Section 505 of the Department of Revenue's Use and Occupancy Tax Regulations is being amended for City Council Bill No. 250202. This bill amends Section 19-1806 of The Philadelphia Code, entitled "Authorization of Realty Use and Occupancy Tax," to eliminate certain exemptions. (Note: The U & O Regulations version on our website, dated 9/27/18, is erroneously titled "USE OR OCCUPANCY TAX REGULATIONS.")

PHILADELPHIA USE [OR] *AND* OCCUPANCY TAX REGULATIONS

*   *   *

ARTICLE V

RETURNS AND PAYMENT OF TAX

*   *   *

Section 505. Computation of Tax.

*   *   *

(d) Computation for Tax Years beginning on or after July 1, 2013. The tax to be paid by the user or occupier, for the tax year beginning July 1, 2013, **[and for all tax years thereafter]** *to December 31, 2025*, shall be computed as follows:

    (.1) First, calculate the following product:

        <u>Sq. ft. occupied or used</u>   x   Assessed Value
        Total sq. ft. available for use or
        occupancy on the real estate

    (.2) Next, subtract the Exemption Amount from the foregoing product.

(.3) If the foregoing difference is less than zero, the tax liability is zero. Otherwise, multiply the foregoing difference by the following:

Tax Rate   x   Days of actual use or occupancy
                              360

(.4) For purposes of this subsection 505(d):

*   *   *

(C) The Exemption Amount shall be $177,000 per property for Tax Years beginning July 1, 2013 and ending June 30, 2015. The Exemption Amount shall be $165,300 per property for the Tax Periods beginning July 1, 2015 **[and thereafter]** *through December 31,2025. The Exemption Amount shall be $0 per property beginning January 1, 2026, and thereafter.*

Where there are multiple taxpayers using or occupying a property, the Exemption Amount shall be allocated equally among all such taxpayers regardless of the square footage of space occupied by the respective taxpayer. For example, if a building is occupied by five (5) tenants subject to the tax, the Exemption Amount (i.e. $165,300) will be allocated equally so that each taxpayer will receive $33,060 (i.e. $165,300 /5) regardless of the square footage occupied by each tenant. Every landlord shall provide to the tenants of a property the number of users or occupiers of the property.

(D) **[The Tax Rate shall be one and thirteen hundredths percent (1.13%) for Tax Years beginning July 1, 2013 and ending June 30, 2015. The Tax Rate for Tax Years beginning July 1, 2015 and thereafter shall be one and twenty-one hundredths percent (1.21%).]**

The Tax Rate starting with Tax Years beginning July 1, 2013 and thereafter is specified under § 19-1806(4)(c)(.4)(.c) of the Philadelphia Code.

*   *   *

(e) Computation of tax for January 1, 2026 and Tax Years thereafter. The tax to be paid by the user or occupier, for periods beginning on or after January 1, 2026, and for all tax years thereafter, shall be computed as follows:

(.1) First, calculate the following product:

$$\frac{Sq. \ ft. \ occupied \ or \ used}{Total \ sq. \ ft. \ available \ for \ use \ or \ occupancy \ on \ real \ estate} \quad x \quad Assessed \ Value$$

(.2) If the foregoing amount equals zero, the tax liability is zero. Otherwise, multiply the foregoing amount by the following:

$$Tax \ Rate \quad x \quad \frac{Days \ of \ actual \ use \ or \ occupancy}{360}$$

Illustration No. 1:

John Smith is the owner of a commercial building which measures 90,000 square feet; service, utility and common areas total 5,000 square feet. The total square feet available for use or occupancy is 85,000 square feet (i.e., 90,000 sq. ft. less 5,000 sq. ft. service, utility and common areas). Mr. Smith leases the property to five tenants who use the entire leased space for business. One tenant uses and occupies 42,500 sq. ft. of the leasable space; the other four tenants each occupy 10,625 sq. ft. of the leasable space. In March 2026, the Office of Property Assessment certified an assessed value of the property for the Tax Year beginning July 1, 2026 at $1,500,000. Mr. Smith is required to collect the tax from the five tenants and to file and remit the tax monthly. (See subsection 503(a).)

Computation of tax due for the period July 1, 2026, through June 30, 2027, for the tenant occupying 50% of the space would be as follows:

(42,500 sq. ft. / 85,000 sq. ft.) x $1,500,000 = $750,000;

$750,000 x 1.21% x 360/360 = $9,075 annual tax due;

The tax due each month would be $756 ($9,075/12).

Computation of the tax due for the period July 1, 2026, through June 30, 2027, for the other four tenants would be as follows:

(10,625 sq. ft. / 85,000 sq. ft.) x $1,500,000 = $187,500.
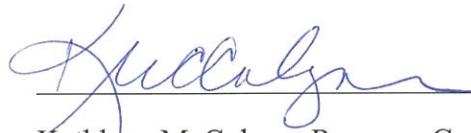
$187,500 x 1.21% x 360/360 = $2,269 annual tax due;

The tax due each month would be $189 ($2,269 /12).

John Smith is required to collect a total of $1512 each month from his tenants ($756 + $189 + $189+ $189 + $189).

John Smith is entitled to a 1% discount and would be required to remit a total of $1,497 ($1512 - $15) to the City by each month's due date. (See subsection 504(a)(2)(c).)

[ ]   Brackets and bold indicate matter deleted.

        Underline and italic indicate matter added.

_____   Date: 1/23/24

Kathleen McColgan, Revenue Commissioner