

Memorandum

TO: Frank Breslin, Commissioner, Philadelphia Department of Revenue

CC: Frances Ruml Beckley, Revenue Chief Counsel
Rebecca LopezKriss, Deputy Revenue Commissioner
Tilahun Afessa, Director of Policy
Joseph F. Procopio, Jr., Manager – Technical Staff

FROM: Reynelle Brown Staley, Senior Attorney

DATE: November 1, 2021

SUBJECT: Department of Revenue Regulations – Development Impact Tax

I have reviewed the attached Department of Revenue Regulations for the Development Impact Tax, which was submitted to the Law Department. The regulations are legal and in proper form. In accordance with Section 8-407(a) of The Philadelphia Home Rule Charter, you may forward these regulations to the Department of Records where they will be made available for public inspection.

Attachment

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Reynelle Brown Staley

DEPARTMENT OF REVENUE
DEVELOPMENT IMPACT TAX REGULATIONS

ARTICLE I: GENERAL PROVISIONS

Section 101. Definitions.

The following words and phrases when used in these regulations shall have the meanings given to them in this section unless specifically provided otherwise or unless the text clearly indicates otherwise:

“Applicant.” Applicant for a Building Permit.

“Building Permit.” A permit for construction issued by the Department of Licenses & Inspections pursuant to § 4-A-301.1.1 of the Code.

“Code.” The Philadelphia Code.

“Corrected Certification.” A certification submitted by the Applicant to L&I or the Department that is required when the original cost of repairs, renovations, and rehabilitations was underestimated by the Applicant.

“Cost Multiplier.” An adjustment to the ICC Building Cost Estimates, based on the RSMeans Multiplier or such other calculation as determined to best approximate the cost of construction in Philadelphia.

“Department.” Department of Revenue.

“DIT.” Development Impact Tax established by Chapter 19-4400 of the Code.

“Government Agency.” Any agency, office, department, board, commission, authority, or other entity that is part of the United States or a State, local, or foreign government.

“ICC Building Cost Estimates.” Estimated building cost data as established by the International Code Council in Sections 109.2 and 109.3 of The International Building Code and published semiannually. These regulations will follow cost estimates as applied to the following categories of structures: R-2 Residential, multiple family; R-3 Residential, one- and two-family; and R-4 Residential, care/assisted living facilities.

“Improvements.” Any repairs, constructions, or reconstruction, including additions and alterations, to any structure used, or intended to be used, for human occupancy for residential purposes that require a Building Permit, which have the effect of rehabilitating a structure so that it becomes habitable or attains a higher degree of safety, health or amenity, or is brought into compliance with the laws, ordinances or regulation of the City of Philadelphia.

“L&I.” Department of Licenses and Inspections.

“Mixed-Use Property.” Newly constructed and improved properties designed for both residential and non-residential purposes.

“Residential Purposes.” The residential occupancy of a building or any portion thereof by one or more families, or group living, as defined in § 14-601(2)(b) of the Code.

“RSMeans Multiplier.” A construction cost index quarterly published by Gordian that compiles national construction cost data and applies it regionally and is available at www.rsmeans.com.

“OPA.” Office of Property Assessment.

“Total Project Costs.” Entire estimated cost of construction or improvement, including all costs covered by the Building Permit as well as the cost of all electrical, plumbing, mechanical, fire suppression systems work, and interior finishes.

ARTICLE II: IMPOSITION OF DIT

Section 201. Imposition.

Pursuant to Chapter 19-4400 of the Code, effective January 1, 2022, and thereafter, the DIT is imposed on the privilege of constructing any structure for human occupancy for Residential Purposes, or making any improvements to any such structure for which a Building Permit is required under § 4-A-301.1.1 of the Code. The DIT is to be paid by the owner of the real estate, except where the owner is a Government Agency. In the event that the real estate is owned by a Government Agency, the DIT shall be payable by any non-governmental owner of the proposed structure or improvement, as provided in Phila. Code § 19-4401(5).

Section 202. Exemptions.

No DIT shall be imposed upon the following:

- (a) Improvements that are not eligible for an exemption from real estate taxes pursuant to §§ 19-1303.2, 19-1303.3 or 19-1303.4 of the Code, including Improvements that do not exceed \$15,000.00 in Total Project Costs as defined by the Article II (“Improvements to Residential Properties and Deteriorated Industrial, Commercial or Other Business Properties for Purposes of Determining Eligibility for Exemption from Real Estate Taxes”) of the Regulations of the Office of Property Assessment of The City of Philadelphia and herein, as certified by the Applicant, except that ineligibility for the real estate exemption due to tax delinquency of the applicant shall not constitute ineligibility under this provision.
- (b) Improvements that are exempt from real estate tax pursuant to Section 204 of the General County Assessment Law, 72 P.S. sec. 5020-204, or pursuant to the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, 73 P.S. § 820.101, *et seq.*
- (c) Improvements associated with preparing an existing residential rental unit for turn-over to a new tenant; Improvements associated with renovations that are more substantial than routine rental unit turnover, for example, Improvements where the Applicant intends to apply for a real estate tax exemption pursuant to §§ 19-1303.2, 19-1303.3, or 19-1303.4 of the Code, are subject to the DIT.

