion of a large section is noted and set off by asterisks (****Proposal****).

Section 1

Legislation Supporting Commission Recommendations 1, 4, 5, and 6:

An Ordinance:

Amending Title 2 of The Philadelphia Code, entitled “City-County Consolidation,” by removing the authority of the Board of Revision of Taxes to hear appeals and reassigning that authority, with the power, functions and duties of hearing and deciding appeals, from Board of Revision of Taxes assessment, to a newly appointed independent City agency to be known as the Property Assessment Appeals Board; imposing the duty on the Board of Revision of Taxes to adopt and publish Assessment Standards and Practices that include certification of full and averaged assessments; providing for submission of such amendment for the approval or disapproval of the qualified electors of the City of Philadelphia; fixing the date of a special election for such purpose; prescribing the form of ballot questions to be voted on; and authorizing the appropriate officers to publish notice and to make arrangements for the special election; all under certain terms and conditions.

Summary of Relevant Recommendations:

Recommendation 1: Separate the Property Assessment and Appeals Process.

To address citizen concerns about the impartiality of appeals, create a seven-member Property Assessment Appeals Board (the “Appeals Board”) of qualified individuals appointed by the Mayor, which would be separate from the Board of Revision of Taxes (BRT). The current system of Court of Common Pleas judges appointing the BRT would continue.

Recommendation 4: Adopt a Set of Assessment-Practice Principles.

The BRT should adopt, publicize, and annually update a set of assessment-practice principles.

Recommendation 5: Eliminate Fractional Assessments.

The BRT should assess properties at 100 percent of market value instead of the current 70 percent factor; removing an extra layer of complexity from the process and making it easier for property owners to evaluate the accuracy of their assessments. Other proposed changes to the property tax system would guard against unreasonable increases in property tax bills as a result of this step.

Recommendation 6: Implement a Property Tax Buffering Program.

To allow for gradual adjustment to any future changes in a property’s assessed value, the Commission rejects all types of phasing, caps, and freezes in favor of recommending a three-year averaging program wherein the Real Estate Tax is levied on the average of the assessed property value from the past three years. If the City adopts a system of land-value taxation, the tax would be levied on the past three years’ land value plus the current year’s structural value.

AN ORDINANCE

Amending Title 2 of The Philadelphia Code, entitled “City-County Consolidation,” by removing the authority of the Board of Revision of Taxes to hear appeals and reassigning that authority, with the power, functions and duties of hearing and deciding appeals, from Board of Revision of Taxes assessment, to a newly appointed independent City agency to be known as the Property Assessment Appeals Board; imposing the duty on the Board of Revision of Taxes to adopt and publish Assessment Standards and Practices that include certification of full and averaged assessments; providing for submission of such amendment for the approval or disapproval of the qualified electors of the City of Philadelphia; fixing the date of a special election for such purpose; prescribing the form of ballot questions to be voted on; and authorizing the appropriate officers to publish notice and to make arrangements for the special election; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 2 of The Philadelphia Code is hereby amended to read as follows:

TITLE 2. CITY-COUNTY CONSOLIDATION.

CHAPTER 2-100. CITY-COUNTY CONSOLIDATION.

* * *

§2-113. Board of Revision of Taxes.

- (1) A duty is hereby imposed on the Board of Revision of Taxes to reassess annually every parcel of real property in the City. No assessment of a parcel of real property for any year shall be forwarded to the Director of Finance until every parcel of real property in the City has been reassessed for that year. *After it has completed its duties with respect to the hearing of all appeals from assessments made in calendar year 2004, including the certification of all final assessments, the Board of Revision of Taxes shall cease to hear all appeals from assessments. All powers, functions and duties with respect to the hearing of appeals from assessments made by the Board of Revision of Taxes shall be exercised and performed by the Property Assessment Appeals Board, as provided in Section 2-200.*
- (2) *Assessment Standards and Practices:*
- (a) *A duty is hereby imposed on the Board of Revision of Taxes to adopt, subject to the approval of Council, and publicly report, an official set of Assessment Standards and Practices, with respect to assessments made in calendar years 2005 and thereafter.*
- (b) *The Assessment Standards and Practices report shall:*
- (i) *Set forth standards, qualifications, and state certification requirements for assessors.*

- (ii) *Set forth the methods to be used for the valuation of properties for taxation purposes.*
 - (iii) *Set standards for property assessments that shall include, at a minimum: an acceptable limit on the deviation of the Common Level Ratio from the Predetermined Ratio; an acceptable limit on the Coefficient of Dispersion; and an acceptable range for the Price-Related Differential. The measurements against the standards shall be calculated following nationally recognized practices.*
 - (iv) *Require annual reassessment through a professionally developed and maintained Computer Assisted Mass Appraisal system (CAMA).*
 - (v) *Require that the annual reassessment be applied to all properties, including tax-exempt properties, public utility properties, and residential trailers.*
 - (vi) *Establish standards for recommending tax exemption for properties.*
 - (vii) *Establish procedures for changing values on an administrative basis (e.g., catastrophic loss, error in data, initial recommendation on tax exemption).*
 - (viii) *Establish procedures for separately stating the certified value of the land and the improvements portions of the annual certified assessments.*
 - (ix) *Establish procedures for certifying to the City of Philadelphia and the School District both the current year full assessed value and the current year adjusted assessed value, with the adjusted assessed value prior to adoption of land value taxation being the average of the current year certified assessed value and the two preceding year's certified assessed values, and, upon adoption of land value taxation, being the full current certified assessed improvements value plus the average of the current certified assessed land value and the two preceding year's certified assessed land values.*
- (c) *The Board of Revision of Taxes shall provide copies of its report to the Mayor, each member of Council, the Clerk of Council, the Property Appeals Board, and the Taxpayer Advocate, and the Board of Revision of Taxes shall ensure that copies are provided to all public libraries in the City and that a copy is posted on the City's official Internet site. Failure to provide copies of its report to any of the intended recipients herein shall not affect the validity of the Assessment Standards and Practices.*

- (3) ***Right to Appeal Assessment to the Property Assessment Appeals Board; Certification of Assessment.***
- (a) ***Notice of Right to Appeal – The Board of Revision of Taxes shall include with the mailing of the Notice of Assessment a notice of the right to appeal assessments to the Property Assessment Appeals Board and the deadline for such appeal.***
- (b) ***Certification of Final Assessment—The Property Assessment Appeals Board shall issue a written certification of the final assessment in any appeal.***
- (c) ***Unless otherwise modified by this Code, all provisions relating or governing tax assessments set forth in the statute governing the making of assessments in Counties of the First Class (72 P.S. §5341.1 et seq.), all applicable provisions of the General County Assessment Law (72 P.S. §5020-101 et seq.), and all other applicable laws shall remain in full force and effect.***

CHAPTER 2-200. PROPERTY ASSESSMENT APPEALS

§2-201. Property Assessment Appeals Board: Composition and Appointment

- (1) ***The Property Assessment Appeals Board (the “Appeals Board” for this subsection) is hereby created, effective immediately, as an independent board.***
- (2) ***The Appeals Board shall consist of seven members, all of whom shall be residents of the City. Two of the members shall have at least ten years experience as a real estate appraiser certified by the Commonwealth of Pennsylvania, and one member shall be a duly licensed attorney at law, with at least ten years experience as a practicing attorney with residential or commercial valuation expertise.***
- (3) ***Members of the Appeals Board shall be appointed by the Mayor and may be terminated by the Mayor without notice.***
- (4) ***Members of the Appeals Board shall designate amongst themselves a Chair of the Property Assessment Appeals Board and a Secretary of the Assessment Appeals Board.***
- (5) ***Compensation of members of the Appeals Board shall be as Council may ordain from time to time.***
- (6) ***The Appeals Board shall retain an executive director and such other employees as are required to conduct the work of the Appeals Board.***

§2-202. Property Assessment Appeals Board: Powers and Duties

- (1) *The Appeals Board shall provide for hearings in all cases of appeals from property assessments commencing with calendar year 2005 and thereafter.*
- (2) *Hearings shall be before either a member or members of the Appeals Board, or before hearing officers appointed by the Appeals Board, but in either case appeals may be heard only by Appeals Board members or hearing officers who are State Certified General Appraisers, or real estate industry professionals or lawyers with residential or commercial valuation expertise.*
- (3) *Hearings shall be held in accord with the Assessment Appeals Standards and Practices adopted by the Appeals Board as set forth in §2-203.*
- (4) *Following a hearing, the member(s) of the Appeals Board who heard the appeal or the hearing officer(s), as the case may be, shall provide a written or oral report of the hearing to all members of the Appeals Board. The report shall include a recommendation to the Board and the basis of such recommendation. Following receipt of the report, the Appeals Board shall certify a decision on the appeal to the Board of Revision of Taxes.*
- (5) *The Appeals Board shall twice each year file a written report on its activities with Council.*
- (6) *The Appeals Board shall perform and exercise such other powers and duties as may be conferred or imposed upon it by law or ordinance.*

§2-203 Property Assessment Appeals Standards and Practices

- (1) *The Appeals Board shall publish, within six months of its creation, the Assessment Appeals Standards and Practices to be applied and followed by the Appeals Board and Appellants.*
- (2) *Such standards and practices are to be consistent with applicable law, and shall include:*
 - (a) *The Board of Revision of Taxes actions that may be appealed to the Appeals Board.*
 - (b) *The procedure for filing and hearing appeals.*
 - (c) *The rules of evidence applicable to appeals.*
 - (d) *The assessment practice guidelines by which appeals decisions are made.*
 - (e) *A reasonable time period in which appeals must be heard after filing.*
 - (f) *A reasonable time period for final certification of the appeal.*
 - (g) *A requirement that notice of hearings be given to all parties with sufficient time to allow adequate preparation by participants.*

- (3) ***Publication, Adoption, and Distribution of the Property Assessment Appeals Standards and Practices***
- (a) ***The Appeals Board shall adopt Property Assessment Appeals Standards and Practices (“Appeals Standards and Practices”) pursuant to the administrative procedures for publicizing and adopting regulations established in Chapter 4, section 8-407 of the Home Rule Charter.***
- (b) ***Final adoption shall occur on the thirtieth day after publication.***
- (c) ***The Appeals Board shall provide copies of the final Property Assessment Appeals Standards and Practices to the Mayor, each member of Council, the Clerk of Council, the Board of Revision of Taxes, the Taxpayer Advocate, and all public libraries in the City and shall post a copy on the City’s official Internet site. Failure to provide copies of its report to any of the intended recipients herein shall not affect the validity of the Appeals Standards and Practices.***

§2-204 Provisions of General Applicability

- (1) ***Except as expressly provided otherwise in this Chapter, the Board of Revision of Taxes and the Property Assessment Appeals Board shall function in accordance with all applicable laws and all applicable provisions of the Philadelphia Home Rule Charter.***

SECTION 2. This Ordinance shall be submitted to the qualified electors of the City of Philadelphia for their approval or disapproval at a special election to be held on November 2, 2004, and shall not take effect unless so approved. There shall be placed on the ballot the following question to be answered “Yes” or “No” by the qualified electors participating in the election:

Shall the Board of Revision of Taxes’ powers, functions and duties with respect to all appeals of its assessments and decisions be transferred to the Property Assessment Appeals Board created by Ordinance _____?

SECTION 3. This Ordinance shall be submitted to the qualified electors of the City of Philadelphia for their approval or disapproval at a special election to be held on November 2, 2004, and shall not take effect unless so approved. There shall be placed on the ballot the following question to be answered “Yes” or “No” by the qualified electors participating in the election:

Shall the Board of Revision of Taxes be required to officially adopt a set of Assessment Standards and Practices subject to the requirements established in Ordinance _____?

SECTION 4. The Clerk of Council is hereby directed to have printed in pamphlet form, in sufficient number for general distribution, the proposed amendment to Chapter 2-100 of The Philadelphia Code, together with the ballot questions set forth in Section 2 and Section 3 of this Ordinance.

