

CITY OF READING

Business Privilege Tax Regulations

Section I.

These regulations are enacted for the purpose of the Administration of the Business Privilege Tax Ordinance.

II. DEFINITIONS

(see appropriate section of Ordinance)

II-1. BUSINESS

Carrying on or exercising for gain or profit, in the City of Reading, any trade, business, profession, vocation or commercial activity or making sales in the City of Reading. A profession or vocation or any rendering of personal services in the City of Reading in any capacity, except as an employee of another business.

III-1. WHAT CONSTITUTES “DOING BUSINESS IN THE CITY OF READING?”

- a. Whether or not a person carries on a taxable activity within the meaning of the Business Privilege Tax Act is essentially a question of fact. In general, taxable activity includes any trade, business, profession, vocation, or commercial activity that is carried on in the City of Reading. The tax is imposed on any person who exercises the privilege of carrying on certain activities in the City of Reading and is measured by receipts attributable to the City of Reading.
- (1) Inter and Intra-State Business. Doing business includes any trade, business, profession, vocation or commercial activity of an intrastate or interstate character.
 - (2) Residence or Domicile. A person who engages in a taxable activity in the City of Reading is subject to this tax whether or not he is a resident and whether or not he has a permanent place of business in the City of Reading.
 - (3) Foreign Corporations. A foreign corporation is subject to this tax if it carries on a taxable activity in the City of Reading whether or not it is licensed to do business in Pennsylvania.

III-2. ALLOCATION OF BUSINESS DONE AND GROSS VOLUME OF BUSINESS

- a. General. Receipts from any transaction shall be attributable to the City of Reading if the person's sole place of business is located in the City of Reading. If a person has more than one place of business in Pennsylvania, but no interstate commerce, the receipts attributable to the City of Reading shall be equal to total receipts times a fraction, the numerator of which shall be receipts from transactions within the City of Reading and the denominator of which shall be receipts from transactions within the City of Reading and other place(s) of business in Pennsylvania. If a person has more than one place of business in Pennsylvania, and interstate commerce, the receipts attributable to the City of Reading shall be equal to total receipts, less receipts attributable outside of Pennsylvania, times a fraction, the numerator of which shall be receipts from transactions

within the City of Reading and the denominator of which shall be receipts from transactions within the City of Reading and other place(s) of business in Pennsylvania.

- b. Persons rendering professional, commercial, industrial or personal services.
 - (1) General. Receipts from any service shall be attributable to the City of Reading if the transaction or any activity in connection therewith occurs within the City of Reading; or is generated, directed, managed, or controlled by a place of business in the City of Reading and contributes to the taxpayer's ultimate business purpose; or where there is no other place of business.
 - (2) Out of City Branch Office. Where a taxpayer maintains a bona fide branch office or place of business outside the City of Reading, he will nevertheless be subject to Business Privilege Tax liability on those receipts which are the result of services rendered or business activities generated within or attributable to the City of Reading. Said taxpayer will be permitted to exclude his branch office receipts from his taxable gross receipts only where he sustains the burden of proving that the City of Reading does not have the requisite minimal contact or nexus with those receipts to sustain the imposition of the Business Privilege Tax.
- c. Lessors of tangible personal property. Persons doing business within the City of Reading who own and hold title to tangible personal property which is leased to others are required to report gross receipts from the rental of or license to use such property according to the following rules:
 - (1) Where the original situs of the property is within the City of Reading the receipts from tangible personal property leased to others are deemed to be:
 - Wholly taxable receipts, if the property is delivered to lessees inside Pennsylvania.
 - Non-taxable receipts, if the property is delivered to lessees outside Pennsylvania.
 - (2) Where the original situs of the property is outside Pennsylvania, the receipts from tangible personal property leased to others are deemed to be:
 - Allocable receipts, if the property is delivered to lessees within the City of Reading.
 - Non-allocable and non-taxable receipts, if the property is delivered to lessees outside the City of Reading whether within or without the United States.

The term "original situs", as used herein, means the place at which the property is warehoused when not leased to others and to which place the property is returned upon termination of the lease. Where there is no such established place, the term "original situs" shall mean the principal office of the taxpayer.

This subsection does not apply to conditional sales of tangible, personal property.
- d. Lessors of real property. Persons doing business within the City of Reading who own and hold title to real property which is leased to others are required to report the gross receipts from the rental of all such property which is situated in the City of Reading. This subsection does not apply to conditional sales of real property. Where a lessor has no more than two rental units in his

principal place of residence such rentals are excluded from taxable receipts provided he has no other rental units of realty located within the City of Reading

