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Philadelphia's Tax Responses to the COVID-19 Pandemic

Since the COVID-19 health crisis began, the city of Philadelphia's Department of Revenue has been continually addressing how the pandemic affects the city's taxes. This article discusses the key responses and guidance that that department has issued thus far.

By **Jennifer Karpchuk** | June 04, 2020 at 11:15 AM

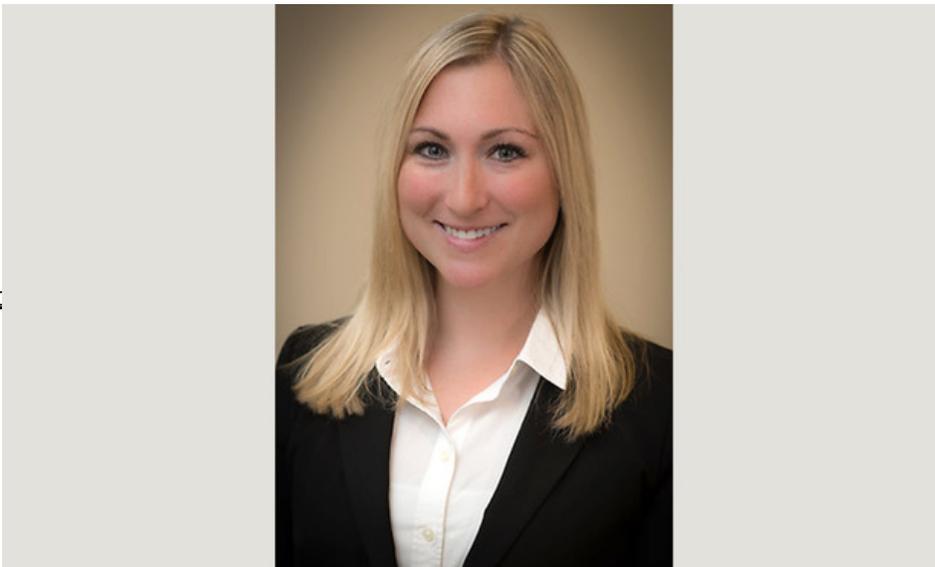
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Business Income and Receipts Tax (BIRT) and Net Profits Tax (NPT)

The filing and payment deadlines for the BIRT and NPT have been extended through July 15. The extension applies to estimated payments. However, payments received after July 15 will accrue interest and penalties dating back to the original due date of April 15.

Law Firms Mentioned

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The department also announced its position regarding nexus as it relates to the BIRT and NPT. Typically, employees working from home would create nexus for Philadelphia businesses. However, the department announced that it is waiving the nexus threshold for employees working temporarily from home because of COVID-19. Specifically, receipts for nonresident employees who were working in Philadelphia pre-pandemic and are now temporarily working from home solely as a result of the COVID-19 pandemic, will continue to be sourced to Philadelphia for purposes of the BIRT and NPT. However, receipts for resident employees who had been performing services for employers outside of Philadelphia pre-pandemic but are now temporarily working from home in Philadelphia will not be sourced to Philadelphia for purposes of the BIRT and NPT.

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School Income Tax (SIT)

The due date for the SIT did not change because of COVID-19; payment was due April 15. Taxpayers unable to meet that deadline were permitted to file an extension and submit a payment equal to their previous year's liability. Those taxpayers then have until July 15 to file a return and pay any difference in tax owed, without interest or penalty. However, if payment is received after July 15, interest and penalty will accrue back to April 15.

Use and Occupancy Tax (U&O Tax)

The department announced that businesses that were ordered to close by order of the mayor beginning March 17, are not considered to "occupy" the space for purposes of the U&O tax. However, businesses deemed essential, whether they choose to operate or not, are still subject to the U&O tax. Further, businesses that have continued operations and have employees on-site are still subject to the U&O tax.

Taxpayers that paid the U&O tax while they were not liable for the tax are eligible for a refund. Applying for a refund is a two-step process; a taxpayer must: file an amendment to their annual or monthly return; and complete and submit a refund petition. However, the department is encouraging taxpayers to wait until they can file one amended return to cover the entire period of forced closure. Further, landlords who receive a refund of U&O tax on behalf of their tenants are required to reimburse the tenants for the full amount received on their behalf.

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Wage Tax

Philadelphia's guidance on its wage tax in light of COVID-19 is not "relief," but instead an explanation of its standard policy applied to the present pandemic. The standard inquiry used to determine whether an employee is subject to the wage tax is whether the employee is required to work remotely, or whether the employee is working remotely for the employer's convenience. COVID-19 presents an environment in which employees are required to work remotely. Thus, nonresident employees who work for Philadelphia-based employers are not subject to the wage tax during the time they are required to work remotely outside of Philadelphia.

While nonresident employees are not subject to the wage tax during this time, it is the employer's decision whether to continue to withhold the wage tax or to cease withholding for the remainder of the closure. If the employer continues to withhold the wage tax, the nonresident employee can file for a refund with a wage tax reconciliation form during 2021. Notwithstanding, employers are still required to withhold and remit wage tax for all Philadelphia residents, regardless of where they perform their duties.

Earnings Tax

Fourth quarter earnings tax payments for 2019 were originally due Jan. 31, 2020. The department extended the time that taxpayers have to file the 2019 Annual Reconciliation for the Earnings Tax to July 15. However, as with the other city taxes that have been extended, payments received after July 15 will accrue interest and penalty dating back to April 15.

Response to the CARES Act

The CARES Act provides tax relief for individual taxpayers through direct cash payments. Eligible individuals will receive payments of \$1,200 for a single individual or \$2,400 for married couples filing jointly, while qualifying children generate an

additional \$500 each. The department announced that the payments received under the CARES Act are not subject to the city's Wage Tax or Earnings Tax, nor are they considered "net income" for purposes of the SIT.

Real Estate Tax

The department extended the due date for 2020 real estate tax to June 15. Similarly, the department extended the deadline to apply for an installment payment plan. Senior citizens over age 65 and eligible low-income homeowners must apply for the installment plan by June 15.

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