



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

DIVISION OF REVENUE
TECHNICAL INFORMATION MEMORANDUM 85-6

September 17, 1985

SUBJECT: Tax Law Changes Enacted by the 1985 General and Special Sessions of the Delaware General Assembly.

PERSONAL INCOME TAX

1. Increase in Personal Exemption - Senate Bill No. 1, Chap. 147, Vol. 65, Laws of Delaware, increased the personal exemption for Delaware Personal Income Tax from \$800 to \$1,000 and made a corresponding increase in the level of taxable income below which it is not necessary to file a Personal Income Tax return. Under this legislation, that level was increased from \$1,600 to \$2,000 for married taxpayers permitted to file joint returns and from \$800 to \$1,000 for all other taxpayers. Effective for tax year 1986.

2. Child and Dependant Care Credit Enacted - Senate Bill No. 18, Chap. 202, Vol. 65, Delaware Laws, provides a credit for child and dependant care equal to 25% of the corresponding federal credit. Married couples filing joint federal but separate Delaware returns are limited to the tax imposed on the spouse with the lower taxable income. The credit is effective for tax year 1987.

3. Increase in Pension Deduction - Senate Bill No. 29, Chap. 203, Vol. 65, Delaware Laws, effective for tax year 1987, increases the pension deduction for taxpayers age 60 or older from \$2,000 to \$3,000. For taxpayers under age 60, the deduction remains \$2,000.

4. Personal Income Tax Rate Cut - House Bill No. 337, Chap. 204, Vol. 65, Laws of Delaware, enacted a reduction of approximately 9.0% in personal income tax rates in all brackets beginning in tax year 1986. Pre-existing law had also imposed a self-executing rate increase effective for tax year 1988 unless there occurred an annual increase of 6,000 full-time equivalent jobs in Delaware between June 1, 1984 and May 31, 1987. This act also reduced those future contingent rates by 9%. As a result of this legislation, Delaware's top bracket will be reduced from 10.7% to 9.7% for taxable incomes in excess of \$40,000.

CORPORATE INCOME TAX

5. Exemption of Foreign Sales Corporations and Corporations Under Reorganization - Senate Bill No. 162, Chap. 55, Vol. 65, Laws of Delaware, specifies tax treatment of Foreign Sales Corporations

(FSC's) and Foreign Sales Service Corporations (FSSC's) for purposes of Delaware Corporate Income and Business and Occupational Taxes. Foreign Sales Corporations qualifying under present provisions of the Internal Revenue Code and meeting criteria set forth in the Act (in particular, maintaining an office within the State; soliciting, negotiating, or making of a contract within the state; and filing proper returns with the Secretary of Finance) are entitled to exemption from both the Corporate Income Tax and the Gross Receipts tax but are subject to a \$100 annual license fee. Foreign Service Sales Corporations (i.e., corporations receiving 80% or more of their gross receipts from provision of services to an FSC and also meeting the above Delaware statutory criteria) are exempt only from the corporate income tax, and are subject to a \$100 annual license fee as well as the gross receipts tax. Effective for tax year 1985.

6. Exemption of Export Trading Companies - Senate Bill No. 238, Chap. 160, Vol. 65, Laws of Delaware, exempts export trading companies, as defined by federal law and which satisfy regulations of the Delaware Development Office, from both Delaware Corporate Income Tax and the License and Gross Receipts Taxes. In addition, the Act permits state-chartered banks to own and participate in export trading companies.

MERCANTILE TAXES

7. Redesignation of Occupational Classes - House Bill No. 81, Chap. 29, Vol. 65, Laws of Delaware, amended various subsections of 30 Del. C. §2301, which enumerates certain occupations for specific business and occupational licenses. The effect of this Act was to remove reference to the term "man" as it appears in the name of certain of those occupations and substitute instead the term "person". As a result, for example, "drayman" became "drayperson," "warehouseman" became "warehouseperson," etc. Approved and effective June 26, 1985.