- e. Place of origin and delivery outside of the City of Reading. Where the sale of origin of goods, wares and merchandise in a sales transaction is a location owned or leased by the seller outside of the City of Reading and the place of delivery is a location outside of the City of Reading regularly maintained by the other party to the transaction, the receipts are non-allocable and non-taxable.
- f. Location of Vendee. Receipts from the sale of goods, wares and merchandise delivered to a vendee located outside of the City of Reading by an employee of the taxpayer who works in or from, or is attached to the City of Reading place of business of the taxpayer, is fully taxable if the vendee is located within Pennsylvania and non-taxable if the vendee and place of delivery is located outside of Pennsylvania.
- g. There will be no allocation for receipts generated in intrastate commerce unless the receipts sought to be excluded from Business Privilege Tax returns are clearly allocable to a bona fide branch office or other place of business located outside of the City of Reading. The burden of proving that any receipt is allocable to an office or other place of business located outside of the City of Reading is on the taxpayer and he must be able to support any such exclusion of receipts from the City of Reading on the basis of clear and objective evidence shown on his books, records and accounts. If a taxpayer does not keep his books, records and accounts in a manner which will clearly and objectively show the allocation of receipts to his various branch office or places of business, the Business Privilege Tax will be based on the entire amount of gross receipts from all intrastate sources. The receipts will not be allocated on the basis of subjective and unrecorded data.
- h. The following is a list of factors which are relevant, but not conclusive, for determining whether a person maintains a bona fide non-City branch office within the meaning of this section:
 - (1) Name of taxpayer in telephone directory, or building directory (if applicable), or on door leading to entrance of office or otherwise displayed on the office exterior.
 - (2) Stationery and calling cards showing address.
 - (3) Storage of inventories or display samples at location in question.
 - (4) A written lease for the space involved and the payment of rent.
 - (5) A written agreement for the maintenance of an office by an agent or agency on behalf of the taxpayer.
 - (6) Employees based in or operating out of a location outside of the City of Reading.
 - (7) The expenses attributable to an office located outside of the City of Reading are allowed as deductions on the taxpayer's federal income tax return.
 - (8) The office serves as a base of operations from which the person manages, directs and controls business activities.

No single factor will raise a presumption that a bona fide office located outside of the City of Reading exists. Use by the taxpayer or his agents or employees of facilities provided by the taxpayer's client, employer, customer, or any other person, even for a protracted period of time and even where such use constitutes part of the contractual or business arrangement entered into by the taxpayer with the said client, employer,

customer, or any other person does not establish a branch office located outside of the City of Reading for purposes of allocation of gross receipts.

- i. A field trailer used by contractors can be considered a bona fide branch office located outside of the City of Reading office only if all the following activities are conducted therein:
 - (1) It bears the name of the taxpayer.
 - (2) It is staffed by taxpayer's employees who report directly to the field site, and who control the operation from that site.
 - (3) At least one telephone is present and listed in the taxpayer's name.
 - (4) It is maintained at the same site for no less than sixty (60) days.
 - (5) It is owned and maintained by the taxpayer or has all the indicia of ownership by the taxpayer.
 - (6) Business is solicited.
 - (7) Meetings are held.
 - (8) Mail is received.
 - (9) Supplies are stored.
 - (10) Accounting and other administrative duties are performed.
- j. An office maintained in the taxpayer's home which is located outside of the City of Reading is a bona fide office or place of business only if it meets the test set forth in h. above and if it is exclusively used on a regular basis as such for federal income tax purposes under the United States Internal Revenue Code of 1976, as amended.
- k. A motel or hotel residence, used on a long-term basis, is not a bona fide branch located outside the City of Reading unless it fulfills the criteria set forth above.

III-3. INTERSTATE COMMERCE

- a. General. Receipts from transactions involving more than one state are not exempt from the Business Privilege Tax, but are to be included in the tax base either in their entirety, excluded in their entirety, or apportioned as provided in these regulations.
- b. What constitutes "interstate commerce". Transactions will be deemed to involve interstate commerce only when there are significant transactions or activities conducted in states other than Pennsylvania that contribute to the generation of gross receipts. The citizenship or residence of the parties to any transaction has no relevance in determining the interstate character of a business. Where a sales transaction is involved, it is of no importance in which state title to the goods passes, or whether the goods are shipped f.o.b. one state to another.
- c. Sale and delivery in Pennsylvania. Interstate commerce is not deemed to be involved in sales made by a City of Reading seller to customers located outside of Pennsylvania where the property is delivered directly to the purchaser or his agent within Pennsylvania, notwithstanding the fact that the purchaser or his agent intends to, and later does, transport the property to a point outside Pennsylvania.

