



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
DELAWARE STATE BUILDING
820 N. FRENCH STREET
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE
TAX RULING 82-1

June 7, 1982

- Personal Income Tax
Economic Recovery Tax Act of 1981

1. Tax Exempt Savings Certificates

The Economic Recovery Tax Act of 1981, provides, for Federal income tax purposes, for a \$1,000 (\$2,000 in the case of a joint return) lifetime exclusion from Federal gross income of interest received by individuals on qualified depository institution savings certificates (All Savers Certificates). The exclusion is limited to the first \$1,000 paid on qualifying certificates issued after September 30, 1981, and before January 1, 1983. The \$1,000 limit (\$2,000 on a joint return) applies to the total of all interest paid on all tax-exempt savings certificates owned by the individual. The excludible amount in any year is the amount of qualifying interest received in that year less the amount that was excludible in any prior year, subject to the total \$1,000 or \$2,000 limitation.

Interest received on depository institution savings certificates that qualifies for exclusion from gross income for Federal income tax purposes will automatically qualify for exclusion for Delaware income tax purposes, since Federal adjusted gross income is the starting point for computing Delaware taxable income. If a married couple files a joint Federal return, but files separate returns for Delaware purposes, the amount of the interest exclusion is limited to \$1,000 on the separate return for each spouse.

2. Individual Retirement Accounts (IRA's)

The Federal Economic Recovery Tax Act of 1981, for tax years beginning after December 31, 1981, increases the amount of contribution to an IRA that may be deducted by an individual each year from gross income to the smaller of the following amounts: (a) \$2,000 or (b) 100% of the individual's earned income that is includible in gross income for Federal tax purposes. Further, the deduction is allowable whether or not the individual is an active participant in a qualified employer plan or a government plan. If the individual also establishes a "spousal IRA" for a non-working spouse, the dollar limitation is increased to \$2,250 on a joint return.

Contributions to IRA's that qualify and are deductible for Federal

income tax purposes, will automatically carry over and be recognized for Delaware tax purposes, since such deductions are reflected in the computation of Federal adjusted gross income.

3. Deduction for Two-Earner Married Couples

The Economic Recovery Tax Act of 1981 amended Federal law to allow a new deduction for two-earner married couples filing joint Federal returns. The deduction is an amount equal to 5% in 1982, 10% in 1983 and thereafter, of the lesser of (a) \$30,000 or (b) the amount of the lower earning spouses' qualified earned income. The Congressional purpose underlying this new deduction for two-earner married couples was to mitigate the "marriage tax penalty" that has resulted under Federal law from the use of different tax rate schedules for single and married taxpayers. Hence, the deduction is allowable only if joint Federal returns are filed.

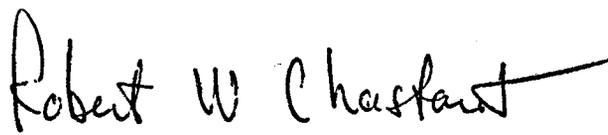
Under Delaware law there is only one tax rate schedule applicable to all taxpayers, whether married or single. Hence, the "marriage tax penalty" that frequently results under Federal law in the case of two-earner married couples filing joint returns does not occur under Delaware law. Since Federal adjusted gross income is the starting point for computing Delaware adjusted gross income, in the case of married taxpayers who file a joint Federal return and also file a joint Delaware return, the new deduction for two-earner married couples will automatically carry over and be recognized for Delaware purposes. However, if a two-earner married couple files a joint Federal return claiming the new deduction, and then elects to file separate Delaware returns, the deduction claimed on the Federal return will not carry over to the Delaware return. The reason for this is that under long-standing administrative policy and practice, where taxpayers elect to file separate Delaware returns, the Federal adjusted gross income of each spouse, and the deductions attributable to each, must be determined as if they had filed separate Federal returns in arriving at Federal adjusted gross income. Accordingly, since the new deduction for two-earner married couples could not be claimed by the lower earning spouse under Federal law if a separate return was filed, such deduction will not carry over to the separate return of the taxpayer for Delaware purposes.

4. Charitable Contributions Deduction for Non-Itemizers

The Economic Recovery Tax Act of 1981, for Federal income tax

purposes, provides that, with respect to those individuals who do not itemize their deductions, there shall be allowed as a direct charitable deduction in computing taxable income, a fixed percentage of allowable charitable contributions. For tax years 1982 and 1983, an individual who does not itemize his deductions, is allowed a deduction equal to 25% of his first \$100 of contributions, or a maximum deduction of \$25 each year. In 1984, the percentage applies to the first \$300 of contributions, and is further liberalized for 1985 and 1986 when the contribution cap is eliminated.

Under the Federal amendment, the new charitable contributions deduction is allowed as a direct adjustment to Federal taxable income (under Sec. 63, I.R.C.) in the same manner as the deduction for personal exemptions, rather than as an adjustment in computing Federal adjusted gross income (under Sec. 62, I.R.C.). Since the new special charitable contributions deduction for non-itemizers will not be reflected in "Federal adjusted gross income" (which is the starting point for determining Delaware taxable income), the deduction will not carry over to the Delaware return, and therefore will not reduce or otherwise affect the Delaware income tax liability of Delaware taxpayers.



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