



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
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**DIVISION OF REVENUE**

**August 26, 1996**

**TECHNICAL INFORMATION MEMORANDUM 96-8**

**SUBJECT: Tax Law Changes Enacted During the 1996 Regular Session of the Delaware General Assembly.**

**PERSONAL INCOME TAX**

**Personal Income Tax Rate Cut - Senate Bill No. 482 and House Bill No. 713**, Chaps. 454 & 455, Vol. 70, Laws of Delaware, reduced personal income tax rates an average of 3% across all tax brackets.

For tax years beginning after December 31, 1996, the amount of tax is reduced as follows from:

3.2% to 3.1% for taxable income of \$2,000 - \$5,000;  
5.0% to 4.85% for taxable income of \$5,000 - \$10,000;  
6.0% to 5.8% for taxable income of \$10,000 - \$20,000;  
6.35% to 6.15% for taxable income of \$20,000 - \$25,000;  
6.65% to 6.45% for taxable income of \$25,000 - \$30,000; and  
6.9% for taxable income in excess of \$30,000.

These Acts also allow the Division of Revenue to extend its tax tables from \$40,000 to \$60,000 making it easier for taxpayers to calculate their tax liability.

**Increases to the Deductibility of Health Insurance Premiums for Self-Employed Persons - Senate Bill No. 335**, Chap. 483, Vol. 70, Laws of Delaware, allows self-employed persons, including shareholders of more than 2% of the stock of a Subchapter S Corporation, to deduct the full amount of their health insurance premiums. This contrasts with the present deductibility of 30% of premiums by virtue of piggy-backing on federal itemized deductions and a Delaware-

specific deduction of 50% of the premiums.

This Act is effective for tax years beginning after December 31, 1995.

**Personal Income Tax Exemption on Early Distributions - House Bill No. 715**, Chap. 495, Vol. 70, Laws of Delaware, exempts from state personal income tax early distributions from certain retirement plans to the extent such distributions are applied within the tax year of the distributions for books, tuition, or fees at an institution of higher education attended by the taxpayer, or the taxpayer's dependents who are under 26 years of age. Qualifying for the exemption are distributions received from qualified retirement plans as defined in § 4974 of the Internal Revenue Code, cash or deferred arrangements described in § 401(k) of the Internal Revenue Code, and governmental deferred compensation plans described in § 457 of the Internal Revenue Code. Such distributions must be included in the taxpayers federal adjusted gross income.

This Act is effective for tax years beginning after December 31, 1995.

**Correction to Earlier Legislation That Extends the Personal Tax Credit to Nonresidents - Senate Bill No. 271**, Chap. 297, Vol. 70, Laws of Delaware, corrects an inadvertent omission in previously enacted legislation and allows the \$100 personal credit, in lieu of the personal exemption, to be applied to nonresidents in proportion to their Delaware source income.

This Act shall be effective for tax years beginning after December 31, 1995.

**Additional Check-off on the State Tax Return - Senate Bill No. 405**, Chap. 472, Vol. 70, Laws of Delaware, creates an additional check-off for the Delaware Personal Income Tax Return for Breast Cancer Education and Early Detection.

This Act is effective as of the date of enactment - July 9, 1996.

## GIFT TAX

**Change of Due Date of Gift Tax Return - House Bill No. 216 as amended**, Chap. 368, Vol. 70, Laws of Delaware, changes the due date for filing Gift Tax Returns from the 15th to the 30th day of April following the close of the calendar year to coincide with the filing deadline for the personal income tax return.

This Act is effective as of the date of enactment - June 18, 1996.

## WITHHOLDING TAX

**Withholding Lookback Period Established - SS1 for Senate Bill No. 281.** Chap. 371, Vol. 70, Laws of Delaware, simplifies the filing of withholding taxes for businesses. The Act: (1) changes the thresholds for the various frequencies for which this tax is required to be reported and paid over; (2) establishes a "lookback period" whereby an employer's filing frequency would depend upon its prior-year schedule; and (3) piggybacks federal requirements for electronic filing.

**CHANGE IN FILING THRESHOLDS** - This legislation changes the thresholds for filing withholding taxes. The dividing line between monthly and eighth-monthly filing is lowered from \$5,000 per month to \$20,000 in annual liability. The threshold for distinguishing quarterly from monthly filers is \$3,600 per year versus the present \$300 per month.

**CHANGE IN DUE DATES** - Quarterly returns are due no later than the last day of the month following the close of each calendar quarter.

