



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

DIVISION OF REVENUE
TECHNICAL INFORMATION MEMORANDUM 87-7

October 15, 1987

SUBJECT: Tax Law Changes Enacted During the 1987 Regular and
Special Sessions of the Delaware General Assembly

PERSONAL INCOME TAX

1. Rate and Deduction Change. - House Bill No. 370; Chap. 86, Vol. 66, Laws of Delaware, reduces the number of tax brackets to 7 (previously 14), reduces the top rate to 7.7% from 8.8%, eliminates tax on the first \$2,000 of taxable income, and eliminates the deduction for federal taxes paid. In addition, the act makes the standard deduction subject to apportionment for non-residents. The foregoing is effective for tax years beginning after December 31, 1987. In addition, the act created an additional deduction for itemizers equal to 12% of other itemized deductions effective only for tax year 1987.

2. Change in Standard Deduction, Personal Exemption, and Filing Threshold. - Senate Bills No. 296 and 298; Chaps. 93 and 95, Vol. 66, Laws of Delaware, increase the standard deduction to \$1,300 for single taxpayers, \$1,600 for married taxpayers filing jointly, and \$800 for married taxpayers filing separately. The standard deduction had previously been \$1,000 for single and married filing jointly and \$500 for married filing separately, subject to a cap of 10% of adjusted gross income. The acts also increased the taxable income threshold requiring filing of returns to \$4,550 for single taxpayers and \$6,100 in joint income for married couples (heretofore \$1,000 and \$2,000 respectively). The personal exemption was also increased from \$1,000 to \$1,250. All the foregoing provisions are effective for tax years beginning after December 31, 1987. Effective for years beginning after December 31, 1986, the acts also created an additional standard deduction amount of \$1,000 for taxpayers 65 years or over or blind (\$2,000 if both).

3. Refund Set-Off. - Senate Bill No. 203; Chap. 121, Vol. 66, Laws of Delaware, allows personal income tax refunds to be set off in favor of debts to the Delaware Department of Labor in

the same manner, and subject to the same procedures, as debts owed to the Department of Health and Social Services. This act was effective July 8, 1987.

4. Withholding Appeals. - Senate Bill No. 205; Chap. 122, Vol. 66, Laws of Delaware, reduces the period in which withholding tax proposed assessments and disallowances of refunds become final to 30 days (heretofore 90 days). This act was effective July 8, 1987.

5. Solar Energy Credit. - House Bill No. 265; Chap. 129, Vol. 66, Laws of Delaware, repealed the credit for purchase and installation of solar energy devices for hot water heating. The Act is effective for tax years beginning after December 31, 1987.

LICENSE AND GROSS RECEIPTS TAX

1. Exemption for News Carriers. - House Bill No. 268; Chap. 104, Vol. 66, Laws of Delaware, eliminates news carriers under the age of 18 from the definition of "retailer" for purposes of the retailers' license and gross receipts tax. This act was effective July 8, 1987.

2. Definition of Manufacturers' Gross Receipts. - Senate Bill No. 207; Chap. 149, Vol. 66, Laws of Delaware, extends the definition of manufacturers' gross receipts to consideration for rendering manufacturing services on goods owned by another manufacturer where the finished product is to be included in another product subsequently to be manufactured in Delaware by the manufacturer owning the goods in question. It also clarifies the fact that, except as provided above, all other persons performing manufacturing services on goods owned by another are licensable under the general services category. This act was effective July 8, 1987.

CORPORATION INCOME TAX

1. Administrative Procedures. - Senate Bill No. 200; Chap. 118, Vol. 66, Laws of Delaware, clarifies and revises administrative procedures relating to the corporation income tax. Highlights of the changes are as follows:

a. When federal taxable income is changed by any "competent authority" (heretofore "Department of Treasury") the taxpayer must report the changes to the Division of Revenue within 90 days, either conceding or protesting the change. With regard to either a federal change or an amended return, the Division may require the taxpayer to provide any additional relevant information.

b. Assessment of the tax occurs on the following dates: (i) with regard to the amount shown on the return (plus or minus mathematical errors) on the filing date; (ii) where the tax is not computed on the return, on the date payment is due; (iii) when no protest is filed, 90 days after the proposed assessment; and (iv) when a protest is filed, when the determination becomes final.

c. The taxpayer has 90 (heretofore 30) days to protest a proposed assessment and to appeal a determination to the Tax Appeal Board.

d. Statutes of limitation may be extended by mutual agreement.

e. There is no period of limitations when the taxpayer fails to notify the Division of a federal change or correction.