SECTION 5. The Clerk of Council is hereby directed to cause to be published in three (3) newspapers of general circulation in the City and in the Legal Intelligencer the proposed amendment to Chapter 2-100 of The Philadelphia Code, together with the ballot questions set forth in Section 2 and Section 3 of this Ordinance, once a week during the three (3) weeks preceding the election on November 2, 2004; and further, at such other time and in such manner as the Clerk of Council may consider desirable.

SECTION 6. The Mayor is hereby authorized and directed to issue a proclamation giving at least thirty (30) days notice of such election. The Clerk of Council shall cause a copy of the proclamation to be published, together with the notice provided for in Section 5 of this Ordinance.

SECTION 7. The appropriate officers are authorized and directed to take such action as may be required for the holding of an election on the ballot questions set forth in Section 2 and Section 3 of this Ordinance as provided for by the laws of the Commonwealth of Pennsylvania.

Section 2

Legislation Supporting Commission Recommendation 2:

An Executive Order:

Establishing an Office of Taxpayer Advocate

Summary of Relevant Recommendation:

Recommendation 2: Establish a Taxpayers' Advocate.

Create a Taxpayers' Advocate nominated by the Mayor and approved by City Council to advocate for property owners in appeals, improve public understanding of the assessment and appeals process, monitor the quality of the assessment process, and review both the BRT's Assessment-Practice Principles (i.e. Assessment Standards and Practices) and the Appeals Board's practices and procedures.

EXECUTIVE ORDER NO. 1-04**OFFICE OF TAXPAYER ADVOCATE**

WHEREAS, the residents of the City of Philadelphia perceive the current system of real property assessment as unfair and arbitrary; and

WHEREAS, many of the residents of the City of Philadelphia do not possess a complete understanding of the system of real property assessment nor an understanding of the assessment appeals process; and

WHEREAS, adequate oversight of the Board of Revision of Taxes' assessment standards does not currently exist; and

WHEREAS, it is incumbent upon the government of the City of Philadelphia to ensure that the citizens of Philadelphia are afforded a governmental unit that educates them regarding, and advocates for their fair treatment in, the real estate assessment system;

NOW, THEREFORE, by the power vested in me by the Philadelphia Home Rule Charter, it is hereby **ORDERED**:

SECTION 1. ESTABLISHMENT OF A TAXPAYER ADVOCATE

There is hereby established the Office of Taxpayer Advocate, which shall consist of one member.

- (a) The Taxpayer Advocate shall be appointed by the Mayor, with the advice and consent of City Council, and shall be a duly licensed attorney at law who possesses at least ten years of relevant experience within the field of commercial and residential real property valuation.
- (b) To enable the Taxpayer Advocate to fulfill the duties of the office, the Taxpayer Advocate shall be authorized to retain such staff as necessary to conduct the work of the office.

SECTION 2. POWERS AND DUTIES

- (a) The Taxpayer Advocate shall advocate on behalf of residential real property owners within the initial assessment and assessment appeals process.
- (b) The Taxpayer Advocate shall develop educational programs and materials to improve the public's understanding of the system of real property valuation performed by the Board of Revision of Taxes, and the public's understanding of the assessment appeals process as prescribed by the Property Assessment Appeals Board.
- (c) The Taxpayer Advocate shall monitor and publicly report upon the system of real property valuation performed by the Board of Revision of Taxes. In carrying out this function, the Taxpayer Advocate shall review

and publicly comment upon the Board of Revision of Taxes' Assessment Standards and Practices, and shall periodically issue such other reports as are deemed necessary.

- (d) The Taxpayer Advocate shall monitor and publicly report upon the assessment appeals process performed by the Property Assessment Appeals Board. In carrying out this function, the Taxpayer Advocate shall review and publicly comment upon the Property Assessment Appeals Board's Assessment Appeals Standards and Practices, and shall periodically issue such other reports as are deemed necessary.
- (e) The Taxpayer Advocate shall provide legal representation to low-income residential real estate taxpayers in the assessment process, with such representation limited to meetings with appraisers and to appearances before the Board of Revision of Taxes and the Property Assessment Appeals Board. The Taxpayer Advocate shall develop the criteria for qualification for such representation.

SECTION 3. COOPERATION

All City departments, and particularly the Board of Revision of Taxes and the Property Assessment Appeals Board, shall provide the Taxpayer Advocate with information and other assistance as may be necessary and appropriate for the Taxpayer Advocate to carry out the responsibilities of the office.

SECTION 4. TERM

The Taxpayer Advocate may be removed and replaced by the Mayor without notice.

SECTION 5. COMPENSATION

Compensation of the Taxpayer Advocate shall be as determined by the Mayor.

SECTION 6. EFFECTIVE DATE

This Order shall be effective immediately.

Date

John F. Street, Mayor

Section 3

Legislation Supporting Commission Recommendations 7 and 9:

An Ordinance:

Amending Chapter 19-1300 of The Philadelphia Code, entitled “Real Estate Taxes,” by specifying a rate for tax year 2004, specifying that rates thereafter be dependent on total taxable assessed values certified by the Board of Revision of Taxes, changing the billing year from a calendar year to a fiscal year; all under certain terms and conditions.

Summary of Relevant Recommendations:

Recommendation 7: Implement a System of Budget-Based Property Taxation.

Beginning in fiscal year 2006, shift from an assessment-driven to a budget-based system of property taxation such as is used by most municipalities. The Commission recommends creating a system of budget-based property taxation by legislatively obligating the Mayor and City Council to determine all annual Real Estate Tax rates *after* setting the budget and reviewing assessments, thereby maintaining a stable revenue stream under the control of local government. This system would end the revenue windfall that currently occurs when property assessments rise and the Real Estate Tax produces more than the originally projected amount of revenue. This recommendation would be effective beginning in fiscal year 2006.

Recommendation 9: Expand Efforts to Address Property Tax “Ability to Pay” Issues.

Although the net worth of all property owners increases when values rise, those living on fixed incomes often find the corresponding increase in property taxes difficult to afford. The Commission developed the following recommendation to address this concern. (1) Implement a Quarterly Payment Plan—Allow homeowners to pay in four installments through the fiscal year instead of one lump sum. This system would save the City millions of dollars in borrowing costs as a result of tax revenues starting to be collected at the beginning of the fiscal year.

AN ORDINANCE

Amending Chapter 19-1300 of The Philadelphia Code, entitled “Real Estate Taxes,” by specifying a rate for tax year 2004, specifying that rates thereafter be dependent on total taxable assessed values certified by the Board of Revision of Taxes, changing the billing year from a calendar year to a fiscal year; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1300 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-1300. REAL ESTATE TAXES.

§19-1301. Real Estate Taxes.

- (1) For each of the following years, a tax is hereby levied at the following respective rates on each one hundred (100) dollars of the assessed value of taxable real property returned by the Board of Revision of Taxes in the calendar year immediately preceding the stated year:

<u>Year of Tax</u>	<u>Tax Rate</u>
1974 to 1976	\$1.975
1977 to 1980	\$3.275
1981 to 1982	\$3.475
1983 to 1984	\$3.90
1985 to 1988	\$3.505
1989 to 2002	\$3.745
2003 [and each year thereafter]	\$3.474
2004	\$3.474

Calendar 2005 and thereafter Pursuant to §19-1301(A)

- (2) *Determination of Real Estate Tax Rates pursuant to §19-1301(A) for Tax Year 2005 and thereafter.*

(a) *Definitions.*

- (i) *Collection Factor. The Collection Factor is defined as the average collection percentage for the first three of the four Tax Years next preceding the Tax Year for which the real estate tax is being calculated. Notwithstanding the foregoing, the Collection Factor for 2005 is set at nine-tenths (0.9).*

- (ii) *City-Wide Taxable Assessed Value. The total taxable assessed value of all property in the City as certified by the Board of Revision of Taxes.*
 - (iii) *City-Wide Taxable Assessed Land Value and City-Wide Taxable Assessed Improvements Value. The City-Wide Taxable Assessed Value separately stated by the Board of Revision of Taxes for lands and improvements.*
 - (iv) *Tax Year. The calendar or fiscal year during which tax due under this Chapter 19-1300 is payable in accordance with the provisions of §19-1301(3).*
 - (v) *Target Tax Revenues. The Real Estate Tax revenues calculated at the time of enacting the final budget to be necessary to balance the budget, after all other projected sources of tax and non-tax revenue and available receipts and balances are taken into account.*
 - (vi) *Target Tax Billings. Target Tax Revenues divided by the Collection Factor.*
 - (vii) *Target Land-Value Tax Billings and Target Improvements-Value Tax Billings. Target Tax Billings apportioned between Land-Value Tax Billings and Improvements-Value Tax Billings pursuant to the apportionment percentages provided in §19-1301(A).*
- (b) *Tax Rates.*
- (i) *Effective with Tax Years 2005, and thereafter, two tax rates shall be set annually: the Land-Value Tax Rate and the Improvements-Value Tax Rate.*
 - (ii) *The Land-Value Tax Rate shall be a quotient, the numerator of which shall be the Target Land-Value Tax Billings and the denominator of which shall be the City-Wide Taxable Assessed Land Value.*
 - (iii) *The Improvement-Value Tax Rate shall be a quotient, the numerator of which shall be the Target Improvements-Value Tax Billings and the denominator of which shall be the City-Wide Assessed Improvements Tax Base.*
- (3) *Real Estate Tax Payable on a Current Fiscal Year Basis; Installment Payments of Tax Due.*
- (a) *Real estate taxes that fund the City and School District budgets for fiscal years prior to and including fiscal year 2005 shall be billed on January 1 of the next ensuing calendar year.*

- (b) Commencing with real estate taxes that fund the City and School District budgets for fiscal years 2006 and thereafter, real estate taxes shall be billed and payable on a current fiscal year basis, and shall be billed on the June 15 of the preceding fiscal year.*
- (c) Installment Payments: Effective with the adoption of a fiscal year real estate tax billing cycle, real estate taxes are payable in one lump sum on or before August 31 each year, or, at the option of the taxpayer, in installments as provided in Section 19-1302.*
- (d) Phase-in transition to fiscal tax year: In order to implement a transition to fiscal year real estate taxation and the adoption of the installment payment option, the real estate tax liability for fiscal year 2006 shall, at the option of the taxpayer, be payable on the following schedule:*

 - (i) Full payment method: One-hundred percent payable with a one percent discount on or before August 15, 2005;*
 - (ii) Phased-in installment payments pursuant to Section 19-1302(1), with first payment due on or before July 15, 2005.*

SECTION 2. This ordinance shall take effect beginning with real estate taxes that fund the fiscal year 2006 budget.

Section 4

Legislation Supporting Commission Recommendation 8:

An Ordinance:

Amending Chapter 19-1300 of the Philadelphia Code entitled “Real Estate Taxes” to mandate a phase-in of equal percentages of the Target Tax Billings to be imposed upon lands and buildings for real estate tax purposes.

Summary of Relevant Recommendation:

Recommendation 8: Phase-in Land Value Taxation.

Land-value taxation should be phased-in, until, at the end of ten years, 50 percent of all Real Estate Tax revenues are generated from a tax on the value of land (an increase from the current 22.5 percent) and 50 percent of revenues from a tax on the value of structures (a decrease from the current 77.5 percent). To achieve this target, the tax imposed upon structures would be gradually reduced and the tax on land gradually increased. The Commission reviewed extensive research and testimony demonstrating that land-value taxation maximized its economic development goals when implemented in conjunction with other types of tax and policy reform. Land-value taxation, complemented by the other recommendations of this Commission, would be consistent with the Commission’s mission to improve the City's competitiveness in a fiscally and socially responsible manner. The Commission also confirmed the practicality of accurately assessing land values and determined that the issue of tax-delinquency would not threaten attempts to impose land-value taxation in a revenue-neutral manner. Land-value taxation, which encourages maximizing land’s potential, will encourage private investment in the city and help reduce blight and abandonment.

