

City of Philadelphia



(Bill No. 090686)

AN ORDINANCE

Amending Chapter 19-500 of The Philadelphia Code, entitled "Taxes and Rents – General," by providing for a temporary tax amnesty program under which delinquent taxpayers may satisfy their past due tax obligations with forgiveness of all or a portion of accrued interest and penalties, 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

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§19-513. Tax Amnesty Program.

(1) *The Department shall, during Fiscal Year 2010, administer a tax amnesty program ("Program") which, as further detailed in this Section, will provide certain delinquent taxpayers the opportunity to satisfy their tax delinquencies through the filing of any delinquent returns and the payment of the principal amount of taxes due plus 50% of accrued interest, with waiver of accrued penalties, certain fines, and 50% of accrued interest.*

(2) *The Revenue Commissioner shall promulgate rules and regulations to implement the Program, consistent with the following:*

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(a) *The Program shall be available for a period (the “Amnesty Period”) of at least forty-five (45) days and no more than sixty (60) days beginning and ending on dates announced by the Revenue Commissioner.*

(b) *The Program shall apply to any of the following taxes imposed or collected by the City of Philadelphia or the School District of Philadelphia originally due and payable on or after February 1, 1986, and on or before June 30, 2009 (“Eligible Tax”), provided that no interest or penalties shall be waived with respect to taxes imposed or collected by the School District of Philadelphia unless the School Reform Commission has by resolution, adopted no later than forty-five (45) days prior to the commencement of the Amnesty Period, agreed to participate in the Program.*

(.1) Amusement tax, pursuant to Chapter 19-600.

(.2) Auctioneer tax, pursuant to Chapter 19-700 (repealed).

(.3) Bowling alley tax, pursuant to Chapter 19-800 (repealed).

(.4) Mechanical amusement device tax, pursuant to Chapter 19-900.

(.5) Personal property tax, pursuant to Chapter 19-1100.

(.6) Parking tax, pursuant to Chapter 19-1200.

(.7) Real estate tax, pursuant to Chapter 19-1300, Chapter 19-1800 and applicable State law.

(.8) Realty transfer tax, pursuant to Chapter 19-1400.

(.9) Wage and net profits tax, pursuant to Chapter 19-1500 and Chapter 19-2800.

(.10) Net income tax, pursuant to Chapter 19-1800.

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(.11) Realty use and occupancy tax, pursuant to Chapter 19-1800.

(.12) Liquor sales tax, pursuant to Chapter 19-1800.

(.13) Hotel room rental tax, Tourism and marketing tax, and Hospitality promotion tax, pursuant to Chapter 19-2400.

(.14) Business privilege tax, pursuant to Chapter 19-2600.

(.15) Vending machine tax, pursuant to Chapter 19-2800 (repealed).

(.16) Vehicle rental tax, pursuant to Chapter 19-3300.

(.17) Excise tax on outdoor advertising transactions, pursuant to Chapter 19-3400.

(c) The Program shall be available to any taxpayer who is delinquent in payment of an Eligible Tax as of the first day of the Amnesty Period, except that the Program shall not be available to a taxpayer who: (i) received notice that the taxpayer is the subject of a criminal investigation for an alleged violation of any law imposing an Eligible Tax; or (ii) has been named as a defendant in a criminal complaint alleging a violation of any law imposing an Eligible Tax; or (iii) participated in any prior tax amnesty program of the City or was an officer of a company that participated in any such prior program, including, but not limited to, the tax amnesty authorized by Bill No. 1026 (approved October 22, 1986). For purposes of this Section, a taxpayer is “delinquent” with respect to payment of a tax or the filing of a return if the due date has passed and the taxpayer has not paid the tax in full or filed the return, as applicable.

(d) No abatement shall be available under the Program for interest or penalty paid prior to the start of the Amnesty Period. Taxpayers who have entered into a

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payment agreement regarding delinquent taxes shall be eligible for the Program with respect to such taxes so long as

(.1) All payments due under the payment agreement between July 1, 2009 and the start of the Amnesty Period are current.

(.2) The payment agreement does not reflect any abatement of principal in settlement of litigation.

(e) In the event that, on or after the Closing Date, the City has secured a judgment for delinquent taxes against the taxpayer, or a court decree or writ in aid of execution on a judgment for delinquent taxes, then such taxes shall be ineligible for abatement of interest or penalties under the Program. The Revenue Department, by regulation, shall establish the Closing Date to maximize the City's anticipated overall collections, except that the Closing Date shall not be prior to December 31, 2008.

