

CITY OF PHILADELPHIA • DEPARTMENT OF REVENUE REFUND PETITION <i>For all refunds except Individual Employee Wage Tax</i>				PETITION NUMBER (Office use only)	
		FUND	SOURCE	INDEX	
SEE INSTRUCTIONS ON REVERSE. CLEARLY PRINT OR TYPE ALL INFORMATION.					
1. PETITIONER'S FIRST NAME MIDDLE INITIAL LAST NAME					
2. BUSINESS NAME			4. SOCIAL SECURITY NUMBER		
3. MAILING ADDRESS			5. FEDERAL EMPLOYER IDENTIFICATION NO.		
CITY			STATE	ZIP CODE	
6. PROPERTY ADDRESS <i>(For Real Estate, Water, Commercial Waste and Business Use & Occupancy Refunds only)</i>					
7. PHONE NUMBER		FAX NUMBER		E-MAIL ADDRESS	
8. REFUND TYPE <i>(Check all that apply and list below. For Wage Tax, Real Estate Tax and Other, see important information on reverse.)</i> <input type="checkbox"/> Wage Tax <input type="checkbox"/> Business Income & Receipts Tax * <input type="checkbox"/> Net Profits Tax <input type="checkbox"/> Business Use & Occupancy Tax <input type="checkbox"/> Parking Tax <input type="checkbox"/> Amusement Tax <input type="checkbox"/> Water/Sewer <input type="checkbox"/> Liquor Tax <input type="checkbox"/> Hotel Tax <input type="checkbox"/> Commercial Waste <input type="checkbox"/> School Income Tax <input type="checkbox"/> Licenses and Permits <input type="checkbox"/> Tobacco Tax <input type="checkbox"/> Earnings Tax <input type="checkbox"/> Police Services <input type="checkbox"/> Departmental Payments <input type="checkbox"/> Real Estate Tax <input type="checkbox"/> Other (specify) _____					
* Business Income & Receipts Tax prior to 2012 was known as Business Privilege Tax.					
A. TAX ACCOUNT NUMBER	B. TAX YEAR OR PERIOD/YEAR	C. AMOUNT OF CLAIM	A. TAX ACCOUNT NUMBER	B. TAX YEAR OR PERIOD/YEAR	C. AMOUNT OF CLAIM
9. REASON FOR THIS REFUND PETITION					
<i>I HEREBY CERTIFY that the statements contained herein and in any supporting schedule or exhibit are true and correct to the best of my knowledge and belief. I understand that if I knowingly make any false statements herein, I am subject to penalties as prescribed by law.</i>					
PETITIONER'S SIGNATURE				DATE	
AUTHORIZED SIGNATURE FOR OTHER DEPARTMENT			TITLE		DATE
MAIL COMPLETED REFUND PETITION TO: OR FAX TO: 215-686-6228 CITY OF PHILADELPHIA DEPARTMENT OF REVENUE P.O. BOX 53360 PHILADELPHIA, PA 19105			REFUND INFORMATION: TELEPHONE: 215-686-6574, 6575, 6578 FAX: 215-686-6228 E-MAIL: refund.unit@phila.gov INTERNET: www.phila.gov/revenue		

Instructions for Completing the Refund Petition

This form is to be used for **all** refund requests except Individual Employee Wage Tax. If you need to file an individual employee wage petition, refer to the contact information on the front of this form. **Employers** must use this petition for withheld wage tax refund requests.

1. **Individuals** - Enter the name of the petitioner.
2. **Business Name** - For non-individual petitioners, enter the name of the entity.
3. **Mailing Address** - Enter the address where the refund is to be mailed.
- 4 and 5. **Social Security and Federal Employer Identification Numbers** - Individuals must enter a Social Security number. All other entities must enter a Federal Employer Identification Number.
6. **Property Address** - This is required for all Real Estate, Water/Sewer, Commercial Waste and Business Use & Occupancy petitions. Enter the address of the property for which the refund is being requested.
7. **Contact Information** - Provide a phone number, fax number and e-mail address where you can be reached.
8. **Refund Type** - Check the appropriate block(s). If the type is not listed on the front of this form, check "Other" and specify the type of refund requested. A single Refund Petition may be used for multiple tax types and years.
 - A. **Tax Account Number** - Enter the tax specific account number(s).
 - B. **Tax Years and/or Tax Periods** - If tax is an annual tax, enter year. If tax is periodic, e.g., quarterly or monthly, enter period(s) and year(s).
 - C. **Amount of Claim** - Enter the amount of the refund requested.
9. **Reason for Refund** - Enter reason for refund. If you have additional documentation, attach to this petition.

Wage Tax - Additional information is required before a decision can be made on your refund request. Provide a letter on company letterhead (signed by an officer of the company) stating that the additional tax withheld has been returned to the employees. If your refund request is resulting from a duplicate payment, provide supporting documentation. If you have questions about your filing requirements, application of payments or tax balances, call Taxpayer Services at 215-686-6600.

