

DEPARTMENT OF FINANCE

DIVISION OF REVENUE

Statutory Authority: 30 Delaware Code, Section 354 (30 Del.C. §354)

TECHNICAL INFORMATION MEMORANDUM 2010-01

DATE: July 1, 2010

SUBJECT: Legislation passed during the Second Session of the 145th Delaware General Assembly.

During the Second Session of Delaware's 145th General Assembly, ending June 30, 2010, eight (8) bills were enacted of interest to or having an impact on Delaware taxpayers and/or the state's Division of Revenue. The subjects of these bills range from the establishment of Delaware's \$0.04 Bottle Recycling Fee (HB 234) to the destruction of seized tobacco products (HB 408).

Legislation significant to Delaware's Division of Revenue has been summarized below and is divided into two categories for retrieval ease:

Legislation directly affecting tax procedures and filing requirements for businesses and individuals in the upcoming year; and

Legislation implementing broad policy changes or altering Division of Revenue processes with little to no effect on tax-filing requirements for the upcoming year.

Bills in their entirety may be viewed on the Delaware General Assembly website: www.legis.delaware.gov.

This memorandum is intended for general notification and explanation of recently enacted Delaware laws and should not be relied upon exclusively in any pending or future audit or judicial review of an individual taxpayer or transaction. Taxpayers are advised to consult the particular bill, the Delaware Code, or Delaware regulations in all matters conflicting with any part of this memorandum.

Taxpayers with general questions about the application of Delaware law and procedures may call the Division of Revenue Help Line at (302) 577-8200, or visit the Division's website at www.revenue.delaware.gov where information about tax topics and links to phone numbers for other information may be found.

(I) Legislation directly affecting tax procedures and filing requirements for businesses and individuals in the upcoming year:

Senate Bill # 209 w/SA 1 + HA 1

Signed by Governor on 07/19/10

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE PROVIDING FOR AN EXTENSION OF THE HISTORIC PRESERVATION TAX CREDIT ACT.

This Act provides for a 10-year extension to the Historic Preservation Tax Credit Act which was scheduled to expire in June 2010. Seventy-five (75) historic buildings throughout the State have been rehabilitated and preserved for future generations as a result of this program. Since its inception in 2001, the State has awarded \$34 million in tax credits that have leveraged more than \$166 million in private-sector rehabilitation expenditures plus additional tens of millions in site acquisition investments. These investments have produced an estimated 2,400 jobs in Delaware – most of them in the construction trades and related industries.

Senate Bill # 234

Signed by Governor on 06/08/10

AN ACT TO AMEND TITLES 7 AND 30 OF THE DELAWARE CODE RELATING TO RECYCLING AND BEVERAGE CONTAINERS.

This legislation establishes Universal Recycling in Delaware. It requires DSWA to cease collecting curbside recyclables by a date certain and requires the implementation of comprehensive residential and commercial recycling programs by municipalities and waste haulers. It establishes the Delaware Recycling Fund and the Recycling Grants and Low-Interest Program to defray the costs of implementation, and funds, with funding derived by the conversion of the current 5¢ bottle deposit to a 4¢ Recycling Fee on beverage containers. It also establishes reporting requirements, establishes the Recycling Public Advisory Council in law, and ensures that DSWA provides a location in each county to accept source separated recyclables.

House Bill # 335

Signed by Governor on 04/14/10

AN ACT TO AMEND CHAPTER 11 OF TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX RETURNS.

This Act directs the Secretary of Finance to develop the means by which individuals can deposit their State income tax return directly into a Delaware College Investment Plan account.

House Bill 349

Signed by Governor on 06/11/10

AN ACT TO AMEND TITLES 9 AND 30 OF THE DELAWARE CODE RELATING TO WITHHOLDING OF TAX ON GAINS FROM REAL ESTATE.

Resident individuals and corporations are currently required to estimate, report, and pay the tax due on income, including gains recognized from the sale of real estate, in the quarter during which the sale occurs.

This Bill will require nonresident persons, corporations or pass-through entities that sell real estate owned in this State to declare and pay their estimate of the tax due on the gain recognized from the sale before the deed can be recorded.

The Bill does not apply to estates or to entities classified as a trust for federal income tax purposes, but does apply to the members, beneficiaries or grantors of entities disregarded for federal income tax purposes.

This Bill will facilitate the reporting and collection of the tax, and the administration of the tax code.

House Bill # 380

Signed by Governor on 06/16/10

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO ECONOMIC DEVELOPMENT INCENTIVES.

This proposed tax credit intends to create incentives for existing businesses to partner with the State in the effort to create new employment opportunities for Delaware citizens, and to stimulate the Delaware economy by expanding the tax base. A finder's fee, a tool used commonly by businesses, is an arrangement by which an intermediary finds, introduces, and brings together parties to a business opportunity. This bill creates a tax credit program that would award each Sponsor Firm and each New Business Firm with a \$500 annual tax credit per Delaware job created by the new business, with the tax credit available for three years. The program would require that the new business be brought to Delaware as a result of the efforts of the sponsor, and would specifically exclude those business, such as real estate agents, banks and commercial landlords, that already have an incentive to bring out-of-state business to Delaware.

House Bill 477

Signed by Governor on 07/19/10

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATED TO THE DELAWARE WHOLESALE LICENSE FEE.

This legislation clarifies that a pharmaceutical wholesaler located inside or outside of the state that ships pharmaceutical drugs to a pharmaceutical distribution wholesaler located in this state is exempt from the gross receipts tax.

(II) Legislation implementing broad policy changes or altering Division of Revenue processes with little to no effect on tax-filing requirements for the upcoming year:

House Bill # 334 w/HA 1, HA 1 to HA 1

Signed by Governor on 07/12/10

AN ACT TO AMEND TITLE 30 AND TITLE 31 OF THE DELAWARE CODE RELATING TO THE DELAWARE CHILDREN'S TRUST FUND ACT.

This Bill removes the Delaware Children's Trust Fund as a contribution designation for income tax refunds, and removes the establishment and function of the Trust Fund from the Delaware Code. The Trust Fund has been defunct for several years.

House Bill 408

Signed by Governor on 07/02/10

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TOBACCO PRODUCT TAX.

The Act requires the destruction of any tobacco products forfeited for violations of §5342 of Title 30, which prohibits the possession of more than 10 packs or packages of untaxed tobacco. Current law requires the Department of Finance to sell any forfeited tobacco products by sealed bid to the highest bidder.

Patrick Carter
Director of Revenue

14 DE Reg. 490 (11/01/10) (Gen.)