

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

TAX NEWSGRAM 72-55

November 13, 1972

PERSONAL INCOME TAX

- Installment Sales

QUESTION: What is the proper treatment for Delaware personal income tax purposes of installment payments received in 1972 (and subsequent years) arising out of an installment sale transaction occurring on or before December 31, 1971?

In determining Delaware taxable income, Section 1106 (a) (2), 30 Del. C., provides for increasing Federal Adjusted Gross income by the amount of any long-term capital gain deduction "attributable to capital gains realized before January 1, 1972." Thus, no adjustment to Federal Adjusted Gross income is required for capital gains realized after January 1, 1972.

With respect to installment payments received after January 1, 1972, arising from sales on an installment basis in prior years, it is the position of the Division of Revenue that the entire gain was realized in the year in which the sale occurred, and that the Federal installment sale provisions (Section 453) merely provide a permissible method of accounting for such gain. This position is in accord with Tax Newsgram 72-26, dated February 8, 1972, wherein it was held that a taxpayer who became a resident of Delaware in 1971 could exclude from his Delaware taxable income the gain received and reported on his 1971 Federal return arising from an installment sale which occurred in 1969 when the T. P. was a resident of Pennsylvania since the entire gain was realized in 1969.

Accordingly, it is held that capital gains arising from installment sales occurring in years prior to January 1, 1972, were realized in the year the sale occurred and, therefore, Federal Adjusted Gross income must be adjusted on the Delaware return by adding back the 50% capital gain deduction allowed for Federal income tax purposes.

EXAMPLE

Sale of Property in 1971

Sales Price	\$100,000
Cost	<u>20,000</u>
Profit	\$ 80,000 (80%)

Assume that under the contract of sale the purchase price was to be paid over 10 years. Of the \$10,000 payment received in 1972, \$8,000 or 80% is reported on the Federal return as long-term capital gain and taxed at only 50% or \$4,000. On the Delaware return an adjustment of \$4,000 is required to increase the amount of gain reported to \$8,000.



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Director of Revenue

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