- d. Shipment from Reading by seller. Sales will be considered as having been made in interstate commerce when the seller, as a necessary incident to the contract of the sale, agrees to, and does, deliver the property to the purchaser at a point outside of Pennsylvania, or delivers the property to a common carrier consigned to the purchaser at a point outside Pennsylvania.
- e. Delivery to “packing company” in the City of Reading. Whenever property is sold by seller to a customer located outside Pennsylvania and, pursuant to the terms of the contract of sale, delivery is made from the seller’s place of business in the City of Reading to a packing company located in the City of Reading for delivery to the purchaser at a point outside of Pennsylvania said transaction constitutes “interstate commerce”.
- f. Delivery to buyer’s Pennsylvania place of business. Where a purchaser maintains an office, warehouse or receiving station in Pennsylvania for the purpose of receiving, or inspecting or assembling, or routing, or combining shipments destined for out-of-state places of business, interstate commerce is not deemed to be involved with respect to deliveries made to such premises by a City of Reading seller, notwithstanding the fact that the purchaser intends to, and later does, transport the property received at such premises to a point outside Pennsylvania.
- g. Shipments into the City of Reading from seller’s out-of-state place of business. With respect to sales made by a City of Reading seller, the transaction will be considered to be one in interstate commerce if, by the express terms of the contract of sale, or the established practice of doing business, the seller is required to deliver by transporting or shipping the property from his place of business situated outside of Pennsylvania directly to the purchaser at a point within the City of Reading.
- h. Shipments into the City of Reading from a third party’s out-of-state place of business. Interstate commerce is not deemed to be involved if the City of Reading seller causes direct delivery to be made to the purchaser at a point in the City of Reading from an out-of-state source of supply owned or operated by a third party (one from whom the seller buys).
- i. Delivery from seller’s out-of-state place of business via his office. Interstate commerce is not deemed to be involved with respect to sales made to a Pennsylvania purchaser if the property is shipped from the seller’s place of business located outside of Pennsylvania to the seller’s place of business in the City of Reading from which point the goods are delivered to the purchaser.
- j. Apportionment of receipts from Interstate commerce. Where receipts cannot be allocated as set forth above in III-3.c.-i., receipts from interstate commerce may be apportioned in a manner similar to the sales factor for purposes of the Pennsylvania Corporate Net Income Tax under Article IV of the Tax Reform Act of 1971, as amended., and the regulations thereunder.
- k. Apportionment for Professional Services.
 - (1) Professional fees derived from services billed on an hourly basis shall be apportioned by excluding receipts attributable to charges to the client for services performed out-of-state.
 - (2) Professional services rendered on a flat or fixed fee basis or a contingent-fee basis shall be apportioned according to a ratio whose numerator consists of hours spent on the engagement while out-of-state and whose denominator consists of total hours spent on the same engagement for the same client.
 - (3) Professional services performed under a contract which sets forth the percentage or amount of the total contract price attributable to a specific activity to be performed out-of-state shall be apportioned according to the contract terms, as long as such amount is a reasonable allocation.

1. The following is a list of factors which are relevant, but not conclusive, for determining whether a person's activities in another state constitute interstate commerce:
 - (1) A nexus in the foreign jurisdiction sufficient to support the imposition of a similar tax by the state.
 - (2) A provision in the contract or agreement between the taxpayer and his client or customer which specifically assigns a reasonable portion of the overall fee to activities required to be performed in the foreign jurisdiction.
 - (3) The length of time spent by the taxpayer in the out-of-state location.
 - (4) The necessity for the services that are performed out-of-state in generating the overall gross receipts.
 - (5) The inability of the taxpayer to perform the service which generates gross receipts in its entirety in Pennsylvania.
 - (6) The number of employees who are required to perform the activities in the foreign jurisdiction. Utilizing an independent contractor located in the foreign jurisdiction to carry out of the taxpayer's out-of-state activities does not constitute the taxpayer's presence in a foreign jurisdiction for purposes of excluding receipts from the City of Reading's Business Privilege Tax.
 - (7) The person manages, directs and controls business activities in the foreign jurisdiction.

III-4. CONTRACTORS PERFORMING BUILDING OR CONSTRUCTION WORK OUTSIDE THE CITY OF READING

- a. Contractors with field offices. City of Reading contractors or sub-contractors engaged in the performance of building and construction contracts at a point outside the territorial limits of the City of Reading may exclude from the measure of the tax the receipts derived therefrom, provided that a field office was maintained on the premises of the project during the performance of the contract to such an extent as to constitute doing local business at the situs of the job.
- b. Alterations and repairs. The provisions of this section apply only to contractors engaged either in the erection of new buildings or in the complete alteration and remodeling of old buildings. They do not apply to contractors who engage in alteration or repair jobs of a limited scope such as a roofer repairing a damaged roof of a building situated outside the City of Reading, or a painter renovating apartment in an apartment house located outside the City of Reading.
- c. Engineers and technicians. The exemption provisions of this section do not apply to engineers and other technicians rendering personal services outside the City of Reading.
- d. Qualifications for exemptions. To qualify hereunder the contractor must show that he established a place of business at the situs of the job by setting up a field office thereat with machinery and equipment for the use in fulfillment of the contract, and performed such other acts as to constitute doing local business at the situs of the job.

III-5. BROKERS AND AGENTS WITH OUT-OF-CITY OFFICES

- a. Where a general agent or broker of an insurance, real estate or other firm maintains a branch office outside of Reading, the commissions attributable to such branch office may be excluded from gross receipts. Commissions will be deemed attributable to the Reading office, and hence subject to inclusion in the measure of tax, if they result from the efforts of brokers, sub-agents or employees who work in, or from, or are attached to the Reading office.

IIIa(1)-1. TAX RATE

(see appropriate section of Ordinance)

IIIb(1)-1 PERSONS IN BUSINESS DURING THE ENTIRE PREVIOUS CALENDAR YEAR

(see appropriate section of Ordinance)

IIIb(2)-1 PERSONS WHO HAVE COMMENCED BUSINESS BEFORE THE BEGINNING OF THE TAX YEAR BUT AFTER THE BEGINNING OF THE PREVIOUS FULL CALENDAR YEAR

(see appropriate section of the Ordinance)

IIIb(3)-1 PERSONS WHO COMMENCE BUSINESS AFTER THE BEGINNING OF A TAX YEAR

(see appropriate section of the Ordinance)

IIIb(4)-1 BUSINESS TEMPORARY, SEASONAL OR ITINERANT BY NATURE

(see appropriate section of the Ordinance)

IIIc(1) PERSONS, BUSINESSES AND RECEIPTS EXEMPTED

IIIc(1)-1 Non-profit corporations or associations, religious, charitable and educational institutions. Business income not included. The exclusion from taxation of receipts from the business of non-profit religious, charitable or educational organizations is limited to those receipts derived from activities which are connected with the non-commercial operation of the organization. Commercial activities carried on by such an organization are taxable. All business income of non-profit religious and charitable and educational organizations is taxable.

