

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

TAX NEWSGRAM 73-21

November 15, 1973

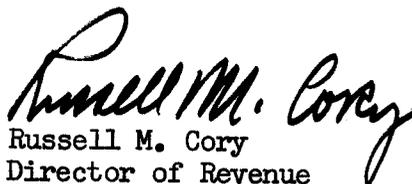
PERSONAL INCOME TAX

- Sale of Residence

A question has been raised as to the tax treatment to be accorded capital gains realized on the sale of a private residence by a Delaware resident who thereafter moves to another State and reinvests the proceeds from the sale in a new residence. Under Federal law, if the sale and reinvestment meets certain requirements, all or a portion of the gain derived from the sale of a private residence may be deferred and not included in Federal Adjusted Gross Income in the year of sale. Section 1034, Internal Revenue Code.

Section 1105, Title 30, Delaware Code provides that the taxable income of a resident is "Federal Adjusted Gross Income" with certain modifications, deductions and exemptions. Similarly, Section 1121, Title 30, Delaware Code provides that the taxable income of a non-resident individual is "Federal Adjusted Gross Income derived from sources within this State" with certain modifications, deductions and exemptions. These definitions apply to taxable years commencing on or after January 1, 1971.

Accordingly, where an individual sells his residence in another State and thereafter becomes a resident of Delaware, if the gain on the sale is properly excluded from Federal Adjusted Gross Income for Federal tax purposes, then the gain is likewise excluded for purposes of the Delaware income tax. Similarly, where a Delaware resident sells his residence and thereafter moves to another State, if the gain on the sale is properly excluded from Federal Adjusted Gross Income for Federal tax purposes, then the gain would likewise be excluded for purposes of the Delaware income tax for taxable years commencing on or after January 1, 1971. Tax Newsgram 71-8 is modified accordingly.


Russell M. Cory
Director of Revenue

mrs

DISTRIBUTION: B and C