AN ORDINANCE

Amending Chapter 19-1300 of the Philadelphia Code entitled “Real Estate Taxes” to mandate a phase-in of equal percentages of the Target Tax Billings to be imposed upon lands and buildings for real estate tax purposes.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1301(A) of the Philadelphia Code is hereby created to read as follows:

CHAPTER 19. REAL ESTATE TAXES

* * *

§19-1301(A). Levy and Rate on Land and Improvements for Real Estate Taxes.

- (1) *For fiscal years 2005 and thereafter, a tax is hereby levied on lands to be imposed at one rate upon all assessed lands and a tax is hereby levied on improvements to be imposed at a second rate upon all assessed improvements. The tax rate for land and improvements shall be imposed pursuant to subsections (2) and (3) of this section 19-1301(A).*
- (2) *Effective with fiscal year 2005, a ten-year transition period shall commence during which the percentages of the proportionate tax burdens borne by lands and improvements will gradually equalize at 50 percent effective with tax year 2014 and thereafter, and with interim percentages determined pursuant to the Land-Value Tax Phase-In Schedule in subsection (3)(e) of this section 19-1301(A), producing a Land-Value Tax Rate applicable to the Certified Assessed Land Value and a Improvements-Value Tax Rate applicable to the Certified Assessed Improvements Value.*
- (3) *City-Wide Taxable Assessed Land Value and City-Wide Taxable Assessed Improvements Value Definitions:*
 - (a) *Target Land-Value Tax Billings and Target Improvements-Value Tax Billings for fiscal years 2005 through 2013:*
 - (b) *The Target Land-Value Tax Billings shall be the percentage of Target Tax Billings, as defined above in section 19-1301(2)(a)(vi), to be derived from the City-Wide Taxable Assessed Land Value, as defined above in section 19-1301(2)(a)(iii), to be determined according to the Land-Value Tax Phase-in Schedule in subsection (3)(e) of this section 19-1301(A).*
 - (c) *The Target Improvements-Value Tax Billings shall be the percentage of Target Tax Billings, as defined above in section 19-1301(2)(a)(vi), to be derived from the City-Wide Taxable Assessed Land Value, as defined above in section 19-1301(2)(a)(iii), to be determined according to the Land-Value Tax Phase-in Schedule in subsection (3)(e) of this section 19-1301(A).*

- (d) *Land and Improvements Tax Billings for fiscal year 2014, and thereafter:*
- (i) *The Target Land-Value Tax Billings shall be fifty percent (50%) of the Target Tax Billings.*
- (ii) *The Target Improvements-Value Tax Billings shall be fifty percent (50%) of the Target Tax Billings.*
- (e) *Land-Value Tax Phase-In Schedule*

<i>Fiscal Year</i>	<i>Target Land-Value Tax Billings</i>	<i>Target Improvements-Value Tax Billings</i>
<i>2005</i>	<i>25.25%</i>	<i>74.75%</i>
<i>2006</i>	<i>28.00%</i>	<i>72.00%</i>
<i>2007</i>	<i>30.75%</i>	<i>69.25%</i>
<i>2008</i>	<i>33.50%</i>	<i>66.50%</i>
<i>2009</i>	<i>36.25%</i>	<i>63.75%</i>
<i>2010</i>	<i>39.00%</i>	<i>61.00%</i>
<i>2011</i>	<i>41.75%</i>	<i>58.25%</i>
<i>2012</i>	<i>44.50%</i>	<i>55.50%</i>
<i>2013</i>	<i>47.25%</i>	<i>52.75%</i>
<i>2014</i>	<i>50.00%</i>	<i>50.00%</i>

SECTION 2: This ordinance shall take effect for fiscal years 2005 and thereafter.

Section 5

Legislation Supporting Commission Recommendation 9:

An Ordinance:

Amending Chapter 19-1302 of The Philadelphia Code entitled “Installment Payments” to provide for the Department of Revenue to accept payment of real estate taxes in four equal payments; all under certain terms and conditions.

An Ordinance:

Amending Chapter 19-1300 of The Philadelphia Code. Entitled “Real Estate Taxes,” by providing discounts and penalties related to the installment payments and new fiscal year billing, and to guarantee that payments are applied to current year tax first to avoid accumulation of additions and penalties.

Summary of Relevant Recommendation:

Recommendation 9: Expand Efforts to Address Property Tax “Ability to Pay” Issues.

Although the net worth of all property owners increases when values rise, those living on fixed incomes often find the corresponding increase in property taxes difficult to afford. The Commission developed the following recommendation to address this concern. (1) Implement a Quarterly Payment Plan—Allow homeowners to pay in four installments through the fiscal year instead of one lump sum. This system would save the City millions of dollars in borrowing costs as a result of tax revenues starting to be collected at the beginning of the fiscal year.

AN ORDINANCE

Amending Chapter 19-1302 of the Philadelphia Code entitled "Installment Payments" to provide for the Department of Revenue to accept payment of real estate taxes in four equal payments; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1302 of the Philadelphia Code is hereby amended to read as follows:

CHAPTER 19. REAL ESTATE TAXES

* * *

§19-1302. Installment Payments.

- (1) The Department **[may]** *shall* accept payment of real estate taxes in four **[equal]** installments *or in one annual payment for fiscal year 2006*, subject to the discounts and penalties prescribed in **[§ 19-1303] § 19-1303a**. *Such installments shall be billed and due according to the following schedule:*

<u>Fiscal Year 2006</u>	<u>Amount of Payment</u>
<i>July 15, 2005</i>	<i>12.5%</i>
<i>October 15, 2005</i>	<i>12.5%</i>
<i>January 31, 2006</i>	<i>50%</i>
<i>April 15, 2006</i>	<i>25%</i>

- (2) *Commencing with fiscal year 2007 and thereafter, the Department shall accept payment of real estate taxes in four equal installment or in one lump sum payments, subject to the discounts and penalties prescribed in § 19-1303a. Such installments shall be due according to the following schedule:*

<u>Date of Payment</u>	<u>Amount of Payment</u>
<i>July 15</i>	<i>25%</i>
<i>October 15</i>	<i>25%</i>
<i>January 15</i>	<i>25%</i>
<i>April 15</i>	<i>25%</i>

- (3) *Election required: Notwithstanding the forgoing, commencing with real estate tax payments billed for the fiscal year 2006 and thereafter, any taxpayer that does not elect to pay the tax due in installments on or before August 31 shall be liable for the full amount of the tax, with additions, penalties and interest prescribed in § 19-1303a accumulating from October 1 until such tax is paid in full.*

SECTION 2: This ordinance shall take effect beginning with real estate tax bills issued for fiscal year 2006.

AN ORDINANCE

Amending Chapter 19-1300 of the Philadelphia Code. Entitled “Real Estate Taxes,” by providing discounts and penalties related to the installment payments and new fiscal year billing, and to guarantee that payments are applied to current year tax first to avoid accumulation of additions and penalties.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1300 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-1300. REAL ESTATE TAX.

§19-1303. Discounts and Additions to Tax.

* * *

(6) *This Section 19-1303 is effective with respect to all real estate taxes due on or before March 31, 2005.*

§19-1303a. *Discounts and Additions to Tax.*

Unless otherwise provided by special ordinance, this ordinance applies to taxes due and payable commencing July 1, 2005:

- (1) *Taxpayers electing one annual payment: Upon all real estate taxes paid in full up to and including the last day of August of the fiscal year in which such taxes shall be assessed and payable, or within twenty (20) days of the date of mailing of the tax bill, whichever is later, a discount of one percent (1%) shall be allowed.***
- (2) *Upon all real estate taxes paid under the installment method, or any real estate taxes otherwise paid on or after September 1 of the fiscal year in which such taxes shall be assessed and payable, no discounts shall be allowed.***
- (3) *Upon all real estate taxes paid thereafter, additions shall be imposed as follows:***
 - (a) *With respect to the minimum first quarterly tax payment due on July 15, if paid on or after July 16 and prior to July 1 of the next ensuing calendar year, an addition of one and one-half percent (1.5%) for each month the tax is not paid;***
 - (b) *With respect to the minimum second quarterly tax payment due on October 15, if paid on or after October 16 and prior to July 1 of the next ensuing calendar year, an addition of one and one-half percent (1.5%) for each month the tax is not paid;***

- (c) *With respect to the minimum third quarterly tax payment due on January 15, if paid on or after January 16 and prior to July 1 of that calendar year, an addition of one and one-half percent (1.5%) for each month the tax is not paid;*
 - (d) *With respect to the minimum fourth quarterly tax payment due on April 15, if paid on or after April 16 and prior to July 1 of that calendar year, an addition of one and one-half percent (1.5%) for each month the tax is not paid;*
 - (e) *With respect to the total tax payment due where an election to pay on the installment method option is not exercised on or before August 30 of the fiscal tax year, if paid on or after September 1 of that taxable year and prior to July 1 of the following calendar year, an addition of one and one-half percent (1.5%) for each month the tax is not paid.*
- (4) *Upon all real estate taxes remaining due and unpaid on the first day of July of the year following the fiscal year for which such taxes are assessed and payable, there shall be added:*
- (a) *as an addition to tax, such amounts as are provided in the following schedule:*
 - (i) *Quarterly payment due July 15—eighteen percent (18%) of the tax due; plus*
 - (ii) *Quarterly payment due October 15—thirteen and one-half percent (13.5%) of the tax due; plus*
 - (iii) *Quarterly payment due January 15—nine percent (9.0%) of the tax due; plus*
 - (iv) *Quarterly payment due April 15—four and one-half percent (4.5%) of the tax due.*
 - (v) *Annual payment due August 31—sixteen and one-half percent (16.5%) of the tax due.*
 - (b) *interest at the rate of three-quarters of one percent (0.75%) per month, or part thereof, and*
 - (c) *a penalty of one percent (1.0%) on the first day of each month from August 1 through February 1 during the twelve (12) months in which such tax is registered as delinquent.*
- (5) *The forgoing cumulative additions, penalties and interest are exhibited in the following charts:*
- (6) *With respect to all real estate tax payments, the Department of Revenue shall credit such payments to the current year's tax due, with any excess credited first to current year additions, then to delinquent taxes and accumulated*

penalties and interest.

- (7) *The Department shall at all times display, in large figures and in a conspicuous place in the tax collection office, the amount of tax and discount or addition and penalty fixed by this Chapter or by special ordinance.*

§19-1303a-1. Special Discounts and Penalty Provisions for Fiscal Years 2006 and 2007.

Notwithstanding the forgoing, the following discounts, penalties and interest shall apply solely with respect to certain payments of tax due for fiscal years 2006 and 2007:

- (1) *Upon all fiscal year 2005 and 2006 real estate taxes paid in full, up to and including the fifteenth day of July of the respective fiscal year, or within twenty (20) days of the date of mailing of the first tax bill for that fiscal year, whichever is later, a discount of two percent (2%) shall be allowed.*
- (2) *Upon all fiscal year 2005 and 2006 real estate taxes paid in full, up to and including the last day of August of the respective fiscal year, or within thirty (30) days of the date of mailing of the first tax bill, whichever is later, a discount of one percent (1%) shall be allowed.*
- (3) *Upon all fiscal year 2005 and 2006 real estate taxes paid under the installment method, or any fiscal year 2005 and 2006 real estate taxes otherwise paid on or after September 1 of 2005 or 2006, respectively, in which such taxes shall be assessed and payable, no discounts shall be allowed.*
- (4) *Upon all fiscal year 2005 and 2006 real estate taxes paid thereafter, penalties shall be imposed as follows:*
- (a) *With respect to real estate tax assessed and payable in fiscal year 2006:*
- (i) *The minimum first and second quarterly tax payments of twelve and one-half percent (12.5%) of the total real estate tax due on July 15, 2005 and October 15, 2005, respectively, and the minimum third quarterly tax payment of fifty percent (50%) of the total real estate tax due on January 15, 2006, if paid on or after March 1, 2006, an addition of one and one-half percent (1.5%) for each month after February 28, 2006 and prior to July 1, 2006, that the tax is not paid;*
- (ii) *With respect to the minimum fourth quarterly tax payment due on April 15, 2006, if paid on or after April 16, 2006, and prior to July 1, 2006, an addition of three percent (3%);*
- (iii) *Upon all Fiscal Year 2006 real estate taxes remaining due and unpaid on the first day of July 2006, there shall be added:*
- a. *Penalties according to the following schedule:*

***which such tax is registered as delinquent through
February of the following calendar year.***

SECTION 2: This Act shall be effective July 1, 2005.

