

June 16, 2021

UPDATE to Philadelphia Use & Occupancy Tax Guidance during COVID-19

Background

On **April 4, 2021**, Pennsylvania ended its mandatory telework order that had been in effect during the pandemic. Under the amended order of Governor Wolf, telework is still "**strongly encouraged**," but not required. As of April 4, 2021, employers may bring employees back to the workplace, so long as they continue to follow and enforce other federal, state, and local COVID-19 mitigation measures.

Philadelphia likewise revised its mandatory guidance and ended the telework mandate for office workers on **April 4, 2021**. The Philadelphia Department of Public Health "**recommends**" that office workers continue to work at home when possible.

Philadelphia lifted capacity limits on offices, stores, museums, and libraries on Friday, **May 21, 2021**. On that date, the City also lifted capacity limits on outdoor catered events. Restaurants were still limited to 50% capacity, or 75% if the business met enhanced ventilation standards, but seats were only required to be three feet apart rather than six feet.

On Friday, **June 2, 2021**, Philadelphia ended all capacity limits in every setting.

Updated Philadelphia Use & Occupancy (U&O) Tax guidance

Restaurants and Bars

The Philadelphia Department of Revenue issued a special regulation on February 18, 2021, granting U&O Tax relief to restaurants because of occupancy limitations due to COVID-19. This emergency policy remained in effect while the Philadelphia Health Department limited occupancy for restaurants. The emergency policy expired on June 2, 2021, when Philadelphia ended all capacity limits in every setting.

Offices

Mayor Kenney previously ordered that businesses that have been able to operate remotely **must** continue to operate remotely. The Philadelphia Department of Revenue's previous guidance dated August 19, 2020, states that any business that must operate entirely remotely is not subject to U&O Tax. According to this guidance, "businesses allowed to open their offices in the Modified Green Phase, whether they choose to do so or not, are subject to U&O Tax."

Now that the mandate for (non-essential) office workers to work remotely has ended, businesses that had been operating entirely remotely are now allowed to have office workers in their Philadelphia offices, subject to federal, state, and local laws and regulations. Effective April 4, 2021, these businesses are subject to U&O Tax.

Taxpayers who pay U&O Tax are eligible for a refund for periods that they were not liable for the tax.

Some taxpayers pre-pay the U&O Tax on an annual basis or may have otherwise filed and paid early. These taxpayers may now find that they no longer have a liability because of the Commonwealth and City’s orders to close non-essential businesses due to the COVID-19 coronavirus emergency.

Taxpayers seeking a refund should amend their annual or monthly return based on the period of ordered closure. When amending the return, taxpayers should use “Line 3 – Non-taxable Exempt Amount” of the filing form to indicate the portion of their property that was not occupied through the closure order.

Calculate the non-taxable amount for annual filers:

1. First calculate

$$\frac{\text{Sq. ft. occupied or used}}{\text{Sq. Ft. available for Use \& Occupancy}} \times \text{Assessed Value} = \text{Result A}$$

2. Subtract

$$\text{Result A} - \text{Exemption Amount: } \$165,300 \text{ (Annual)} = \text{Result B}$$

3. If Result B is less than zero, the tax liability is zero. Otherwise, multiply Result B.

$$\text{Result B} \times \text{Tax Rate } 1.21\% \times \frac{\text{Days of actual use or occupancy}}{360^*} = \text{Tax Liability}$$

Calculate the non-taxable amount for monthly filers:

1. First calculate

$$\frac{\text{Sq. ft. occupied or used}}{\text{Sq. Ft. available for Use \& Occupancy}} \times \text{Assessed Value} = \text{Result A}$$

2. Subtract

$$\text{Result A} - \text{Exemption Amount: } \$167 \text{ (Monthly)} = \text{Result B}$$

3. If Result B is less than zero, the tax liability is zero. Otherwise, multiply Result B.

$$\text{Result B} \times \text{Tax Rate } 1.21\% \times \text{Days of actual use or occupancy } 30^* = \text{Tax Liability}$$

** Use & Occupancy regulations use 360 days to calculate a year and 30 days for months, regardless of the number of days in the month.*

Taxpayers will then need to [submit a refund petition](#).

Although it may not be possible in all situations, we encourage taxpayers to wait until they are able to amend their return once to reflect the entire period of closure. This is to help limit the number of refunds the Department needs to process. Refunds generally take six to eight weeks to process. With the large volume of refund petitions received due to the pandemic, refunds may take longer to process.

If a landlord is seeking a refund on behalf of tenants, they must refund applicable portions of the tax to tenants.

We encourage taxpayers to file and pay on-time. This helps ensure continuity of crucial School District services.

Visit www.phila.gov/covid-19-tax-relief to find all of the Department's published guidance.