



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

TECHNICAL INFORMATION MEMORANDUM 98-7

August 7, 1998

SUBJECT: LEGISLATION ENACTED DURING THE SECOND SESSION OF THE 139th DELAWARE GENERAL ASSEMBLY.

The following describes legislation enacted during the Second Session of the 139th Delaware General Assembly.

I. Personal Income Tax.

Miscellaneous housekeeping provisions. H.B. No. 605, 71 Del. Laws ch. 314, enacted two housekeeping provisions pertaining to the personal income tax:

1. Imposes a penalty on employers required by Delaware law to deposit withholding taxes by electronic means. The penalty is the lesser of 5% of the amount that should have been electronically transferred or \$500. (Effective January 1, 1999.)
2. Eliminates a duty on the part of non-Delaware partnerships to file a copy of federal schedule K-1 for partners who are Delaware residents. (Effective tax year 1998.)

✓ **Increase in pension exclusion.** H.B. No. 770, 71 Del. Laws ch. 352, increases to \$5,000 from the present \$3,000 the amount of income that may be excluded from tax for distributions from pensions and other "eligible retirement income." (Effective tax year 1999 and thereafter.)

✓ **Decrease in Personal Income Taxes and Streamlining of Returns.** Senate Bill No. 434, 71 Del. Laws ch. 347; and House Bill No. 769, 71 Del. Laws ch. 350, enact several changes to the personal income tax:

1. Effective tax year 1999:
 - A. Reduction in tax rates in all brackets by at least 0.50 percentage points.

- B. Reduction in the top rate to 6.4% from its present 6.9%. The top rate begins at \$60,000.
 - C. Increase in the standard deduction to \$3,250 (\$1,300 presently) for a single person; \$4,000 (\$1,600 presently) for joint returns and \$2,000 (\$800 presently) for married persons filing separate returns.
 - D. Increase in the extra standard deduction for persons age 65 or over, or blind, to \$2,500 from its present \$1,000.
 - E. Conforming of filing thresholds to the above deductions.
2. Effective tax year 1998:

Allows a husband and wife filing joint federal returns and separate Delaware returns to use items of deduction from their joint federal return as the starting point for calculating their state deduction, rather than requiring recalculation of the federal return on the premise of separate filing. To this extent, the amendment reverses the result in Burpulis v. Director, Del. Supr., 498 A.2d 1082 (1985).

II. Corporation Income Tax

✓ **Miscellaneous housekeeping provisions.** H. B. No. 605, 71 Del. Laws ch. 314, enacts two provisions pertaining to corporation income tax:

- 1. Exempts from the corporation income tax income of homeowners' associations. Effective upon enactment into law, June 25, 1998.
- 2. Allows facilities acquired through a purchase of assets to continue to qualify for credits as a "qualified facility" for purposes of "Blue Collar" incentives under 30 Del. C. § 2011 and § 2012. Effective for the periods during which the "Blue Collar" Act shall have been in effect, subject to applicable statutes of limitations.

III. Realty Transfer Tax.

Decrease in State tax rate. H.B. No. 757, 71 Del. Laws ch. 349, permits local jurisdictions to impose a tax on realty transfers at a rate of up to 1.5% of value. Whenever the local tax is at least 1.5%, the state rate is reduced to 1.5% from its present 2.0%. (Effective June 20, 1998.)

IV. Inheritance and Estate Taxes.

Repeal of Inheritance Tax. H.B. No. 771, 71 Del. Laws ch. 353, repeals the inheritance tax and makes various conforming changes to the Delaware Code. It provides for imposing an estate tax on estates of resident and non-resident decedents who have estates large enough to require filing a federal estate tax return. The estates of non-resident decedents would be taxable on a pro-rated share of their taxable estate attributable to real and tangible personal property in Delaware at the time of death. (Effective for decedents dying after December 31, 1998.)

V. License and Gross Receipts Taxes.

✓ **Various housekeeping provisions enacted.** H.B. No. 605, 71 Del. Laws ch. 314, enacted various housekeeping provisions pertaining to license and gross receipts taxes:

1. Imposes a \$15 fee for replacement of a lost or stolen business license (Effective upon enactment, June 25, 1998.)
2. Increases to \$8,500 from the present \$3,000 the amount of retail gross receipts that may be received by an occupational or professional service licensee without being required to obtain a retailer's license. (Effective January 1, 1999.)
3. Allows facilities acquired through a purchase of assets to continue to qualify for deductions as a qualified facility for purposes of "Blue Collar" incentives under 30 Del. C. § 2011 and § 2012. (Effective for the periods during which the "Blue Collar" Act shall have been in effect, subject the applicable statute of limitations.)