Section 6

Legislation Supporting Commission Recommendation 14:

An Ordinance:

Amending Chapter 19-1400 of The Philadelphia Code, entitled “Realty Transfer Taxes,” by amending the definition of “Value” to include deeds in lieu of foreclosure.

A Regulation:

Amending subsection (d)(2) of Section 602 of the Department of Revenue Regulation, entitled the “City of Philadelphia Real Estate Transfer Tax Regulations” to state that the effect of transferring, directly or indirectly, 90% of the ownership interest shall be the only determinate for reacquisition purposes by removing from consideration capital and profit interests.

A Regulation:

Repealing subsection (25) of Section 503 of the Department of Revenue Regulation entitled the “City of Philadelphia Real Estate Transfer Tax Regulations” to not exclude the termination, for consideration, of a 30-year lease or other groups of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, where the underlying land was previously transferred to a new owner.

Summary of Relevant Recommendation:

Recommendation 14: Recommend Technical Changes to the Real Estate Transfer Tax.

The Commission recommends that technical changes be made to the Real Estate Transfer tax. These changes would restrict a taxpayer’s ability to structure real estate transactions to avoid being subject to the tax.

AN ORDINANCE

Amending Chapter 19-1400 of The Philadelphia Code, entitled “Realty Transfer Taxes,” by amending the definition of “Value” to include deeds in lieu of foreclosure.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-1400 of the Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-1400. REALTY TRANSFER TAX

§ 19-1402. Definitions.

* * *

- (b) In the case of a gift of real estate where the transfer is not arms length, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, ***or upon a deed in lieu of foreclosure***, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a lease subject to tax pursuant to § 19-1402(12)(b), an occupancy agreement, a leasehold or possessory interest, any exchange of properties, a transfer by merger, consolidation, or acquisition, a transfer effectuated pursuant to a plan of liquidation and dissolution, or the real estate of an acquired real estate company or family farm corporation, the actual monetary worth of the real estate as determined by adjusting the assessed value of the real estate, as determined by the Board of Revision of Taxes for City real estate tax purposes, for the common level ratio factor for the City as established by the State Tax Equalization Board: Provided, that the value of real estate transferred pursuant to a plan of liquidation and dissolution of a corporation or an association shall not include the proportionate value of the real estate which is attributable to securities or shares owned by persons who filed a Certificate of Transfer and paid Realty Transfer Tax upon the acquisition of the securities and shares;

* * *

SECTION 2. This ordinance shall take effect commencing with transfers occurring on or after January 1, 2005.

A REGULATION

Amending subsection (d)(2) of Section 602 of the Department of Revenue Regulation, entitled the “City of Philadelphia Real Estate Transfer Tax Regulations” to state that the effect of transferring, directly or indirectly, 90% of the ownership interest shall be the only determinate for reacquisition purposes by removing from consideration capital and profit interests.

SECTION 1: Subsection (d)(2) of Section 602 of the City of Philadelphia Real Estate Transfer Tax Regulations is hereby amended to read as follows:

SECTION 602. Acquired Real Estate Company.

* * *

- (d) Reacquisition. An acquired real estate company can become acquired again upon a change in ownership interest in the company, if the change:
- (1) Does not affect the continuity of the company.
 - (2) Together with prior changes within the preceding three year period commencing with the date that it became acquired, had the effect of transferring, directly or indirectly, 90% or more of the **[total capital and profits]** ownership interest in the company.

SECTION 2: This regulation shall take effect for tax years 2005 and thereafter.

A REGULATION

Repealing subsection (25) of Section 503 of the Department of Revenue Regulation entitled the “City of Philadelphia Real Estate Transfer Tax Regulations” to not exclude the termination, for consideration, of a 30-year lease or other groups of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, where the underlying land was previously transferred to a new owner.

SECTION 1: Subsection (25) of Section 503 of the City of Philadelphia Real Estate Transfer Tax Regulations dealing with the exclusion from transactions of the rescission, cancellation, or abandonment of an existing lease or contract for a deed, is hereby repealed.

SECTION 503. Excluded Transactions

* * *

(b) Additional exclusions. Other transactions which are excluded from tax include:

* * *

[(25) The rescission, cancellation, or abandonment of an existing lease or contract for a deed.]

SECTION 2: This regulation shall take effect for fiscal years 2005 and thereafter.

Section 7

Legislation Supporting Commission Recommendation 15:

An Ordinance:

Repealing Chapter 19-2500 of the Philadelphia Code, entitled “Real Estate Non-Utilization Tax;” effective January 1, 2005, all under certain terms and conditions.

Summary of Relevant Recommendation:

Recommendation 15: Eliminate the Real Estate Non Utilization Tax.

This tax, designed to penalize the owners of unused, deteriorating property, has never been collected. After its adoption, its constitutionality was quickly challenged, and the court barred the City from collecting the tax. Rather than allowing this uncollectable tax to remain on the City’s books, the Commission recommends eliminating it and relying on implementation of land-value taxation and increased enforcement efforts by the Department of Licenses and Inspections to achieve the goal of placing pressure on owners of under-utilized and deteriorating real estate to improve their properties.

AN ORDINANCE

Repealing Chapter 19-2500 of the Philadelphia Code, entitled “Real Estate Non-Utilization Tax;” effective January 1, 2005, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-2500 of the Philadelphia Code entitled “Real Estate Non-Utilization Tax” is hereby repealed in its entirety.

SECTION 2. This ordinance shall take effect with tax years beginning on or after January 1, 2005.

Section 8

Legislation Supporting Commission Recommendation 18:

A Regulation:

Amending Section 408 of the Department of Revenue Regulation, entitled the “City of Philadelphia Business Privilege Tax Regulations” by amending the apportionment of income formula by all persons other than persons that are subject to a tax pursuant to Articles VII, VIII, IX, or XV of the Reform Code of 1971, and private banks.

Summary of Relevant Recommendation:

Recommendation 18: Adopt Single-Sales Factor Apportionment.

Adopt sales receipts as the only factor for apportioning the net income base of multi-jurisdictional businesses. The current formula for apportioning income in Philadelphia double weights sales and equally weights the contribution of local property and payroll to a business’ net income. Businesses that make sales in Philadelphia without locating here benefit from the current formula, while businesses maintaining buildings and employees in the city are penalized. This change would simplify Business Privilege Tax payment and collection while providing an incentive to locate and grow here.

A REGULATION

Amending Section 408 of the Department of Revenue Regulation, entitled the “City of Philadelphia Business Privilege Tax Regulations” by amending the apportionment of income formula by all persons other than persons that are subject to a tax pursuant to Articles VII, VIII, IX, or XV of the Reform Code of 1971, and private banks.

SECTION 1: Section 408 of the City of Philadelphia Business Tax Regulations is hereby amended to read as follows:

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, 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]** *by multiplying the net income by the receipts factor.*

(1) **[Property Factor.] –**All language pursuant to this subsection is deleted****

[(2) Payroll Factor.] – **All language pursuant to this subsection is deleted**

[(3)] Receipts Factor

(a) Numerator. The numerator of the receipts factor shall be receipts as defined and limited by the provisions dealing with “Tax on Receipts” adjusted as follows:

(i) The following shall not be included in the numerator:

(.1) Receipts, or the net income, gain or losses attributable thereto, which are taken as an adjustment to net income (or loss) pursuant to Section 404;

(.2) Receipts that contribute to net income, gain or loss which constitutes nonbusiness income allocated within or without Philadelphia pursuant to Section 406.

(ii) The following shall be included in the numerator:

(.1) Those receipts referred to in subsection 302(7)(d).

(b) Denominator. The denominator of the receipts factor shall be receipts as defined and limited by the provisions dealing with “Tax on Receipts”, adjusted as follows:

(i) The following shall not be included in the denominator:

- (.1) Receipts, or the net income, gain or losses attributable thereto, which are taken as an adjustment to net income (or loss) pursuant to Section 404:
 - (.2) Receipts that contribute to net income, gain or loss which constitute nonbusiness income allocated within or without Philadelphia pursuant to Section 406.
- (ii) The following receipts shall be included in the denominator:
- (.1) Those receipts referred to in subsections 302(6), 302(7)(c) and (d) and 302(13).

[(4) Excludable Factors (Zero in Numerator or Denominator)] – ~~All language pursuant to this subsection is deleted**~~**

[(5) Weighted Factors.] - ~~All language pursuant to this subsection is deleted**~~**

- (2) 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] receipts factor** computed pursuant to subsection 408~~[(5)] (1)~~ by the net income (or loss) after adjustments and allocation of nonbusiness income.
- (3) 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:
- (a) Separate Accounting;
 - (b) ~~[The exclusion of one or more additional factors]~~ *The inclusion of property and/or payroll factors in addition to the receipts factor provided by the following:*
 - (i) *Property Factor.*
 - (.1) *General. The property factor of the apportionment formula shall include all real and tangible personal property owned and rented by the taxpayer and used during the income year or period in the regular course of the taxpayer's trade or business. The term "real and tangible personal property" includes land, buildings, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency. The property factor shall include the average value of property includible in the factor.*

Property shall be included in the property factor if it is actually used or is available for or capable of being used during the income period. Property held as

reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includible in the factor. Property or equipment under construction during the tax period (except inventorable goods in process) shall be excluded from the factor until such property is actually used for the production of income. If the property is partially used for the production of income while under construction, the value of the property to the extent used shall be included in the property factor. Property held for the production of income shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its sale or the lapse of an extended period of time (normally, five years) during which the property is held for sale.

Property used in connection with the production of nonbusiness income shall be excluded from the property factor. Property used both in the regular course of taxpayer's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the property is used in the regular course of taxpayer's trade or business. Property used in connection with the production of receipts, net income, gains or losses taken as an adjustment to net income (or loss) shall be excluded from the property factor to the extent the property is so used. The method of determining that portion of the value to be included in the factor will depend upon the facts of each case.

- (.2) *Numerator. The numerator of the property factor shall include the average value of the real and tangible personal property owned or rented by the taxpayer and used within Philadelphia during the income period. This amount will be tangible personal property owned plus the value of real and tangible personal property rented (as determined pursuant to subsection (1)(d)(ii)). Taxpayer's property in transit between locations of the taxpayer shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a taxpayer in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the location of destination. The value of mobile or movable property such as construction equipment, trucks or leased electronic equipment which are located within and without Philadelphia during the income period shall be*

determined for the purposes of the numerator of the factor on the basis of total time within Philadelphia during the income period. An automobile assigned to a traveling employee shall be included in the numerator if the employee's compensation is included in the numerator of the payroll factor.

(.3) Denominator. *The denominator of the property factor shall include the average value of the real and tangible personal property owned or rented by the taxpayer everywhere. This amount shall be determined pursuant to the same procedures used to calculate the numerator.*

(.4) Valuation of Property.

(.a) Valuation of Owned Property. *Property owned by the taxpayer shall be valued at its original cost. As a general rule, "original cost" is deemed to be the basis of the property for federal income tax purposes (prior to any federal adjustments) at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange or abandonment, etc., provided that any taxpayer subject to the jurisdiction of a regulatory agency shall determine the original cost of its property in accordance with the system of accounts prescribed by the regulatory agency for such taxpayer. If the original cost of property is unascertainable, the property is included in the factor at its fair market value as of the date of acquisition by the taxpayer. Inventory of stock of goods shall be included in the factor in accordance with the valuation method used for federal income tax purposes.*

Example (1): *The taxpayer acquired a factory building in Philadelphia at a cost of \$500,000 and 18 months later expended \$100,000 for major remodeling of the building. Taxpayer files its return for the current taxable year on the calendar year basis. Depreciation deduction in the amount of \$22,000 was claimed on the building for its return for the current taxable year. The value of the building includible in the numerator and denominator of the property factor is \$600,000, as the depreciation deduction is not taken into account in determining the value of the building for purposes of the factor.*

Example (2): *During the current taxable year, X Corporation merges into Y Corporation in a tax-free reorganization under the Internal*

Revenue Code. At the time of this merger, X Corporation owns a factory which X built five years earlier at a cost of \$1,000,000. X has been depreciating the factor at the rate of two percent per year, and its basis in X's hands at the time of the merger is \$900,000. Since the property is acquired by Y in a transaction in which, under the Internal Revenue Code, its basis in Y's hands is the same as its basis in X's, Y includes the property in Y's property factor at X's original cost, without adjustment for depreciation, i.e., \$1,000,000.

