



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

TECHNICAL INFORMATION MEMORANDUM 85-3

July 18, 1985

SUBJECT: Manufacturer's License and Gross Receipts Tax

This notice will advise licensees under the Delaware manufacturers license tax of recent changes to the Delaware Code as they affect those taxpayers.

I. Law Changes.

Chapter 184, Vol. 65, Delaware Laws, signed by Governor Castle on July 12, 1985, affects Delaware manufacturers as follows:

1. Manufacturers are now to be allowed a monthly deduction of \$500,000 to be used in computation of the manufacturers' gross receipts tax. In addition, the manufacturing tax rate is reduced from .004 to .003.
2. Delaware manufacturers had been previously exempt from the tax and license requirements imposed on retailers and wholesalers in connection with the sale of goods manufactured in Delaware. However, the special exemption was repealed to achieve required uniformity in the Delaware Tax Code so that a license is required for each separate business. Courts have held that wholesaling and manufacturing are in fact separate business activities. As a result of this change in the law, manufacturers will now also be subject to licensing as wholesalers or retailers and could be subject to gross receipts tax twice on Delaware sales depending upon the net effect of the tax deductions and tax rate reduction described above.
3. Most manufacturers will be subject to licensing as wholesalers. "Wholesaler" for purposes of the wholesalers tax, includes, in part:

"Every person engaged, as owner or agent, in the business of selling to or exchanging with another person goods for cash or barter or any consideration for the purpose of resale by the person acquiring the goods sold or exchanged, and includes without limitation goods sold or exchanged through outlets, warehouses and distribution depots of persons whose principal place of business is located inside or outside this State and also includes the sale of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity, which business or activity is subject to the tax imposed by this chapter..."

4. Wholesalers will pay a rate of .004 of gross receipts received from sales of tangible personal property physically delivered within this State to the purchaser or his agent, but not including: (i) Delivery to the U.S. mail or to a common or contract carrier for shipment to a place outside this State; or (ii) State tobacco or motor fuel taxes. Wholesalers are allowed a monthly deduction of \$10,000 against their gross receipts in computation of the tax. In addition, wholesalers are subject to an annual license fee of \$50 for each place of business pro rata to \$25 for the remaining half of 1985.

5. Manufacturers who sell at retail will be subject to license and gross receipts tax for retailers, whose gross receipts are taxed at a rate of .0075 subject to a deduction of \$10,000 per month. Retailers are subject to an annual license fee of \$50 plus \$10 for each additional place of business, pro rata to half those amounts for the remainder of 1985.

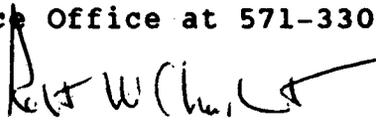
II. Tax Returns.

1. A license application form is enclosed with this notice. It may be used to apply for a wholesaler or retailer license. It may be reproduced by the taxpayer to allow application for both licenses, if necessary.

2. Both manufacturer and wholesaler gross receipts returns, revised to reflect these changes in the law, will be mailed to all current Delaware manufacturers by July 31, 1985. These returns are to be used for the remittances due August 20, 1985, for July, 1985 gross receipts.

3. Filing requirements for manufacturers, wholesalers and retailers are unaffected by this statutory amendment. Except as described below, gross receipts taxes and returns are due on the 20th of each month with respect to the aggregate gross receipts for the immediately preceding month. If, however, aggregate gross receipts for any month do not exceed \$2,000, the return and tax payment for that month is due on or before the 20th of the month following the close of that calendar quarter. Taxpayers should be aware that returns are due according to aggregate gross receipts, not gross receipts net of the monthly deduction.

4. Manufacturers needing additional documents (such as retailers gross receipts tax returns) or any further assistance relating to this statutory amendment or other state tax matters, should telephone the Division of Revenue Taxpayer Assistance Office at 571-3300.


Robert W. Chastant
Director of Revenue