✓ **Increase in excluded amounts and relaxation of certain filing requirements.** S. B. No. 387, 71 Del. Laws ch. 351, standardizes the amounts excluded for calculation of the gross receipts tax to \$50,000 per month or \$150,000 per quarter for all categories other than manufacturers (which was increased to \$1,000,000 per month from its present \$600,000). The act also increases thresholds for non-manufacturing categories such that firms averaging less than \$240 in monthly taxes will be allowed to file quarterly. Additionally, the Act changes the due date for quarterly gross receipts returns from the 20th of the month following the close of the quarter to the last day of that month. (Effective January 1, 1999.)

✓ **Exemption of receipts of certain non-U.S. corporations.** H.B. No. 694, 71 Del. Laws ch. 440, exempts from the wholesalers gross receipts tax amounts received by a non- U.S. corporation from a related corporation commercially domiciled in Delaware for the sale of active ingredient or formulated active ingredient to be formulated or packed into a finished ethical pharmaceutical product within the State of Delaware by the

Delaware commercially domiciled corporation. (Effective upon enactment into law, July 14, 1998.)

Exemption of leases of equipment, etc., used in agricultural production. H.B. No. 487, 71 Del. Laws ch. 439, exempts from the 1.92% tax on lessees, amounts received from rentals of equipment, machinery, fixtures, buildings and/or non-registered vehicles used in agricultural production. (Effective for rents received on or after January 1, 1999.)

VI. Miscellaneous.

Various Housekeeping Provisions Enacted. H.B. No. 605, 71 Del. Laws ch. 314 enacted the following housekeeping provisions (Effective upon enactment, June 25, 1998):

1. Adds the District of Columbia and U.S. possessions and territories to the list of jurisdictions with which the Delaware Division of Revenue may share tax return information.
2. Creates a presumption that change of address notices received directly or indirectly from the U.S. Postal Service constitutes a correct address to which the Division of Revenue may send notices. The taxpayer can rebut the presumption by showing that the change of address did not reflect his actual address and that the address he had given the Division of Revenue was a better address.

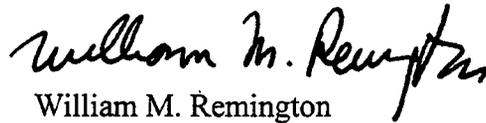
Collection of debts for the University of Delaware. H.B. No. 373, 71 Del. Laws ch. 330, allows the Division of Revenue to enter into an agreement with the University of Delaware for collection by the Division of Revenue of certain debts owed the University. (Effective upon enactment into law, June 29, 1998.)

Gift Tax Repeal Conformity. S.B. No. 346, 71 Del. Laws ch. 385, conforms various provisions of the Delaware Code to the repeal of the gift tax effective for gifts made after December 31, 1997.

Reciprocal Collection of Tax Claims. S.B. No. 347, 71 Del. Laws ch. 386, establishes the authority and procedures for cooperating with other states and the federal government in the reciprocal collection of one another's tax debts from tax refunds. (Effective upon enactment, July 8, 1998.)

Administration of Harness Racing and Horse Racing Taxes and Fees. H. B. No. 745, 71 Del. Laws ch. 414, among other changes to the regulation of harness and horse racing, commits enforcement of taxes and license fees imposed under chapters 100 and 101 of Title 3, Delaware Code, to the Division of Revenue. (Effective upon enactment into law, July 13, 1998.)

Exemption of unclaimed electric utility capital credits from the abandoned property law. H.B. No. 730, 71 Del. Laws ch. 448, exempts certain unclaimed retired cooperative electric utility capital credits from reporting and remittance requirements under the abandoned property laws (12 Del. C. ch. 11) provided, among other requirements, such amounts are used to fund low income energy assistance programs in its service area and to make donations to non-profit charitable and community organizations. (Effective for capital credits retired on or after January 1, 1999.)



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