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# Section 7

# State Taxes

DELAWARE



FISCAL NOTEBOOK

2005 Edition

Department of  
Finance

## ALCOHOLIC BEVERAGE TAX

### STATUTORY PROVISION

Title 4, Delaware Code Chapter 5.

### COLLECTION/ADMINISTRATIVE AGENCY

The Delaware Division of Revenue administers and collects all taxes due under the alcoholic beverage tax code. The Alcoholic Beverage Control Commission (ABCC) regulates and licenses firms that sell or distribute alcohol.

### GENERAL LIABILITY

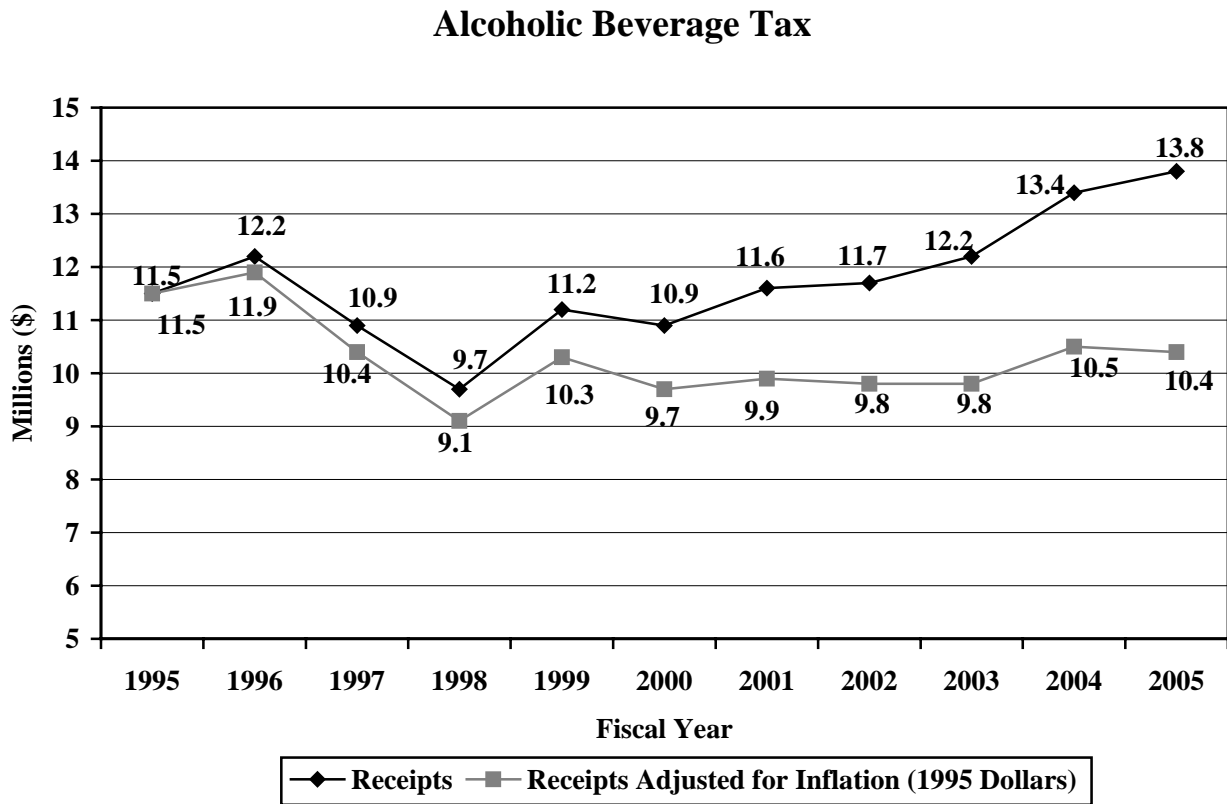
All alcoholic liquors purchased and received from a manufacturer or imported are subject to the excise tax imposed by the Liquor Control Act when at rest in the State. Taxes are levied on a gallon or barrel basis, with rates varying according to the category of alcoholic beverage. Alcohol intended for sacramental, medical, veterinary, pharmaceutical, scientific, or manufacturing use is exempt from tax.

### TAX RATES

TYPE OF ALCOHOL	TAX RATE
Beer	\$4.85 per barrel (31 gallons/barrel)
Cider	\$0.16 per gallon
Wine	\$0.97 per gallon
Distilled spirits with 25% or less ethyl alcohol by volume	\$2.50 per gallon
Distilled spirits with more than 25% ethyl alcohol by volume	\$3.75 per gallon
For each gallon of alcohol per gallon of ethyl alcohol contained	\$4.85 per gallon

## ALCOHOLIC BEVERAGE TAX

### TAX RECEIPTS



### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
-	5/11/70	Lowered to 21 the minimum age at which a person may sell, handle, or serve alcoholic beverages (was 25). Prohibited the employment of persons less than 21 years old in licensed hotels, restaurants, and clubs with authorization of the ABCC (57 Del. Laws c 418).
7/30/71	8/15/71	Increased the tax on liquor with 25% or less ethyl alcohol to \$1.50 per gallon, from \$0.90 per gallon. Increased the tax on liquor with more than 25% ethyl alcohol to \$2.25 per gallon, from \$1.65 per gallon (58 Del. Laws c 294).
-	10/1/72	Decreased the tax on wine to \$0.40 per gallon, from \$0.80 per gallon (58 Del.

## ALCOHOLIC BEVERAGE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Laws c 584).
-	6/25/73	Required persons selling any alcoholic beverage intended for importation in Delaware to obtain a supplier's license from the ABCC (subject to certain exemptions) (59 Del. Laws c 107).
-	2/7/76	Allowed refunds of any taxes paid by an importer or wholesaler on beer sold to an instrumentality of the U.S. Armed Forces (60 Del. Laws c 322).
7/20/84	7/20/85	Added a license fee of \$500 for cabarets (64 Del. Laws c 437). Added a license fee of \$225 for restaurants that sell only wine (64 Del. Laws c 436; SB 488).
7/12/85	7/12/85	Added a license fee of \$250 to sell beer and/or wine at a restaurant (65 Del. Laws c 152; SB 100).
6/15/86	6/18/86	Added a license fee of \$50 for retail liquor stores that hold "no charge" wine-tasting sessions on their premises (65 Del. Laws c 283; SB 251).
6/29/90	9/1/90	Increased by 143% the tax rates on all alcoholic beverages. Beer tax to \$4.85 per barrel; wine to \$0.97 per gallon; spirits with 25% or less alcohol to \$3.64 per gallon; and spirits with more than 25% alcohol to \$5.46 per gallon (67 Del. Laws c 258; HB 771).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Title 30, Chapter 5 (68 Del. Laws c 187; HB 281).
2/11/92	2/11/92	Created a \$1,000 license fee for a brewery pub (68 Del. Laws c 205; HB 302).
4/6/93	4/6/93	Introduced a \$1,000 biennial license to sell beer, wine, and spirits at multi-purpose sports facilities (69 Del. Laws c 6; HB 86).
7/11/96	1/2/97	Reduced the tax rates on distilled spirits as follows: spirits containing 25% or less ethyl alcohol to \$2.50 per gallon, from \$3.64 per gallon; spirits containing more than 25% alcohol reduced to \$3.75, from \$5.46 per gallon (70 Del. Laws c 488; HB 716).
7/18/96	7/18/96	Introduced a tax rate of \$0.16 per gallon of cider (70 Del. Laws c 559; HB 572).
7/17/97	8/16/97	Added a license fee for a brewery or microbrewery manufacturing beer or

## ALCOHOLIC BEVERAGE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		cider: \$1,000 if manufacturing less than 25,000 barrels per year; \$2,000 if manufacturing more than 25,000 but less than 50,000 barrels per year; \$4,000 if manufacturing more than 50,000 but not more than 100,000 barrels per year; \$6,000 if manufacturing more than 100,000 barrels per year (71 Del. Laws c 211; HB 132 ).
7/16/97	7/16/97	Created an additional class of retail liquor license for certified air passenger carriers maintaining and operating a warehouse storage facility in the state where alcoholic liquors are stored to restock liquor carts on aircraft. The license fee is \$500 (71 Del. Laws c 182; HB 353).
6/25/98	6/25/98	Authorized the home-brewing of beer for personal use. Ensured that home-brewed beer was tax-exempt and that it can be transported for personal use in limited quantities (71 Del. Laws c 315; HB 407).
7/8/98	7/8/98	Added a license fee to conduct wine auctions: \$1,000 biennial fee. Permitted non-profit organizations to conduct a wine auction for a fee of \$50 per event (71 Del. Laws c 383; HB 630).
7/23/99	6/1/00	Permitted Delaware residents to make purchases of wine and beer in limited quantities from “direct shipper” manufacturers, importers, and wholesalers (72 Del. Laws c 230; SB 175 w/HA 1 & SA 1).
12/16/99	12/16/99	Alcoholic Beverage Control Commission issued Rule 76 to maintain the tax rates established in 1996 by 70 <u>Delaware Laws</u> Ch. 488.
6/30/00	6/30/00	Entitled importers and wholesalers to a refund of any tax paid to the Department of Finance on alcoholic liquors sold to any instrumentality of the armed forces of the United States (72 Del. Laws c 374; SB 75).
5/15/03	5/15/03	Allowed retail sales of Alcohol between noon and 8 pm on Sundays. Provision is to expire two years after enactment. (74 Del. Laws c 29,;SB 41).
7/1/04	7/1/04	Clarified that only the State of Delaware may impose a license fee or tax on the business of manufacturing, supplying, distributing or selling alcoholic liquor. (74 Del. Laws c 312; HB 359)

### **FILING PROCEDURES**

## **ALCOHOLIC BEVERAGE TAX**

Rules and regulations for the determination, collection and payment of alcohol excise taxes are published and administered by the Delaware Division of Revenue. Manufacturers and distributors of alcoholic liquor intended for sale in the State are required to hold alcohol licenses from the Alcoholic Beverage Control Commission, as well as business licenses from the Division of Revenue. Taxes on beverage alcohol are collected from the importing liquor wholesaler.

In cases in which manufacturers (brewpubs, microbreweries, and farm wineries) sell alcoholic beverages directly to consumers, the tax is paid by the manufacturer. Licensed liquor wholesalers must file with the Division of Revenue certified statements of wine and spirits purchases. Statements must be received by the Division on the third business day following the fifteenth day and the third business day following the last calendar day of each month. Licensed wholesalers must file with the Division of Revenue certified statements of beer purchases by the third business day following the last calendar day of the month.

### **PAYMENT DATES**

Tax payments must be made at the same time certified importation statements are filed with the Division of Revenue.

## **BANK FRANCHISE TAX**

### **STATUTORY PROVISION**

Title 5, Delaware Code, Chapter 11, Sections 1101-1115 provide statutory basis for banks, trust companies, resulting branches in this state of out-of-state banks and federal savings banks not headquartered in this state but maintaining branches in this State. Title 5, Delaware Code, Chapter 18, Sections 1801-1809 provide statutory basis for building and loan associations.

### **ADMINISTRATIVE AGENCY**

The bank franchise tax is administered and collected by the Office of the State Bank Commissioner, a division within the Department of the Secretary of State.

### **TAX CALCULATION**

For banks and trust companies, the bank franchise tax calculation begins with net operating income before taxes as reported on the Dec. 31 call report and includes an adjustment for securities gains and losses and other appropriate adjustments. If an election is made to treat certain corporations as subsidiary corporations for tax purposes, their income is also included. Reductions are allowed for: income from an insurance division or subsidiary; net operating income before taxes from specific subsidiaries that are taxable under Delaware law or the law of any other state, including shares tax; non-United States branch offices; gross income from international banking transactions and facilities; interest income from volunteer fire companies; and examination fees paid to the Office of the State Bank Commissioner. This sum is then multiplied by 0.56 to arrive at taxable income. For resulting branches in this state of out-of-state banks, the calculation of taxable income also includes the addition of an imputed capital add-back.

For federal savings banks not headquartered in this State but maintaining branches in this state, taxable income is equal to the net operating income of the branch or branches located in Delaware before taxes with adjustments for securities gains and losses and other appropriate adjustments. A reduction is allowed for interest income from volunteer fire companies.

Building and loan associations are taxed on net operating income before taxes, defined as total operating income minus total operating expense. Reductions are allowed for net operating income before taxes from specific subsidiaries that are otherwise taxable under Delaware law or the law of any other state, gross income from international banking facilities and transactions, interest income from volunteer fire companies, and examination fees paid to the Office of the State Bank Commissioner. This sum is then multiplied by 0.56 to arrive at taxable income.

The bank franchise tax is paid instead of State corporate income taxes, occupational taxes, and all other State taxes except for real estate.

## **BANK FRANCHISE TAX**

### **TAX RATES**

The rate of tax upon taxable income is as follows:

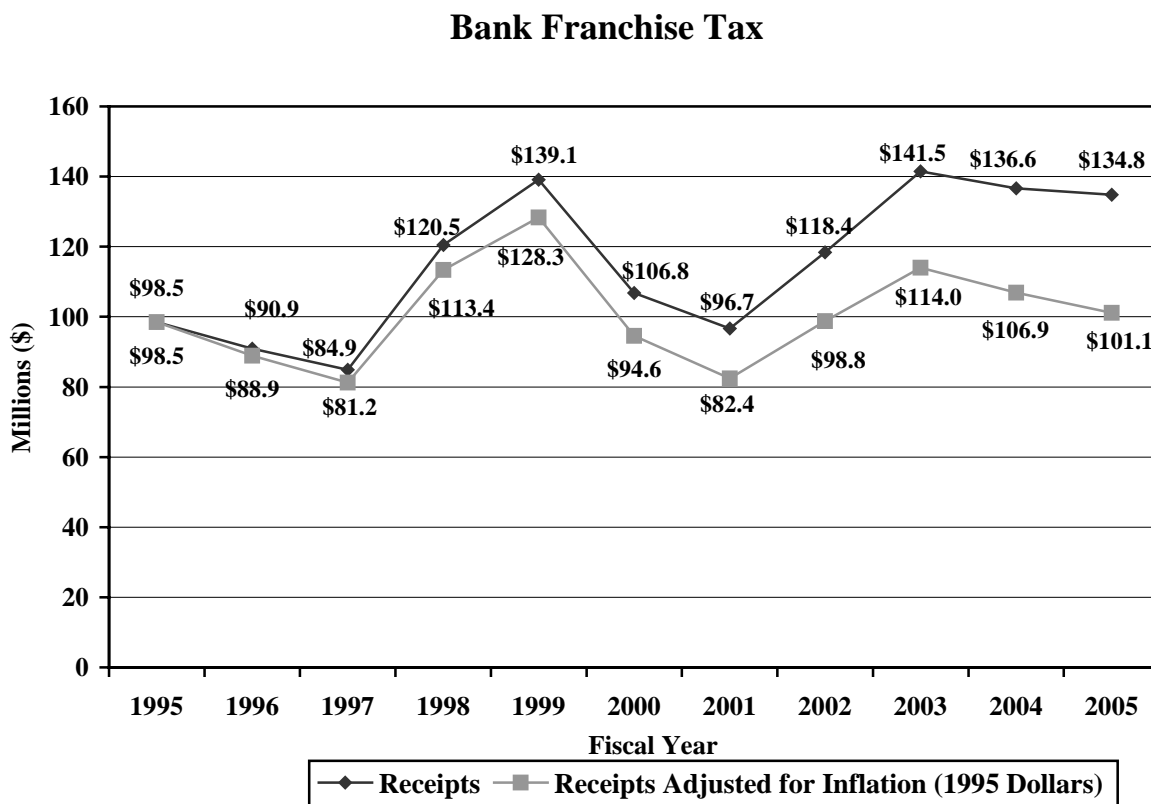
<b>TAXABLE INCOME RANGE</b>	<b>TAX RATE</b>
Not greater than \$20 million	8.7%
\$20 million to \$25 million	6.7%
\$25 million to \$30 million	4.7%
\$30 million to \$650 million	2.7%
Greater than \$650 million	1.7%

### **TAX CREDITS**

The bank franchise tax liability can be adjusted by tax credits. Tax credits available include:

- Travelink tax credits calculated in accordance with Department of Transportation Travelink tax credit reporting requirements;
- An employee tax credit for certain new bank employees, provided the bank creates at least 50 new jobs for qualified employees and invests at least \$15,000 per new qualified employees. See Appendix I (page 173) for a description of the employment and investment incentives commonly referred to as the “Blue Collar Job Act;” and
- A Historic Preservation tax credit as administered by the Delaware State Historic Preservation Office.