(f) Taxpayers wishing to participate in the Program must file an application in such form and containing such information as the Department shall require.

(g) The Department shall execute an agreement with a participating taxpayer that:

(.1) Sets forth the agreed amount of the tax delinquency and the payment due;

(.2) Sets forth the taxpayer's obligation during the Amnesty Period to make payment of all delinquent taxes plus 50% of accrued interest, provided that for purposes of this subsection, "additions to tax" imposed pursuant to §19-1101 or §19-1303 shall be treated as accrued interest;

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(.3) Provides that upon making all required payments during the Amnesty Period, the taxpayer shall be relieved of liability for the remaining 50% of accrued interest and 100% of accrued penalties, as well as any fine under § 19-509(4)(b) (relating to non-filing) or § 19-509(4)(d) (relating to non-payment of moneys held as agent); provided that the Department may reassess and collect from the taxpayer such 50% of accrued interest due and 100% of the accrued penalties previously imposed, and any fines forgiven, if, within three years after the end of the Amnesty Period, either:

(A) The taxpayer becomes six or more months late in paying, or filing any return relating to, any tax under this Title 19;

(B) The Department notifies the taxpayer that the taxpayer substantially understated his or her principal liability as to taxes for which interest and penalty were abated under the Program; or

(C) The Department determines that the taxpayer has violated any provision of the agreement.

(.4) Provides that the three year period set forth in subparagraph (.3) above and the six month period set forth in subparagraph (.3)(A) above shall each be tolled by the pendency of a timely filed, good faith, administrative or judicial appeal by the taxpayer relating to any tax subject to subparagraph (.3)(A).

(.5) Provides that the taxpayer shall not seek, and the Tax Review Board shall not grant, any further abatement of interest or penalties with respect to any tax for which interest or penalties were abated pursuant to this Section; and that any refunds

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otherwise owing to the taxpayer and paid within 180 days of the expiration of the Amnesty Period shall not carry interest.

(.6) Contains a certification by the taxpayer disclosing all taxes with respect to which the taxpayer is delinquent with respect to payment or returns; and a certification by the taxpayer that he or she has filed, or is now filing contemporaneous with the agreement, complete and accurate returns with respect to all such taxes and that, with respect to any delinquent payments, he or she either is making payment pursuant to the Program or does not have the financial ability to make certain payments at that time. The Department, at its discretion, may allow participation in the Program with respect to less than all disclosed taxes, where the Department is satisfied that the taxpayer does not have the financial ability to pay all such taxes.

(.7) Contains a certification by the taxpayer that he or she has not previously participated, and was not an officer of any taxpayer that previously participated, in any prior City tax amnesty program.

(.8) Contains such other provisions as the City Solicitor may deem necessary or appropriate to protect the interests of the City.

(h) No refund or credit shall be allowed for any interest, addition to tax, or penalty the taxpayer paid before the Amnesty Period.

(i) No future amnesty program, if any, shall permit abatement of interest or penalty with respect to any taxes first due on or before June 30, 2009.

(3) Outreach and Publicity; Reports.

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(a) *The Department shall extensively publicize the Amnesty Program. Such publicity may include, but need not be limited to, written notice of the Program to all taxpayers known to be delinquent with respect to any tax subject to the Program; media advertising; and the development and maintenance of a website.*

(b) *Within one hundred eighty (180) days after the end of the Amnesty Period, the Department shall issue a written final report on the implementation of the Program, setting forth:*

(i) *A detailed breakdown of the Department's administrative costs in implementing the Program;*

(ii) *The number of tax amnesty returns filed and a breakdown of the number and dollar amount of revenue obtained for each tax by tax year;*

(iii) *The total dollar amount of revenue collected by the Program;*

(iv) *The total number of taxpayers that participated in the program, and, to the extent practicable without violating taxpayer confidentiality, their aggregate demographic characteristics, including type of taxpayer (individual, partnership, corporation or other entity), North American Industry Classification System codes of participants, size of tax liability, and geographical location by zip code; and*

(v) *The total dollar amount of fines, penalties and interest forgiven under the Program.*

Explanation:

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on December 17, 2009. The Bill was Signed by the Mayor on January 27, 2010.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council