IIIc(1)-2 Receipts from sales to governmental agencies and non-profit organizations. Sales to institutions. Receipts from sales made or services rendered to governmental bodies and to religious charitable and educational corporations and associations shall not be excluded from the tax base. The statute does not grant any exemption to taxpayers transacting business with such agencies or institutions.

IIIc(2) STATE TAX OR LICENSE

III-(2)-1 Nominal or registration fees. The fact that a taxpayer receives a certificate or other document which is designated a "license" from the Commonwealth of Pennsylvania for which the taxpayer pays a sum of money does not exempt the taxpayer from the Business Privilege Tax. Flat annual fees, fees which are not related to gross income or amount of production, or fees that are nominal in nature are not considered true license fees and hence payment of such fees will not exempt the taxpayer from the Business Privilege Tax.

IIIc(2)-1a Payment to the City of Reading for housing permits, building and plumbing permits, etc. will not exempt the taxpayer from Business Privilege Tax.

IIIc(2)-2 Non-licensed functions taxable. The receipts of any person who falls within the state tax or license fee exemption which are derived from any activity which if conducted separate and apart from other business activities would be subject to the state tax or license fee shall not be excluded from the tax base.

IIIc(2)-3 Local tax under state authority. Local taxes by counties, municipalities, or other public bodies though authorized by state legislation are not considered state taxes or license fees.

IIIc(2)-4 Monies returned to municipalities by the state. Any tax which is collected by the state but which, with the exception of administrative costs, is returned to the municipalities, is not considered a state tax or a license fee. Such taxes include, but are not limited to:

- a. Gross receipts taxes of non-Pennsylvania Fire and Casualty Insurance Companies.
- b. License fees for hotels, restaurant and club liquor licenses.

IIIc(2)-5 State license fees which exempt receipts earned thereunder include but are not limited to those fees levied under the following acts:

- a. The Pennsylvania Securities Act of June 24, 1939
P.L. 748, as reenacted and amended (70 P.S. Sec 31, et seq)
- b. Small loan companies, Act of June 17, 1915
P.L. 1012, as amended (7 P.S. Sec 6151, et seq)
- c. Consumer discount companies, Act of April 8, 1937
P.L. 262, as amended (7 P.S. Sec 6201, et seq)

IIIc(3) UTILITIES

IIIc(3)-1 Non-utility functions taxable. The receipts of any public utility, operating under the rules and regulations of the Pennsylvania Public Utility Commission, derived from supplying services at the rates specified in its tariffs shall be excluded from the tax base. Public utilities shall not exclude from their tax base receipts derived from sales of appliances, equipment, advertising, etc. A contract carrier is not a public utility.

IIIc(4) PROPERTIES SUBJECT TO STATE TAX

(see appropriate section of the Ordinance)

IIIc(5) PRODUCTS MANUFACTURED OR GROWN IN THE CITY OF READING

(see appropriate section of the Ordinance)

IIId DETERMINATION OF GROSS OR WHOLE VOLUME OF BUSINESS

(see appropriate section of the Ordinance)

IIId-1 GENERALLY

- a. Gross consideration means gross receipts received in, or by reason of, any sale made, or services rendered or commercial or business transaction occurring in or attributable to the City of Reading including cash, credits, and property of any kind or nature, without deduction on account of the cost of materials, labor, services or other costs, interest or discount paid, or any other expenses whatsoever.

In general, the word “sale” as used in the definition of the term “gross receipts” includes but is not limited to any transfer of title for a consideration. It includes exchange, barter, and bailments.

IIIId-2 REAL ESTATE BROKERS

- a. Generally, Real Estate Brokers, and agents are required to report as taxable receipts, the commissions and fees received for services rendered as agent in promoting the purchase and sale of real property for others. Brokers and agents not having an office in the City shall report as taxable receipts commissions received on the sale of properties within the City. Such amount does not include the gross selling price of the property, except as set forth in subparagraph c.
- b. Deduction of shared fee. A real estate broker or agent may exclude from his tax base, any commissions paid by him to another broker, or agent, on account of a contract of purchase or sale initiated, executed, or cleared in conjunction with the broker, salesman or agent to whom the commission or part of the commission is paid. Commissions paid to a salesman by a broker or agent when the salesman is affiliated with the broker or agent are not excludable from the brokers or agents tax base.
- c. Brokers sale of owned property. If a person is in the business of taking title to real property and selling the property he is required to include the gross selling price of the property taxable receipts. The same person may be taxed both as broker and as seller, depending on the nature of the transactions. If he acts as broker, salesman or agent, his tax is based on commissions.

If he buys or sells real estate either in his own name or in the name of a straw party, he is taxed on the gross selling price of the real estate.