## BANK FRANCHISE TAX



### TAX RECEIPTS

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
2/18/81	2/18/81	Adopted Financial Center Development Act which provided for: the acquisition of stock in Delaware banks by out-of-state bank holding companies; the regulation of bank revolving and closed-end credit; the taxation of Delaware banks' income from non-United States branch offices; regressive rates of taxation on net income of banks in excess of \$20 million; the elimination of interest ceilings; refunds of pre-computed interest by the actuarial method; allowances by the Bank Commissioner for a reasonable time for savings bank branch openings; direct or indirect loans to directors and executive officers of banks; the deletion of previously repealed provisions regarding the collection, payment, and dishonor of demand items, and the revocation of letters of credit; the amendment to Title 30 with respect to the taxation of affiliated finance companies (63 Del. Laws c 2).

## BANK FRANCHISE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/30/81	6/30/81	Allowed savings/building and loan associations 75 days after the end of their fiscal year to report net earnings for the previous taxable period and pay the proper amount of tax for said period (63 Del. Laws c 66).
6/6/83	6/6/83	Exempted international banking transactions and international banking facilities from taxation (64 Del. Laws c 43; HB 127).
7/13/83	7/13/83	Computed taxable income by summing: net securities gains or losses before taxes; net operating income before taxes from subsidiaries otherwise taxed under Delaware law; net operating income before taxes as shown on the books of any non-United States branch office (those established pursuant to Title 5, <u>Delaware Code</u> , §771, or federal law). If at least 80% of the gross income constitutes income from international banking transactions or from an international banking facility as set forth in Title 5, <u>Delaware Code</u> , §101. This sum is multiplied by 0.56 to arrive at net taxable income. Amended rules on collections and rates (64 Del. Laws c 160; HB 1 for HB 350).
7/2/84	7/2/84	Excluded interest income from obligations of volunteer fire companies in taxable income (64 Del. Laws c 328; SB 365).
7/20/84	7/20/84	Exempted subsidiaries of banks that are subject to taxation by other states, thereby avoiding double taxation (64 Del. Laws c 442; SB 500).
8/13/84	8/13/84	Allowed any non-bank subsidiary of a Delaware bank to elect to be taxed in accordance with the provisions of Chapter 19 of Title 30 (Corporation Income Tax). If this election is made, the subsidiary is not considered a "subsidiary corporation" for purposes of bank taxation. Such election is not be available to any corporation described in Title 30, <u>Delaware Code</u> , Section 1902(b)(8).  Allowed any corporation which is owned 80% by a bank holding company, and which directly owns all the stock of a Delaware bank, to elect to be treated as a "subsidiary corporation" of a bank. To qualify for this election, the electing corporation and its affiliates must employ at least 200 persons in Delaware by the end of the taxable year following the year in which the election is made (64 Del. Laws c 461; HB 724).
5/18/87	7/1/87	Provided for quarterly estimated tax returns and payment for taxpayers whose annual tax liability exceeds \$10,000 (66 Del. Laws c 23; HB 117).
7/14/88	7/14/88	Changed due dates for estimated payments and established March 1 the due date

## BANK FRANCHISE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		for final payments (66 Del. Laws c 378; HB 634).
6/29/89	6/29/89	Changed tentative return filing date to March 1 of the current income year (67 Del. Laws c 55; SB 216).
7/2/90	7/2/90	Changed the percentage of estimated final liability due with tentative tax returns from 25% on 6/1, 9/1, and 12/1; to 40%, 20%, and 20%, respectively (67 Del. Laws, c 279; HB 773).
2/6/92	1/1/92	Established temporary new employment and health care credits for firms that qualify in 1992 or 1993 (68 Del. Laws c 202; HB 415).
7/2/92	1/1/93	Changed the bank franchise tax base for savings/building and loan associations to taxable income (previously a net earnings basis). Replaced the single 8.7% rate on savings/building and loan associations with a regressive rate structure (8.7% on amounts under \$20 million to 2.7% on amounts over \$30 million). Established a deduction for certain operating income from any subsidiary or foreign branch otherwise subject to income tax and established within the U.S. pursuant to Title 30, <u>Delaware Code</u> Section 771. Imposed the bank franchise tax on federal savings banks not headquartered in Delaware, but maintaining branches in the state. Exempted net earnings derived from banks acting as insurers pursuant to, Title 5, <u>Delaware Code</u> , §761(a)(14); or Title 18, <u>Delaware Code</u> . Increased penalty on underpayment of estimated tax from 1% to 1.5% per month (68 Del. Laws c 303; SB 382).
4/12/95	4/12/95	Clarified that the income from all of the permissible activities of an Edge Act corporation, or from a so-called "agreement corporation" and its subsidiaries, are to be deducted in computing "taxable income" under the Delaware Bank franchise tax; it also clarified that certain limited-purpose Edge Act corporations and their subsidiaries (investment Edge) which satisfy the exemption requirements for an investment holding company under Title 30 may elect to be taxed under Chapter 19 of Title 30, rather than the bank franchise tax (70 Del. Laws c 16; SB 71).
6/28/95	9/29/95	Provided for the taxation of out-of-state banks with branches in Delaware as if those branches constituted separate Delaware banks; and for the taxation of foreign bank limited purpose branches. Required filing of estimated tax returns by banking organizations and federal savings banks not headquartered in Delaware but maintaining branches in Delaware. Made franchise taxes on these banking organizations subject to the same periods of limitation for claims for assessment, credit, or refunds as those in Title 30, <u>Delaware Code</u> , §531 and §539 (70 Del.

## BANK FRANCHISE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Laws c 112; SB 207).
7/11/96	1/1/97	Created a \$400 tax credit for each new bank employees provided the bank creates at least 50 new jobs for "qualified employees" and invests at least \$15,000 per new "qualified employee." Created a new bank franchise tax bracket of 1.7% on taxable income above \$650 million (70 Del. Laws c 486; SB 483).
4/23/97	4/23/97	Provided for: deduction for net operating income before taxes derived from business activity subject to shares tax under the laws of another state; \$25 per day late filing penalty for failure to file an estimated or final franchise tax report; 0.05% per day penalty on late payments and underpayment of estimated tax (71 Del. Laws c 19; SB 44).
5/14/97	9/29/97	Provided for a state-chartered savings bank; reduced fees for new branches of all state-chartered banks, and for bank mergers or conversions; reduced the required number of incorporators for new state-chartered banks from 15 to 3 (71 Del. Laws c 19; SB 67).
7/23/97	1/1/98	Removed the "safe harbor" (which allows banks to make estimated tax payments equal to the previous year's tax liability) for those banks with taxable income of \$200,000 or more in any of the three proceeding years. (71 Del. Laws c 217; HB 257).
4/9/99	1/1/99	Reestablished the safe harbor allowing banks to make estimate tax payments equal to the previous year's tax liability. Clarified that tax returns filed with State Bank Commissioner are subject to the same confidentiality standards as tax returns filed with the Department of Finance. Amended several provisions to achieve conformity with other laws and industry developments (72 Del. Laws c 15; SB 57).
4/9/99	4/9/99	Clarified the confidentiality of bank returns and that the Bank Commissioner has the authority to abate franchise tax assessments under limited circumstances and enter into closing agreements to resolve bank franchise tax issues. Adds §1113 - §1115 and §1807- §1809 (72 Del Laws c 15, SB 57).
5/18/99	5/18/99	Enabled foreign banks to select Delaware as their "home state" under the federal International Banking Act of 1978, which permits the establishment of branches in the State that may engage in a general banking business. (72 Del. Laws c 35; HB 156).

## **BANK FRANCHISE TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/20/99	7/20/99	Amended Travelink program by: adding Welfare-to-Work provisions, updating eligibility requirements, and establishing a \$100,000 annual tax credit cap (72 Del. Laws c 188; HB 292).
7/23/99	7/23/99	Required a separate finance charge by an automobile dealer before a retail transaction is subject to regulation by the State Bank Commissioner (72 Del. Laws c 218; HB 163 with HA 1).
6/20/00	6/20/00	Extended the employment tax credit program for an additional five years through tax year 2006 (72 Del. Laws c 331; HB 550).
7/18/00	1/1/00	Extended the “Blue Collar Jobs” credit program for an additional five years (72 Del. Laws c 442; SB 304).
2/2/01	1/1/01	Established Historic Preservation Credit, which provides a 20% credit for qualified rehabilitation expenditures on properties that qualify for the federal credit, and 30% for those properties that do not qualify for the federal credit. These amounts are increased to 30% and 40% for certain low-income housing projects. Credits granted may not exceed \$3 million in any one fiscal year. (73 Del Laws c 06; HB1 as amended by SA1).
4/17/01	4/17/01	Clarified that the Commissioner is authorized to share information on back franchise tax returns with other tax authorities on a reciprocal basis (73 Del Laws c 24; HB 130).
7/12/05	7/12/05	Increased the annual allocation for Historic Preservation Credits from \$3 million to \$5 million (75 Del. Laws c 152; HB 228).

### **FILING PROCEDURES**

A bank, trust company, resulting branches in this State of out-of-state bank, and federal savings banks not headquartered in Delaware but maintaining branches in Delaware whose franchise tax liability for the current tax year is estimated to exceed \$10,000 must file an Estimated Franchise Tax Report by March 1.

Estimated tax installments are required of taxpayers with an annual tax liability more than \$10,000. The filing of estimated tax liability is due and payable in installments as follows: 40% on June 1; 20% on September 1; and 20% on December 1.

The December 31 call report and the Final Franchise Tax Report are due by January 30 of the succeeding year. The final franchise tax balance must be paid by March 1.

## **BANK FRANCHISE TAX**

Payment of franchise taxes on the income of building and loan associations must accompany the report of net earnings, which is due within 75 days of the end of the association's fiscal year.

### **PENALTIES AND INTEREST**

Late payment penalties are calculated at 0.05% per day that taxes remain unpaid from the original due date.

Additional taxes for underpayment of estimated tax are assessed at 0.05% per day on the amount of underpayment for the period of underpayment.

A \$25 per day late filing penalty is assessed for each day the taxpayer fails to file an estimated or final franchise tax report.

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

### STATUTORY PROVISION

Title 30, Delaware Code, Chapters 20-29, and 43.

### COLLECTION/ADMINISTRATIVE AGENCY

The Department of Finance, Division of Revenue administers and collects the business and occupational license and gross receipts tax.

### GENERAL LIABILITY

Delaware imposes a tax on the gross receipts of most businesses. Business and occupational license tax rates range from 0.096% to 1.92%, depending upon the category of business activity. Unless specified otherwise by statute, the term "gross receipts" comprises the total receipts of a business; no deductions for the cost of goods or property sold, labor costs, interest expense, discount paid, delivery costs, state or federal taxes, or any other expenses are allowed. In instances where a taxpayer derives income from more than one type of activity, separate licenses and gross receipts taxes are required for each activity.

### TAX RATES

\*Rates and Exclusions in parentheses () are effective for tax periods beginning after December 31, 2005.

<u>TITLE 30, DELAWARE CODE; SECTION:</u>	<u>TAX TYPE</u>	<u>ANNUAL FEE</u>	<u>TAX RATE</u>	<u>EXCLUSION</u>
2703	Automobile Manufacturer	\$75 for each place of business	0.180% (0.135%)	\$1,000,000/ month
2502	Contractors	\$75	0.624% (0.499%)	\$50,000/month (\$80,000/month)
2907	Farm Machinery Retailers	\$75 for each place of business	0.096% (0.077%)	\$50,000/month (\$80,000/month)
2903	Food Processors	\$75 for each place of business	0.192% (0.154%)	\$50,000/month (\$80,000/month)
2301(b) & (d)	General Services	\$75 + \$25 for each extra establishment	0.384% (0.307%)	\$50,000/month (\$80,000/month)
2904	Commercial Feed Dealers	\$75 for each place of business	0.096% (0.077%)	\$50,000/month (\$80,000/month)

**BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

<b>TITLE 30, DELAWARE CODE; SECTION:</b>	<b>TAX TYPE</b>	<b>ANNUAL FEE</b>	<b>TAX RATE</b>	<b>EXCLUSION</b>
4305	Lessors	\$75 + \$25 for each extra establishment	0.288% (0.230%)	\$150,000/ quarter (\$240,000)
4302	Lessees	N/A	1.920% (1.536%)	None
4305	Motor Vehicle Lessors	\$75 + \$25 for each extra establishment	0.288%	\$150,000/ quarter (\$240,000)
4302	Motor Vehicle Lessees	N/A	1.920%	None
2702	Manufacturers	\$75 for each place of business	0.180% (0.144%)	\$1,000,000/ month
2301(a) & (d)	Occupations	\$75 + \$25 for each extra establishment	0.384% (0.307%)	\$50,000/month (\$80,000/month)
2906	Restaurant Retailers	\$75 + \$25 for each extra establishment	0.624% (0.499%)	\$50,000/month (\$80,000/month)
2908	Grocery Supermarket Retailers	\$75 + \$25 for each extra establishment	First \$2.0 million @ 0.384% (0.307%); 0.72% (0.576%) in excess of \$2.0 million	\$50,000/month (\$80,000/month)
2905	Retailers	\$75 + \$25 for each extra establishment	0.720% (0.576%)	\$50,000/month (\$80,000/month)
2905 (f) –(g) & 6 Del. Code, Chapter 47	Transient Retailers (defined under 6 Del. Code, Chap 47)	\$75 + \$25 for each extra establishment	0.720% (0.576%)	\$50,000/month (\$80,000/month)
2905(f)-(g)	Transient Retailers <sup>①</sup> (defined under Title 30)	\$25	0.720% (0.576%)	\$3,000
2905 (i)	Transient Nursery Retailers <sup>②</sup>	\$75 for each location the applicant seeks to do business	0.720% (0.576%)	\$3,000

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

TITLE 30, DELAWARE CODE; SECTION:	TAX TYPE	ANNUAL FEE	TAX RATE	EXCLUSION
2902 (b)-(c)(2)	Wholesalers	\$75 for each place of business	0.384% (0.307%)	\$50,000/month (\$80,000/month)
2902 (b)-(c)(4) and 7 Del. Code, § 9114	Petroleum Wholesalers	\$75 for each place of business	1.524 <sup>③</sup> (1.399%)	\$50,000/month (\$80,000/month)
2905 (a)-(b), (h)	Petroleum Retailers	\$75 for each place of business	1.62% <sup>④ ⑤</sup> (1.476%)	\$50,000/month (\$80,000/month)

- ① The maximum length of license is 10 days.
- ② The maximum length of license is 30 days.
- ③ Composite rate includes the General Fund tax of 0.384%, Hazardous Substance tax of 0.9% and the Petroleum Surtax of 0.24%. For tax periods beginning after December 31, 2005 the General Fund and additional Surtax rates will be reduced to 0.307% and 0.192% respectively.
- ④ Composite rate includes the General Fund tax of 0.72%, Hazardous Substance tax of 0.9%. For tax periods beginning after December 31, 2005 the General Fund rate will be reduced to 0.307%.
- ⑤ Tax applies only in the event the petroleum product was not taxed at the wholesale level.

