Amending Sections 503 and 505 of the City of Philadelphia Use and Occupancy Tax Regulations

AMENDMENT TO THE DEPARTMENT OF REVENUE'S USE AND OCCUPANCY TAXES REGULATIONS

ARTICLE V
RETURNS AND PAYMENT OF TAX

* * *

Section 503. Due Date of Returns.

(a) Each person required to file a return hereunder for a taxable period (after June 30, 1985), must do so by the twenty-fifth (25) day of the last month in the taxable period.

Examples:

The tax return for the taxable month of July must be filed by July 25th.

The tax return for the taxable calendar quarter ending September 30th must be filed by September 25th.

The tax return for the taxable calendar half-year ending June must be filed by June 25th.

Taxable periods are as follows:

(1) Commencing July 1, 1983 the applicable taxable period is to be determined by the assessed value of the real estate as follows:

* * *

(4) Commencing January 1, 2014, the applicable taxable period is one calendar month, regardless of the assessed value of the real estate.

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Section 505. Computation of Tax.

(a) If it is necessary to allocate the tax, the following factors must be available to the person preparing the return in order to compute the tax due:

Total square feet available for use or occupancy;

Square feet used or occupied;

Most recent assessed value of property;

Days of actual use or occupancy.

(b) Use or occupancy for a portion of a day shall be deemed to be use or occupancy for a full day.

(c) Illustration of Tax Computation – *For Tax Years Ending On or Before June 30, 2013.*

The tax to be paid periodically by the user or occupier of real estate, whether owner or tenant, shall be computed in accordance with the following formula:

* * *

(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, shall be computed as follows:

(.1) First, calculate the following product:

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

(.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 $\dfrac{\textit{Days of actual use or occupancy}}{360}$

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

(A) Assessed Value shall mean the assessed value of the real estate as most recently returned by the Office of Property Assessment prior to the start of the Tax year.

(B) The Exemption Amount shall be $177,000 per property. Where there are multiple taxpayers using or occupying a property, the Exemption Amount shall be allocated equally among all such taxpayers, so that each taxpayer's Exemption Amount shall be $177,000 divided by the number of taxpayers using or occupying the property. Every landlord shall provide to the tenants of a property the number of users or occupiers of the property.

(C) The Tax Rate shall be one and thirteen hundredths percent (1.13%).

For purposes of the computation, occupancy during an entire month is occupancy for 30 days, regardless of the number of calendar days in the month or the number of business days in the month; the resultant amounts are rounded. .

Illustration No. 1:

John Smith is the owner and sole user and occupant of a commercial building with 10,000 square feet available for use or occupancy. Mr. Smith uses the entire property available for use (i.e., no vacant space or exempt space). In March 2013, the Office of Property Assessment certified an assessed value of the property at $200,000 for the Tax Year beginning July 1, 2013. Mr. Smith is required to file and pay the tax monthly. (See subsection 503(a).)

Computation of tax due for the period July 1, 2013, through June 30, 2014, would be as follows:

(10,000 sq. ft./10,000 sq. ft.) x \$200,000 = \$200,000;
\$200,000 - \$177,000 (exemption amount) = \$23,000;
\$23,000 x 1.13% x 360/360 = \$260 annual tax due;

The tax due each month would be \$22 (\$260/12).

Illustration No. 2:

John Smith is the owner and sole user and occupant of a commercial building with 10,000 square feet available for use or occupancy. Mr. Smith uses the entire property available for use (i.e., no vacant space or exempt space). In March 2013 the Office of Property Assessment certified an assessed value of the property at \$150,000 for the Tax Year beginning July 1, 2013. Mr. Smith is required to file and pay the tax monthly. (See subsection 503(a).)

Computation of tax due for the period July 1, 2013, through June 30, 2014, would be as follows:

(10,000 sq. ft./10,000 sq. ft.) x \$150,000 = \$150,000;
\$150,000 - \$177,000 (exemption amount) = -\$27,000 (less than zero)

Mr. Smith's tax liability would be \$0 because the difference, after subtracting the exemption amount, is an amount less than zero – no further calculation is required.