IIIId-3 TRAVELING EXPENSES

- a. Reimbursement of traveling expenses excluded from gross receipts only if the taxpayer incurred such expenses as agent for another from whom the taxpayer receives reimbursement for such expenses.

IIIId-4 TRADE DISCOUNTS

- a. Deductions allowed. Trade discounts allowed to customers may be deducted from the gross amount charged in ascertaining the amount to be reported as receipts from sales. Trade discounts include:
 - (1) discounts deducted from the face amount of the bill as a method of adjusting the list price
 - (2) discounts unconditionally deducted by customers at settlement of their bills and allowed as a matter of established custom of the trade without regard to the due date of such bills or the form or terms in which such discounts are described or stated on bills.

IIIId-5 OTHER DISCOUNTS

- a. Deductions allowed. Discounts allowed to customers as cash discounts for prompt payment of their bills may be deducted from gross receipts.

IIIId-6 FREIGHT DELIVERY, OR OTHER TRANSPORTATION CHARGES

- a. If seller contracts to deliver. If the seller contracts to deliver the property sold to some designated place, or is obligated under the terms of the contract to pay transportation charges to some designated place, the transportation services are rendered to the seller and the freight, delivery or other transportation charges so incurred by the seller may not be deducted from the receipts.
- b. If buyer deducts cost of delivery from payment. If property is sold on terms requiring the seller to deliver such property to a designated place but the purchaser pays the amount of freight, delivery or other transportation charges in the first instance, and deducts such charges from the invoice price in making remittance to the seller, no deduction from gross receipts may be taken by the seller.
- b. If seller advances charges. Where the seller advances the freight, delivery or other transportation charges for the account of the purchaser in accordance with the terms of the contract of sale, such charges may be excluded from gross receipts of the seller provided:
 - (1) that such charges are the actual charges incurred and are billed as such to the purchaser, and
 - (2) that the books and records of the taxpayer clearly indicate such facts.

IIIId-7 PRINCIPAL AND AGENT

- a. General. Receipts from sales made, or services rendered, by an agent for the account of his principal are to be reported by the principal. It is immaterial in such cases whether the customer or the client remits directly to the principal, or to the agent for transmittal to the principal. The agent is required to report as gross receipts only the commission withheld by him as compensations for his services before remitting to his principal and any commissions paid to him after remitting to his principal. No deduction from gross receipts may be taken by the principal for commission paid to, or withheld by the agent. A manufacturer's representative is taxable on his gross commissions unless his relationship to the principal is that of employer and employee. This relationship of employer and employee exists if the principal pays social security and unemployment compensation taxes on behalf of the person claiming exemption and if, in the event of an accident in the course of employment, the manufacturer's representative might become entitled to Workmen's Compensation.
- b. Undisclosed principal. A person selling property, including real property, or rendering services for an unknown or undisclosed principal, is subject to tax as a principal unless there is disclosed in the agent's return the identity of the principal and the amount of the sale made on his behalf.
- c. Condition as to recognition of agency. A person will be regarded as acting as agent or broker in promoting or soliciting sales or rendering services for the account of a principal when it appears:

- (1) that the contract or agreement between such persons clearly establishes the relationship of principal and agent,
 - (2) that the books and records of the agent or broker show the name of the actual owner of the property on whose behalf the sale is made,
 - (3) that the books and records of the agent or broker show the amount of gross sales and the amounts of commission due thereon.
- d. Collection by agent. Money or property received by a taxpayer, as agent, for transmittal to a third party is not to be reported by such taxpayer as gross receipts, but any commission received by him for his services as agent must be included in gross receipts.

IIIId-8 CONDITIONAL AND INSTALLMENT SALES

- a. Reported as Cash sales. A person making conditional sales or other installment sales of property is required to report the total selling price of such sales as gross receipts for the tax year in which the contracts of sale are entered into, without regard to the fact that the seller may arrange to receive payment from the purchaser on an installment basis or that such contracts may be discounted or pledged with, or sold to, a finance company.
- b. Property repossessed. Where tangible personal property, sold under a conditional or other installment sales contract, is repossessed by the seller, and the repossessed property is subsequently sold, the receipts from such sales are to be included in the measure of the tax only to the extent that the amount of the sale exceeds the balance due on the original sale at the time of repossession. No deduction shall be allowed upon resale, if the resale price is less than the unpaid balance.

Example: "A" sells personal property to "B" for \$10,000 under a conditional agreement of sale. "B" makes several installment payments to "A" totaling \$6,000. "B" subsequently defaults and the property is repossessed by "A". "A" is required to report \$10,000. He may not deduct from gross receipts the unpaid balance of \$4,000 due from "B" at the time of repossession. If the property repossessed by "A" is subsequently sold, the receipts from the sale thereof are to be reported only to the extent which the amount of the sale exceeds the unpaid balance of \$4,000. Thus, if the repossessed property sold for \$5,000 "A" is required to report only \$1,000 as additional receipts; if the property is sold for \$3,000 "A" is not required to report any portion of such receipts and is entitled to \$1,000 deduction from his current year's gross receipts.

