



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 Delaware Avenue
Wilmington, Delaware 19899

TAX NEWSGRAM 75-3

March 19, 1975

- Retailers License Tax - \$20,000 Quarterly Exclusion
Tax Appeal Board Decision

The Tax Appeal Board rendered its decision on March 12, 1975, in Great Atlantic & Pacific Tea Company v. Director of Revenue, Dkt. No. 534, et seq. This was a suit for refund based on the petitioner's claim that each of its branch stores in Delaware was entitled to a \$20,000 quarterly exclusion in computing the retailer license fee imposed by Section 2905 (b), Title 30, Delaware Code, instead of only one exclusion or reduction for the entire enterprise as contended by the Director of Revenue.

The Board held that the petitioner is entitled to but one quarterly exclusion or reduction of \$20,000, no matter how many branch stores it operates in Delaware. It was concluded that Section 2901 (5), relating to the definition of "retailer" does not evidence any legislative intention that each branch store should be considered to be a separate retailer for this purpose.

The Board noted, however, that the quarterly license forms in use prior to September, 1973, were somewhat misleading in this respect. In view of this, it shall be the policy of the Division of Revenue not to assert any penalty on deficiencies due by reason of the denial of excess deductions (exclusions) claimed by a taxpayer with respect to any license return for quarters ending prior to July 1, 1973. However, interest at the rate of 1% per month from the original due date until paid will be asserted with respect to any such deficiencies.

Louis N. Megargee
Director of Revenue

* EXCLUSION CHANGED TO 10,000 MONTHLY

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