Example (3): Corporation Y acquires the assets of Corporation X in a liquidation by which Y is entitled to use its stock cost as the basis of the X assets under section 334 (b)(2) of the 1954 Internal Revenue Code (i.e., stock possessing 80 percent control is purchased and liquidated within two years). Under these circumstances, Y's cost of the assets is the purchase price of the X stocks prorated over the X assets.

(.b) Valuation of Rented Property. Property rented by the taxpayer is valued at eight times its net annual rental rate. The net annual rental rate for any item of rented property is the annual rate paid by the taxpayer for such property, less the aggregate annual subrental rates paid by subtenants of the taxpayer. Subrents are not deducted when the subrents constitute business income because the property which produces the subrents is used in the regular course of a trade or business of the taxpayer when it is producing such income. Accordingly, there is no reduction in its value. If the subrents taken into account in determining the net annual rental rate produce a negative or clearly inaccurate value for any item of property, another method which will properly reflect the value of rental property may be required by the Department or requested by the taxpayer. In no case, however, shall such value be less than an amount which bears the same ratio to the annual rental paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for such property shall be determined on the basis of a reasonable market rental rate for such property.

Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. Hence, the original cost of leasehold improvements shall be included in the factor.

Example (1): *The taxpayer rents a 20 story office building and uses the lower two stories for its general corporation headquarters. The remaining 18 floors are subleased to others. The rental of the eighteen floors is not incidental to but rather is separate from the operation of the taxpayer's trade or business. The subrents are to be deducted from the rent paid by the taxpayer.*

Example (2): *The taxpayer rents a 10-story building at an annual rental rate of \$1,000,000. Taxpayer occupies two stories and sublets eight stories for \$1,000,000 a year. The net annual rental rate of the taxpayer must not be less than two-tenths of the taxpayer's annual rental rate for the entire years or \$20,000.*

"Annual rental rate" is the amount paid as rental for property for a 12-month period (i.e., the amount of the annual rent). Where property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the "annual rental rate" for the tax period. However, where a taxpayer has rented property for a term of 12 or more months and the income period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short income period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month-to-month basis.

Example (1): *Taxpayer A, which ordinarily files its returns based on a calendar year, is merged into Taxpayer B on April 30. The net rent paid under a lease with 5 years remaining is \$2,500 a month. The rent for the period January 1 to April 30 is \$10,000. After the rent is annualized, the net rent is \$30,000 (\$2,500 x 12).*

Example (2): *Same facts as in Example (1) except that the lease would have terminated on August 31. In this case the annualized net rent is \$20,000 (\$2,500 x 8).*

"Annual rent" is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes (A) any amount payable for the use of real or tangible personal

property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits, or otherwise; and (B) any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items which are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, janitor services, etc. If a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and the other items.

Example (1): A taxpayer, pursuant to the terms of a lease, pays the lessor \$12,000 a year rent plus taxes in the amount of \$2,000 and interest on a mortgage in the amount of \$1,000. The annual rent is \$15,000.

Example (2): A taxpayer stores part of its inventory in a public warehouse. The total charge for the year was \$1,000 of which \$700 was for the use of storage space and \$300 for inventory insurance handling and shipping charges, and C.O.D. collections. The annual rent is \$700.

Example (3): A taxpayer, pursuant to the terms of a lease, pays a lessor \$1,000 per month as a base rental and at the end of the year pays the lessor one percent of its gross sales of \$400,000. The annual rent is \$16,000 (\$12,000 plus one percent of \$400,000 or \$4,000).

(.5) Averaging Property Values. As a general rule, the average value of property owned by the taxpayer shall be determined by averaging the value at the beginning and ending of the income period. However, the Department may require or allow averaging by monthly values if such method of averaging is required to properly reflect the average value of the taxpayer's property for the income period. Averaging by monthly values will generally be applied if there is substantial fluctuation in the value of the property during the income period or where property is acquired after the beginning of the income period or disposed of before the end of the income period.

Example: *The monthly value of the taxpayer's property was as follows:*

<i>January</i>	<i>\$2,000</i>
<i>February</i>	<i>2,000</i>
<i>March</i>	<i>3,000</i>
<i>April</i>	<i>3,500</i>
<i>May</i>	<i>4,500</i>
<i>June</i>	<i>10,000</i>
<i>July</i>	<i>15,000</i>
<i>August</i>	<i>17,000</i>
<i>September</i>	<i>23,000</i>
<i>October</i>	<i>25,000</i>
<i>November</i>	<i>13,000</i>
<i>December</i>	<i>2,000</i>
<i>Total</i>	<i>\$120,000</i>

The average value of the taxpayer's property includible in the property factor for the income year is determined as follows:

$$\$120,000/12 = \$10,000$$

Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of such property as set forth in subsection (i) (.4) (.b).

(ii) Payroll Factor.

(.1) General. *The payroll factor of the apportionment formula shall include the total amount paid by the taxpayer in the regular course of its trade or business for compensation during the tax period except that to the extent that compensation is paid to employees in connection with the production of receipts, net income, gains or losses taken as an adjustment to net income (or loss), such compensation shall be excluded from the payroll factor. The payroll factor shall not include compensation paid to employees in connection with the production of nonbusiness income. Compensation paid to employees working both in the regular course of taxpayer's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the compensation is paid for work performed in the regular course of taxpayer's trade or business.*

Example (1): *The taxpayer uses some of its employees in the construction of a storage building which, upon completion, is used in the regular course of taxpayer's trade or business. The wages paid to those employees are treated as a capital expenditure by the taxpayer. The amount of such wages is included in the payroll factor.*

Example (2): *The taxpayer owns various securities as an investment separate and apart from its trade or business. The management of the taxpayer's investment portfolio is the only duty of Mr. X, an employee. The salary paid to Mr. X is excluded from the payroll factor.*

The total amount "paid" to employees is determined upon the basis of the taxpayer's accounting method. If the taxpayer has adopted the accrual method of accounting, all compensation properly accrued shall be deemed to have been paid.

The term "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classifiable as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. Amounts considered paid directly include the value of board, rent, housing, lodging and other benefits or services furnished to employees by the taxpayer in return for personal services provided that such amounts constitute income to the recipient under the Federal Internal Revenue Code.

In the case of employees not subject to the Internal Revenue Code, e.g., those employees in foreign countries, the determination of whether such benefits or services would constitute income to the employees shall be made as though such employees were subject to the Federal Internal Revenue Code.

In filing returns with Philadelphia, if the taxpayer departs from or modifies the treatment of compensation paid used in returns for prior years, the taxpayers shall disclose in the return for the current year the nature and extent of the modification.

- (.2)** *Numerator. The numerator of the payroll factor is the total amount paid in Philadelphia during the period by the taxpayer for compensation.*
- (.3)** *Denominator. The denominator of the payroll factor is the total amount paid everywhere during the tax period by the taxpayer for compensation. This amount shall be determined pursuant to the same procedures used to calculate the numerator.*
- (.4)** **Compensation Paid in Philadelphia. Compensation is paid in Philadelphia if:**
 - (.a)** *The employee's service is performed entirely within the City; or*

- (.b) *The employee's services are performed both within and without the City, and*
- (.i) *the service performed without the City is incidental to the employee's service within the City. The word "incidental" means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction; or*
 - (.ii) *the employee's base of operations is in this City; or*
 - (.iii) *there is no base of operations in any political subdivision in which some part of the service is performed but the place from which the service is directed or controlled is in this City; or*
 - (.iv) *The base of operations or the place from which the service is directed or controlled is not in any political subdivision in which some part of the service is performed, but the employee's residence is in the City.*

The term "base of operations" is the place of more or less permanent nature from which the employee starts his work and to which he customarily returns in order to receive instructions from the taxpayer or communications from his customers or other persons or to replenish stock or other materials, repair equipment or perform any other function necessary to the exercise of his trade or profession at some other point or points. The term "place from which the service is directed or controlled" refers to the place from which the power to direct or control is exercised by the taxpayer.

(iii) *Receipts Factor*

(.1) *The receipts factor of the apportionment formula shall be determined pursuant to subsection 408(1).*

(iv) *Excludable Factors (Zero in Numerator or Denominator). In the event any of the factors has a denominator which is zero or an insignificant amount, that factor shall be omitted from the computation. For this purpose, an insignificant amount shall mean an amount so small that inclusion of the factor would result in an apportionment that does not fairly represent the taxpayer's business activity in Philadelphia. If, however, the*

numerator is zero and the denominator is represented by an amount which is not insignificant, the resultant percentage is zero, and is includible in the computation.

- (v) **Weighted Averaging.** *A weighted average of factors shall be obtained by adding the property factor plus the payroll factor plus twice the sales factor and dividing that total by four. If any factor is excludable as provided in subsection 408 (4), then the weighted average shall be computed as the sum of includible factors (with the sales factor multiplied by two, if it is one of the includible factors) divided by the number of includible factors (with the sales factor, if includible, counted as two includible factors)*

Example 1: *Corporation W had no property in Philadelphia but the average value of its property everywhere in 19X1 amounted to \$275,000. W's payroll in Philadelphia in 19X1 amounted to zero and the total payroll everywhere was \$125,000. W reported receipts in Philadelphia in 19X1 of \$5,000,000 and receipts everywhere of \$8,000,000. The apportionment fraction is computed as follows:*

$$\begin{array}{l}
 \text{Property} \quad \frac{\$0}{275,000} = 0 \\
 \text{Payroll} \quad \frac{\$0}{125,000} = 0 \\
 \text{Sales} \quad \frac{\$5,000,000}{8,000,000} = 0.625 \times 2 = 1.25 \\
 \text{Total Percentages} = 1.25 \\
 \text{Average of Percentages} = (1.25 \div 4) = .3125
 \end{array}$$

Example 2: *Corporation Y had no property and no payroll assignable outside of Philadelphia. Y's average value of property in 19X2 amounted to \$275,000 and its total payroll in 19X2 was \$125,000. Y reported receipts in Philadelphia in 1994 of \$5,000,000 and receipts everywhere of \$8,000,000. The apportionment fraction is computed as follows:*

$$\begin{array}{l}
 \text{Property} \quad \frac{\$275,000}{275,000} = 1.00 \\
 \text{Payroll} \quad \frac{\$125,000}{125,000} = 1.00 \\
 \text{Sales} \quad \frac{\$5,000,000}{8,000,000} \times 2 = 1.25 \\
 \text{Total Percentages} = 3.25 \\
 \text{Average of Percentages} = (3.25 \div 4) = .8125
 \end{array}$$

- (vi) ***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 (5) by the net income (or loss) after adjustments and allocation of nonbusiness income.***

or

- (c) the inclusion of one or more additional factors which will fairly represent the Taxpayer's business activity in this City; or
- (d) the employment of any other method to effectuate an equitable apportionment of the taxpayer's income.