ARTICLE III: RATE OF DIT

Section 301. Rate of Taxation.

Pursuant to Chapter 19-4402 of the Code, the DIT shall be imposed at the rate of one dollar (\$1.00) per one hundred dollars (\$100), or one percent (1%) of construction or improvement costs.

Section 302. Calculation Methodology.

The Department establishes the following alternative calculation methodology, as authorized by § 19-4402(1) of the Code.

(a) Costs for new construction – Costs for new construction shall be calculated in accordance with ICC Building Cost Estimates as adjusted by any applicable Cost Multipliers. These multipliers and calculations are as set forth in Exhibit A.

- (1) Starting in 2023, the City will from time to time update the published costs for new construction in accordance with the most recently published ICC Building Cost Estimates and any applicable Cost Multipliers.

(b) Costs for repairs, renovations, rehabilitations, and additions – Costs associated with repairs, renovations, rehabilitations, and additions shall be the stated Total Project Costs, as submitted by the Applicant with the Building Permit application.

Section 303. Mixed-Use Property.

The DIT shall apply to Mixed-Use Property in the same method established by Section 302 of these regulations, with the exception that the DIT shall only apply proportionally to the costs associated with Improvements to the portion by square footage of the structure used or intended for use for Residential Purposes, including common space related to such purposes, pursuant to §19-4402(1) of the Code. The portion of the Mixed-Use Property intended for non-residential purposes shall not be subject to the DIT.

ARTICLE IV: ADMINISTRATION OF DIT

Section 401. Payment of DIT.

(a) No Building Permit or certificate of final inspection shall be issued unless and until the DIT due at the time of such issuance is paid to L&I. At the issuance of a Building Permit, the Applicant shall pay that portion of the DIT that is due, unless the Applicant has certified that the Applicant qualifies for an exemption under Section 202 of these regulations.

(b) Fifty percent (50%) of the DIT shall be payable to L&I at the time of issuance of the Building Permit, and the remaining fifty percent (50%) shall be payable to L&I upon the issuance of a certificate of final inspection pursuant to § A-402.5 of the Code. If no certificate of final inspection is required with respect to the construction authorized by the Building Permit, the DIT shall be paid in full at the time of issuance of the Building Permit.

(c) In the event that at the time of a Building Permit application for repairs, renovations, or rehabilitations the precise amount of DIT due is not known, the Applicant shall submit a certified best estimate to L&I, and shall promptly submit a Corrected Certification, with any additional payment that may be owing, as soon as more certain information is available. The Corrected Certification shall be submitted to L&I:

(1) No later than the issuance of a certificate of final inspection pursuant to § A-402.5 of the Code; or,

(2) Within a reasonable time after the repairs, renovations, or rehabilitations are finished, if no certificate of final inspection is required with respect to the repairs, renovations, or rehabilitations authorized by the Building Permit.

If a Corrected Certification with any additional payment that may be owing is required and the Building Permit is closed or if no certificate of final inspection is required by the Building Permit, the payment of the adjusted DIT with applicable interest and penalty, if required, will be made to the Department.

(d) At the time of the Building Permit application, during or upon completion of construction or improvement, or at any appropriate time in the judgment of the Department, the Department may require taxpayers to submit such documentation as needed to confirm payment of the correct amount.

Section 402. Interest and Penalty Charges.

If it is determined that an Applicant underestimated the cost of construction or improvement under Section 302 of these regulations at the issuance of a Building Permit and failed to submit a Corrected Certification within the timeframe established by Section 401(c) of these regulations, the underpayment shall bear interest and penalties, as provided:

(a) Interest and penalty shall accrue as of the date of the issuance of the Building Permit.

(b) The rate of interest and penalty shall be in accordance with § 19-509 of the Code.

Section 403. Refund.

(a) The DIT shall be refunded upon petition pursuant to § 19-1703 of the Code if the improvement or construction authorized by the Building Permit is not actually performed and the Building Permit has expired or been cancelled, or it is determined by the OPA that the work proposed in the project is not eligible for an exemption from real estate taxes, pursuant to §§ 19-1303.2, 19-1303.3, or 19-1303.4 of the Code.



Frank Breslin
Revenue Commissioner

November 1, 2021

Date

EXHIBIT A

**Estimated Construction Costs per Square Foot
Based on International Code Council (with adjustments as noted)**

Construction Type (R-2, R-3 or R-4)	Construction Type (IA through VB)								
	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
R-2 Residential, multiple family	\$ 256.21	\$ 245.84	\$ 237.13	\$ 225.69	\$ 135.04	\$ 130.52	\$ 148.97	\$ 118.57	\$ 113.88
R-3 Residential, one- and two-family	\$ 157.40	\$ 153.13	\$ 149.31	\$ 145.53	\$ 102.13	\$ 98.44	\$ 143.14	\$ 94.75	\$ 89.15
R-4 Residential, care/assisted living facilities	\$ 199.81	\$ 192.96	\$ 186.97	\$ 179.69	\$ 164.91	\$ 160.39	\$ 179.84	\$ 148.44	\$ 143.75

Adjustments to International Code Council chart:

Increased by 26.0 from ICC table to reflect RSMeans cost index
Reduced by 39.9% from ICC table based on local data
Unchanged