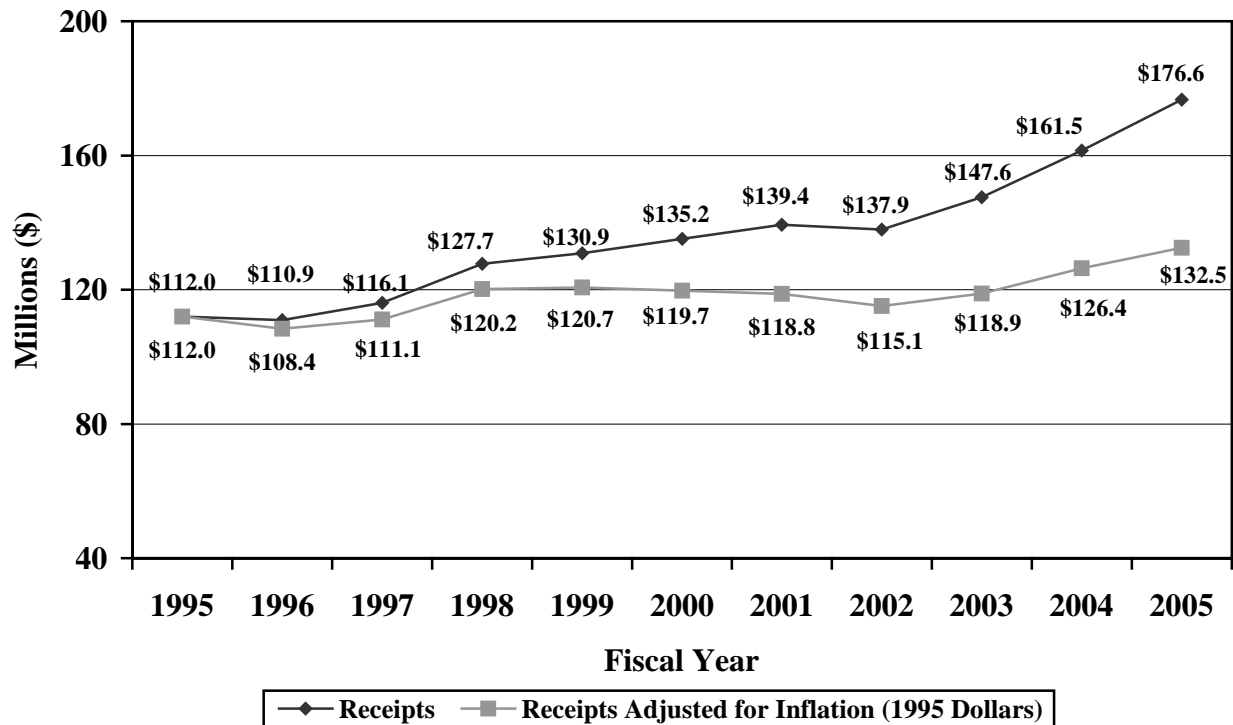
### **BUSINESS DEVELOPMENT TAX INCENTIVES**

See Appendix I (page 173) for a description of the employment and investment incentives commonly referred to as the “Blue Collar Job Act.”

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

### TAX RECEIPTS

#### Business and Occupational License and Gross Receipts Tax (Net of Special Fund Transfers)



### TAX BASE

Business and occupational licenses and gross receipts taxes are categorized and defined as follows:

**Contractor** - Firms in the business of furnishing labor--or both labor and materials--as part of the following services: construction, alteration, repair, disassembly, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, or any other type of structure. This includes firms that improve, alter, or develop any real property.

Each resident and/or nonresident contractor is required to pay tax on the gross receipts from any services and/or material supplied in connection with any real property located in Delaware. Total taxable gross receipts may be reduced by the amount of payments made to licensed subcontractors. To qualify for a deduction, the contractor must complete Form 1280 and attach it to each monthly return. For purposes of this tax, all branches or entities comprising an enterprise with common ownership or common direction and control are considered one business, which is entitled to a single \$50,000

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

monthly exclusion. Contractor gross receipts are taxed at the rate of 0.624%. For tax periods beginning after December 31, 2005, the monthly exclusion will increase to \$80,000 and the gross receipts tax rate will be reduced to 0.499%.

**Retailer** - Any person engaged as the owner or agent in the business of selling or exchanging goods for cash or barter or any other consideration on the assumption that the purchaser of such goods has acquired the goods for ultimate consumption and not resale. This definition includes automatic merchandising machine operators, regardless of the product dispensed or vended; retail plant nurserymen and florists; hucksters; peddlers; trading stamp redemption stores; catalog stores; and branch stores.

Gross receipts include total consideration received by a retailer for all goods sold or services rendered within the State. Gross receipts do not include the amount of tobacco product or motor fuel taxes paid or payable to the State. The first \$50,000 of a retailer's monthly gross receipts are not subject to tax. All branches or entities comprising an enterprise with common ownership, or common direction and control, are considered one business and entitled to a single monthly exclusion. Retailers of petroleum products are not required to pay a tax on retail sales of petroleum products as long as the appropriate wholesale-level tax has been paid. Retailer gross receipts are taxed at the rate of 0.72%. For tax periods beginning after December 31, 2005, the monthly exclusion will increase to \$80,000 and the gross receipts tax rate will be reduced to 0.576%.

**Farm Machinery Retailer** - Any person engaged in the business of selling farm machinery, supplies, or materials that are to be directly consumed or used by the purchaser in the conduct of any business. Every farm machinery retailer owes gross receipts tax on the total gross receipts attributable to all goods sold within the State. An exclusion of \$50,000 is allowed against gross receipts for each month. Farm machinery retailer gross receipts are taxed at the rate of 0.096%. For tax periods beginning after December 31, 2005, the monthly exclusion will increase to \$80,000 and the gross receipts tax rate will be reduced to 0.077%.

**Restaurant Retailer** - Any person who operates a restaurant, snack bar, soda fountain, take-out food service, catering service, private eating or drinking club, or other eating establishment must pay gross receipts tax on monthly receipts exceeding \$50,000. Restaurant retailers are taxed at the rate of 0.624%. For tax periods beginning after December 31, 2005, the monthly exclusion will increase to \$80,000 and the gross receipts tax rate will be reduced to 0.499%.

**Transient Retailer** - As defined in Title 6, Delaware Code, Chapter 47, retailers who transact business in Delaware from any temporary structure or motor vehicle for less than four (4) months must obtain a transient retailer's license. Such retailers pay the same license fees and tax rate, and receive the same monthly exclusion as year-round retailers. The license fee is \$75 and \$25 for each separate location. The monthly exclusion is \$50,000, and the tax rate is 0.72%. For tax periods beginning after December 31, 2005, the monthly exclusion will grow to \$80,000 and gross receipts tax rate will be reduced to 0.576%.

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

A transient retailer must register with the Division of Revenue, describing its merchandise to be sold and the name and address of its registered agent within Delaware. Additionally, transient retailers must obtain a bond of \$1,000.

Retailers falling within the exemption categories enumerated in Title 6, Delaware Code, Chapter 47, but who wish to conduct business for ten days or less during any year and who do not intend to become a permanent retailer are not treated like year-round retailers. In such cases, the transient retailer license fee is \$25. These transient retailers pay tax at a rate of 0.72% on all receipts received in excess of \$3,000. For tax periods beginning after December 31, 2005, the tax rate will be reduced to 0.576%.

**Grocery Retailer** - Retailers with more than 6,000 square feet of retail floor space, more than 12,000 individual food stock items, and which derive more than 90% percent of their total gross receipts from the sale of food items that are not immediately consumable, are subject to reduced tax rates on a portion of their gross receipts. As with other retailers, the first \$50,000 in monthly gross receipts is excluded from tax. The first \$2.0 million in taxable gross receipts are subject to tax at the rate of 0.384%. Monthly taxable gross receipts more than \$2.0 million are taxed at the rate of 0.72%. For tax periods beginning after December 31, 2005, the monthly exclusion will increase to \$80,000 and the gross receipts tax rates will be reduced to 0.307% on the first \$2 million in taxable gross receipts and 0.576% thereafter.

**Wholesaler** - Any owner or agent in the business of selling to, or exchanging with, another person goods for cash, barter, or any consideration for the purpose of resale by the person who acquires the goods sold or exchanged. The definition of "goods" includes (without limitation) goods sold or exchanged through outlets and warehouses of persons whose principal place of business is located inside or outside this State. Every wholesaler must pay the gross receipts tax based on the total consideration received for sales of tangible personal property physically delivered within the state to the purchaser or his agent.<sup>1</sup> Not included are receipts from sales of goods delivered by United States mail, or common or contract carrier to a place outside the State. Tobacco product and motor fuel taxes paid or payable to the State are excluded as well. (Wholesale sales of petroleum products fall under a separate tax category, described below.) In computing the taxes due on such gross receipts, an exclusion of \$50,000 is allowed each month. ( For tax periods beginning after December 31, 2005, the allowable monthly exclusion will grow to \$80,000.) All branches or entities under common ownership, or common direction and control, are considered one business for tax purposes, entitling them to a single monthly exclusion. Monthly receipts in excess of the exclusion are taxed at the rate of 0.384%. (For tax periods beginning after December 31, 2005, this rate will be reduced to 0.307%)

**Food Processor** - All firms engaged in the processing of food or foodstuffs that are to be resold

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<sup>1</sup> Sales to the State or the federal government are considered wholesale sales.

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

by the person acquiring the product. This definition includes each firm engaged in baking, poultry processing, or canning. Every food processor shall pay a gross receipts tax on the total gross receipts attributable to all goods sold within the state. In computing the taxable gross receipts for each month, an exclusion of \$50,000 is allowed. Amounts in excess of this deduction are taxed at a rate of 0.192%. For tax periods beginning after December 31, 2005, the monthly exclusion will grow to \$80,000 and the gross receipts tax rate will be reduced to 0.154%.

**Petroleum Products** - Any person engaged in the business of buying and selling petroleum products. For purposes of the gross receipts tax, "petroleum product" means crude oil, or any portion thereof that is liquid at 70 degrees Fahrenheit and standard atmospheric pressures, including motor fuel, gasohol, other blended fuels, diesel fuel, aviation fuel, jet fuel, heating oil, motor oil, and other petroleum based lubricants.

The tax consists of three components. First, sales of petroleum products are subject to the rate generally applied to other businesses: 0.384% for wholesalers and 0.72% for retailers. Second, wholesale sales of petroleum products are subject to an additional tax of 0.24%. (For tax periods beginning after December 31, 2005, these rates will be reduced to 0.307% and 0.192% respectively.) Lastly, a 0.90% Hazardous Substance tax is imposed. The Hazardous Substance tax is scheduled to sunset on December 31, 2011. When imposed on the wholesaler, the Hazardous Substance tax may be passed along to the buyer as a separate line item on the invoice.

Generally speaking, retail sales of petroleum products are taxable only if no tax has been paid at the wholesale level. Retail sales of home heating oil are not taxed under any circumstance. Petroleum wholesalers are entitled to a \$50,000 monthly exclusion. Retailers receive a monthly exclusion of \$50,000. (For tax periods beginning after December 31, 2005, the monthly exclusions for petroleum wholesalers and retailers will increase to \$80,000.) The following table summarizes the tax treatment of petroleum products:

PRODUCT	PRODUCT SOLD TO A WHOLESALE OR RETAILER	PRODUCT SOLD TO ULTIMATE CONSUMER
Products not used for heating ambient space -- e.g., gasoline, motor oil, jet fuel, lubricants, etc. (Note: Crude oil is not subject to the Hazardous Substance Tax.)	<u>Component</u>	<u>Component</u>
	General <sup>2</sup> 0.384% Additional <sup>3</sup> 0.240% Hazardous Substance <u>0.900%</u> Total                                      1.524%	General                              0.720% Hazardous Substance <u>0.900%</u> Total                                      1.62%
		Applies only if tax not paid at wholesale level.
Products used to heat ambient space -- e.g., home heating oil	<u>Component</u> General                              0.384% Additional                              0.240%	Not Taxable

<sup>2</sup> For tax periods beginning after December 31, 2005, the General Fund Rate will be reduced to 0.307%.

<sup>3</sup> For tax periods beginning after December 31, 2005, the additional surtax rate will be reduced to 0.192%

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

	Hazardous Substance	<u>0.900%</u>	
	Total	1.524%	

**Commercial Feed Dealers** - Any person engaged in the business of buying, selling, or shipping commercial feeds. Every commercial feed dealer must pay a gross receipts tax of 0.096% on the total gross receipts attributable to all goods sold within the State. In computing the taxable gross receipts for each month, an exclusion of \$50,000 is allowed. For tax periods beginning after December 31, 2005, the monthly exclusion will increase to \$80,000 and the gross receipts tax rate will be reduced to 0.077%.

**Manufacturers** - Any firm or person engaged in the business of manufacturing products in whole or in part within Delaware. "Manufacturing" includes any processing, working, development, alteration, conditioning, or reconditioning of raw materials or products into products of a different character, either finished or unfinished. The term "product" includes goods, materials, wares, merchandise, machinery, vehicles, solids, liquids, or gases which are produced as a part of a manufacturing process. The manufacturer's gross receipts tax rate is 0.18%. The tax is based on the total gross receipts multiplied by the percentage of manufacturing costs in Delaware to the total costs of manufacturing. In computing the tax due on such gross receipts, total gross receipts are reduced by a monthly exclusion of \$1,000,000. For purposes of this tax, all branches or entities comprising an enterprise with common ownership or common direction and control are considered one business, and are entitled to a single monthly exclusion. Manufacturers are also subject to licensing as wholesalers or retailers and to the respective gross receipts tax. For tax periods beginning after December 31, 2005, the manufacturers tax rate will be reduced to 0.144% and a new 0.135% tax rate for Automobile Manufacturers will become effective.

**Lessee/Lessor**- A lessor of tangible personal property is a person who grants to a lessee the right to use property for a specified period. The lessor's gross receipts tax is based on the rental payments received under the lease. The lessee's gross receipts tax is imposed on the use of the tangible personal property within the State. The lessor is required to collect and remit the taxes imposed on both parties.

**Lessor:** Lessors may take an exclusion of \$150,000 against their gross receipts from leases for each quarter. Gross receipts more than the quarterly exclusion are taxed at the rate of 0.288%. (For tax periods beginning after December 31, 2005, the quarterly exclusion and tax rate will change to \$240,000 and 0.230% respectively.)

**Lessee:** Lessees pay a 1.92% tax on the value of rental payments they make to a lessor. For tax periods beginning after December 31, 2005, the lessee tax rate will decrease to 1.536%.

**Motor Vehicle Lessee/Lessor** - A lessor of a motor vehicle is a person who grants a lessee the right to use the motor vehicle for a specified period. The lessor's gross receipts tax is based on the rental payments received under the lease. The lessee's gross receipts tax is imposed on the use of the

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

motor vehicle within the State. The lessor is required to collect and remit the taxes imposed on both parties.

**Motor Vehicle Lessor:** Lessors are entitled to an exclusion of \$150,000 against their gross receipts from lease for each quarter. Gross receipts more than the quarterly exclusion are taxed at the rate of 0.288%. (For tax periods beginning after December 31, 2005 the quarterly exclusion will increase to \$240,000.)

**Motor Vehicle Lessee:** Lessees pay a 1.92% tax on the value of rental payments they make to a lessor.

**Occupational, Professional and General Service-** Twenty-six occupations and any business engaged in what is commonly referred to as a service industry must obtain an annual business license. All holders of professional, occupational, and service licenses will pay tax at the rate of 0.384% on taxable gross receipts. Taxable gross receipts include total consideration received by a licensee for goods sold, services rendered or other income producing transaction within the state, less an exclusion of \$50,000 per month. For tax periods beginning after December 31, 2005, the monthly exclusion will grow to \$80,000 and the gross receipts tax rate will be reduced 0.307%.

