



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

TAX NEWSGRAM 76-3

July 13, 1976

- Occupational & Business License Tax
- "Commercial Lessors" - Chapter 23, Title 30, Delaware Code.

House Bill No. 1035, approved on June 30, 1976, amends Chapter 23, Title 30, Delaware Code, by adding a new license category (paragraph 88) to Section 2301 (a), designated "commercial lessor." This Bill also repeals, effective June 30, 1976, Section 5401 (4) (b) and (d), 30 Delaware Code, relating to the Realty Transfer Tax imposed on leases of realty with a term of 5 years or more.

A "commercial lessor" means any person who, as lessor or sublessor, receives rental income pursuant to any agreement transferring an interest in real property under a lease of a commercial unit regardless of the length of the term. A "commercial unit" means any building or structure, or portion thereof, which is used for purposes other than residential or farming.

Any person engaged in or desiring to continue in the business of leasing real property for commercial purposes must make application to the Division of Revenue for a commercial lessor license and pay the basic annual license fee. The license fee for the current license year ending December 31, 1976, shall be \$25.00. Commencing January 1, 1977, the basic annual fee shall be \$50.00.

In addition, under Section 2301 (d), 30 Delaware Code, each such licensee is subject to a tax of 3/10 of 1% (3 mils) on their gross receipts. Section 2301 (e) defines gross receipts for purposes of commercial lessors as the amount of rental payments received under the lease. Although the tax is imposed on the lessor, the lessor is not prohibited from providing in the lease agreement that the lessee shall reimburse the lessor for such tax. The lessor is required to file a

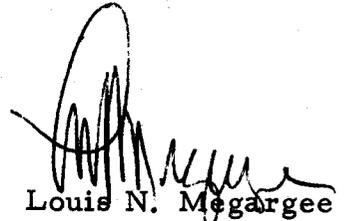
TAX REIMBURSED WOULD BE INCLUDED IN
LESSOR'S GROSS RECEIPTS



return and pay the quarterly gross receipts tax. Such return is due by the 20th day of each of the months of April, July, October and January of each year, covering the three-month period preceding such dates. Late filed returns are subject to interest and penalty as provided by law. The first return under this law shall be due October 20, 1976, for the quarter ending September 30, 1976.

In computing taxable gross receipts, a person who is a sublessor may exclude therefrom the amounts paid to his lessor as rent for the same property. For example, assume A leases a commercial unit to B for \$500 per month. A is required to obtain a license and report total gross receipts of \$500 per month to the State. If B sub-leases the property to C for \$600 per month, B must also obtain a license and file returns. However, on his quarterly return, B would reduce his gross receipts by the amount paid to A, (\$500) and show taxable gross receipts of \$100 for each month.

This Act is effective as of July 1, 1976. Every person required to be licensed as a commercial lessor should file application for license with the Division of Revenue within 30 days. Application forms may be obtained by calling 571-3300.



Louis N. Megargee
Director of Revenue

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