Illustration No. 3:

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 2013, the Office of Property Assessment certified an assessed value of the property for the Tax Year beginning

July 1, 2013 at $1,000,000. 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, 2013, through June 30, 2014, for the tenant occupying 50% of the space would be as follows:

(42,500 sq. ft. / 85,000 sq. ft.) x $1,000,000 = $500,000;
$177,000 (exemption amount) / 5 = $35,400 exemption per tenant
$500,000 - $35,400 (exemption amount) = $464,600;
$464,600 x 1.13% x 360/360 = $5,250 annual tax due;

The tax due each month would be $438 ($5,250/12).

Computation of the tax due for the period July 1, 2013, through June 30, 2014, for the other four tenants would be as follows:

(10,625 sq. ft. / 85,000 sq. ft.) x $1,000,000 = $125,000;
$177,000 (exemption amount) / 5 = $35,400 exemption per tenant
$125,000 - $35,400 (exemption amount) = $89,600;
$89,600 x 1.13% x 360/360 = $1,012 annual tax due;

The tax due each month would be $84 ($1,012/12).

John Smith is required to collect a total of $774 each month from his tenants ($438 + $84 + $84 + $84 + $84).
John Smith is entitled to a 1% discount and would be required to remit a total of $766 to the City each month ($774 - 1% discount). (See subsection 504(a)(2)(c).)

Illustration No. 4:

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. Three (3) of the five (5) tenants are not subject to the tax and occupy 70% of the leasable space. (See Article III – "Exemptions and Exclusions from Tax."); the two (2) taxpayer tenants occupy 10% and 20% of the leased space, respectively. One tenant uses and occupies 8,500 sq. ft. (i.e., 10%) of the leasable space; the other taxpayer tenant uses and occupies 17,000 sq. ft. (i.e., 20%) of the leasable space. In March

2013, the Office of Property Assessment certified an assessed value of the property for the Tax Year beginning July 1, 2013 at $1,000,000. Mr. Smith is required to collect the tax from the two taxpayer tenants and to file and remit the tax monthly. (See subsection 503(a).)

Computation of tax due for the period July 1, 2013, through June 30, 2014, for the taxpayer tenant occupying 10% of the space would be as follows:

(8,500 sq. ft. / 85,000 sq. ft.) x $1,000,000 = $100,000;
$177,000 (exemption amount) / 2 = $88,500 exemption per taxpayer tenant
$100,000 - $88,500 (exemption amount) = $11,500;
$11,500 x 1.13% x 360/360 = $130 annual tax due;

The tax due each month would be $11 ($130/12).

Computation of the tax due for the period July 1, 2013, through June 30, 2014, for the taxpayer tenant occupying 20% of the space would be as follows:

(17,000 sq. ft. / 85,000 sq. ft.) x $1,000,000 = $200,000;
$177,000 (exemption amount) / 2 = $88,500 exemption per taxpayer tenant
$200,000 - $88,500 (exemption amount) = $111,500;
$111,500 x 1.13% x 360/360 = $1,260 annual tax due;

The tax due each month would be $105 ($1,260/12).

John Smith is required to collect a total of $116 each month from his taxpayer tenants ($11 + $105).
John Smith is entitled to a 1% discount and would be required to remit a total of $115 to the City each month ($116 - 1% discount). (See subsection 504(a)(2)(c).)

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Clarena I. W. Tolson
Revenue Commissioner

Date 9/11/13

Legend: *Italics* denote new matter added

MEMORANDUM

City of Philadelphia

Date: 10/16/13

TO: Shelley Smith, City Solicitor

FROM: Jeanne Reedy, Administrative Services Director, Records Dept.

SUBJECT: Advertisement of Proposed Regulations – Use and Occupancy Tax – Amendments to Sections 503 and 505 – Council Bill No. 130182-A

The above Regulations promulgated by the Department of Revenue were received in the Department of Records on 9/12/13 for filing and advertising.

Inasmuch as there were no requests for hearings, these Regulations became effective midnight 10/15/13.

CC: Clarena I. W. Tolson, Revenue Commissioner
Joseph F. Procopio., CPA, Manager, Technical Advisory Staff