Certain occupations are exempt from the tax, although an annual license is still required. The following occupations are not required to pay gross receipts taxes:

- Circus Exhibitor
- Sales Representative
- Showperson
- Taxicab or Bus Operator
- Transportation Agent
- Outdoor Musical Festival Promoter
- Travel Agency
- Trailer Park
- Drayperson (or Mover)\*
- Foreign Sales Corporation
- Finance or Small Loan Agency
- Tourist Home\*\*
- Hotel\*\*
- Motel\*\*
- Non-Resident Junk Dealer

\* Intrastate receipts are taxable; interstate receipts are exempt

\*\* Subject to the Public Accommodations Tax

For the occupations listed below, taxable gross receipts are based on commissions and fees earned:

- Advertising Agency
- Auctioneer
- Broker
- Manufacturer's Agent or Representative
- Mercantile Agency or Collection Agency
- Real Estate Broker

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
3/27/75	4/1/75	Set the annual license fee for most businesses at \$50. Changed the retailer tax base to aggregate gross receipts from the purchase price of goods bought for sale. Required contractors, retailers, manufacturers, etc. to pay tax on monthly basis instead of quarterly. Changed the monthly exclusion for retailers to \$10,000 per month, from \$20,000 per quarter. Gave restaurateurs a \$5,000 monthly exemption in place of \$50,000 annual exclusion. Made service industries subject to gross receipts tax (60 Del. Laws c 24; HB 222).
7/6/77	7/6/77	Raised license taxes in 9 categories. Increased the occupational license fee on gross receipts to 0.4%, from 0.3% (61 Del. Laws c 117; HB 590).
8/12/77	7/6/77	Increased the license tax for retailers to 0.75% from 0.55% (technical correction for oversight in HB 590) (61 Del. Laws c 184; HB 594).
6/6/78	6/6/78	Reduced the gross receipts tax rates wholesalers and retailers for persons who are 65 years of age or older and whose annual gross receipts are less than \$5,000: the fee is 25% of the usual license fee payment (61 Del. Laws 312; HB 811).
7/14/79	7/14/79	Established a sliding-scale license fee reduction for manufacturers and wholesalers who build or expand a facility by at least 25 employees and \$1.0 million. License fees are reduced by 90% in the first year and 5% in the tenth (62 Del. Laws c 155; HB 402).
4/27/81	4/27/81	Excluded from gross receipts tax the amounts derived from interstate transport operations; intrastate transactions remain subject to tax (63 Del. Laws c 12; HB 92).
2/18/81	5/1/81	Provided for the licensure and taxation of affiliated finance companies (63 Del. Laws c 2; HB 28).

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/29/82	7/1/82	Reduced to 50% of tax liability the maximum penalty for late filing of license tax returns. Imposed a negligence penalty of 10% of the amount of deficiency and a fraud penalty of 100% where any part of the deficiency is due to fraud. If imposed, the fraud penalty supplants the late filing and negligence penalties (63 Del. Laws c 297, 298; HB 638, 639, respectively).
10/15/82	1/1/83	Allowed quarterly rather than monthly filing if taxable gross receipts are less than \$2,000 month. Required only annual filing for occupational licensees whose quarterly taxable receipts are less than \$6,000 (63 Del. Laws c 314; HB 760).
7/17/84	1/1/85	Applied a "destination" test in determining whether sales of tangible personal property are to be included in taxable gross receipts. Taxable gross receipts to include amounts received from sales of tangible personal property physically delivered in Delaware (64 Del. Laws c 374; HB 686).
8/13/84	1/1/85	Created new gross receipts tax credits for qualified businesses locating or expanding in "targeted" low-income areas. Offered an exemption from gross receipts tax for 5 years and sliding-scale reductions for the succeeding 10 years (64 Del. Laws c 460; HB 698).
7/3/85	4/30/85	Changed the gross receipts tax definition for harness racing operators to "commissions," from "total contributions" (65 Del. Laws c 121; HB 269).
7/12/85	7/1/85	Eliminated the exemption of local manufacturers from the wholesalers' tax. Reduced the manufacturers' rate to 0.3% from 0.4%, and allowed a monthly exclusion of \$500,000. Allowed a \$10,000 monthly exclusion in the computation of the wholesaler's tax (65 Del. Laws c 184; HB 373).
7/12/85	7/1/85	Provided a limited tax exemption for products that a manufacturer uses or consumes in the production, or which are integral parts of the manufacturer's ultimate product (65 Del. Laws c 169; HB 307).
7/12/85	1/1/85	Exempted Foreign Sales Corporations from gross receipts tax (65 Del. Laws c 155; SB 162).
7/12/85	7/1/85	Exempted export trading companies from license tax. (65 Del. Laws c 160; SB 238).
7/2/86	1/1/87	Decreased the manufacturer's gross receipts tax rate to 0.25%, from 0.3% (65 Del. Laws c 388; SB 458).

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/2/86	1/1/87	Removed federal excise taxes on gasoline and special fuel from the definition of gross receipts for retailers and wholesalers (65 Del. Laws c 389; SB 469).
7/2/86	1/1/87	Increased the monthly exclusions for retailers to \$25,000, from \$10,000; and for restaurant retailers to \$25,000, from \$5,000 (65 Del. Laws c 390; SB 576).
7/2/86	1/1/87	Created a \$6,000 monthly exclusion (\$18,000 per quarter) for business and occupational licensees, contractors, food processors, commercial feed dealers, and farm machinery retailers, and personal property lessors (65 Del. Laws c 392; HB 559).
7/3/86	1/1/87	Increased filing thresholds, allowing taxpayers to file quarterly or annually rather than monthly or quarterly. Increased threshold amounts as follows: withholding to \$600, from \$200; occupational to \$15,000, from \$6,000; contractors to \$7,500, from \$2,000; manufacturers to \$7,500, from \$2,000; retailers to \$7,500, from \$2,000; wholesalers to \$7,500, from \$2,000 (65 Del. Laws c 402; SB 457).
7/3/86	1/1/87	Eliminated gross receipts tax on sales of grain, if the grain is purchased from a Delaware farmer (65 Del. Laws c 406; SB 488).
-	1/1/87	Increased the bonding requirements for non-resident contractors to 6% of the contract amount and required registration with the Department of Labor and Industrial Accident Board prior to the issuance of a license. Eliminated the requirement for a contractor to obtain a separate business license for each construction site (65 Del. Laws c 476; HB 558).
7/8/86	7/8/86	Required taxation of mail order distributors as if they were wholesalers rather than as retailers as long as they do not operate a retail outlet in Delaware (65 Del. Laws c 478; HB 617).
7/2/86	1/1/87	Required certain transient retailers to obtain a bond of up to \$1,000 and to register its Delaware resident agent and a description of the goods it intends to sell (65 Del. Laws c 391; HB 427).
7/3/86	1/1/87	Excluded sales of goods to be included in a product subsequently to be manufactured in Delaware from the manufacturer's gross receipts tax (65 Del. Laws c 481; HB 644).
7/8/87	7/8/87	Granted authority to the taxpayer and the Division of Revenue to extend statutes of limitation by mutual agreement (66 Del. Laws c 103; HB 267).

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/8/87	7/8/87	Eliminated news carriers under age 18 from the definition of retailer (66 Del. Laws c 104; HB 268).
7/9/87	7/9/87	Extended the definition of manufacturer to firms that offer manufacturing services on components to be included in the product of another manufacturer (66 Del. Laws c 149; SB 207).
6/15/88	6/15/88	Clarified the exemption of REMIC's from license and gross receipts taxes (66 Del. Laws c 267; HB 465).
7/14/88	1/1/89	Increased exclusions from the gross receipts tax as follows: professional and occupational (including general service) licensees to \$45,000 per quarter; contractors to \$12,000 per month; retailers and restaurant retailers to \$35,000 per month; food processors to \$13,000 per month; farm machinery retailers to \$13,000 per month; lessors of personal property to \$39,000 per quarter; wholesalers to \$20,000 per month; and manufacturers to \$600,000 per month. Changed occupational and service gross receipts tax payments to monthly (previously quarterly) for firms with taxable gross receipts in excess of \$30,000 (66 Del. Laws c 381; HB 691).
6/27/89	6/27/89	Allowed the Director of Revenue to waive the bonding requirement for non-resident contractors in whole or in part or to accept cash bonds in any amount; and to accept bank letters of credit in lieu of surety bonds. Liberalized the definition of "resident contractor." Allowed prorating of initial license fees for certain businesses. Required security businesses to be licensed annually. Created criminal penalties for non-disclosure of vending machine locations. Reduced record retention requirements for personal property lessors to three years from six years (67 Del. Laws c 40; SB 55).
7/1/89	7/1/89	Allowed for revocation of business licenses for businesses with tax, penalty, and interest delinquencies exceeding \$2,500 and 180 days. Made responsible persons liable for license tax penalties (67 Del. Laws c 40; SB 55).
7/17/89	7/17/89	Extended "Blue Collar" credits to January 1, 1991 (67 Del. Laws c 120; SB 294).
-	1/1/90	Raised the annual license fee for transient retailers to \$75 per year for the first site and \$25 for each additional site (67 Del. Laws; HB 728).
7/2/90	7/2/90	Exempted crabbers from having to obtain a wholesaler's license and removed the proceeds of crabbing from the definition of wholesale gross receipts (67

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Del. Laws c 287; SB 396).
7/2/90	1/1/91	Eliminated the retail tax on most sales of petroleum products. Increased the wholesale tax on such products to 1.25%, and dedicated 0.6% to the Hazardous Substances Cleanup Fund (67 Del. Laws c and 290; HB 708 and 710).
7/5/90	-	Exempted from license taxes any business trusts that qualify as investment companies. Exempted any receipts received by investment advisors, transfer agents, and principal underwriters from investment companies (67 Del. Laws c 296; HB 761).
7/2/90	1/1/91	Limited licensing requirements generally to persons who hold themselves out to the public (excludes those who serve as employees or working as partners or contractors on behalf of a larger business). Reduced the number of service categories to 27. Increased most annual license fees by approximately 50%. Increased second location licenses fees to \$25 (67 Del. Laws c 261; HB 728).
6/29/90	9/1/90	Exempted alcoholic beverages from the wholesale gross receipts tax (67 Del. Laws c 258; HB 774).
2/8/91	1/1/91	Extended "Blue Collar" tax credits through 1991 (68 Del. Laws c 6; HB 96).
7/1/91	7/1/91	Imposed a 10% surtax on all gross receipts taxes, reduced by a non-refundable credit. Clarified application of the wholesalers' tax to common carriers and sales to the United States Government (68 Del. Laws c 80; HB 347).
7/11/91	7/11/91	Required bidders on contracts in excess of \$50,000 to initiate the license application procedure prior to bid (68 Del. Laws c 151; HB 165).
7/17/91	7/17/91	Removed crude oil from the 0.6% Hazardous Substance tax imposed on wholesalers of petroleum products, for the period 7/7/91 to 3/30/92 (68 Del. Laws c 183; HB 378).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Title 30, Chapter 5 (68 Del. Laws c 187; HB 281).
2/6/92	1/1/92	Extended existing "Blue Collar" job credits to 1997. Expanded the scope of activities eligible for blue collar credits to include computer processing, engineering services, and consumer credit reporting services. Allowed taxpayers qualifying for the alternative investment tax credit to claim the license fee reduction and "targeted area" provisions equal to 75% of the

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		amount otherwise allowed (68 Del. Laws c 202; HB 415).
7/16/92	7/16/92	Extended to 3/30/93 the exclusion of crude oil from the 0.6% tax on petroleum products' wholesalers (68 Del. Laws c 393; HB 455).
7/6/93	7/6/93	Exempted horse racing, wagering, or betting from occupational license requirements and license fees, to the extent these activities are related to the conduct of horse racing meets (69 Del. Laws c 83; HB 310).
7/12/93	6/30/93	Increased the Hazardous Substance Cleanup tax on petroleum products to 0.9% from 0.6%. Extended the exemption for crude oil sales through 3/31/94 (69 Del. Laws c 135; HB 235).
7/1/94	1/1/95	Repealed the 10% surtax on gross receipts taxes effective 1/1/95, versus an original expiration date of July 1, 1995. Changed filing frequencies for most gross receipts taxpayers and instituted an annual "lookback period" for determining filing frequencies. Eliminated crude oil from the definition of "petroleum products" for purposes of the Hazardous Substance tax (69 Del. Laws c 289; HB 627).
6/27/96	7/1/93	Made real estate developers subject to the tax imposed on contractors, effective retroactively for receipts received after June 30, 1993 (70 Del Laws c 401; HB 453).
7/5/96	1/5/97	Provided that individuals delinquent in child support payments will be denied licenses otherwise issued by the Division of Revenue or Division of Professional Regulation to practice a profession, business, or occupation (70 Del. Laws c 452; HB 496).
7/11/96	1/1/97	Reduced tax rates by 4% across-the-board. Created a category for license and gross receipts tax purposes for "grocery supermarket retailers" with a two-tiered rate structure for these businesses. The rates are 0.384% on the first \$2 million of monthly taxable gross receipts, and 0.720% on those in excess of \$2 million. Grocery supermarket retailers are defined as firms that occupy an area of more than 6,000 square feet, offer at least 12,000 different food items for retail sale, and derive no more than 10% of their gross receipts from food intended for immediate consumption (70 Del. Laws c 484; SB 481).
7/11/96	1/1/97	Relieved small, closely-held related businesses from paying gross receipts or use taxes on transactions among themselves. Clarified that sales between all other related firms are taxable. Required that qualifying firms be owned by the

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		same five or fewer individuals or by members of a family (70 Del. Laws c 489; HB 678).
7/11/96	7/1/96	Extended "Blue Collar Jobs" credits through 2001. Expanded scope of activities eligible to include aviation services, non-custom computer software, and telecommunications services (70 Del. Laws c 487; SB 484).
5/22/97	12/31/96	Clarified the tax treatment of fungible commodities (71 Del. Laws c 39; SB 38).
7/23/97	7/23/97	Repealed the requirement that, in order to qualify for "Blue Collar" Tax Credit, the taxpayer must make the qualified investment and employ the requisite number of employees during the same taxable year and instead requires that the two events occur during the same consecutive 12 months (71 Del. Laws c 217; HB 257).
7/9/97	12/31/97	Created a separate license category for motor vehicle lessors/lessees and earmarked revenues collected thereunder to the Transportation Trust Fund (71 Del. Laws c 150; HB 400).
6/25/98	6/25/98	Clarified that all licenses issued by the Division of Revenue expire on December 31 of each year and created a \$15 fee for the replacement of a lost or stolen license. Increased the threshold, from \$3,000 to \$8,500, to obtain a retailer license for their incidental sales of goods for holders of personal and professional services licenses; effective 1/1/99 (71 Del. Laws c 314; HB 605).
7/1/98	1/1/99	Increased the monthly exclusion and standardized it at \$50,000 for all business activities, except manufacturers which was increased to \$1,000,000. Increased the threshold for filing monthly tax returns for wholesalers, manufacturers and various agribusinesses. Changed the due date for quarterly tax returns from the 20 <sup>th</sup> day of the month following the close of the quarter to the last day of that month (71 Del. Laws c 351; SB 387).
7/14/98	7/14/98	Created a limited exemption to the Wholesalers' Gross Receipts Tax for a non-U.S. corporation that sells active ingredients to a Delaware corporation producing pharmaceutical products that is controlled by the taxpayer corporation (71 Del. Laws c 440; HB 694).
7/14/98	1/1/99	Exempted rents on leases of agricultural equipment (71 Del. Laws c 439; HB 487).

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/1/99	7/1/99	Clarified that public utilities are not exempt from obtaining occupational licenses and paying gross receipts taxes on activities that are exempt from the public utility tax.
7/1/99	1/1/00	Exempted grocery stores and supermarkets from obtaining a restaurant license when less than 10% of their gross receipts from the sale of food for human consumption is “immediately consumable” (72 Del. Laws c 176 HB 216).
7/16/99	1/1/00	Provided that persons contracting for hauling construction-related property (but not actually engaged in the hauling) shall be licensed as contractors and allowed a deduction for amounts paid to draypersons in computation of sales for gross receipts tax purposes (72 Del. Laws c 166; HB 335).
7/20/99	7/20/99	Amended Travelink program by: adding Welfare-to-Work provisions, updating eligibility requirements, and establishing a \$100,000 annual tax credit cap (72 Del. Laws c 188; HB 292).
7/20/99	1/1/00	Changed licensing requirements to permit Delaware businesses that process raw materials owned by out-of-state customers to be licensed manufacturers (72 Del. Laws c 202; SB 128).
7/23/99	8/23/99	Established a \$200 penalty for businesses that, because of willful neglect, fail to renew their business license (72 Del. Laws c 220; HB 231).
8/3/99	1/1/00	Reduced manufacturers' tax rate by 25%, from 0.24% to 0.18% (72 Del. Laws c 245; SS 1 to SB 90).
6/28/00	6/28/00	Reauthorized the Hazardous Cleanup Act and Hazardous Substance Cleanup Fund through December 31, 2011 (72 Del. Laws c 353; SB 356, w/SA1).
7/18/00	1/1/00	Clarified that the exclusion from taxable wholesaler gross receipts for unfinished pharmaceutical products (71 Del Laws, c 440) is available to all businesses regardless of the form of entity under which a business may operate. Extended the exclusion to cover finished ethical pharmaceutical products that have been formulated or packed within the state (72 Del. Laws, c 464; HB 614).
7/18/00	1/1/00	Extended the “Blue Collar Jobs” credit program for an additional five years, through 2006 (72 Del. Laws c 442; SB 304).

