



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

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- Section 2301 (b), Title 30, Delaware Code - General
Service License

A question has been raised as to whether corporations whose activities within this State are confined to the maintenance and management of their intangible investments, and collection and distribution of the income from such investments are required to obtain a business occupational license and pay the gross receipts tax imposed by 30 Delaware Code, Section 2301 (b), relating to the general service license.

The factual situation presented involves the creation (by individuals or corporations) of a Delaware corporation whose assets consist entirely of stock and securities of other corporations or other debt instruments, for the purpose of investment and management of such assets and the collection and distribution of the income derived therefrom. In most instances these Delaware corporations engage one of the local banks to hold the marketable securities (whether debt or equity securities) in a custody or agency account. The banks who are acting as custodians or agents would normally collect the income, whether in the form of dividends or interest, from the securities held in the custody or agency account and eventually turn over the income to the corporation or reinvest the same upon direction from appropriate corporate officers. Where individual shareholders are involved, the corporations usually pay dividends annually in order to avoid the Federal personal holding company income tax. Also, quite often where corporations are involved, the dividends are distributed for cash-flow purposes to the parent corporation.

The basic occupational license requirements and fees are set forth in 30 Delaware Code, Section 2301 (a) and Section 2301 (b). Section 2301 (a) enumerates specific occupations, whereas Section 2301 (b) deals with occupations not covered by Section 2301 (a). Section 2301 (b) provides as follows:



"(b) Upon every person engaging or continuing to engage in any service industry, business, calling or profession not otherwise specifically licensed and taxed under subsection (a) of this Section, there is hereby levied and there shall be collected an annual general service license fee of \$50.00."

Further in this regard, Section 2301 (c) (1) provides in pertinent part as follows:

"(1) Any person licensed under subsection (a) or (b) of this Section whose business activity or operation is not limited to the rendition of services for other persons but also involves the sale or exchange of goods or personal property shall also be subject to the license fees imposed by Chapter 29 of this Title."

Viewed in the context of Section 2301 (a) and Section 2301 (c) and other licensing provisions of Title 30, it is concluded that the occupational license requirement imposed by Section 2301 (b) applies to corporations engaged in a service industry, business, calling or profession only if the corporate activities involve or result in the rendition of services for other persons, i. e., persons other than the corporation.

Thus, the question presented in the instant matter is whether a corporation whose activities within this State are confined to the maintenance and management of its intangible investments (stocks, securities and other debt instruments) and the collection and distribution of the income from such investments is engaged in the rendition of services for other persons so as to subject it to the occupational license requirements and fees imposed under Section 2301 (b) and (d).

Where a corporation does not hold itself out to the public as being engaged in business or as performing services, and does nothing more in Delaware than manage its intangible investments and collect and distribute the income from such investments, it is the opinion of this Division that such activities would not involve the performance of services for other persons, and, therefore, such a

corporation would not be subject to the licensing requirements of Section 2301 (b) and (d). Moreover, it further appears that many of the corporations described herein would properly fall within the accepted definition of a "holding company" for purposes of the exemption from the license requirements of Section 2301 (b) and (d), as provided by 30 Delaware Code, Section 2301 (n).



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