A departure from the applicable method of apportionment may be permitted only where the ***applicable*** method does not accurately and fairly reflect business activity in Philadelphia. An alternative method may not be invoked, either by the Department or the taxpayer, merely because it reaches a different apportionment percentage than the regularly applicable formula. However, if the applicable formula will lead to a grossly distorted result in a particular case, a fair and accurate alternative method is appropriate. The taxpayer seeking to utilize an alternative apportionment method must show by clear and cogent evidence that the regularly applicable formula would result in taxation of net income which is not properly attributable to the doing of business in Philadelphia. This can be shown only if the regularly applicable formula is demonstrated to operate unreasonably and arbitrarily in attributing to Philadelphia a percentage of income which is out of all proportion to the taxpayer's business activity in Philadelphia. The taxpayer seeking to use an alternative formula must prove that the alternative formula fairly and accurately apportions income to Philadelphia based upon business activity in this City. A departure from the regularly applicable apportionment method will be authorized only in limited and specific cases where unusual fact situations (which ordinarily will be unique and nonrecurring) produce incongruous results under the regularly applicable apportionment provisions.

SECTION 2. This regulation shall take effect with tax returns due on or after January 1, 2005.

Section 9

Legislation Supporting Commission Recommendation 19:

An Ordinance:

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by amending the definition of “Net Income” to determine the net income of unincorporated businesses by allowing deductions of payments to certain proprietors or partners.

Summary of Relevant Recommendation:

Recommendation 19: Grant Unincorporated Businesses a Deduction for Payments to Partners, Members, and Sole Proprietors when Calculating Net Income under the Business Privilege Tax

Allow unincorporated businesses to deduct payments made to partners, members, and sole proprietors. The Commission recommends initially allowing 50 percent deductibility and increasing deductibility to 100 percent by 2010. While such businesses may now deduct 60 percent of their Business Privilege Tax liability against the Net Profits Tax that they also pay, their effective tax rate remains higher than that of corporate competitors. This recommendation would level the playing field and help Philadelphia compete with the suburbs in attracting and retaining businesses.

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by amending the definition of “Net Income” to determine the net income of unincorporated businesses by allowing deductions of payments to certain proprietors or partners.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-2600 of the Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES

§ 19-2601. Definitions.

In addition to the definitions provided in the Act of May 30, 1984, P.L. 345, No. 69, known as the First Class City Business Tax Reform Act, and Chapter 19-500 of this Title, the following definitions shall apply:

	*	*	*
Net Income.	*	*	*

- (a) “Net income” shall, at the option of the taxpayer, which option shall not be revocable 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, *except as provided for by the following:*
- (i) *Commencing with returns the due date of which are on or after January 1, 2005, a deduction of qualified payments to principals of an unincorporated business who materially participate in the operation thereof, subject to the terms and conditions set forth in subsection (2)(vi).*
- (ii) *Phase-in of Deduction: The amount of any deduction claimed under subparagraph (1) shall not exceed the following percentage of total qualified payments:*

<u>Taxable Year</u>	<u>Deduction</u>
2005	50%
2006	60%
2007	70%
2008	80%
2009	90%
2010 and hereafter	100%

(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:

* * *

- (vi) *A deduction by an unincorporated business of qualified payments to principals who materially participate in the operations of the business, subject to the terms and conditions set forth herein.*
- (.a) *Unincorporated Business. For purposes of this subsection, an “Unincorporated Business” is an enterprise, activity, profession, trade or undertaking of any nature conducted for profit or ordinarily conducted for profit that is not incorporated, or that is deemed to be a partnership or disregarded entity, and is subject to the Net Profits Tax imposed by Chapter 19-1500.*
- (.b) *Principal. A sole proprietor or person that has an ownership interest in an association subject to the Net Profits Tax imposed by Chapter 19-1500 of the Code of Philadelphia.*
- (.c) *Qualified Payments:*
- i. *Include payments made to principals that materially participated in the operation of the unincorporated business in the year of distribution, or with respect to payments to inactive principals who materially participated in the operation of the unincorporated business during the three-year period immediately preceding commencement of the distribution.*
 - ii. *Include payments for the following items: Guaranteed Payments, Commissions, Bonuses, Fringe Benefits.*
 - iii. *Include payments pursuant to a funded or unfunded retirement plan to a retired principal who materially participated in the operation of the unincorporated business for a minimum of three years at anytime prior to commencement of the payments.*
 - iv. *Exclude payments to the extent that they represent items excluded from the definition of net income pursuant to any other provision of these regulations*
- (.d) *Material Participation. A person will be treated as materially participating in the operation of an unincorporated business for purposes of this section only if the person actively engages in the operation of the unincorporated business during each taxable year for which a deduction is claimed.*

(.e) *Satisfaction of the Material Participation standard.*

- i. *Proof: The extent and nature of an individual's participation in an activity may be established by any reasonable means. Reasonable means for purposes of this paragraph may include but are not limited to the identification of services performed over a period of time and the approximate number of hours spent performing such services during such period, based on contemporaneous appointment books, calendars, and narrative summaries. Contemporaneous daily time reports, logs, or similar documents are not required if the extent and nature of such participation may be established by other reasonable means.*
- ii. *Participation Standards Not Contained In Section 404(A)(3) Not Applicable: The fact that an individual satisfies the requirements of any participation standard (whether or not referred to as "material participation") under any provision of any other federal, state, or local tax legislation or regulation shall not be taken into account in determining whether such individual materially participates in any activity for any taxable year for purposes of Section 19-2601 of the Philadelphia Code, as amended effective January 1, 2005, and the regulations thereunder.*
- iii. *Where an unincorporated business claims a deduction for a payment to a principal, other than a limited partner in a limited partnership, or similar limited liability principal in a limited liability entity, there is a rebuttable presumption that the principal materially participated in the operation of the unincorporated business and the burden of proof is on the collector to establish that the payment is not deductible.*
- iv. *Where a limited liability unincorporated business claims a deduction for a payment to a limited partner or other limited liability principal, there is a rebuttable presumption that the limited liability principal did not materially participate in the operation of the unincorporated business, and the taxpayer has the burden of proving the validity of the deduction.*

SECTION 2: This ordinance shall become effective commencing with tax returns due on or after January 1, 2005.

Section 10

Legislation Supporting Commission Recommendation 20:

An Act:

Amending the Act of May 30, 1984 (P.L. 345, No. 69), entitled “First Class City Business Tax Reform Act,” by amending the definition of “Net Operating Loss” with respect to the schedule of carryforward periods for net operating losses.

An Ordinance:

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by amending the definition of “Net Operating Loss” with respect to carryforward period for net operating losses.

A Regulation:

Amending Section 411 of the Department of Revenue Regulation entitled the “City of Philadelphia Business Tax Regulations” to extend the carryforward period applicable for net operating losses.

Summary of Relevant Recommendation:

Recommendation 20: Lengthen the Business Privilege Tax Net Operating Loss Carryforward Period.

Extend the net operating loss carryforward from three to 10 years, effective with excess losses reported on 2005 tax returns. Other jurisdictions, including Pennsylvania and the federal government, allow such losses to be carried forward for 20 years. This reform would make Philadelphia more competitive and business-friendly towards start-up and high-technology companies with life cycles that often begin with many years of losses.

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by amending the definition of “Net Operating Loss” with respect to carryforward period for net operating losses.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-2600 of the Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES

§ 19-2601 Definitions.

In addition to the definitions provided in the Act of May 30, 1984, P.L. 345, No. 69, known as the First Class City Business Tax Reform Act, as amended, and Chapter 19-500 of this Title, the following definitions shall apply:

	*	*	*	
Net Operating Loss.				
	*	*	*	

(2) *Net operating loss does not include losses attributable to deductions of qualified payments to principals in unincorporated businesses as provided in the definition of “Net Income” in this Section 19-2601.*

[(2)] (3) *With respect to losses incurred in taxable years prior to January 1, 2004, [A] a net operating loss incurred in another tax period may be carried over for three tax years, following the year in which it was incurred. The earliest net loss shall be carried over to the earliest taxable year to which it may be carried.*

(4) *Commencing with losses incurred in taxable years beginning on or after January 1, 2004, a net operating loss incurred in another tax period may only be carried forward pursuant to the following schedule:*

<u>Taxable Year</u>	<u>Available Carryforward</u>
2004	2001 – 2003
2005	2002 – 2004
2006	2003 – 2005
2007	2004 – 2006
2008	2004 – 2007
2009	2004 – 2008
2010	2004 – 2009
2011	2004 – 2010
2012	2004 – 2011
2013	2004 – 2012
2014	2004 – 2013
2015 and thereafter	The prior ten years

SECTION 2. This act shall apply to losses incurred in taxable years beginning on or after January 1, 2004.

A REGULATION

Amending Section 411 of the Department of Revenue Regulation entitled the “City of Philadelphia Business Tax Regulations” by amending the carryforward period applicable for net operating losses.

SECTION 1: Section 411 of the City of Philadelphia Business Tax Regulations is hereby amended to read as follows:

SECTION 411. NET OPERATING LOSSES

(1) Definition

* * *

- (c) *Net operating loss does not include losses attributable to deductions of qualified payments to principals in unincorporated businesses as provided in the definition of “Net Income” in Chapter 19-2600, entitled Business Privilege Taxes, Section 19-2601.*

* * *

FOR TAX YEARS PRIOR TO JANUARY 1, 2004;

- (3.1) Carry Forward Period. An apportioned net operating loss may be carried forward for three tax years following the tax year for which it was first reported. The earliest apportioned net operating loss must be carried over to the earliest taxable year in which the taxpayer reports taxable apportioned net income before deducting an apportioned net operating loss carried forward. The amount of any apportioned net operating loss in excess of the apportioned net income for any tax year to which it is carried forward may be carried forward to subsequent tax years but may not be carried forward past the third tax year following the tax year for which it was first reported.

FOR TAX YEARS COMMENCING JANUARY 1, 2004, AND THEREAFTER;

- (3.2) *Carry Forward Period. An apportioned net operating loss may only be carried forward to tax years following the tax year for which it was first reported pursuant to the Usable Net Loss Carryforward Schedule in subsection (4). The earliest apportioned net operating loss must be carried over to the earliest taxable year in which the taxpayer reports taxable apportioned net income before deducting an apportioned net operating loss carried forward. The amount of any apportioned net operating loss in excess of the apportioned net income for any tax year to which it is carried forward may be carried forward to subsequent tax years but may not be carried forward past the tax year indicated in the Usable Net Loss Carryforward Schedule in subsection (4).*

(4) Effective Dates for the Net Operating Loss Carryforwards

- (a) The 1986 tax year shall be the first tax year to which a net operating loss reported for a prior tax year may be carried forward and deducted from net income.

- (b) The first net operating loss which may be carried forward to a succeeding tax year shall be a net operating loss reported on the 1985 Business Privilege Tax Return. No net operating loss for periods prior to the tax period used as the measure of net income or loss for the 1985 Business Privilege Tax Return may be carried forward and deducted from net income on any Business Privilege Tax Returns.
- (c) *The following schedule of usable loss carryforwards applies:*

Usable Net Loss Carryforward Schedule

<u><i>Taxable Year</i></u>	<u><i>Loss Carryforward</i></u>
<i>2004</i>	<i>2001 – 2003</i>
<i>2005</i>	<i>2002 – 2004</i>
<i>2006</i>	<i>2003 – 2005</i>
<i>2007</i>	<i>2004 – 2006</i>
<i>2008</i>	<i>2004 – 2007</i>
<i>2009</i>	<i>2004 – 2008</i>
<i>2010</i>	<i>2004 – 2009</i>
<i>2011</i>	<i>2004 – 2010</i>
<i>2012</i>	<i>2004 – 2011</i>
<i>2013</i>	<i>2004 – 2012</i>
<i>2014</i>	<i>2004 – 2013</i>
<i>2015 and thereafter</i>	<i>The prior ten years</i>

SECTION 2: This regulation shall apply to losses incurred in taxable years beginning on or after January 1, 2004.

Section 11

Legislation Supporting Commission Recommendation 21:

An Ordinance:

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by providing a minimum number of estimated tax payments in the last six months of the City’s fiscal year and authorizing additional estimated payments in the first six months of the subsequent fiscal year.

A Regulation:

Amending Section 202 of the Department of Revenue Regulation entitled the “City of Philadelphia Business Tax Regulations” by amending the timing of estimated payments.