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/12/01	10/1/01	Updated definition of "Brownfields" (73 Del. Laws c 183; SB 183).
7/9/02	1/1/02	Clarified that the use tax does not apply to reusable pallets and containers rented by poultry processors and others. (73 Del. Laws c 390; HB 286).
1/31/03	2/1/03	Exempted from the wholesalers' and retailers' license and gross receipts tax the sale of aircraft weighing 12,500 pounds or more. (74 Del. Laws c 3; SB 3)
6/30/03	1/1/04	Allowed the procurement of occupational and business licenses for terms up to three years. (74 Del. Laws c 108; HB 241)
7/19/04	7/19/04	Required transient nursery retailers to obtain 30-day business licenses and meet registration requirements established by the Department of Agriculture. (74 Del. Laws c 375; SB 341)
7/12/05	1/1/05	Broadened the business license categories which are eligible for a reduction in license fees when the applicant is age 65 or older. This legislation also increased, from \$5,000 to \$10,000, the annual gross receipts cap that must not be exceeded if one is to qualify for the license fee reduction. (75 Del. Laws c 171; SB 108)
7/19/05	1/1/06	Reduced gross receipts tax rates by 20% for all categories of taxpayers except automobile manufacturers, for which rates are reduced 25%. Further, the Act increased the monthly exemption amount by \$30,000 for all categories except manufacturing (75 Del. Laws c 199; HB 303).

### **FILING PROCEDURES AND PAYMENT DATES**

Every company or person conducting any business activity in Delaware must complete a "Combined Registration Application for State of Delaware Business License and/or Withholding Agent." The information from this form is entered in the state's business master file, which houses records of all transactions subject to the business and occupational license taxes, withholding taxes, and corporation income taxes.

Businesses must pay the gross receipts tax on or before the 20<sup>th</sup> day of the month with respect to aggregate taxable receipts for the preceding month or quarter. Larger taxpayers file on a monthly basis; smaller taxpayers file on a quarterly basis. Filing frequencies are updated annually and are determined by reviewing each taxpayer's historic records during a "look-back" period. Certain

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX**

occupations and professions referred to previously are exempt.

### **PENALTIES AND INTEREST**

Failure to timely file required returns for monthly or quarterly gross receipts taxes will result in late filing penalties of 5% per month, up to a maximum of 50% of the amount of tax due, plus interest of 1% per month from the due date until the date of payment.

Failure to pay the amount of tax shown to be due on any gross receipts tax return will result in a failure to pay penalty of 1/2% per month, up to a maximum of 25% of the amount of tax unpaid.

If such deficiency is due to negligence, a penalty of 20% of the amount is due. If a substantial understatement of the tax is made, a penalty of 40% is due. Where any part of the deficiency is due to fraud, a fraud penalty of 75% may also be imposed. If imposed, the fraud penalty is in lieu of the late filing and negligence penalties.

## **CIGARETTE AND TOBACCO PRODUCTS TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapter 53.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The Department of Finance, Division of Revenue administers the cigarette and tobacco products tax.

### **GENERAL LIABILITY**

**Cigarettes** - Every person, firm, corporation or association in Delaware who sells, stores, or receives cigarettes for the purpose of distributing them to any person, firm, corporation, or association within the state must pay a state excise tax on such cigarettes. The tax must be paid through the purchase of stamps provided by the Division of Revenue. Stamps in denominations of the amount of the tax must be affixed to each pack.

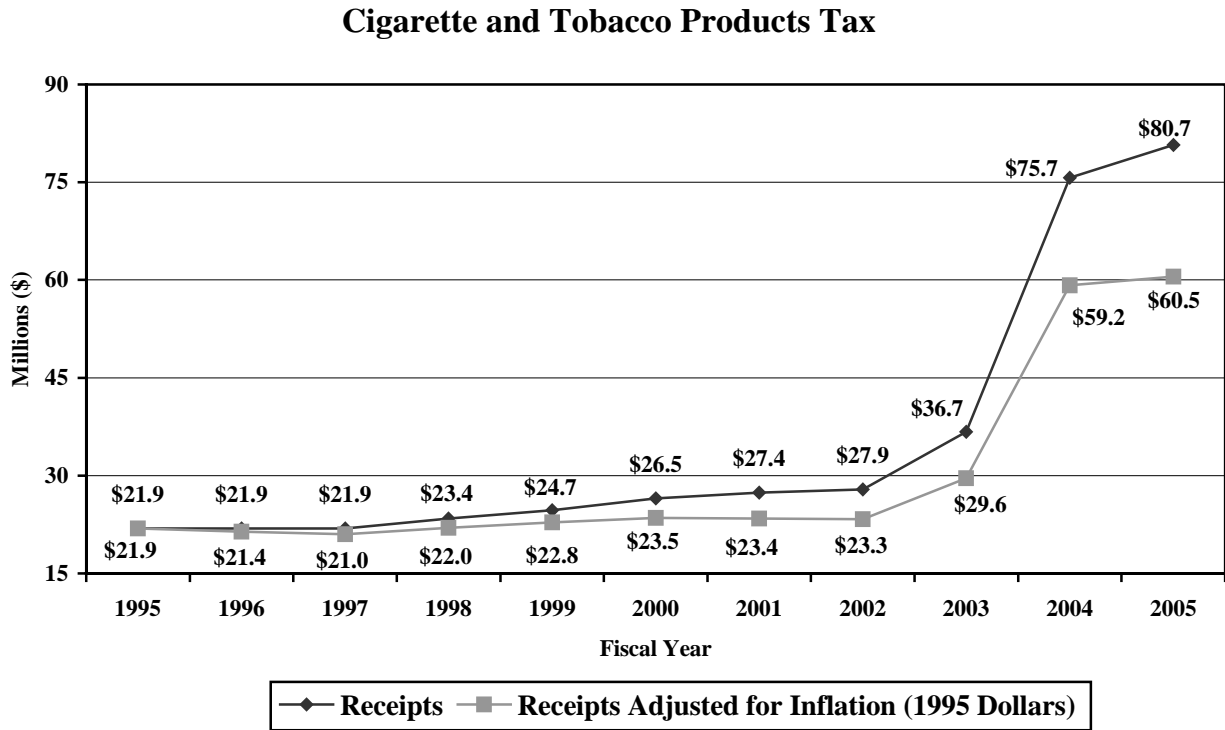
**Other tobacco products** - Any person engaged in the business of selling tobacco products in Delaware who brings, or causes to be brought, into the state any tobacco products for sale; any person who makes, manufacturers, or fabricates tobacco products in Delaware for sale in the state; or any person engaged in the business of selling tobacco products outside Delaware who ships or transports tobacco products to retail dealers in Delaware for sale by these retail dealers; is subject to a tax on the sale or use of tobacco products other than cigarettes.

### **TAX RATES**

Cigarettes – 27.5 mills per cigarette (i.e., 55¢ per 20 cigarettes)  
Other Tobacco Products - 15% of the wholesale price

## CIGARETTE AND TOBACCO PRODUCTS TAX

### TAX RECEIPTS



### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
-	7/1/69	Applied tax to all tobacco products; previously only cigarettes had been subject to the tax (57 Del. Laws c 136).
-	12/17/69	Court of Chancery issued a restraining order that prevented the Division of Revenue from collecting the tobacco products tax.
-	8/1/71	Increased tax rate per ten cigarettes to 7 cents from 5.5 cents (58 Del. Laws c 291; HB 507).

## CIGARETTE AND TOBACCO PRODUCTS TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
-	3/1/84	Changed tax rate to 7 mills per cigarette from 7 cents per 10 cigarettes (64 Del. Laws c 231; HB 391).
11/30/86	3/1/87	Reinstated tobacco products tax at 15% of the wholesale price (65 Del. Laws c 441; HB 745 and 66 Del. Laws c 3; HB 23).
7/10/87	7/10/87	Increased the penalty for late filed returns to \$15 per day (66 Del. Laws c 130; HB 266).
7/2/90	8/1/90	Increased the cigarette tax to 9.5 mills per cigarette (67 Del. Laws c 280; HB 774).
7/2/90	1/1/91	Increased the cigarette tax to 12 mills per cigarette (67 Del. Laws c 280; HB 774).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Chapter 5 of Title 30 (68 Del. Laws c 187; HB 281).
5/6/00	5/26/00	Prohibited affixing a tax stamp onto cigarette packages that are imported into the U.S. or packages intended for export only and prohibited the sale or possession of such packages (72 Del. Laws c 301; HB 313).
7/9/01	7/9/01	Amended Delaware law to ensure cigarette excise tax stamps are not affixed to cigarettes that do not fully comply with U.S. law (73 Del. Laws c 112; HB 236).
6/30/03	6/30/03	Allowed internet sales of cigarettes under certain terms and conditions to assure cigarettes do not get in the hands of children. (74 Del. Laws c 95; HB 153)
6/19/03	8/1/03	Increased cigarette tax from 24 cents to 55 cents per 20 cigarette pack. Established floor tax on inventories of cigarettes in possession on 8/1/03. Provided that if the Joint Resolution for the next fiscal year establishes a net General Fund revenue estimate in excess of 107% of the most recent Joint Resolution for the preceding fiscal year, this act shall be repealed and the cigarette tax rate will revert back to 24 cents per pack. (74 Del. Laws c 54; HB 270)
7/19/05	1/1/06	Eliminated the sunset provision that would reduce cigarette taxes by 21 cents per pack if a Joint resolution for an upcoming fiscal year established a net General Fund revenue estimate in excess of 107% of the most recent Joint

## CIGARETTE AND TOBACCO PRODUCTS TAX

<u>Approved</u> <u>Date</u>	<u>Effective</u> <u>Date</u>	<u>Description of Changes</u>
		resolution for the preceding fiscal year (75 Del. Laws c 199; HB 303).

### **FILING PROCEDURES FOR PERMITS AND LICENSES**

The pamphlet "Responsibilities of a Cigarette Affixing Agent" outlines the requirements of the cigarette affixing agent; "Technical Information memo 86-8" outlines the requirements of the other tobacco products tax. Both documents are available from the Division of Revenue.

**Affixing Agent:** Every person wishing to sell cigarettes at wholesale is required to apply to the Division of Revenue for an affixing agent (permit) license to purchase and affix cigarette tobacco tax stamps. The affixing agent license is \$200 per year; only one license fee is required of any person who is both a wholesaler and an affixing agent.

**Wholesaler:** The Division of Revenue collects an annual license fee of \$200 from each cigarette wholesaler. A separate license is required for each place of business where the licensed wholesaler sells cigarettes to retailers.

**Retailer:** For each three-year cigarette retailer license, a fee of \$15 is due to the Division of Revenue. A separate license is required for each place of business where the licensed retailer sells cigarettes to consumers.

**Vending Machine Operator:** Every vending machine from which cigarettes are offered for sale must have affixed a Division of Revenue identification stamp. Each vending machine stamp costs \$3.00. Where two or more tobacco product vending machines are fastened together, each set of mechanisms requires a separate vending machine license.

### **REPORTS**

**Cigarette:** Every affixing agent must furnish the Division of Revenue with a monthly report on or before the 20th day of each month covering all unstamped cigarettes received during the preceding month. This report accounts for all orders of cigarettes purchased or received, all cigarettes sold, both in Delaware and outside Delaware, inventory of cigarettes at the beginning and end of each month, and the number of cigarette stamps received and affixed during the month through the wholesale dealer.

## **CIGARETTE AND TOBACCO PRODUCTS TAX**

**Other Tobacco Products:** Every distributor must furnish the Division of Revenue a monthly report on or before the 20th day of each month. Each report lists all taxable tobacco products received during the preceding month.

### **PAYMENT DATES**

At the time of application, and before January 1 of every taxable period.

### **PENALTIES**

The Division of Revenue imposes strict penalties on persons, firms, or corporations who evade the tax, fail to affix stamps, resell stamps, reuse such stamps, sell untaxed tobacco products, or otherwise fail to comply with the law.

Failure to timely file the required tax return will result in a late filing penalty of \$15 per day from the due date until the date payment is received by the Division of Revenue. Failure to pay the amount of tax shown to be due on the required tax return will result in a failure-to-pay penalty of 1/2% per month, up to a maximum of 25% of the amount of tax unpaid.

Negligence penalties are also imposed: 20% of the deficiency, or 40% if such deficiency is due to a substantial understatement of the tax. Where any part of the deficiency is due to fraud, a fraud penalty of 75% may also be imposed.

## **CORPORATE FRANCHISE TAX**

### **STATUTORY PROVISION**

Title 8, Delaware Code, Chapter 5

### **COLLECTION/ADMINISTRATIVE AGENCY**

The Secretary of State administers the corporate franchise tax.

### **GENERAL LIABILITY**

Domestic corporations must pay a corporate franchise tax for the privilege of being incorporated in Delaware. Retention of a charter by a corporation creates an obligation to pay the tax unless specifically exempted by law. Companies incorporated in another state, but doing business in Delaware, must also register with the Secretary of State. Banks and certain other financial institutions pay a franchise tax to the Bank Commissioner in lieu of the corporate franchise tax.

### **TAX RATES**

Domestic corporations are taxed based on the number of authorized shares at the following tax rates:

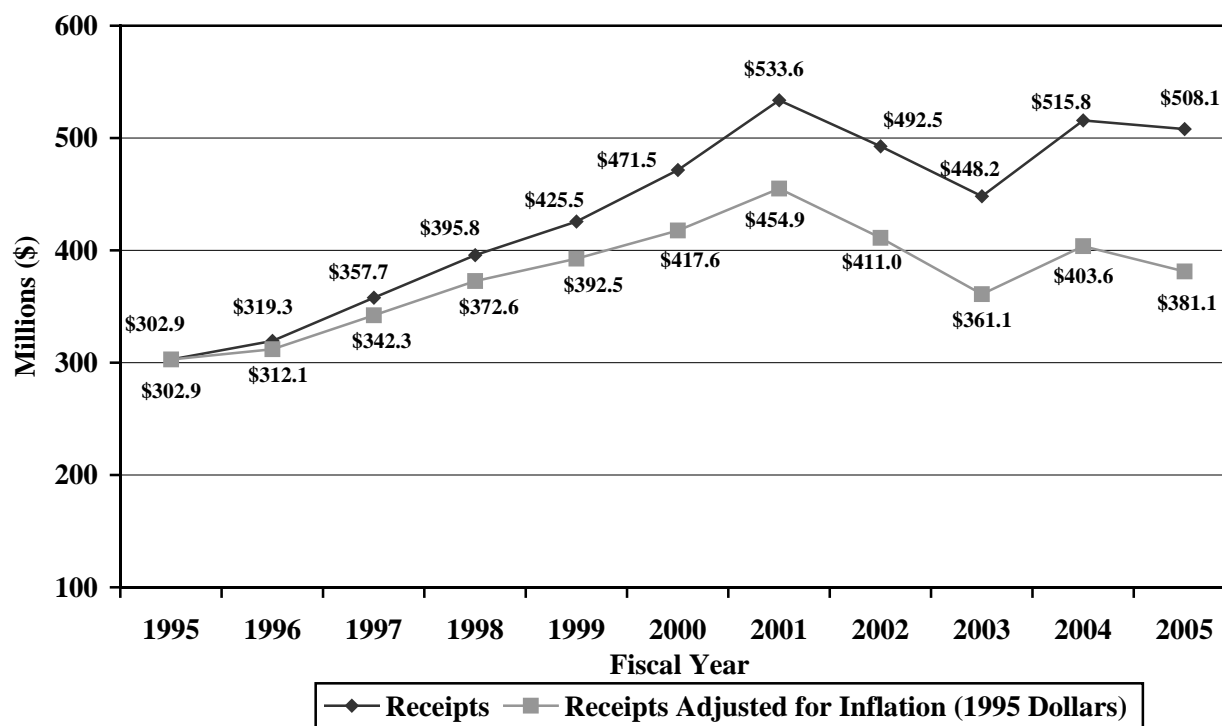
<u>Corporations With:</u>	<u>Fee:</u>
Up to 3,000 shares	\$35.00 (Minimum Tax)
3,001 - 5,000 shares	\$62.50
5,001 - 10,000 shares	\$112.50
Over 10,000 shares	\$112.50, plus \$62.50 for each additional 10,000 shares or part thereof, not to exceed \$165,000

The maximum tax on regulated investment companies is \$75,000. Inactive corporations pay 50% of the amount otherwise due, but never less than \$35.

