

## DIVISION OF REVENUE

### TECHNICAL INFORMATION MEMORANDUM 2004-3

**DATE: DECEMBER 1, 2004**

**SUBJECT: TRANSIENT NURSERY RETAILERS**

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Senate Bill 341 of the 142<sup>nd</sup> General Assembly amended Chapter 29 of Title 30 of the **Delaware Code** by adding a new license requirement for Transient Nursery Retailers. Transient nursery retailers must obtain a business license for each place of business. The fee for each location is \$75.00 and is valid for 30 consecutive days from the date issued. The applicant must supply an original or copy of a valid Nursery Industry License issued by the Department of Agriculture prior to being issued a business license. In addition the applicant must provide proof that he or she has obtained all other necessary State, county and municipal licenses, permits and waivers regarding the sale of their products and operation at each location. These new requirements are effective July 19, 2004

A “**Transient Nursery Retailer**” is any retailer of nursery products as defined in Section 1301(27) of Title 3 of the **Delaware Code** that does not otherwise sell nursery products from a permanent structure within the State. Any charitable organization as defined in Section 501(c) of the Internal Revenue Code is excluded from the definition of a transient nursery retailer.

“**Nursery Products**” is defined as – any plant for planting, propagation, or ornamentation, including, but not limited to:

- a. All plants, trees, shrubs, vines, perennials grafts, cuttings and buds that may be sold for propagation, whether cultivated or wild, and all viable parts of these plants.
- b. Any other plant or plant part, including cut Christmas trees or any non-hardy plant or plant part, including but not limited to, annuals, bedding plants and vegetable plants.

Every transient nursery retailer must complete a Combined Registration Application, pay the license fee for each location, and supply the appropriate State, county and municipal licenses, permits and waivers prior to selling any nursery product in the State. The Division of Revenue will issue a Cease and Desist Order for failure to comply with these requirements. In addition a civil penalty of \$200.00 will be imposed for each violation.

Pease contact Ron Kaminski, 302-577-8448, or by email at [ronald.kaminski@state.de.us](mailto:ronald.kaminski@state.de.us) if you have any questions concerning the licensing requirements for transient nursery retailers.

Patrick T. Carter

Director of Revenue