Real Estate - Refund requests must be accompanied by a copy of the front and back of the canceled check(s). If the refund is due to a sale of the property or refinancing, you must also supply a copy of the settlement sheet. Mortgage companies must supply a copy of the disbursement/check listing.

This petition must be signed and dated! If you have any questions regarding the preparation of this petition, see the contact information on the front of this form.

OFFICE USE ONLY - Licenses and Permits; Interdepartmental Refunds and Other - All petitions must include the signature and title of the Department's authorized designee, along with the Fund, Source and Index Code of the payment in addition to the petitioner's signature.

**Rider Attached to
Petition for Refund of Business Income and Receipts Tax**

Petitioner is entitled to a refund of Philadelphia business income and receipts tax (“BIRT”) for the following, among other, reasons:

1. Petitioner is entitled to apportion its net income to compute its BIRT by using an apportionment formula that gives “due regard” to (1) the nature of the taxpayer’s business concerned; (2) the ratio of the taxable receipts of the taxpayer from within the city to the total receipts of the taxpayer; (3) the ratio of the value of the tangible personal and real property of the taxpayer owned or leased and situated in the city levying the tax to the total tangible personal and real property of the taxpayer wherever owned and situated; (4) the ratio of the wages, salaries, commissions and other compensation paid by the taxpayer within the city levying the tax to the total wages, salaries, commissions and other compensation paid by the taxpayer; and, (5) any other method or methods of apportionment and allocation, other than the foregoing, calculated to effect a fair and proper apportionment and allocation. *See* Phila. Code § 19-2601; 53 P.S. § 16182.
2. It was an unconstitutional delegation of power to entrust the collector of taxes in cities of the first class with the power to establish rules and regulations regarding the apportionment of income. *See* Phila. Code § 2601; 53 P.S. § 16182; *see also* Pa. Const. art. II, § 1; *Protz v. Workers’ Comp. Appeal Bd. (Derry Area Sch. Dist.)*, 639 Pa. 645; 161 A.3d 827 (2017).
3. The Pennsylvania General Assembly’s delegation of power to the collector of taxes in cities of the first class to establish rules and regulation regarding the apportionment of income violates the constitutional requirement that all legislative power “be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.” *See* Phila. Code § 19-2601; 53 P.S. § 16182; *see also* Pa. Const. art. II, § 1; *Protz v. Workers’ Comp. Appeal Bd. (Derry Area Sch. Dist.)*, 639 Pa. 645; 161 A.3d 827 (2017).
4. Petitioner is entitled to compute its BIRT in accordance with the First Class City Business Tax Reform Act (Act of May 30, 1984, P.L. 345), as amended, 53 P.S. § 16181 *et seq.*; Phila. Code § 19-2601 *et seq.*; Dept. BIRT Reg. § 101 *et seq.*; and, the Sterling Act (Act of August 5, 1932, P.L. 45), as amended, 53 P.S. § 15971 *et seq.*
5. Petitioner is entitled to properly compute its net income and taxable receipts for purposes of computing its BIRT. *See* Phila. Code §§ 19-2601, -2603, -2605.
6. Petitioner is entitled to special apportionment and allocation under Dept. Reg. § 408(H) because the methodology employed by the Department to compute Petitioner’s BIRT is unfair and unrepresentative of Petitioner’s activity in the City. *See Container Corp. of America v. California Franchise Tax Board*, 463 U.S. 159, 103 S.Ct. 2933 (1983).
7. Petitioner is entitled to properly compute its apportionment factor to exclude from the numerator of the receipts ratio those receipts which were not from within the City of Philadelphia. Dept. BIRT Reg. § 302.

8. Petitioner is entitled to exclude the apportionment information of its limited liability companies, including the property, payroll, and receipts ratios of those limited liability companies. *See* Phila. Code § 2601 *et seq.*
9. Petitioner is entitled to fairly apportion its net income and receipts to the City of Philadelphia for computation of its BIRT. *See Complete Auto Transit v. Brady*, 430 U.S. 274, 97 S. Ct. 1076 (1977); *see also Oklahoma Tax Comm'n v. Jefferson Lines, Inc.*, 514 U.S. 175, 115 S. Ct. 1331 (1995). The Department's standard apportionment formula does not adequately measure Petitioner's activities or presence in the city.
10. The City's imposition of the BIRT on Petitioner violates the Due Process, Equal Protection, and Commerce Clauses of the United States Constitution.
11. The BIRT imposed on Petitioner violates the Uniformity Clause and the due process and equal protection provisions of the Pennsylvania Constitution. For example, the Philadelphia Code's exclusion of the first \$100,000 of gross receipts from the taxable receipts computation violates the Uniformity Clause of the Pennsylvania Constitution. *See Nextel Communications of the Mid-Atlantic, Inc. v. Department of Revenue*, 642 Pa. 729 (2017); *Mount Airy #1, LLC v. Pennsylvania Department of Revenue and Eileen McNulty*, 638 Pa. 140 (2016).
12. Petitioner is entitled to appropriate interest on its overpayment of taxes. *See* Department of Revenue General Regulations § 306(3).