Monthly returns are due on or before the 15th day of the month following the end of such month. (No change.)

Eighth monthly returns are due on the 3rd, 7th, 11th, 15th, 19th, 22nd, 25th, and the last day of the month. (No change.) However, eighth monthly filers must now file a return whenever tax is due during any of the above pay periods. Previously, returns were only due when the tax cumulatively exceeded \$5,000 during any month.

**LOOKBACK PERIOD** - Under current law, an employer can file quarterly, monthly, or eighth-monthly (based on eight time periods per month) depending on withholding tax liability, which can change monthly. This bill establishes a "lookback" system, similar to business gross receipts taxes, whereby an employer's payment schedule for the year would be based on its prior-year filings. The lookback period is a twelve-month period between July 1 and June 30 immediately preceding the calendar year for which the lookback period is determined. Thus, the lookback period for calendar year 1997 withholding will be the period July 1, 1995 through June 30, 1996.

**MANDATORY ELECTRONIC FUNDS TRANSFER** - This bill piggybacks the federal IRS regulations relating to mandatory electronic funds transfer (EFT). Any employer required to deposit federal employment taxes by electronic funds transfer will be required to deposit Delaware withholding taxes by electronic funds transfer. The effective date for this new requirement is one year after the employer is required to deposit the federal funds electronically. For example, an employer who is required to deposit federal employment taxes by EFT on January 1, 1996, will be required to deposit Delaware withholding taxes by electronic funds transfer on January 1, 1997.

This Act shall be effective for tax periods beginning January 1, 1997.

## BUSINESS LICENSES and GROSS RECEIPTS TAX

**Reduces the Gross Receipts Tax Rates and Creates a Separate License and Gross Receipts Tax Category for Grocery Supermarket Retailers - Senate Bill No. 481**, Chap. 484, Vol. 70, Laws of Delaware, reduces business and occupational gross receipts tax rates by an average 4% across-the-board and creates a category for license and gross receipts tax purposes for grocery supermarket retailers.

**GROSS RECEIPTS TAX RATE REDUCTION** - Tax rates are reduced by 4% across-the-board on gross receipts received after December 31, 1996.

### **GROCERY SUPERMARKET RETAILERS**

*Gross Receipts Tax* - This Bill also creates a category for license and gross receipts tax purposes for grocery supermarket retailers and creates a graduated set of gross receipts tax rates for these businesses. The rates are 0.384% of the first \$2 million of taxable gross receipts per month and 0.720% of all additional gross receipts per month.

*Annual License Fee* - The license fee, renewable on or before December 31 of each year, is \$75 for the first location and \$25 for each separate branch or location.

*Defined* - A grocery supermarket is defined as a store occupying an area of more than 6,000 square feet having available for retail sale at least 12,000 different food stock units (SKU's) and, of the food intended for human consumption, no more than 10% of gross receipts is derived from food intended for immediate consumption, and 90% of all sales must be at retail.

This Act will be effective for license years beginning and gross receipts received after December 31, 1996.

**Gross Receipts Tax Exemption for Sales Between Small, Closely Held Firms - House Bill No. 678**, Chap. 489, Vol.70, Laws of Delaware, exempts from business license gross receipts tax transactions between small, closely held firms. To qualify, the subject firms must be 80% owned by the same five or fewer shareholders, or 100% owned by the same family.

Effective for tax periods beginning on or after January 1, 1997.

**Distinguishes "Real Estate Developer" from "Contractor" and Defines Gross Receipts for Each - House Bill No. 453 as amended, Chap. 401, Vol. 70, Laws of Delaware, defines real estate developer, real estate development and differentiates between "developing" and "contracting." This Act also establishes what constitutes the gross receipts for each.**

**REAL ESTATE DEVELOPER AND CONTRACTOR DEFINED** - A real estate developer is one who acquires land, improves the land and/or its structures, and sells the land with the structure to customers. A contractor is one who furnishes labor or both labor and materials in connection with all or any part of construction, alteration, repairing, dismantling or demolition of buildings, roads, ridges, viaducts, sewers, water and gas mains, and every other type of structure as an improvement, alteration or development of real property.

**GROSS RECEIPTS FOR CONTRACTOR AND REAL ESTATE DEVELOPER**

A Contractor's gross receipts include all sums received for any work done or materials supplied in connection with any real property located in the State, but does not include, under certain circumstances, sums paid to subcontractors by the contractor. The gross receipts of a "real estate developer" include all sums received from the sale of real property with structures (commercial and/or residential) built thereon reduced by certain costs as defined by this Act.