IIIId-9 EXCHANGES BETWEEN DEALERS IN SIMILAR LINES

- a. Where dealers engaged in similar lines of business exchange articles of tangible personal property and one of them makes payment to the other in addition to the property exchanged by him, the transactions constitute sales to each other. The receipt of each dealer is measured by the gross value of the consideration received by him. Where a dealer transfers property, such as an automobile, to another dealer with the understanding that property of identical description will be returned at a subsequent date, such transaction does not constitute a sale and the value of the property exchanged need not be included in the gross receipts of either dealer. Receipts by dealers from sales to other dealers in the same line where the dealer transfers title or possession at the same price for which he acquired the merchandise may be excluded from gross receipts.

IIIId-10 CONSIGNMENT TRANSACTIONS

- a. The status of a person accounting for receipts from consignment transactions will depend on the terms and conditions expressly set forth in the contract between the consignor and the consignee. In all cases, the substance rather than the form of the relationship between the parties shall be the determining factor. Where the contract does not clearly set forth the status of the parties thereto, the following principles shall apply:
- (1) City of Reading Consignor. If the person located in the City of Reading ships goods on consignment to a person located outside the City of Reading for subsequent sale by such consignee, the consignor is not deemed to be doing business at the location of the consignee, nor will such location be recognized as a branch of the consignor. When the consignee makes a sale of the consignor's goods, the consignee will be deemed to have purchased the goods from the consignor at such time for resale to his (the consignee's) customer. Such transactions are deemed to result in either wholly taxable or wholly exempt receipts to the consignor at the time the consignee consummates the sale with his (the consignee's) customer. If the consignee is located within Pennsylvania, the receipts will be considered wholly taxable receipts. If the consignee is located outside of Pennsylvania the receipts will be considered either wholly taxable or exempt according to Regulation III-3 as if the consignee is considered the buyer.
 - (2) Out-of-City of Reading Consignor. If a person located outside City of Reading ships goods on consignment to a person located in City of Reading for subsequent sale by such consignee, the consignor will be deemed to have sold the goods to the consignee at the time the consignee sells the goods to his (the consignee's) customer. Such transactions are deemed to result in either wholly taxable or exempt receipts to the consignor, depending upon the location of such consignor. If the consignor is located within Pennsylvania the receipts will be considered wholly taxable receipts; if the consignor is located outside Pennsylvania the receipts will be considered exempt receipts.

IIIId-11 LEASED DEPARTMENTS

- a. Return by lessor. Where a person leases a department of his business to another, such person may include in his return the gross receipts from business done and sales made by lessee. When the business of such leased department is included in the return made by the lessor, a schedule must be attached to the return containing the name of the lessee, a description of the department operated, and a statement to the effect that the lessor assumes liability for reporting the gross receipts and paying the tax accruing against the lessee of such department. The lessee, however, is not relieved from his liability for Business Privilege Taxes if the lessor fails to make a proper return or fails to pay the tax due. Should a change occur in the ownership or status of any leased department, the lessor shall notify the Business Administrator promptly.
- b. Return by lessee. If the lessee wishes to file returns independently, such lessee is required to include in his return the entire gross receipts of said lessee whether collected by the lessor, or the lessee without deducting any expenses or commissions charged to him by the lessor. To expedite the examination and audit of returns filed by such lessee, the Business Manager may require the lessor to furnish a statement of the entire gross receipts collected on behalf of the lessee.

IIIId-12 PERSONS ERECTING BUILDINGS OR OTHERWISE ALTERING, REPAIRING, OR IMPROVING REAL PROPERTY

- a. General. A contractor or subcontractor, resident or non-resident, engaged in City of Reading in the business of erecting buildings or otherwise altering, repairing or improving real property, is required to report as gross receipts all receipts derived from the performance of such contract. The amount of receipts to be included in the tax base shall be the full contract price, that is the total amount received or receivable by way of a fixed or determinable amount under the terms of the contract. The contract price will be considered to include all charges made by a contractor, or subcontractor for materials, labor, or other obligations for which the contractor becomes liable in the performance of the contract. In the case of a contractor, no deduction may be made with respect to amounts paid to subcontractors and materialmen.
- b. Cost-plus contracts. A general contractor performing contracts on the basis of ‘cost-plus-a-fixed-fee’ or ‘cost-plus-a-percentage’ is required to report as gross receipts the full contract price as explained above; unless he has no connection whatsoever with the purchase of materials and/or the hiring of labor. In cases, where the owner of the property buys the materials and hires all labor in his own name and pays the general contractor a fixed fee, or a percentage of the total cost to supervise and direct the construction project, the general contractor will be required to report only the gross amount of the fee or percentage received. Where the owner authorizes the general contractor to make for him such purchases of tangible personal property, or hire such labor or engage such sub-contractors as are necessary for the performance of the contract and (1) pledges his credit and is liable in the first instance to the materialmen, suppliers, laborers or subcontractors, as distinguished from merely guaranteeing payment to them or undertaking to reimburse the general contractor for the cost of such materials, services or subcontractors, and (2) agrees to make payment directly to the materialmen, suppliers, laborers or subcontractors, such sales or services will be regarded as made directly to the owner, and the general contractor will not be required to include such items in his gross receipts.
- c. Government contracts. Receipts from the performance of contracts entered into with the City of Reading or the Commonwealth of Pennsylvania, or the United States of America or any subdivision of such governments are to be included in the measure of the tax.