This act was effective July 8, 1987.

MISCELLANEOUS

1. Damages for Frivolous Returns or Litigation. - House Bill No. 263; Chap. 101, Vol. 66, Laws of Delaware, permits the Tax Appeal Board to assess damages up to \$5,000 whenever it finds that a taxpayer has instituted or maintained a position primarily for delay or when the taxpayer's position is found to be frivolous or without reasonable basis. It also permits the Secretary of Finance to assess a \$500 penalty whenever a taxpayer files a return that does not contain information sufficient to permit the Secretary to judge the substantial correctness of the return or when the return indicates on its face that it is incorrect and, in either case, evidences a position that is frivolous or a desire to delay or impede the administration of the income tax laws. The same penalty may also be assessed when a withholding certificate is issued by a taxpayer for which there is no reasonable basis. This act was effective July 8, 1987.

2. Inspection of Returns by the Department of Labor. - House Bill No. 264; Chap. 102, Vol. 66, Laws of Delaware, allows the Delaware Department of Labor to inspect any return filed with the Division of Revenue so long as use of the information falls within the statutory authority of the Department of Labor. This act was effective July 8, 1987.

3. Waivers of Statutes of Limitations. - House Bill No. 267; Chap. 103, Vol. 66, Laws of Delaware, provides statutory authority for the taxpayer and the Division of Revenue to agree to waive the applicable statutes of limitation on the assessment

or determination of license, realty transfer, public accommodations, and affiliated finance company taxes. This act was effective July 8, 1987.

4. Public Utilities Tax Administration. - Senate Bill No. 201; Chap. 119, Vol. 66, Laws of Delaware, provides administrative procedures for the public utility tax similar to those that apply to the corporation income tax. This act was effective July 8, 1987.

5. Appeal and Refund Provisions Modified. Senate Bill No. 202; Chap. 120, Vol. 66, Laws of Delaware, amends various provisions of the Code to clarify the fact that disputes regarding all assessments or disallowances of refund claims regarding any taxes are to be addressed first to the Director for administrative review and only if not satisfactorily resolved at that level to be appealed to the Tax Appeal Board. In addition, the act created authority to issue refunds with regard to the public accommodations tax. This act was effective July 8, 1987.

6. Civil Penalties Created. - House Bill. No. 266; Chap. 130, Vol. 66, Laws of Delaware, provides new civil penalties for various taxes as follows:

a. When a personal income tax return is required to be filed but there is no tax owing and a return is not filed, the penalty is \$35 or the refund that is due to the taxpayer whichever is less.

b. For late filing of tobacco products tax returns, the penalty is \$15 per day for the period of non-filing. (The penalty was heretofore \$1 per day.)

c. For non-payment of the realty transfer tax where the nonpayment is due to negligence or intentional disregard of rules and regulations, the penalty is 10% of the additional tax determined to be due.

d. For the public utility tax:

1. The penalty for not filing a required return is 5% per month (up to 50%) based on the amount required to be shown on the return.

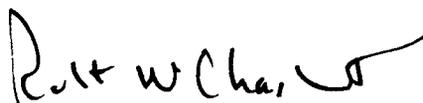
2. For failure to pay the amount shown on the return, 0.5% per month (up to 25%) during which the failure continues.

3. When any additional tax is determined to be due and the deficiency is attributable to negligence or intentional disregard of rules and regulations, the penalty is 10% of the additional tax determined to be due.

4. When any part of additional tax is determined to be due and the deficiency is attributable to fraud, the penalty is 100% of the additional tax determined to be due.

This act was effective July 10, 1987.

7. Penalties of Perjury. - Senate Bill No. 204; Chap. 161, Vol. 66, Laws of Delaware, expands the applicability of criminal penalties for making a false statement on a tax document or return to all taxes administered by the Division of Revenue. Prior to this Act, the penalties pertained only to the personal income tax. This act was effective July 13, 1987.



Robert W. Chastant
Director of Revenue