**ELECTION** - In lieu of deducting the actual cost of land and improvements, the developer may, at his/her sole option, elect for a particular tax year to reduce sums received from the sale of real property (including the structure built by a real estate developer) by the assumed cost of land, improvements to the land, and miscellaneous expenses equal to 30% of the gross proceeds from the sale. The election must be made annually for each tax year and each piece of real property or development. The election is in such form as the Director of Revenue shall prescribe. The election is irrevocable unless waived by the Director.

This Act is effective for gross receipts received after June 30, 1993.

**Business License Denied to Individuals Delinquent in Child Support - House Bill No. 496 as amended, Chap. 452, Vol. 70, Laws of Delaware.** Individuals delinquent in child support are denied, in addition to a driver's license, any license to practice a profession, business, or occupation issued by the Division of Revenue or the Division of Professional Regulation. This Act further provides that a child support delinquency is the basis for the suspension of such a license or permit. This Act establishes administrative procedures for denial or suspension of licenses including the rights for a hearing and appeal.

This Act shall become effective six (6) months after enactment. It was enacted into law on July 5, 1996.

## UTILITY TAXES

**Public Utility Tax Rate Reduction on Cable Television Communications - House Bill No. 712**, Chap. 485, Vol. 70, Laws of Delaware, reduces the rate of the public utility tax on cable television communications to 2.125% from the current 4.25%.

This Act is effective for all cable television services or commodities distributed on or after October 1, 1996.

**Public Utilities Exemption for State, Federal, and Local Government Facilities - House Bill No. 714**, Chap. 507, Vol. 70, Laws of Delaware, exempts from the public utility tax utilities delivered to the United States or this State or their instrumentalities and agencies; political subdivisions of this State; public school districts in this State; Delaware State University; Delaware Technical and Community College; Delaware Transportation Authority; Delaware Housing Authority; University of Delaware; and the Delaware Solid Waste Authority.

This Act is effective for sales of gas, electric, telephone, telegraph, and cable television commodities and services distributed after December 31, 1996.

## ALCOHOL TAX

**Alcohol Tax Rate Reduction on Spirits - House Bill No. 716**, Chap. 488, Vol 70, Delaware Laws, reduces the tax rate on spirits containing 25% or less ethyl alcohol by volume from \$3.64 per gallon to \$2.50 per gallon. It also reduces the tax rate on spirits containing more than 25% of ethyl alcohol by volume from \$5.46 per gallon to \$3.75 per gallon. This Act shall apply to all spirits purchased and received on or after January 2, 1997. The reduction pertains to inventories purchased and received by licensed Delaware importers on or after November 1, 1996, and which are resting in the State of Delaware on January 2, 1997.

**TAX CREDIT** - A tax credit, applicable for the 1997 tax year only, shall be equal to the difference between the amount of the tax already paid on the inventory and the decreased amount of tax specified in this Act. No carryover of the credit to future years will be permitted.

**SUNSET PROVISION** - The tax rate reduction of this Act expires on December 31, 1999, unless the Alcoholic Beverage Control Commission determines that it has been affirmatively shown, through express findings of fact, that the tax rate reductions in the Act have resulted in a corresponding reduction in retail prices for consumers.

## MISCELLANEOUS

**Extension and Expansion of the Blue Collar Jobs Act - Senate Bill No. 484**, Chap. 487, Vol. 70, Laws of Delaware, extends the effective date of the Blue Collar Jobs Act for five years, allowing new credits to be issued for facilities placed in service before January 1, 2002. This Act increases by \$150 the value of credits for facilities placed in service after December 31, 1996: "Blue Collar" Credits to \$400 from \$250; "Green Industries" and "Brownfields" Credits to \$650 from \$500; and "Brownfields" Credits in Targeted Areas to \$900 from \$750. The Act allows additional industries--aviation service firms, public utility telecommunications providers, and non-custom computer software developers--to qualify for Blue Collar Jobs credits.

**Clarification of Abandoned Property Responsibilities of Credit Unions - House Bill No. 232**, Chap. 298, Vol. 70, Laws of Delaware, clarifies that property held or owned by credit unions will be treated in the same manner as property held or owned by banking organizations.

### **PLEASE NOTE:**

The legislation referenced above will be available on the Division of Revenue Home Page.

<http://www.state.de.us/govern/agencies/revenue/revenue.htm>



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