## CORPORATE FRANCHISE TAX

### TAX RECEIPTS

#### Corporate Franchise Tax



### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
5/27/65	1/1/66	Assigned corporate franchise tax administrative responsibilities to the Secretary of State (55 Del. Laws c 90).
6/23/69	7/15/69	Set franchise tax minimum at \$20 and maximum at \$110,000. Increased other rates by 10% (57 Del. Laws c 150).
6/7/69	-	Removed the former exemption for professional corporations (57 Del. Laws c 127).
5/16/70	7/1/70	Moved the last day for payment to June 1, from July 1 (57 Del. Laws c 421).

## CORPORATE FRANCHISE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/15/70	1/1/70	Mandated revocation of charters for corporations in arrears for more than a year (previously two years) (57 Del. Laws c 712).
6/12/72	1/1/73	Moved the last day for payment to March 1, from June 1. Required corporations to compute their own taxes (58 Del. Laws c 450).
4/8/76	5/1/76	Made tax due on a quarterly basis for corporations whose annual liability is expected to exceed \$5,000 (60 Del. Laws c 353; HB 834).
7/2/84	1/1/84	Increased rates on domestic corporations to a minimum of \$30 (was \$20) and to a maximum of \$130,000 (was \$110,000). Raised rates for regulated investment companies to \$200 (was \$181.50) for each \$1 million of average gross assets; and maximum tax to \$65,000 (was \$55,000). Increased the penalty for failure to file timely tax reports \$50, from \$25 (64 Del. Laws c 317; HB 500).
7/7/89	7/7/89	Allowed the Secretary of State to increase fees charged for expedited services (67 Del. Laws c 99; SB 245).
6/12/90	6/12/90	Increased various corporate filing fees (67 Del. Laws c 229; HB 628).
7/1/91	1/1/91	Increased rates on all corporations except those with less than 3,000 shares of capital stock. Maximum tax rate increased to \$150,000, from \$130,000 (68 Del. Laws c 81; HB 348).
7/1/91	1/1/92	Changed the estimated tax payment schedule for corporations whose liability is expected to exceed \$5,000: June 1, 40% (formerly 25%); September 1, 20% (formerly 25%); December 1, 20% (formerly 25%); March 1, balance of tax as determined at close of calendar year (68 Del. Laws c 81; HB 348).
7/11/91	7/11/91	Increased the fee – paid in lieu of franchise taxes and penalties -- for corporations that renew their certificates of incorporation after having been voided for five or more years, to three times the annual amount of the annual franchise tax payment (formerly two times) (68 Del. Laws c 163; HB 141).
5/15/92	5/15/92	Increased the interest penalty for unpaid tax to 1.5% per month (formerly 1.0% per month) (68 Del. Laws c 246; HB 467).
7/1/92	7/1/92	Authorized the Department of State to enter into a written agreement with private contractors for the purpose of collecting franchise taxes that are six or more months past due. Empowered the Secretary of State to establish the terms of any contract, including the method of payment (68 Del. Laws c 290; SB

## CORPORATE FRANCHISE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		444).
6/30/93	6/30/93	Removed the requirement that a corporation's annual franchise tax report specify the date appointed for the next annual meeting of the stockholders for the election of directors. Required the report must also include the names and addresses of all the directors and no more than two of the officers (69 Del. Laws c 53; SB 104).
6/30/93	6/30/93	Required the Secretary of State to forward annual franchise tax reports on request and keep returned reports open for public inspection (69 Del. Laws c 54; SB 105).
7/1/93	6/30/93	Permitted Delaware corporations to merge or consolidate with limited liability companies of this state, any other state, or the District of Columbia, unless the other states or the District of Columbia forbid the merger or consolidation (69 Del. Laws c 61; SB 146).
7/2/99	7/1/99	Provided that any corporation of this State may convert to a limited liability company (LLC), limited partnership (LP) or business trust of this State upon obtaining the requisite approval, including the approval of the holders of all outstanding shares of stock of the corporation, whether voting or nonvoting, and the filing of a certificate of conversion with the Secretary of State (72 Del. Laws c 123; SB 137).
7/2/99	8/1/99	Permitted for the conversion of a corporation to a limited partnership (LP) and the conversion of a LP to a corporation and confirms that a limited partnership that has been converted continues as the same entity (72 Del. Laws c 128; SB 177).
7/2/99	8/1/99	Permitted the conversion of a corporation to a limited liability company (LLC) and the conversion of a LLC to a corporation and confirms that a LLC that has been converted continues as the same entity (72 Del. Laws c 129; SB 178).
6/19/03	1/1/03	Increased rates on all corporations. Minimum tax increased to \$35 (from \$30); maximum tax rate increased to \$165,000 (from \$150,000). Increased the tax for neglect, refusal, or failure to file an annual franchise tax report to \$100 (from \$50) (74 Del. Laws c 51; HB 267).
6/19/03	8/1/03	Increased the annual franchise tax report fee to \$25 (from \$20) (74 Del Laws c 51; HB 267).

## **CORPORATE FRANCHISE TAX**

### **FILING PROCEDURES**

All domestic corporations must file an Annual Franchise Tax Report with the Secretary of State on or before March 1 each year. All companies incorporated in Delaware and which hold stock must pay: 1) an annual filing fee of \$25; and 2) a franchise tax of not less than \$35, but not more than \$165,000. Corporations without stock (non-profit organizations, churches, etc.) pay only the \$25 filing fee. Foreign corporations (companies incorporated elsewhere but doing business in Delaware) pay a \$60 annual report filing fee, due June 30th, but do not pay franchise taxes.

### **PAYMENT DATES**

Corporations with expected annual liabilities of less than \$5,000 must make their annual franchise tax payments on or before March 1 each year. Corporations with expected liabilities of \$5,000 or more must make quarterly payments according to the following schedule:

First Payment	Due June 1, 40% of payment.
Second Payment	Due September 1, 20% of payment.
Third Payment	Due December 1, 20% of payment.
Final Payment	Due March 1, balance of payment.

### **PENALTIES FOR FAILURE TO FILE**

Delaware Code requires a penalty in the amount of \$100 be applied to all corporations which have not filed an Annual Franchise Tax Report on or before March 1. Interest upon unpaid taxes and penalties accrues at a rate of 1.5% per month or portion thereof. If any corporation neglects or refuses to pay franchise taxes for one year, its charter is declared null and void.

## **CORPORATION INCOME TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapter 19.

Title 30, Delaware Code, Chapter 64.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The Department of Finance, Division of Revenue administers the corporation income tax.

### **GENERAL LIABILITY**

Every domestic and foreign corporation doing business in Delaware must file a corporation income tax return, regardless of the amount of its gross income or its taxable income, unless specifically exempt by law. Corporations that maintain a statutory corporate office in Delaware, but not doing business in the state, are not required to file a corporate income tax return.

Taxes are computed on the amount of a corporation's taxable income that is apportioned and allocated to Delaware. Taxable income does not include: interest on obligations of the United States, the State of Delaware, or its subdivisions; gains from the sale of securities issued by the United States, the State of Delaware, or its subdivisions; dividends, interest, and royalties of foreign corporations that qualify for a foreign tax credit for federal purposes; and interest from affiliated corporations. Additional deductions are allowed for wages under Federal Jobs Credit program, handicapped accessibility improvements, and donations to neighborhood assistance programs.

Income from interest, rents, royalties, patents, and gains and losses from the sale of real and tangible property, are allocated directly to the state in which the property is physically located or the transactions took place, reduced by the applicable and related expenses.

Apportionment of unallocated income is based on a three-factor formula that averages the ratios of: 1) Delaware property to total property; 2) Delaware wages to total wages; and 3) Delaware gross receipts to total gross receipts for interstate businesses. The apportionment formula is applied to a company's entire taxable income, excluding its allocated and exempt income. Arithmetically, the apportionment formula is as follows:

$$\frac{\text{Property} + \text{Salary Ratio} + \text{Sales Ratio}}{3} = \text{Apportionment Ratio}$$

## CORPORATION INCOME TAX

### TAX RATE

8.7% of taxable income

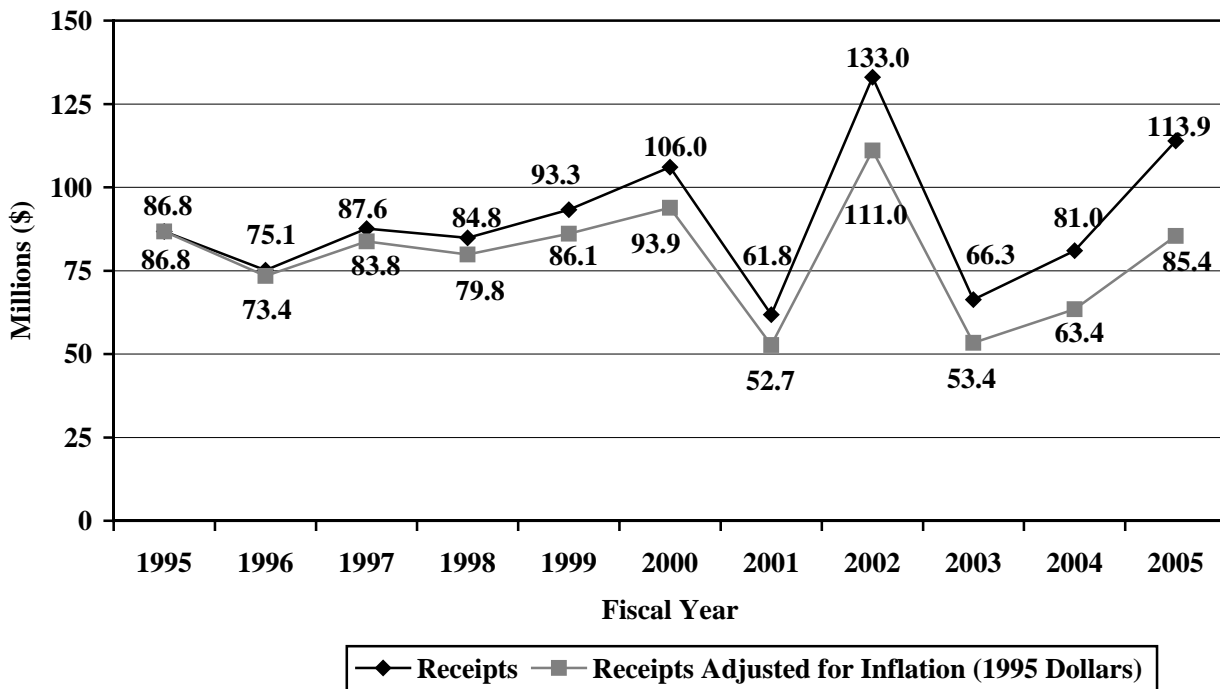
### HEADQUARTERS MANAGEMENT COMPANIES (HMC)

Headquarters Management Companies (HMCs) are entities “treated as a corporation under the Internal Revenue Code of the United States (Title 26 of the United States Code) that: (a) make an election to be taxed as a Headquarters Management Corporation; and (b) whose activities in this State are certified by the Director of Revenue to be confined to investment activities and/or the provision of headquarters services to itself and members of its affiliated group.

HMCs are entitled to receive preferential tax treatment based on the HMC’s level of presence and form of business activity conducted within the state. Additional information is available from the Division of Revenue’s Office of Business Taxes.

### TAX RECEIPTS

#### Corporation Income Tax (Net of Refunds)



## CORPORATION INCOME TAX

### BUSINESS DEVELOPMENT TAX INCENTIVES

See Appendix I (page 173) for a description of the employment and investment incentives commonly referred to as the “Blue Collar Job Act.”

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
6/12/69	7/1/69	Increased tax rate to 6% from 5% (57 Del. Laws c 136).
7/14/70	7/14/70	Raised the interest rate on extended returns to 12% from 6% (57 Del. Laws c 707).
7/30/71	8/1/71	Added a 20% surcharge to the 6% tax rate (58 Del. Laws c 293; HB 511).
5/14/72	1/1/72	Exempted domestic international sales corporations (58 Del. Laws c 396; HB 701).
7/5/72	7/1/72	Changed the neighborhood assistance tax credit to a deduction (58 Del. Laws c 492; SB 577).
6/26/73	1/1/73	Discontinued the 20% surcharge (59 Del. Laws c 113; HB 187).
7/6/73	7/6/73	Increased the tax rate to 7.2%, from 6% (59 Del. Laws c 150; HB 545). Stipulated that refunds are to be paid from the General Fund (59 Del. Laws c 149; HB 468).
3/27/75	4/1/75	Modified federal taxable income for Delaware purposes by adding back any oil or gas depletion allowance taken on the federal return (60 Del. Laws c 18; HB 137).
3/27/75	3/27/75	Accelerated estimated payments by making 50% of the estimates payable on the 1st day of the fourth month following the close of the fiscal year, 20% due on the 15th day of the ninth month and 10% on the 15th day of the twelfth month (60 Del. Laws c 15; HB 131).
6/8/77	1/1/77	Increased the tax rate to 8.7% from 7.2%, retroactively (61 Del. Laws c 76; HB 382).
6/1/78	12/31/77	Offered an adjustment for federal new jobs credit to provide an amount equal to the portion of the wages paid or incurred for the taxable year which is

## CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
		disallowed for federal purposes relating to the portion of wages for which the new jobs credit is claimed (61 Del. Laws c 297; HB 389).
7/8/78	-	Increased to \$3,000 from \$500 the fines for: failure to file a return or pay tax; filing a false return; or failing to keep proper records 5 years after return is filed. Increased the penalty for failure to file a return to 10% per month of amount of tax due (previously 5% per month). Increased maximum to 50% from 25% (61 Del. Laws c 425; HB 375).
6/6/79	1/1/79	Instituted a limited deduction for costs of removing architectural barriers that restrict use of a building for handicapped persons (62 Del. Laws c 56; HB 334).
6/29/82	7/1/82	Increased the negligence penalty to 10% (was 5%) of the deficiency amount. Increased the underpayment penalty income to 1.5% for month of underpayment amount (was 1%). Penalty for late filing reduced to 5% per month of tax liability amount (was 10%) (63 Del. Laws c 293; HB 633).
8/13/84	8/13/84	Broadened the exemption from corporate tax relating to so-called "investment holding companies" (64 Del. Laws c 461; HB 724).
-	1/1/85	Required any corporation exempt from tax under §1902(b) to file information returns setting forth the items of gross income, deductions, and other information as prescribed by forms and regulations. Clarified and revised various procedures respecting the corporation income tax including specification of the time at which assessment occurs and increasing the time for protesting or appealing determinations from 30 to 90 days (64 Del. Laws c 461; HB 724).
6/15/88	6/15/88	Clarified the exemption of REMIC's from personal income tax, corporation income tax, and license/gross receipts tax (66 Del. Laws c 267; HB 465).
6/27/89	6/27/89	Altered the criminal penalties for non-retention of corporate records applicable for 3 years (was 5) after filing of a return (67 Del. Laws c 40; SB 55).
7/17/89	7/17/89	Extended the "Blue Collar" credit program to January 1, 1991 (67 Del. Laws c.120; SB 294).
2/6/90	2/6/90	Provided a "Travelink" credit for employers that participate in a traffic mitigation program. (Also applies to bank franchise tax, insurance premium tax, gross receipts tax, and steam gas and electric taxes) (67 Del. Laws c 160;

## CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
		HB 35).
7/5/90	7/1/90	Exempted from tax corporations that invest the funds of a mutual fund (67 Del. Laws c 295, HB 760).
7/2/90	7/1/90	Limited net operating loss carrybacks to \$30,000 for each of the previous 3 years (67 Del. Laws c 263; HB 730).
2/8/91	1/1/91	Extended "Blue Collar" job credits to January 1, 1992 (68 Del. Laws c 6; HB 96).
6/20/91	6/20/91	Eliminated the deduction for taxes paid to other states (68 Del. Laws c 82; HB 349).
2/6/92	1/1/92	Extended existing "Blue Collar" job credits to 1997. Expanded the scope of activities eligible for "Blue Collar" credits to include computer processing, engineering services, and consumer credit reporting services. Provided for an alternative investment tax credit equal to 75% of amount allowed under existing "Blue Collar" credit. Added additional "Blue Collar" credits for firms involved in recycling activities. Established separate, temporary credits (effective for 1992-1993) for added employment and health care coverage of new employees. Created credits for pollution prevention and source reduction (68 Del. Laws c 202; HB 415).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Chapter 5 of Title 30 (68 Del. Laws c 187; HB 281).
7/21/92	1/1/92	Eliminated corporate income tax on S Corporations with non-resident shareholders (68 Del. Laws c 423; HB 573).
2/4/94	2/4/94	Exempted from tax any investment companies registered under the Investment Company Act of 1940, and real estate investment trust companies as defined in the Internal Revenue Code (69 Del. Laws c 188; HB 244).
7/13/94	7/13/94	Created a tax credit worth \$50 for each computer that any person or business donates to a school district. Limited the program to 500 vouchers per year (69 Del. Laws c 389; HB 216).
4/12/95	4/12/95	Clarified that the income from all of the permissible activities of an Edge Act corporation, or from a so-called "agreement corporation" and its subsidiaries, are to be deducted in computing "taxable income" under the Delaware Bank franchise tax; it also clarifies that certain limited-purpose Edge Act

## CORPORATION INCOME TAX

<u>Approved</u> <u>Date</u>	<u>Effective</u> <u>Date</u>	<u>Description of Change</u>																								
		corporations and their subsidiaries (investment Edge) which satisfy the exemption requirements for an investment holding company under Title 30 may elect to be taxed under Chapter 19 of Title 30, rather than the bank franchise tax (70 Del. Laws c 16; SB 71).																								
7/6/95	1/1/96	Changed to one year prior to the year in which a qualified facility is placed in service the "base period" for calculating employment increases with respect to the determination of the amount of Blue Collar Job tax credits (70 Del. Laws c 142; SB 172).																								
7/13/95	7/1/95	Created new tax credit for "brownfield facilities" equal to the sum of: (1) \$500 multiplied by the difference between the number of qualified employees employed on the last business day of the taxable year in which the facility is placed in service and the number of qualified employees employed during the "base period;" plus (2) \$500 multiplied by each \$100,000 of qualified investment. Allowed credit only if the investment per qualified employee equals at least \$40,000. Entitled qualified "brownfield facilities" to a reduction in license fees imposed upon their gross receipts. Offered an extra \$250 credit for "brownfield facilities" located in "targeted areas" (70 Del. Laws c 219; SB 41).																								
7/11/96	7/1/96	Extended "Blue Collar Jobs" credits through 2001. Expanded scope of activities eligible to include aviation services, non-custom computer software, and telecommunications services. Increased business tax credits as follows:																								
		<table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;"><u>Tax Credit</u></th> <th style="text-align: center;">Qualified Property Placed in Service <u>Prior to 1/1/97</u></th> <th style="text-align: center;">Qualified Property Placed in Service After <u>12/31/96</u></th> </tr> </thead> <tbody> <tr> <td>Blue Collar Jobs (BCJ)</td> <td style="text-align: center;">\$250</td> <td style="text-align: center;">\$400</td> </tr> <tr> <td style="padding-left: 20px;">-- In a Targeted Area</td> <td style="text-align: center;">500</td> <td style="text-align: center;">650</td> </tr> <tr> <td>Green Industry Source Reduction</td> <td style="text-align: center;">250</td> <td style="text-align: center;">400</td> </tr> <tr> <td>BCJ + Green Ind. Recycling</td> <td style="text-align: center;">500</td> <td style="text-align: center;">650</td> </tr> <tr> <td style="padding-left: 20px;">-- In a Targeted Area</td> <td style="text-align: center;">750</td> <td style="text-align: center;">900</td> </tr> <tr> <td>BCJ + Brownfield</td> <td style="text-align: center;">500</td> <td style="text-align: center;">650</td> </tr> <tr> <td style="padding-left: 20px;">-- In a Targeted Area</td> <td style="text-align: center;">750</td> <td style="text-align: center;">900</td> </tr> </tbody> </table>	<u>Tax Credit</u>	Qualified Property Placed in Service <u>Prior to 1/1/97</u>	Qualified Property Placed in Service After <u>12/31/96</u>	Blue Collar Jobs (BCJ)	\$250	\$400	-- In a Targeted Area	500	650	Green Industry Source Reduction	250	400	BCJ + Green Ind. Recycling	500	650	-- In a Targeted Area	750	900	BCJ + Brownfield	500	650	-- In a Targeted Area	750	900
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		(70 Del. Laws c 487; SB 484)																								
7/23/97	7/23/97	Clarified that foreign dividends, royalties and interest income are exempt from Delaware tax only to the extent that tax is actually paid or accrued on them. Repealed the requirement that, in order to qualify for "Blue Collar" Tax Credit, the taxpayer must make the qualified investment and employ the																								

## CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
		requisite number of employees during the same taxable year and instead requires that the two events occur during the same consecutive 12 months. (71 Del. Laws c 217; HB 257).
6/25/98	6/25/98	Exempted from tax the income of homeowners associations. Allowed facilities acquired through a purchase of assets or a corporate reorganization to continue to qualify as a "qualified facility" for purposes of the credits allowed by the Blue Collar Job Act (71 Del. Laws c 314; HB 605).
5/3/99	1/1/00	Created the Delaware Research and Development Tax Credit equal to 50% of the amount of corresponding federal tax credit that is attributable to Delaware research activity. Established a \$5 million annual statewide cap on the amount of credits awarded and a sunset date of 12/31/05 (72 Del. Laws c 50; HS 1 for HB 103 with HA 1).
8/4/99	1/1/00	Replaced the Neighborhood Assistance Act's tax deduction with a tax credit. The amount of the tax credit is equal to the lesser of 50% of firm's qualifying investment or \$100,000. The aggregate amount of tax credits awarded may not exceed \$500,000 per year (72 Del. Laws c 250; SB 248).
8/5/99	1/1/00	Created an income tax credit for permanent gifts of land or interest in land to public agencies and qualified non-profit charitable organizations. Credits are based on 40% of the appraised value of the qualifying gift, up to \$50,000 (72 Del. Laws c 254; HB 413).
7/18/00	1/1/00	Extended the "Blue Collar Jobs" credit program for an additional five years, through 2006 (72 Del. Laws c 442, SB 304).
7/18/00	1/1/00	Established rules determining the manner in which certain tax credits are allocated among multiple-pass-through entities (72 Del. Laws c 467; HB 651).
2/1/01	1/1/01	Established Historic Preservation Credit, which provides a 20% credit for qualified rehabilitation expenditures on properties that qualify for the federal credit, and 30% for those properties that do not qualify for the federal credit. These amounts are increased to 30% and 40% for certain low-income housing projects. Credits granted may not exceed \$3 million in any one fiscal year. (73 Del. Laws c 06, HB1 as amended by SA1).
7/13/01	10/1/01	Updated definition of "Brownfields" (73 Del. Laws c 183; SB 183).

## **CORPORATION INCOME TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
6/18/04	1/1/04	Established Headquarters Management Corporations (HMC). An HMC is an entity taxable as a corporation that elects under Chapter 64 to limit its activities in this State to investment activities and/or providing headquarters management services to affiliated corporations. (74 Del. Laws c 256; HB 403)
7/19/04	7/19/04	Expanded the scope of the State Historic Preservation Tax Credit Act to permit certain projects to extend the 24-month rehabilitation period to 60 months and to allow the historic tax credit to be granted in annual progress-based installments. (74 Del. Laws c 388; HS 1 for HB 501)
7/7/05	1/1/04	Made Technical Corrections to the Headquarters Management Corporation Law: (1) Increased tax rates on HMC income to a flat, 8.7%; (2) Ensured that all HMC income is subject to tax; (3) Permitted HMCs, that are members of an affiliated group to file consolidated income tax returns; and (4) Allowed affiliated HMCs to combine the employment and expenditure factors of multiple affiliated HMCs to calculate tax credits (75 Del. Laws c 123; HB 264).
7/12/05	7/12/05	Extended the Research and Development Tax Credit through tax years ending December 31, 2010 (75 Del. Laws c 140; HB 56).
7/12/05	7/12/05	Increased the annual allocation for Historic Preservation Credits from \$3 million to \$5 million (75 Del. Laws c 152; HB 228).

### **FILING PROCEDURES**

The income year of a corporation is the same as the taxable year for which the corporation reports for federal purposes. The final return is due on or before the first day of the fourth month following the close of the taxable year for the corporation. The Division of Revenue will accept requests for automatic six-month extensions to filing deadlines up to the 16th day beyond the date that the Internal Revenue Service grants for the same return. Additional extensions granted by the Internal Revenue Service will be accepted by the Division of Revenue up to the 16th day beyond the date granted by the Internal Revenue Service. Copies of all extensions granted by the Internal Revenue Service must be attached to the Delaware final return.

### **CORPORATE ESTIMATED TAX RETURNS**

The corporate income tax is paid throughout the year on a quarterly basis. Calendar-year

## **CORPORATION INCOME TAX**

taxpayers must file their first tentative return -- covering estimated income tax liability for the current income year -- with the Division of Revenue on or before April 1 of the current income year. Fiscal-year corporations must file their first tentative return on or before the first day of the fourth month of the current income year. Interest is calculated at 1.5% per month for failure to timely pay estimated tax. However, if 100% of the previous year's tax liability was timely paid during the current tax year, there is no penalty for underpayment of estimated tax.

Corporations whose Delaware taxable income was \$200,000 or more in any of the last three preceding taxable years must make tentative payments equal to 80% of the current year's tax liability.

### **PAYMENT DATES**

Form 1100T-1	Due April 1, (or first day of 4th month of fiscal year) 50% of the estimated tax is due on the first tentative tax payment.
Form 1100T-2	Due June 15, (or 15th day of 6th month of fiscal year) 20% of the estimated tax is due on the second tentative tax payment.
Form 1100T-3	Due Sept. 15, (or 15th day of 9th month of fiscal year) 20% of the estimated tax is due on the third tentative tax payment.
Form 1100T-4	Due Dec. 15, (or 15th day of 12th month of fiscal year) 10% of the estimated tax is due on the fourth tentative tax payment.

### **PENALTIES**

Failure to timely file the required tax return will result in a late filing penalty of 5% per month, up to a maximum of 50% of the amount of tax due, plus interest of 1% per month from the due date until the date of payment.

Failure to pay the amount of tax shown to be due on the required tax return will result in a failure to pay penalty of 1/2% per month, up to a maximum of 25% of the amount of tax unpaid.

A negligence penalty of 20% of the amount of the deficiency, or a penalty of 40% if such deficiency is due to a substantial understatement of the tax, may be applied. A fraud penalty of 75% where any part of the deficiency is due to fraud, may also be imposed.

Failure to pay estimated tax will result in a 1.5% per month penalty on the amount of

## **CORPORATION INCOME TAX**

underpayment of tax. A failure-to-pay penalty in the amount of 1/2% per month is also assessed for failing to pay the full tax due when the final return is filed.

## ESTATE TAX

### STATUTORY PROVISION<sup>4</sup>

Title 30, Delaware Code, Chapter 15.

### COLLECTION/ADMINISTRATIVE AGENCY

The Department of Finance, Division of Revenue administers the estate tax.

### GENERAL LIABILITY

The State of Delaware imposes an estate tax on the value of an individual's estate at the time of death.

#### Resident Decedents

The estate tax of every resident decedent is equal to the excess, if any, of the amount of the credit allowed for state death taxes on the federal estate tax return, over the amount of the inheritance taxes paid to Delaware and any other state, or the District of Columbia. In other words, the Delaware estate tax is calculated as follows:

Amount of Credit Allowed on line 15 federal estate tax return	— (minus)	Tax Paid to Delaware (if any) and any other state	*	=	Delaware Estate Tax Liability
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A Delaware estate tax return must be filed if the decedent is required to file a federal estate tax return. If the value of an estate does not meet the threshold for filing a federal estate tax return (see table below), then no federal or Delaware estate tax is imposed.<sup>5</sup>

Delaware's estate tax is sometimes referred to as a "pick-up" tax or a "gap" tax. It "picks up" any remaining Federal Credit allowed for State death taxes after other inheritance taxes are paid.

Delaware estate tax returns must be filed on or before the due date for the federal estate tax return. A special lien is imposed upon the gross estate of a resident until such time as the estate tax has been paid.

<b>Federal Estate Tax Thresholds And Repeal Dates</b>	
<u>Size of Estate</u>	<u>Effective</u>
\$675,000	2000
\$1.0 million	2002
\$1.5 million	2004
\$2.0 million	2006
<i>State Credit Repeal</i>	2005
\$3.5 million	2009
<i>Federal Repeal</i>	2010

<sup>4</sup>Inheritance Tax (repealed as of January 1, 1999).

<sup>5</sup>The Economic Growth and Tax Relief Reconciliation Act of 2001 implemented a phase-out of the Federal Estate Tax by calendar year 2010 and the State Credit by calendar year 2005.

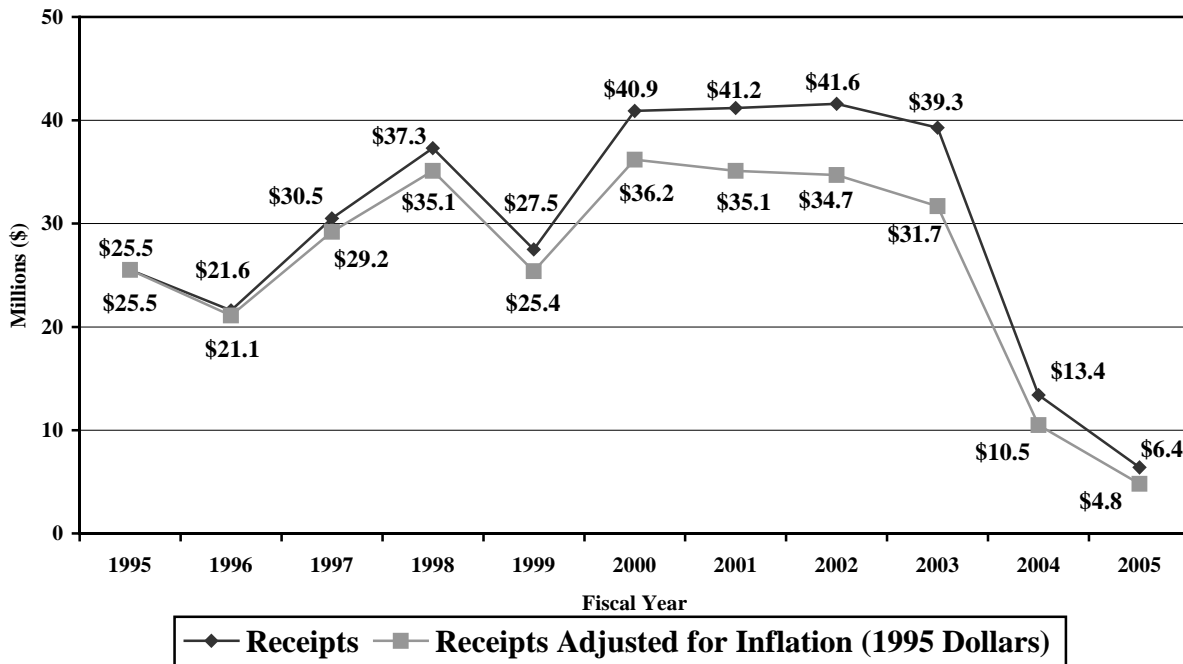
# ESTATE TAX

## Non-Resident Decedents

Effective January 1, 1999, the estate of every non-resident is taxed based on the pro-rated share of their taxable estate attributable to real and tangible personal property in Delaware at the time of their death. A special lien is imposed upon the real and tangible personal property of a non-resident until such time as the estate tax has been paid.

