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

DIVISION OF REVENUE
TAX RULING 82-4

October 15, 1982

- Plant Nursery and Florist
Occupational & Business License Requirements

House Bill No. 693 (Chap. 417, Vol. 63 Laws of Delaware), approved July 21, 1982, amends Chapter 23 and Chapter 29, 30 Del. C., to make the following changes in the business license requirements of plant nurseries and florists:

(1) Effective August 1, 1982, and extending until December 31, 1982, the occupational license tax category "Plant Nursery and Florist" (Section 2301 (a) (56), 30 Del. C.) is amended to apply only to "Retail Plant Nursery and Florist."

(2) Effective August 1, 1982, Section 2901 (7), relating to the definition of "wholesaler", is amended by adding a new subsection (e) to include within such definition any persons, other than owners or operators of nurseries or farms, who are engaged in the business of operating a place where trees, plants, shrubs, flowers, etc., are purchased from others for the purpose of resale.

(3) Effective August 1, 1982, Section 2908 (b), 30 Del. C., relating to exemptions, is amended to provide that persons who raise nursery and floral products for sale will be treated as farmers and exempt from the license requirements and taxes under Chap. 29, except that growers of nursery products will be subject to licensing and tax as a retailer to the extent, if any, they engage in sales at retail to the general public.

(4) Effective January 1, 1983, Section 2901 (5), relating to the definition of "retailer", is amended to include within such definition "retail plant nurserymen and florists", and the occupational license category of "retail plant nursery and florist", Section 2301 (a) (56), is repealed.

(5) All persons, including nurserymen and florists, who are engaged in more than one business, (e.g., as a wholesaler and retailer) are required to obtain annual licenses

for each separate business and pay the gross receipts tax on all receipts at the rate applicable to the business with the higher rate, unless adequate books and records are maintained to substantiate and permit the allocation and reporting of the receipts attributable to each specific business.

Robert W. Chastant
Director of Revenue

RRS:rb

25/06/82/22/15

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October 21, 1982

NOTICE NOTICE NOTICE NOTICE

TO: ALL PLANT NURSERY AND FLORIST LICENSEES

Recent legislation was enacted in the "plant, nursery and florist" license category which may result in an exemption from or a change in your current business license requirements. Therefore, the Division of Revenue needs information from you to aid us in determining your new license category for the calendar year 1983.

Synopsis of Legislation

Please review the attached ruling 82-4 which explains the revised law. Briefly stated:

1. Retail florist and retail nurserymen will be taxed under the retail provision of the law.

2. Wholesale nurserymen, that is, nurserymen who sell plants to another business for purposes of resale of the plants (for example, wholesale to a retail florist), are treated as wholesalers for license purposes. However, a nurseryman who operates as a farmer and who does not buy plant stock for resale is treated as a farmer and is exempt from the wholesale license.

Please complete the questionnaire below and return it to the Division of Revenue in the enclosed envelope. If you have difficulty in determining whether you should have a retail or a wholesale license, the legislation states that the tax must be paid at the highest rate. Please return the information within 10 days in the enclosed envelope. Call us if we can assist you. The phone numbers are 571-3369 in Wilmington, or 736-5251 in Dover, or 856-5358 in Georgetown.

Name of Business: _____

Is your business:

☐ A farmer selling nursery products.

☐ Selling to the final purchaser.

☐ Selling to another who will, in turn, resell your product.

☐ Both of the above. _____% Estimated Retail; _____% Estimated Wholesale.

25-06/82/22/16