III-13 CONTRACTORS WHO REPAIR, ALTER, AND IMPROVE TANGIBLE PERSONAL PROPERTY

- a. Persons engaged in business in the City of Reading as contractors who repair, alter and improve tangible personal property for the account of others are subject to tax under the provisions of the Business Privilege Tax Ordinance. When contractors perform labor or services on articles of tangible personal property furnished by the other party to the contract, such contractors are required to report only the amount due them for labor or services rendered.

IIIId-14 BUILDINGS, HOTELS, MOTELS, APARTMENT HOUSES, BOARDING HOUSES, NURSING HOMES, ETC.

- a. Generally, persons operating hotels, motels, apartment houses, boarding houses, nursing homes, rooming houses and all other such establishments are taxable on receipts from renting of rooms, furnishing of meals and any other service rendered.
- b. Depreciation, Maintenance, etc. Any person carrying on the business of renting buildings, offices, space, stores, dwelling houses, etc shall include gross rentals received

in the tax base. No deductions may be made for depreciation, cost of maintenance, repairs, etc.

- c. Non-profit corporations and associations. Persons operating private hospitals, nursing homes, and sanitariums are subject to the tax. The law exempts such institutions only when they are operated by a non-profit corporation or association organized for religious, charitable or educational purposes as set forth in Regulation IIIc-1.
- d. Pennsylvania Room Occupancy tax. (see Regulation IIIId-5-1)

IIIId-15 INSURANCE COMPANIES

- a. Tax Base. Insurance companies whether mutual or stock companies, domestic or foreign are subject to the tax for the privilege of carrying on business in the City of Reading. The tax for the privilege of writing insurance is based on premiums received from risks in the City of Reading without any deductions therefrom for any costs or expenses whatsoever.
- b. Reinsurance. Reinsurance assumed shall not be included in the tax base; reinsurance is not deductible from gross receipts.
- c. Return premiums and dividends. Receipts from premiums include gross direct premiums, less return premiums thereon. Dividends credited to policyholders may be deducted if such dividends are in the nature of an adjustment of the premium charged.
- d. Other receipts. Receipts from servicing mortgages, operating hotels, etc, are to be included in the tax base.
- e. Exemptions. (see IIIc(2))

IIIId-16 INSURANCE AGENTS, BROKERS, AND UNDERWRITERS

- a. General agents. General agents for insurance companies are required to report as gross receipts the entire commissions received as compensation for their own efforts on policies sold by them directly and the overriding commissions received by them upon business produced by brokers or sub-agents.
- b. Brokers or sub-agents. Brokers or sub-agents are required to report as gross receipts the commissions received as compensation for their service.
- c. Employee of single company. A person who represents a single insurance company is subject to tax hereunto unless he:
 - (1) devotes his entire time to the company,
 - (2) is considered by the company to be its employee, and the company pays Social Security and Unemployment Compensation taxes on behalf of the person claiming the exemption and in the event of an accident in the course of employment, said person is entitled to Workmen's Compensation, and
 - (3) does not employ solicitors, subagents, or other persons to whom he pays salaries, commissions or other compensation in connection with insurance business solicited.

IIIId-17 UNDERTAKERS, MORTICIANS AND FUNERAL DIRECTORS

- a. Persons engaged in business as undertakers, morticians or funeral directors are required to report as gross receipts the total charges made to clients without deducting therefrom any costs or expenses whatsoever. Both the sale of tangible personal property and a charge for rendering service must be included in the tax base.

IIIId-18 SALE OF CAPITAL ASSETS

- a. Generally. The profits (not gross proceeds) resulting from the sale of capital assets, such as plant machinery and equipment, furniture, fixtures, delivery equipment, etc are to be included in the tax base. If a loss is sustained on such sales it may not be offset against gross receipts from other sources. In computing the profits to be included in the tax base, the costs of the asset, less allowable depreciation, is to be deducted from the gross proceeds of the sale.
- b. Asset located outside City of Reading. Where the capital asset sold was located at an established place of business of the taxpayer outside City of Reading, the profit realized on the sale thereof may be excluded from the tax base.
- c. Bulk sale or exchange, merger. Where a corporation realizes a gain as the result of a sale or exchange of substantially all of its assets, or as the result of a merger or consolidation with another corporation, the amount of such a gain must be included in the tax base.

IIIId-19 RESERVED

IIIId-20 DEPOSIT ON CONTAINER

- a. A person making a sale of products in a container on which there is a deposit to insure the return of the container is require to report only the gross selling price of the product in the container.

IIIId-21 VENDING MACHINES

- a. The entire gross receipts of vending machines and other mechanical devices which dispense goods, wares, and merchandise are to be included in the gross volume of business of the owner or lessor thereof. No deductions may be made therefrom for splits, rentals, commissions or other remuneration to persons in charge of the machines and/or to the lessees of the premises upon which the machines are located.

IIIId-22 INTER-COMPANY TRANSACTIONS

- a. Receipts from transactions between affiliated companies other than those of a purely accommodation nature, are subject to inclusion in “gross volume of business”.

