
MEMORANDUM

To: Frank Breslin, Revenue Commissioner

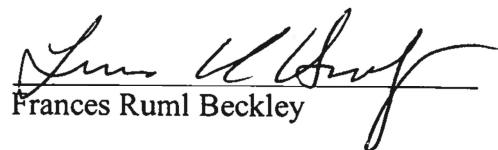
CC: Rebecca LopezKriss, Deputy Revenue Commissioner
Tilahun Afessa, Director of Policy
Joseph F. Procopio, Jr., Manager—Technical Staff

From: Frances Ruml Beckley, Chief Revenue Counsel

Date: September 29, 2022

Re: *Amendment to Business Income and Receipts Tax Regulations—Section 205 – Changes Made by the Federal Government.*

I have reviewed the attached amendment to Section 205 of the Business Income and Receipts Tax Regulations entitled *Changes Made by the Federal Government* to incorporate the addition of Philadelphia Code § 19-515 made by Bill No. 210139-AA, signed by the Mayor on May 19, 2021. I find the amendment to be legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may now forward the amendment to the Department of Records where it will be made available for public inspection.



Frances Ruml Beckley

Section 205 of the Business Income and Receipts Tax Regulations is being amended to incorporate the addition of Philadelphia Code Section 19-515 made by Bill No. 210139-AA.

**CITY OF PHILADELPHIA
BUSINESS INCOME AND RECEIPTS TAX REGULATIONS**

ARTICLE II RETURNS

Section 205. Change of Reported Net Income by Federal Government.

Any taxpayer who has elected to file a Business Income and Receipts Tax return on the basis of net income and/or net operating losses as returned to and ascertained by the Federal Government, and who subsequently files an amended return with the Federal Government, or experiences a correction in the amount of net income (or loss) as returned to the Federal Government, shall, within 75 days after filing an amended return or final determination of corrected net income or loss by the Internal Revenue Service or any other agency or court of the United States, file an amended Business Income and Receipts Tax return with the Revenue Commissioner, reporting the corrected net income (or loss), and shall remit any additional tax due.

Changes Made by the Federal Government.

(1) Definitions. The following definitions shall apply to this Section:

(a) "Final Determination" means an adjustment to a taxpayer's federal taxable income from an initial filing that has been resolved through any of the following circumstances:

(.1) The taxpayer has final income tax liability resulting from a federal audit including any requisite review by the U.S. Department of Justice or congressional Joint Committee on Taxation and has not timely filed a petition for redetermination or claim for refund for any portion of the audit.

(.2) The taxpayer has signed all Internal Revenue Service (IRS) Forms 870, closing agreement(s), or other IRS forms(s) for the tax period, consenting to the deficiency or consenting to any over-assessment that is final for all issues and no longer subject to appeal.

(.3) A decision of the United States Tax Court, a United States District Court or Court of Appeals, the United States Court of Claims, or the United States Supreme Court has become final.

(b) "Report of Change" means a form or other documentation, as may be established by the Department of Revenue by Regulation, used by a taxpayer to: report additional

Philadelphia tax due, request a claim for refund or credit of Philadelphia tax paid, or make other adjustments to Philadelphia tax reports as a result of a Final Determination.

(2) Whenever a Final Determination is made of a taxpayer's federal taxable income for any tax year, the taxpayer shall timely file a Report of Change with the Department.

(3) Required Filing. *The Department requires the submission of such documentation as is reasonably necessary to inform the Department of adjustments to the taxpayer's federal taxable income resulting from a Final Determination and the impact of such adjustments on the taxpayer's Philadelphia tax liability.*

(4) Filing Deadline. *A Report of Change shall be filed with the Department within 180 days following a Final Determination. Failure to timely file a Report of Change shall result in the imposition of an estimated tax assessment along with all interest, penalties, and fines as prescribed by the applicable sections of the Philadelphia Code.*

(5) *Upon receipt of a Report of Change, the Department shall determine whether the Final Determination: (a) requires an assessment of additional Philadelphia tax, interest, and penalties owed; (b) qualifies the taxpayer for a refund or credit of excess Philadelphia taxes paid; or (c) results in other changes to the taxpayer's Philadelphia tax liability.*

(6) *The Department shall issue any assessment of additional Philadelphia tax, interest, and penalties arising directly from adjustments to a taxpayer's federal taxable income within the later of:*

- (a)** *The expiration of the limitations period specified for the relevant tax in § 19-510.1 of the Philadelphia Code;*
- (b)** *The expiration of the one (1) year period following the date of filing of the Report of Change; or*
- (c)** *If the taxpayer fails to timely file a Report of Change, the expiration of the one (1) year period following the date on which the Internal Revenue Service, Pennsylvania, another state, or an organization representing and/or conducting audits for the states' tax agencies, notifies the Department, in writing, that a Final Determination has been made with respect to the taxpayer's federal taxable income for a specified tax year.*

(7) *If a Report of Change is filed for a tax year for which the applicable statute of limitations has expired, any adjustments to the taxpayer's Philadelphia tax liability shall be limited to changes arising directly from the federal adjustments in the Report of Change. Any further adjustments to the taxpayer's Philadelphia tax liability require written agreement of the taxpayer and the Department.*

(8) *Should a timely filed Report of Change result in overpayment of tax, the taxpayer*

may apply for a refund or use the overpayment as a credit against its future tax liabilities.

(9) If a Report of Change is timely filed, pursuant to paragraph (4) of this Section, for a tax year for which the applicable refund or credit statute of limitations has expired, any adjustments reducing the taxpayer's Philadelphia tax liability shall be limited to changes arising directly from a Final Determination reported in the Report of Change, and, at the taxpayer's request, shall either be refunded to the taxpayer or be credited against the taxpayer's future tax liability.

Bold italics denotes new matter

Strikethroughs denotes deletions

Date: September 29, 2022



Frank Breslin, Revenue Commissioner