8. Restructuring of Manufacturers' & Wholesalers' Gross Receipt Tax - House Bill No. 373, Chap. 184, Vol. 65, Laws of Delaware, accomplishes a major restructuring of the business and occupational tax as it relates to manufacturers and wholesalers. Under the Act: (1) the exemption previously provided to local manufacturers from the wholesalers tax is repealed; (2) the manufacturers' tax rate is reduced from .004 to .003, and the manufacturer is given a monthly deduction of \$500,000 to be utilized in computation of the manufacturers' tax; (3) wholesalers are allowed a new \$10,000 monthly deduction from gross receipts; (4) 30 Del. C. §2114 is repealed as serving no purpose and, in some respects, in direct conflict with other portions of Title 30.

9. Exemption of Intermediate Products of Certain Manufacturers - Senate Bill No. 307, Chap. 169, Vol. 65, Laws of Delaware, exempts from the manufacturers' gross receipts tax products used or consumed in the production or contained as an integral part of an ultimate product of the same manufacturer; provided that: (1) the intermediate product is produced in a "new

or expanded facility" as used in 30 Del.C. §2010 placed in service after June 30, 1985; (2) the facility is used in connection with a process not engaged in by the manufacturer prior to June 30, 1985; (3) the manufacturer has an existing facility in the state as of June 30, 1985; and (4) investment in the new or expanded facility must equal at least \$200,000 and the facility must employ at least five employees, 25% of whom must be Delaware residents.

INHERITANCE & ESTATE TAXES

10. Spousal Exclusion and Other Amendments - Senate Bill No. 270, Chap. 164, Vol. 65, Laws of Delaware, makes changes in the Delaware Inheritance and Estate Tax Laws. The most notable change is provision for an unlimited marital deduction for most types of transfers of property to a surviving spouse. The Act also provides that only one-half of all property held by the decedent and his or her spouse jointly will be included in the gross estate. The Act makes additional technical and other changes to Delaware law. Only the most significant of these are highlighted: (1) 30 Del. C. §1310 is amended to provide that the proceeds of life insurance insuring the life of the decedent are not subject to inheritance tax even if paid directly to the personal representative of the decedent's estate, whereas under pre-existing law such proceeds were taxable; (2) 30 Del. C. §1322 is amended to increase the exemption level of Class B, Class C, and Class D beneficiaries. In addition, provision is made to include a stepchild of a decedent as a Class B beneficiary; and (3) 30 Del. C. is re-written to adopt federal provisions for reduction in valuation of qualified farm and small business real property, up to a maximum reduction of \$500,000. Effective for decedents after July 1, 1985.

OTHER TAXES

11. Exemption of Utility Distribution to Corporations under Reorganization - Senate Bill No. 183, Chap. 17, Vol. 65, Laws of Delaware, exempts from the 5% public utility tax imposed by 30 Del. C. §5502(b) distribution of electricity or gas to a corporation filing in good faith under the Reorganization provisions of Chapter 11 of the United States Bankruptcy Code. The exemption extends for thirty-six months from the filing of the debtor corporation's plan of reorganization. Effective January 1, 1985.

12. Miscellaneous Amendments - House Bill No. 256, Chap. 118, Vol. 65, Laws of Delaware made various housekeeping changes to Title 30. Effective July 1, 1985, the Act: (1) Repealed provisions heretofore licensing and taxing express companies. This license class had become obsolete because of changes in business operations which allowed such companies to qualify for licensure as "draypersons or movers" under Chapter 23, Title 30, of the Delaware Code; (2) Repealed an obsolete per capita tax on passengers transported by steam power; and (3) Clarified the exemption of property transferred to or from local jurisdictions and the University

of Delaware. Effective July 3, 1985, the Act clarified the commission of cigarette stamp affixing agents at .3 cents for affixing the stamp to each package of 20 or more cigarettes.

13. Reduction in Escheat Period for Banks - House Bill No 255 Chap. 140, Vol. 65, Laws of Delaware, amended 12 Del. C. §1170 relating to unclaimed property held or owing by banking organizations and presumed abandoned and subject to escheat to the State, by reducing the required period of abandonment during which the property remains unclaimed by the owner from twenty-five to seven years. Effective for reports after January 1, 1986.

Robert W. Chastant

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Director of Revenue

WMR/bsk