



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 88-1

January 22, 1988

SUBJECT: Tax Year 1987 Personal Income Tax Returns

This important notice signals one clarification and one correction to the 1987 Delaware Personal Income Tax Return. It also contains a reminder for tax preparers.

Individual Retirement Accounts

Questions have arisen regarding the applicability of line 18a and the worksheet on pages 3 and 4 of the Instructions when a spouse is not an active participant in an employer maintained retirement plan. In such an event, it is not necessary to modify federal adjusted gross income for that spouse. No entry will then be made on line 18a for that spouse, even if separate or combined separate returns are filed. If neither spouse is an active participant in an employer-maintained retirement plan, then no entry should be made for either spouse.

On the other hand, if a spouse was an active participant in an employer-maintained retirement plan, and if a joint federal and separate or combined separate Delaware returns are filed, then the worksheet should be completed and an entry made on line 18a in the appropriate column.

Rental Real Estate Losses

The Instructions for line 18b contain an error. Correction is needed because certain passive real estate losses that are disqualified by separate filing (the \$25,000 federal allowance) may be eligible for the 65% phase-out allowance deduction in 1987. The correct procedure for determining the entry for line 18b when joint federal and separate or combined separate Delaware returns are submitted and when the spouses did not live apart during the tax year is as follows:

1. Determine the amount on line 19 of the federal joint Form 8582 that is attributable to each spouse. If property is held jointly or by the entireties, 50% of the joint amount is attributable to each spouse.

2. Prepare a Form 8582 for the spouse or spouses who would be entitled to claim a loss on separate federal returns. The Form

("Delaware 8582") should be designated, as appropriate: "HUSBAND," "WIFE," or "BOTH" and should be filed with the Delaware return. It should be prepared according to federal instructions on the assumption that separate federal returns are being filed.

3. The difference between these amounts should be entered on line 18b of the Delaware return. See the following worksheet:

WORKSHEET FOR LINE 18b

	<u>Column A</u>	<u>Column B</u>
1. Amount from line 19 of federal Form 8582 allocated to each spouse (see paragraph 1)	_____	_____
2. Amount from line 19 of Delaware Form 8582 on assumption of separate federal filing (see paragraph 2)	_____	_____
3. Subtract 2 from 1 and enter on line 18b	_____	_____

Reminder

Tax preparers are alerted to the importance of affixing Division of Revenue supplied labels to Delaware returns if the labels supplied are correct. Because a more streamlined procedure applies to labeled returns, refunds for such returns are often issued more quickly when the label is used.

In addition, photocopied returns should be examined carefully by preparers to insure their legibility. Illegible or barely legible returns cannot be processed without substantial delays.



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