

STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
601 DELAWARE AVENUE  
WILMINGTON, DELAWARE 19899

SPECIAL REVENUE INSTRUCTIONS NO. 4

March 1, 1973

Small Business Corporations - Requirement to File Returns

Section 1902 (b) (9), Title 30, Delaware Code provides an exemption from Delaware Corporation Income tax as follows:

"(9) A small business corporation having a valid election under Subchapter S of the Internal Revenue Code of 1954 in effect for any entire income year beginning on or after January 1, 1971; provided that if on the last day of such income year any of the stockholders of such corporation are nonresident individuals (as defined in Section 1104 of this Title), such corporation shall be subject to the tax imposed by this Chapter on that percentage of its taxable income equal to the percentage of its stock owned by nonresident individuals on such day."

A question has been raised as to whether a Subchapter S Corporation must file a return on Form 1100S if it does not have any nonresident shareholders. It is the position of the Division of Revenue, as indicated in the instructions issued on Form 1100S, that every Subchapter S Corporation must file a return, whether or not it has any nonresident shareholders.



J. H. Kennedy  
Director of Revenue

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