

June 25, 2021 (UPDATE)

## **Business Income & Receipts Tax (BIRT), Net Profits Tax (NPT) nexus and apportionment policies due to the COVID-19 pandemic**

The Department of Revenue previously issued [temporary guidance relating to nexus and apportionment during the COVID-19 pandemic](#).

The prior guidance linked above is effective until the following “End Dates”:

- Nexus – June 30, 2021
- Apportionment – June 10, 2021, when the Governor’s emergency declaration ended

As of these “End Dates,” the temporary COVID-19 guidance is no longer applicable and existing tax law and regulations will govern.

### **Nexus**

An entity is considered to have nexus for BIRT net income tax purposes when it has one or more employees conducting business activities on its behalf in Philadelphia. Therefore, an entity located outside the City which continues to have a Philadelphia resident employee(s) working from home after the applicable “End Date” will have nexus in 2021 and future years based solely on the activities of that employee(s), unless such activities are protected by P.L. 86-272.

P.L. 86-272 only applies to taxes based on income, such as the net income portion of the BIRT. Taxpayers with nexus are subject to the gross receipts portion of the BIRT, even if their Philadelphia activities are protected under P.L. 86-272.

### **Determination of taxable receipts and apportionment**

With respect to the determination of taxable receipts from the performance of services, the City’s ordinary sourcing rules will apply after the “End Date.” The temporary sourcing rule was an exception that applied only for the duration of the Governor and Mayor’s emergency stay-at-home orders issued in response to the COVID-19 coronavirus health emergency.

After the “End Date,” the sourcing of business activity for apportionment purposes, for both BIRT and NPT receipt factors, will be in accordance with the definition of Taxable Receipts as defined by Philadelphia Code § 19-2601 and as promulgated under Article III of the BIRT regulations (Tax on Receipts).