IIIId(1)-1 PROPERTY TRADED IN

- a. In the case of trade-in transactions in which goods, wares and merchandise are sold and allowances made for other property which is traded in and is accepted by the vendor or dealer in part payment of the property sold, the allowance made for the property traded in shall not be deducted from the selling price of the property sold in computing the gross receipts upon which the tax is based. The vendor or dealer must include in his gross volume of business the full selling price of the property sold without any deduction therefrom for any allowance made or property traded in. Where the property traded is subsequently sold by the vendor or dealer, the latter must include in his gross receipts only the amount by which the sale of the article exceeds the trade-in allowance.

IIIId(2)-1 REFUNDS, CREDITS OR ALLOWANCES

Refunds, credits or allowances given by the seller to a purchaser on account of defects in goods sold or merchandise returned may be deducted from gross receipts in ascertaining the amount to be reported as taxable.

IIIId(3)-1 COMMISSIONS PAID BY BROKERS

Any broker, agent or salesman who splits or otherwise divides a commission with another broker, agent or salesman in the same type of business by reason of the fact that the second broker initiated, executed, cleared or completed a portion of the transaction for which the fee is paid shall be permitted to exclude from his gross receipts that portion of the fee paid to the other broker, agent or salesman. This section does not exempt so-called finders fees, kick-backs, commissions or other remuneration paid by a broker, agent or salesman to another individual not in the same type of business as the broker, agent or salesman. Nor does this section exempt from the gross receipts of a broker or agent a commission paid by said broker or agent to a salesman affiliated with him.

IIIId(4)-1 BAD DEBTS

(see appropriate section of the Ordinance)

IIIId(5)-1 TAXES COLLECTED AS AGENT FOR THE UNITED STATES OF AMERICA, COMMONWEALTH OF PENNSYLVANIA, OR THE CITY OF READING

Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania, or the City of Reading are excludable from taxable receipts.

IIIe-1 PARTIAL EXEMPTIONS

(see appropriate section of the Ordinance)

IIIIf-1 WHEN SAME TAX IS IMPOSED BY TWO TAXING BODIES

(see appropriate section of the Ordinance)

IIIg-1 RECORDS

(see appropriate section of the Ordinance)

IVa RETURNS

IVa-1 FILING RETURNS

Forms may be obtained from the Business Privilege Tax Office in Reading City Hall or by writing to the Business Privilege Tax Office of the City of Reading, Reading PA 19601. Failure to receive the forms will not excuse the taxpayer for failure to file a return.

IVa-2 WHO MUST FILE A RETURN

Every individual, partnership, limited partnership, association and corporation, and every receiver, trustee, assignee, or other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of persons carrying on

or exercising for gain or profit any trade, business, profession, vocation or commercial activity in the City of Reading must file Business Privilege Tax returns.

IVa-3 PARTNERSHIPS

A partnership is considered to be a taxable unit. The respective partners are not required are not required to file separate returns as individuals, but they are jointly and severally liable for payment of the tax.

IVa-4 SIGNATURE

If the taxpayer is an individual, he shall sign the return. If the taxpayer is a partnership, the return should be signed by at least one of the general partners. If the taxpayer is a corporation, the return should be signed by an officer of the corporation.

IVa-5 MULTIPLE PLACES OF BUSINESS

If a taxpayer maintains more than one place of business in the City of Reading he is required to file only one return and may include therein the receipts from transactions occurring in all his places of business in the City of Reading.

IVa-6 LESSORS AND LESSEES OF DEPARTMENTS WITHIN OTHER BUSINESS

(see Regulation IIIId-11)

IVb-1 TIME AND PLACE OF FILING

(see appropriate section of the Ordinance)

IVc PAYMENT OF TAX AND PENALTIES FOR LATE PAYMENT

(see appropriate section of the Ordinance)

IVd REFUND

Any tax payment made under protest which the City of Reading thereafter determines to have been improperly paid shall be refunded to the taxpayer together with interest thereon computed at 6% per annum from the date of payment to the date of refund.

V LICENSE

(see appropriate section of the Ordinance)

V-1 TO WHOM ORDINANCE APPLIES

(see appropriate section of the Ordinance)

V-2 POSTING LICENSE

- a. Generally. The license must be posted conspicuously at each place of business of licensee at all times.
- b. Vending machine owners. A person who sells goods, wares or merchandise by means of vending machines and who has not otherwise procured a license under this ordinance, shall procure one license covering all his vending machines and shall post it at his principle place of business.

- c. Persons with no place of business in the City of Reading. Persons conducting business within the City of Reading but having no “place of business” there, shall not be required to post their license. But, if such time as such licensee establishes a place of business in the City of Reading, he shall notify the Business Administrator of the location of such place of business and shall thereafter post his license at such place of business.
- d. Contractors. Contractors, regardless of the number of field offices maintained within the City of Reading shall be considered to have one place of business for the purpose of licensing.

VI PENALTY

(see appropriate section of the Ordinance)

VII CONTINUING OFFENSE

(see appropriate section of the Ordinance)

VIII POWERS AND DUTIES OF THE BUSINESS ADMINISTRATOR

(see appropriate section of the Ordinance)

IX CONFIDENTIAL NATURE OF RETURNS, ETC

(see appropriate section of the Ordinance)

X SUIT ON COLLECTION AND PENALTY

(see appropriate section of the Ordinance)