Summary of Relevant Recommendation:

Recommendation 21: Establish Two Estimated Payment Dates.

Restructure the Business Privilege Tax estimated tax payment schedule by creating two estimated payment dates between April 15th and June 30th. The current structure forces businesses to pay their entire tax liability before they receive that year’s gross receipts and net income, compounding the detrimental impact of the Business Privilege Tax on Philadelphia’s ability to compete. New businesses must actually pay two years of taxes at once. This change would improve fairness, contribute to the city’s ability to compete, and reduce the tax burden on fledgling businesses.

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by providing a minimum number of estimated tax payments in the last six months of the City’s fiscal year and authorizing additional estimated payments in the first six months of the subsequent fiscal year.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-2600 of the Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES

§19-2610. Estimated Tax Payments.

The Department shall promulgate regulations to provide for *periodic* estimated tax payments to be paid [**concurrently with**], *at a minimum, fifty percent (50%) by the due date, without extension, for* the filing of any return *and fifty percent (50%) on or before the fifteenth day of the sixth month of the applicable tax year*, and for credits to be granted on any [**overpayment of estimated**] *excess estimated* tax payment. *The Department is authorized to provide for additional estimated tax payments on or after the first day of the seventh month of the applicable tax year.* The Department shall also promulgate regulations to provide for transition rules *should periodic estimated payments in excess of the minimum be authorized by the Department.* 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. This ordinance shall take effect commencing with tax years beginning on or after January 1, 2005.

A REGULATION

Amending Section 202 of the Department of Revenue Regulation entitled the “City of Philadelphia Business Tax Regulations” by amending the timing of estimated payments.

SECTION 1: Section 202 of the City of Philadelphia Business Tax Regulations is hereby amended to read as follows:

Section 202. DUE DATES FOR FILING RETURNS

[A.] ****All language pursuant to this subsection is deleted****

- A. *Every person engaged in business is required to file a Business Privilege Tax Return for each tax year in business and pay any tax balance due on that tax year on or before the 15th day of April of the year following each tax year for calendar year taxpayers, and on or before the fifteenth day of the fourth month following the end of the taxable year for fiscal year taxpayers.*
- B. *Estimated Tax Payments*
1. *Each person who is liable for the Business Privilege Tax imposed by this Chapter shall be required to file returns and pay estimated tax on account of the tax due for the current taxable year.*
 2. *A mandatory estimated tax for the current year equal to 100% of the actual tax due for the preceding tax year shall be payable.*
 3. *The estimated tax for tax years ending on or before December 31, 2004, shall be made on or before the due date without extensions for the returns for the preceding tax year.*
 4. *For tax years commencing on or after January 1, 2005, two estimated tax payments equal to fifty percent (50%) of the actual tax due for the preceding tax year shall be made on such forms as provided by the Department of Revenue, payable as follows:*
 - a. *Calendar Year Taxpayers: Returns and payments of estimated tax for taxable years beginning on or after January 1, 2005, shall be due and payable as follows:*
 - (1) *The first installment of one-half (1/2) of the estimated tax shall be due and payable on or before April 15 of the current taxable year.*
 - (2) *The second installment of one-half (1/2) of the estimated tax shall be due and payable on or before June 15 of the current taxable year.*
 - b. *Fiscal Year Taxpayers: Persons who report net income for a fiscal year period other than a calendar year shall make*

returns and payments of estimated tax for taxable years beginning after December 31, 2004, as follows:

- (1) *The first installment of one-half (1/2) of the estimated tax shall be due and payable within 3-1/2 months after the beginning of the current taxable fiscal year.*
 - (2) *The second installment of one-half (1/2) of the estimated tax shall be due and payable within 5-1/2 months after the beginning of the current taxable fiscal year.*
5. *Failure to make the required estimated payment on the due date shall subject a taxpayer to interest, penalties and costs as provided in Section 19-509 of the Philadelphia Code.*
 6. *Any excess payment of estimated liability of the current year tax shall be applied first to the payment of an estimated tax for the next following tax year, then to other taxes due. A remaining balance, if any, shall, at the option of the taxpayer, either be refunded to the taxpayer or be applied to future BPT years.*
 7. *For the purposes of this Chapter, the term "estimated tax" means the amount of business privilege tax that a person calculates to be its tax due under this Chapter for the preceding taxable year.*

C. Credits for Excessive Estimated Payments.

1. *Any estimated payments, which exceed a person's tax liability for the taxable year, shall be applied as a credit against the estimated tax for the following taxable year, to the extent of the estimated tax due for the following taxable year.*
2. *Any balance of the excess of estimated liability of the current year tax shall be applied next to the payment of other taxes due. The remaining balance, if any, shall, at the option of the taxpayer, either be refunded to the taxpayer or be applied to future BPT years.*

D. Provisions not Applicable. The provisions of Section 19-2610 shall not be applicable to a person for a taxable year if:

1. *Such person was not engaged in business in the preceding taxable year; or*
2. *Such person's business privilege tax liability for the preceding taxable year does not exceed \$100.*

* * *

E. *All estimated tax payments due and payable under this Chapter shall be due and payable on the due dates set forth herein, without regard to any extension to file the preceding year's BPT return.*

[B] F. Persons Who Commenced Engaging in Business in Philadelphia During the Calendar Year Preceding the Tax Year.

* * *

[C] G. Persons Who Engaged in Business in Philadelphia During the Current Tax Year.

* * *

[D] H. Persons Engaged in a Temporary, Seasonal, or Itinerant Business.

SECTION 2: This regulation shall become effective with payments made on or after January 1, 2005.

Section 12

Legislation Supporting Commission Recommendation 22:

An Ordinance:

Amending Chapter 19-500 of The Philadelphia Code, entitled “Taxes and Rents—General,” by providing for uniform time limitations on collections, examinations and assessments, under certain terms and conditions.

Summary of Relevant Recommendation:

Recommendation 22: Unify Statutory Refund and Assessment Periods.

Set the statutory refund and assessment periods at a uniform three years.

Currently, no ordinance limits the period within which the City is authorized to audit a taxpayer and assess additional tax. The City is authorized, by ordinance, to file a lawsuit for collection of unpaid taxes within six years of the date the return was filed or due. Conversely, a taxpayer is limited, by ordinance, to filing a refund claim within three years after the tax is paid. The net result is that the City can audit a five-year-old return and assess additional tax, but the taxpayer will not be able to claim a refund from a four-year-old return that could have offset the additional tax. This disparity creates the perception that Philadelphia has a discriminatory business tax environment, and hampers the City’s ability to attract and retain businesses.

AN ORDINANCE

Amending Chapter 19-500 of The Philadelphia Code, entitled “Taxes and Rents—General,” by providing for uniform time limitations on collections, examinations and assessments, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 19-500 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-500. TAXES AND RENTS – GENERAL.

* * *

§19-510. Limitations of Actions[.] *to Recover Tax.*

- (1) ***Subject to the limitations on assessment in Section 19-510A, [Any] any*** suit to recover any tax authorized or imposed by this title, other than real estate taxes, ***and*** personal property taxes not imposed under § 19-1102, ***[and General Business Taxes]***, shall be begun within 6 years after such tax is due or within 6 years after a return or a report has been filed, whichever date is later, but this limitation shall not apply in the following cases:

* * *

- (b) where an examination of a return or report filed by the taxpayer and of other evidence relating to such return or report in the possession of the Revenue Commissioner reveals a fraudulent evasion of taxes, including, but not limited to, substantial understatement of gross income, net profits, gross receipts, or any other receipt of income, moneys or funds in any such return or report, ***except with respect to any understatement the position for which was adequately disclosed, as provided by subsection (2)(b) of Section 19-510A;***

* * *

§19-510A. *Limitations of Actions to Assess Tax*

- (1) ***The amount of any tax authorized or imposed by this title, other than real estate taxes, and personal property taxes not imposed under § 19-1102, shall be assessed within the period set forth in subsection (3) after a return or a report was due or has been filed, whichever date is later, but this limitation shall not apply in the following cases:***

- (a) ***where the taxpayer has failed to file the return or report required under the provisions of this Title;***
- (b) ***where an examination of a return or report filed by the taxpayer and of other evidence relating to such return or report in the possession of the Revenue Commissioner reveals a fraudulent evasion of taxes, including,***

but not limited to, substantial understatement of gross income, net profits, gross receipts, or any other receipt of income, moneys or funds in any such return or report unless the adequate disclosure requirements of subsection (2)(b) are satisfied;

- (c) *where the taxpayer has collected or withheld tax funds or moneys of any nature or description under this Title as agent of or trustee for the City or the School District of Philadelphia, and has failed, neglected or refused to pay the amount so collected or so withheld to the City or the School District of Philadelphia;*
 - (d) *where the taxpayer and the Revenue Commissioner, prior to the expiration of time prescribed for the assessment of any tax, agree in writing to extend the limitation period for assessment for the period of time agreed upon by the taxpayer and the Revenue Commissioner. The extension shall become effective when the agreement has been executed by both parties. The period of extension agreed upon may be extended by subsequent agreements in writing executed by both parties prior to the expiration of the previously agreed upon extension period.*
- (2) *Substantial understatement. For purposes of this section, a substantial understatement exists where the understatement in tax for the year exceeds 20% of the tax required to be shown on the return; provided however, that the prescribed limitations period shall apply if the taxpayer made adequate disclosure of its position with respect to the source of the underpayment.*
- (a) *Exception for Adequate Disclosure. The period allotted for assessment of tax on returns that reflect a substantial understatement shall be 3 years if:*
 - i. *the understatement is attributable to a position contrary to an ordinance or a ruling or regulation published by the Revenue Commissioner and the position is disclosed in accordance with the rules of this section; and,*
 - ii. *where the understatement is attributable to a position contrary to a regulation, the position represents a good faith challenge to the validity of the regulation.*
 - (b) *Disclosure is adequate for purposes of this section if the ordinance, regulation, or ruling in question is adequately identified and described on the applicable tax form to which tax the position is being undertaken.*
 - (c) *This disclosure exception does not apply, however, in the case of a position that does not have a reasonable basis or where the taxpayer fails to keep adequate books and records or to substantiate items properly.*

* * *

SECTION 2. This ordinance shall take effect commencing with all audits begun by the Department of Revenue on or after January 1, 2005.

Section 13

Legislation Supporting Commission Recommendation 23:

An Act:

Amending the Act of May 30, 1984 (P.L. 345, No. 69), entitled “First Class City Business Tax Reform Act,” by amending the imposition of the tax, by amending section 16184 to provide for an exception to the minimum tax applicable to any person registered under the Act of December 5, 1972 (P.L. 1280, No. 284), known as the Pennsylvania Securities Act of 1972 in subsection (a) in the event the council of a city of the first class provides for a phase-out of any tax the city of the first class imposes pursuant to this section.

An Ordinance:

Amending Section 19-2604 of The Philadelphia Code, relating to tax rates, credits and alternative tax computation for the business privilege tax, by reducing certain tax rates; all under certain terms and conditions.

Summary of Relevant Recommendation:

Recommendation 23: Incremental Elimination of the Business Privilege Tax.

Eliminate the Business Privilege Tax by fiscal year 2015. This approach minimizes the revenue impact of this recommendation and allows the City to adjust its budget gradually. In addition to attracting new investment and retaining firms considering leaving the city, this measure will ensure that businesses no longer bear more than their fair share of the tax burden. The Department of Revenue will be able to more aggressively enforce other business taxes, and the process of running a business in Philadelphia will be simpler. The Commission’s proposed gross receipts rate reductions through fiscal year 2008 are those already in the City’s *Five-Year Financial Plan*. To minimize the financial impact of the Commission’s three classes of Business Privilege Tax reform recommendations (structural change to the net income portion of the Business Privilege Tax, Business Privilege Tax administrative change, and Business Privilege Tax elimination), the phase-out of the net income portion of the Business Privilege Tax does not begin until fiscal year 2006.

AN ACT

Amending the Act of May 30, 1984 (P.L. 345, No. 69), entitled "First Class City Business Tax Reform Act," by amending the imposition of the tax, by amending section 16184 to provide for an exception to the minimum tax applicable to any person registered under the Act of December 5, 1972 (P.L. 1280, No. 284), known as the Pennsylvania Securities Act of 1972 in subsection (a) in the event the council of a city of the first class provides for a phase-out of any tax the city of the first class imposes pursuant to this section.

*THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF PENNSYLVANIA
HEREBY ENACTS AS FOLLOWS:*

SECTION 1. Section 16184 of the Act of May 30, 1984 (P.L. 345, No. 69), known as the First Class City Business Tax Reform Act is amended to read:

Section 16184. Imposition and rate of tax.

* * *

- (e) ***In the event the council of any city of the first class adopts an ordinance that mandates the phase-out and eventual repeal of any tax authorized by the Act of May 30, 1984 (P.L. 345, No. 69), entitled "First Class City Business Tax Reform Act," said council may provide for a comparable rate reduction of the minimum tax in subsection (a) for persons registered under the act of December 5, 1972 (P.L. 1280, No. 284), known as the Pennsylvania Securities Act of 1972; provided, however, in the event such a phase-out is discontinued or a tax re-imposed under this act, the minimum tax in subsection (a) will apply.***

SECTION 2. This act shall take effect with tax years beginning on or after January 1, 2006.

AN ORDINANCE

Amending Section 19-2604 of The Philadelphia Code, relating to tax rates, credits and alternative tax computation for the business privilege tax, by reducing certain tax rates; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 19-2604 of The Philadelphia Code is hereby amended to read as follows:

§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 %
*	*	*
2002	2.40 mills	6.50%
2003	2.30 mills	6.50%
2004	2.10 mills	6.50%
2005	1.90 mills	6.50%
2006	1.75 mills	6.50% 5.85%
2007	1.625 mills	6.50% 5.20%
2008 [and thereafter]	1.50 mills	6.50% 4.55%
2009	1.30 mills	3.90%
2010	1.10 mills	3.25%
2011	0.9 mills	2.60%
2012	0.7 mills	1.95%
2013	0.5 mills	1.30%
2014	0.3 mills	0.65%
2015 and thereafter	0.0 mills	0.0%

- (2) The annual tax to be paid by any person registered under the Act of December 5, 1972 (P.L. 1280, No. 284), known as the Pennsylvania Securities Act of 1972, shall in no event be less than the sum of: (a) the millage rate shown in the second column of the following chart (“Rate 1 in mills”), multiplied by the person’s taxable receipts without regard to the exclusion from receipts as defined in paragraph (8) of the definition of “receipts” in §19-2601; plus (b) the lesser of (i) the millage rate shown in the third column (“Rate 2 in mills”), multiplied by the person’s taxable receipts without regard to the exclusion from receipts as defined in paragraph (8) of the definition of “receipts” in §19-2601, or (ii) the percentage shown in the fourth column (“% of net income”), multiplied by the person’s net

income without regard to the deduction as defined in subsection (a)(2)(v) of the definition of “net income” in §19-2601:

Tax year(s)	Rate 1 in mills	Rate 2 in mills	% of net income
1985	4.60 mills	2.30 mills	2.30%
1986 through 1988 inclusive	5.90 mills	2.90 mills	2.90%
1989 through 1997 inclusive	5.711 mills	4.302 mills	4.302%
1998 and thereafter	4.60 mills	2.30 mills	2.30%

- (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 millage 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 millage 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:

Tax year (s)	Manufacturer (%)	Wholesalers (%)	Retailers (%)
1985	4.357	6.10	2.033
1986 through 1988 inclusive	5.573	7.80	2.60
1989 through 1991 inclusive	5.395	7.55	2.10
1992 through 1995 inclusive	5.395	7.55	1.80
1996	4.98	6.97	1.662
1997	4.90	6.85	1.63
1998	4.77	6.68	1.59
1999	4.60	6.45	1.53
2000	4.39	6.16	1.46
2001	4.18	5.87	1.39
2002	3.97	5.58	1.32
2003	3.80	5.35	1.27
2004	3.47	4.88	1.16
2005	3.14	4.42	1.05
2006	2.89	4.07	0.97
2007	2.68	3.78	0.90
2008 [and thereafter]	2.48	3.78	0.90
2009	2.15	3.28	0.78
2010	1.82	2.77	0.66
2011	1.49	2.27	0.54
2012	1.16	1.76	0.42
2013	0.83	1.26	0.30
2014	0.5	0.76	0.18
2015 and thereafter	0.00	0.00	0.00

* * *

SECTION 2: This ordinance shall take effect with tax years beginning on or after January 1, 2006.

Section 14

Legislation Supporting Commission Recommendations 24 and 25:

An Ordinance:

Amending Chapter 19-1500 of The Philadelphia Code, entitled “Wage and Net Profits Tax,” by decreasing the rates of the tax, by making technical amendments changing the effective dates for rate changes, and, repealing certain provisions, all under certain terms and conditions.

Summary of Relevant Recommendations:

Recommendation 24: January 1st Implementation of Wage and Earnings Tax Rates.

Adjust the rates of the Wage and Earnings Taxes January 1st of each year instead of July 1st. Fiscal-year adjustments have resulted in an undue compliance burden, because firms report earnings on a calendar year basis for state and federal purposes. This recommendation will also make Wage and Earnings Tax rate changes consistent with those of the Net Profits and School Income Taxes.

Recommendation 25: Accelerated Local Income-Based Tax Rate Reductions.

Accelerate the City’s program of incremental reductions in the Wage, Earnings, and Net Profits Taxes, reducing resident and nonresident tax rates to 3.25 percent by 2014. This approach minimizes the revenue impact of rate reductions and allows the City to adjust its budget gradually. By reducing the resident Wage Tax rate more rapidly than the nonresident rate, the resident and nonresident rates would equalize within 10 years. The rationale for this policy is that the City should allocate a greater share of its tax reduction investment to lowering taxes for its residents, in the absence of financial assistance from the Commonwealth to reduce the City’s Wage Tax burden.

Note: In the following legislation, the resident Wage and Net Profits Tax rates do not include the 1.5 percent portion of resident tax rates that the City dedicates, by law, to payment of bonds issued by Pennsylvania Intergovernmental Cooperation Authority (PICA).

ORDINANCE

Amending Chapter 19-1500 of The Philadelphia Code, entitled “Wage and Net Profits Tax,” by decreasing the rates of the tax, by making technical amendments changing the effective dates for rate changes, and, repealing certain provisions, all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 19-1502 of The Philadelphia Code, entitled “Imposition of Tax,” which is a section of Chapter 19-1500 of the Code, entitled “Wage and Net Profits Tax,” is hereby amended and subsection (3) of this Section 19-1502 is hereby repealed in its entirety:

§19-1502. Imposition of Tax.

(1) Tax On Salaries, Wages, Commissions And Other Compensation.

(a) Residents. An annual tax on salaries, wages, commissions and other compensation earned by residents of Philadelphia is imposed for general revenue purposes for the following periods at the following rates:

*	*	*
[July 1, 2003 through June 30, 2007]	[The rate provided under §19-1502(3)]	
[July 1, 2007 and thereafter]	[The rate at which the tax was imposed on June 30, 2007]	
<i>July 1, 2003 through December 31, 2004</i>	<i>2.9625%</i>	
<i>January 1, 2005 through December 31, 2005</i>	<i>2.58%</i>	
<i>January 1, 2006 through December 31, 2006</i>	<i>2.80%</i>	
<i>January 1, 2007 through December 31, 2007</i>	<i>2.70%</i>	
<i>January 1, 2008 through December 31, 2008</i>	<i>2.60%</i>	
<i>January 1, 2009 through December 31, 2009</i>	<i>2.50%</i>	
<i>January 1, 2010 through December 31, 2010</i>	<i>2.345%</i>	
<i>January 1, 2011 through December 31, 2011</i>	<i>2.19%</i>	
<i>January 1, 2012 through December 31, 2012</i>	<i>2.035%</i>	
<i>January 1, 2013 through December 31, 2013</i>	<i>1.88%</i>	
<i>January 1, 2014 through December 31, 2014</i>	<i>1.75%</i>	
<i>January 1, 2015 and thereafter</i>	<i>1.75%</i>	

(b) Non-Residents. An annual tax on salaries, wages, commissions and other compensation earned by non-residents of Philadelphia for work done or services performed or rendered in Philadelphia is imposed for general revenue purposes for the following periods at the following rates:

*	*	*
[July 1, 2003 through June 30, 2007]		[The rate provided under §19-1502(3)]
[July 1, 2007 and thereafter]		[The rate at which the tax was imposed on June 30, 2007.]
<i>July 1, 2003 through December 31, 2005</i>		3.8801%
<i>January 1, 2005 through December 31, 2005</i>		3.835%
<i>January 1, 2006 through December 31, 2006</i>		3.770%
<i>January 1, 2007 through December 31, 2007</i>		3.705%
<i>January 1, 2008 through December 31, 2008</i>		3.640%
<i>January 1, 2009 through December 31, 2009</i>		3.575%
<i>January 1, 2010 through December 31, 2010</i>		3.510%
<i>January 1, 2011 through December 31, 2011</i>		3.445%
<i>January 1, 2012 through December 31, 2012</i>		3.380%
<i>January 1, 2013 through December 31, 2013</i>		3.315%
<i>January 1, 2014 through December 31, 2014</i>		3.250%
<i>January 1, 2015 and thereafter</i>		3.250%

- (c) The tax imposed under §19-1502(1) (a) and (b) shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him.
- (2) Tax On Net Profits Earned In Businesses, Professions Or Other Activities.
- (a) Residents. An annual tax on the net profits earned in businesses, professions or other activities conducted by residents of Philadelphia is imposed for general revenue purposes for the following periods at the following rates:

* * *

[January 1, 2003 through December 31, 2006]	[The rate provided under §19-1502(3)]
[On and after January 1, 2007]	[The rate at which the tax was imposed on December 31, 2006]
<i>January 1, 2003 through December 31, 2004</i>	2.9625%
<i>January 1, 2005 through December 31, 2005</i>	2.58%
<i>January 1, 2006 through December 31, 2006</i>	2.8%
<i>January 1, 2007 through December 31, 2007</i>	2.7%
<i>January 1, 2008 through December 31, 2008</i>	2.6%
<i>January 1, 2009 through December 31, 2009</i>	2.5%
<i>January 1, 2010 through December 31, 2010</i>	2.345%
<i>January 1, 2011 through December 31, 2011</i>	2.19%
<i>January 1, 2012 through December 31, 2012</i>	2.035%
<i>January 1, 2013 through December 31, 2013</i>	1.88%
<i>January 1, 2014 through December 31, 2014</i>	1.75%
<i>On and after January 1, 2015</i>	1.75%

- (b) An annual tax on the net profits earned in businesses, professions or other activities conducted in Philadelphia by non-residents is imposed for general revenue purposes for the following periods at the following rates:

[January 1, 2003 through December 31, 2006]	[The rate provided under §19-1502(3)]
[On and after January 1, 2007]	[The rate at which the tax was imposed on December 31, 2006]
<i>January 1, 2003 through December 31, 2004</i>	3.8801%
<i>January 1, 2005 through December 31, 2005</i>	3.835%
<i>January 1, 2006 through December 31, 2006</i>	3.770%
<i>January 1, 2007 through December 31, 2007</i>	3.705%
<i>January 1, 2008 through December 31, 2008</i>	3.640%
<i>January 1, 2009 through December 31, 2009</i>	3.575%
<i>January 1, 2010 through December 31, 2010</i>	3.510%
<i>January 1, 2011 through December 31, 2011</i>	3.445%
<i>January 1, 2012 through December 31, 2012</i>	3.380%
<i>January 1, 2013 through December 31, 2013</i>	3.315%
<i>January 1, 2014 through December 31, 2014</i>	3.250%
<i>January 1, 2015 and thereafter</i>	3.250%

* * *

[(3) Repealed effective January 1, 2004]

SECTION 2. This is effective on or after January 1, 2004.