## TAX RECEIPTS

### Inheritance and Estate Taxes



Figures include inheritance tax receipts. The inheritance tax was repealed as of January 1, 1999.

## ESTATE TAX

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/1/98	1/1/99	Repealed the inheritance tax. Revised the estate tax to conform to the repeal of the inheritance tax by imposing an estate tax on the estates of resident and nonresident persons who have estates large enough to be required to file a federal estate tax return. Allowed for a special lien upon property until the estate tax is paid (71 Del. Laws c 353, HB 771).
7/1/99	1/1/99	Provided that, for resident decedents, intangible property is considered Delaware property for estate tax purposes (72 Del. Laws 176; SB 216).
6/23/00	6/23/00	Provided a means to clear title to jointly owned real estate when a formal probate estate is not required (72 Del. Laws 342; SB 314).
6/07/01	1/1/02	Federal tax cut reduced state credit by 25% in 2002, 50% in 2003, 75% in 2004, and implements a complete phase-out in CY 2005. Estate exemption increased to \$1 million in 2002, \$1.5 million in 2004, \$2 million in 2006, and \$3.5 million in 2009. Federal tax rates are reduced through 2010, at which time there will be a complete elimination of the estate tax (HR 1836, Economic Growth and Tax Relief Reconciliation Act of 2001).
7/12/05	7/12/05	Eliminated: (1) the requirement to file a Delaware estate tax return for dates on which the federal estate tax law does not allow a credit for state death tax (currently 2005 through 2010); (2) the special lien on the gross estate tax for decedents dying on a date on which the federal estate tax does not allow credit for state death taxes paid; and (3) the requirement of filing an affidavit, that no estate tax is required, with the Register of Wills for decedents dying on a date on which the federal estate tax does not allow credit for state death taxes paid. (75 Del. Laws c. 198; SB 227).

### FILING PROCEDURES

The estate tax return is due within nine (9) months after the date of decedent's death. The tax is due on or before the date fixed for filing the return determined without regard to any extension of time for the filing of the return. The Division of Revenue may, upon written request, extend the time for filing the return and may extend time for payment of the tax for a reasonable period from the due date.

## **ESTATE TAX**

If the time for filing the federal estate tax return is extended, the time for filing the Delaware return shall be extended automatically for a like period, provided that an executed copy of such extension grant is furnished to the Division of Revenue before or with the filing of the return. During years in which the federal estate tax law does not permit a credit for state death tax, all filing requirements shall be waived.

### **PAYMENT DATES**

Payments must be made no later than 9 months after the death of the decedent.

### **PENALTIES AND INTEREST**

The law requires payment of interest at the rate of 1% per month (or fraction thereof) for delinquent taxes, assessed from the due date to date of payment. An additional penalty of 5% per month, to a maximum of 50% of the amount of tax due, is also available.

Failure to pay the amount of tax due will result in a failure-to-pay penalty of 1/2% per month, up to a maximum of 25% of the amount of tax unpaid.

The Division of Revenue may apply a negligence penalty of 20% of the amount of the deficiency, or a penalty of 40% if such deficiency is due to a substantial understatement of the tax. A fraud penalty of 75% where any part of the deficiency is due to fraud, may also be imposed.

## **INSURANCE TAX**

### **STATUTORY PROVISION**

Titles 18 and 19 Delaware Code.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The tax is administered by the Insurance Commissioner.

### **GENERAL LIABILITY**

All insurers, except workers' compensation insurers, and wet marine and transportation insurers, pay a tax based on gross premiums called the "premiums" tax. Wet marine and transportation insurers pay a tax on their underwriting profits. Workers' compensation, employer's liability, and self-insurers are taxed on gross premiums. In addition, employer owned/trust owned life insurance policies are taxed according to a sliding scale.

### **TAX RATES**

Insurers are categorized as follows: Wet marine and transportation insurers, workers' compensation insurers, and all other insurers.

<b>INSURANCE CATEGORY</b>	<b>TAX RATE</b>
All insurers (except worker's compensation and wet marine and transportation insurers)	2% (1.75% from Title 18, <u>Delaware Code</u> , Section 702, and 0.25% from Section 707) on gross premiums written, as detailed above.
Wet marine and transportation Insurers	5% of taxable underwriting profits.
Workers' compensation insurers:  Insurance Carriers  Self-Insurers	2% of gross premiums to General Fund and a fee of 1% of gross premiums to maintain the Second Injury Fund.  4% of gross premiums to the General Fund and 1% of gross premiums to maintain the Second Injury Fund.

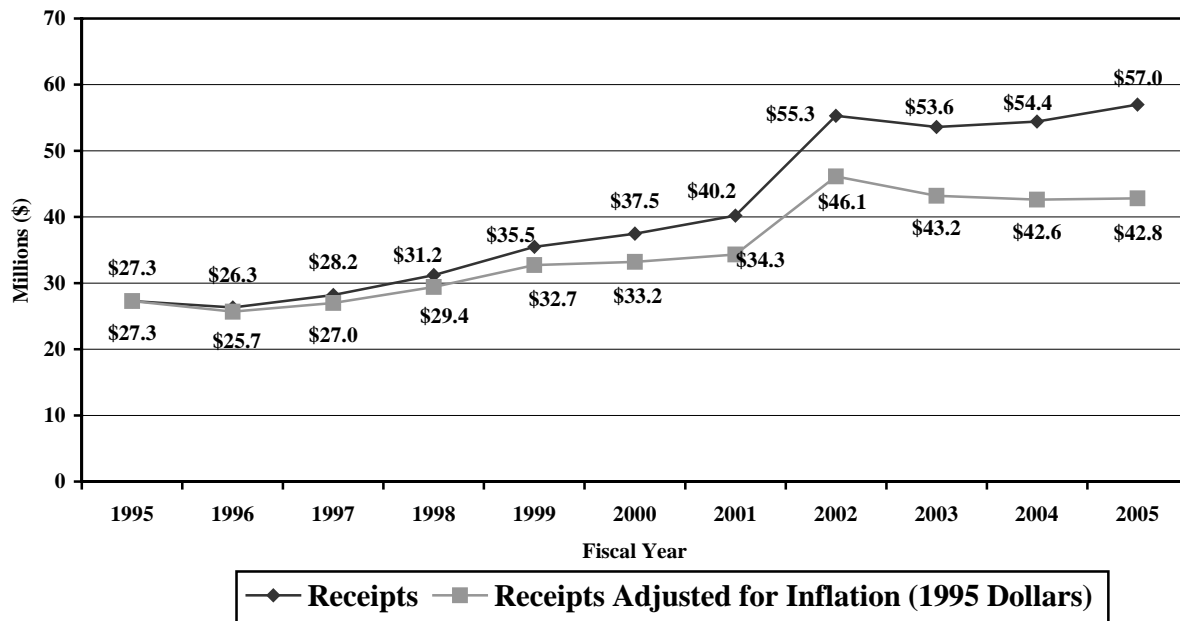
## INSURANCE TAX

Additionally, a domestic insurers' privilege tax (18 Delaware Code, Section 703) is levied on certain domestic insurers for the benefit of operating within the state. This tax is based on annual gross receipts as defined in (18 Delaware Code, Section 703) and is determined according to the schedule below:

If Annual Gross Receipts Are:	Annual Privilege Tax Shall Be:
Less than \$1,000,000	\$0
\$1,000,000 - \$5,000,000	\$10,000
\$5,000,001 - \$10,000,000	\$25,000
\$10,000,001 - \$20,000,000	\$45,000
\$20,000,001 - \$30,000,000	\$65,000
\$30,000,001 - \$40,000,000	\$85,000
Over \$40,000,000	\$95,000

## TAX RECEIPTS

### Insurance Tax



## INSURANCE TAX

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/20/70	1/1/72	Repealed the additional tax rate on fire insurance companies. Required equivalent reduction of premiums, and reports on premiums for certain types of coverage in Wilmington and each county (57 Del. Laws c 731).
7/26/74	7/26/74	Increased the second injury fund rate for worker's compensation insurance to 1% (from 0.5%) for insurance carriers and self insurers (59 Del. Laws c 554; SB 639).
7/14/77	7/14/77	Reduced the tax on worker's compensation premium to 2% (was 4%). Increased the charge for state administrative expenses (61 Del. Laws c 152; SB 316).
7/4/85	7/1/85	Made various revisions to the fee schedule relating to licenses and miscellaneous charges (65 Del. Laws c 142 and 143; HB 289 and HB 292).
7/19/85	7/19/85	Created a special fund to assist in financing ambulance and fire rescue operations of nonprofit organizations. Filled the fund by earmarking 0.1% of gross premiums earned by life and health insurance companies (no net increase in tax rate) (65 Del. Laws c 196; HB 310).
5/11/87	5/11/87	Required insurers to pay premium taxes semiannually instead of annually (66 Del. Laws c 17; HB 47).
7/1/88	7/1/88	Increased the amount of tax paid to the special fund for ambulance and rescue services to 0.15% of gross premiums (was 0.1%) (66 Del. Laws c 302; HB 181).
7/14/88	1/1/89	Created an estimated tax mechanism for all insurance premium taxes. Set the following due dates for estimated payments: April 1, June 15, September 15 and March 1 (of the following year). A penalty is imposed if the estimated payments total less than 80% of actual liability. Required periodic disbursement to fire companies and police departments from funds received in estimated taxes from insurance companies (66 Del. Laws c 382; HB 685).
1/25/90	1/1/89	Established separate rates for captive insurance companies, ranging from 0.7% on the first \$20 million of gross premiums to 0.1% on amounts over \$60 million (formerly a single rate of 1%). Required that two or more captive insurance companies under common ownership and control must be taxed as

## INSURANCE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		though they were a single captive insurance company (67 Del. Laws c 155; HB 352).
5/30/90	5/30/90	Broadened the definition of "insurer" to allow banks and trust companies to engage in the business of insurance (67 Del. Laws c 223; HB 193).
7/2/90	7/2/90	Increased the rate of workers' compensation and employers' liability premiums tax to 3% (was 2%). Increased the general penalty for individual violators of the insurance provisions of Title 18 to a fine of not more than \$2,300 (formerly \$2,000), imprisonment for not more than one year, or both. The maximum penalty for corporate violators was increased to \$6,900 (formerly \$6,000). In addition, the penalty for underpayment of estimated tax was increased to 3% per month or fraction thereof (was 2%) (67 Del. Laws c 260; HB 724).
2/8/91	2/8/91	Decreased to 2% the rate of workers' compensation or employers' liability premiums tax (was 3%) (68 Del. Laws c 9; HB 110).
6/20/91	6/20/91	Repealed the \$2,000 minimum tax on domestic insurers and replaced it with a privilege tax on domestic insurers. The privilege tax exempts companies with less than \$1 million in gross receipts. Set a maximum tax of \$95,000 for companies with gross receipts in excess of \$40 million. Allowed credits against tax of \$1,500 for each \$100,000 in compensation paid to Delaware employees. Stated that domestic insurers that do not maintain their principal office in Delaware may not use credits to reduce their taxes to less than \$15,000 (68 Del. Laws c 83; HB 383).
6/25/91	6/25/91	Instituted regulations for the formulation and operation of risk retention groups. Established that risk retention groups are liable for the payment of premium taxes on direct business for risks resident or located within Delaware. Provided that the tax rates that apply to a purchasing group or its members are the same rates applied to similar insureds (68 Del. Laws c 57; HB 215).
7/14/93	1/1/93	Exempted insurers who write 50% or more of their total premiums on property or persons residing in Delaware from the application and payment of the privilege tax (69 Del. Laws c 153; HB 125).
7/22/94	7/22/94	Encouraged corporations to procure life insurance policies for their own employees or retirees (for the purpose of funding or offsetting the cost of certain benefit plans) in this state by expanding the type of employee benefit plans that are eligible to be funded. Expanded the type of business entity that is eligible. Clarified that employers that are incorporated in other states, but

## INSURANCE TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		qualified to do business in Delaware, are eligible to locate such policies in this state. Instituted a regressive tax scale for corporate owned life insurance based on the amount of premiums written ("COLI" premiums) (69 Del. Laws c 462; HB 615).
7/8/94	7/8/94	Changed the date by which health service corporations are to file their annual reports with the Insurance Commissioner, to March 1 (formerly June 1) (69 Del. Laws c 343; SB 328).
7/18/96	6/30/96	Changed due dates for estimated payments to April 15, June 15, September 15, and December 15 of the current taxable with any remaining balance due by March 1 of the following year (formerly due dates were April 1, June 15, September 15, and March 1). Established a 1.5% monthly penalty for underpayment of estimated taxes and instituted a "safe harbor" from such penalty provided quarterly estimated payments equal at least 100% of the total taxes due in the prior year (70 Del. Laws c 530; HB 325).
6/17/97	6/17/97	Established \$550 annual fee levied on each insurance company to provide funds necessary for the operation of the Delaware Insurance Fraud Prevention Bureau (71 Del. Laws c 69; HB 224).
7/20/99	7/20/99	Amended Travelink program by: adding Welfare-to-Work provisions, updating eligibility requirements, and establishing a \$100,000 annual tax credit cap (72 Del. Laws c 188; HB 292).
6/27/01	6/27/01	Provides reciprocity in licensing non-resident surplus lines brokers and complies with the Federal Gramm-Leach-Bliley Act (73 Del. Laws c 69; SB 125).
7/1/01	7/1/01	Reorganized the fee structure and increases some of the fees provided by the Delaware Insurance Department (73 Del. Laws c 90; HB 225).
7/12/01	7/12/01	Clarified the proper tax credits to be allowed for insurance guaranty fund association assessments. Affects 532 (b) of Title 18 (73 Del. Laws c 178; HB 250).
7/17/01	1/1/02	Added a new Chapter 20 to Title 18 and established a new \$300 limited license for selling insurance at auto centers. (73 Del. Laws c 189; HB 249).
5/9/01	3/1/02	Replaced the current statute for agent licensing requirements that included the creation of a system of reciprocity and uniformity; complies with the Federal

## **INSURANCE TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Gramm-Leach-Bliley Act (73 Del. Laws c 80; SB 156).
6/25/02	6/25/02	Establishes biennial renewal fees for resident and non-resident licenses. (73 Del. Laws c325; SB 436).
6/14/05	6/14/05	Required automobile club representatives to register as licensees of the Department of Insurance. (75 Del. Laws c 49; HB 196)
6/23/05	6/23/05	Increased penalties for unfair business practices and established 21 day maximum response time for insurers receiving consumer inquiries from the Department of Insurance.(75 Del. Laws c 55; HS 1 for HB 90)
7/12/05	7/12/05	Revised Captive Insurance Statutes. (75 Del. Laws c 150; HB 218)
7/12/05	7/12/05	Made technical correction to ensure that expenses incurred by the Insurance Commissioner, for a review and determination of form and rate filings, are subject to reimbursement. Established a \$50 fee for advertising/and or rule filings for each policy. (75 Del. Laws c 156; HB 254)

### **PAYMENT DATES**

All taxes are payable to the Insurance Commissioner. Premium taxes, worker's compensation and employers' liability premium taxes must be received on or before April 15, June 15, September 15, December 15 of the current taxable year with any remaining balance due by March 1 of the following year. Marine and transportation insurance tax payments must be received on or before June 1.

## LIMITED PARTNERSHIP/LIMITED LIABILITY COMPANY TAX

### STATUTORY PROVISIONS

Title 6, Delaware Code, Chapter 17 – Limited Partnership.

Title 6, Delaware Code, Chapter 18 – Limited Liability Company.

### COLLECTION/ADMINISTRATIVE AGENCY

The Secretary of State's Office, Division of Corporations administers the Limited Partnership/Limited Liability Company taxes.

### GENERAL LIABILITY

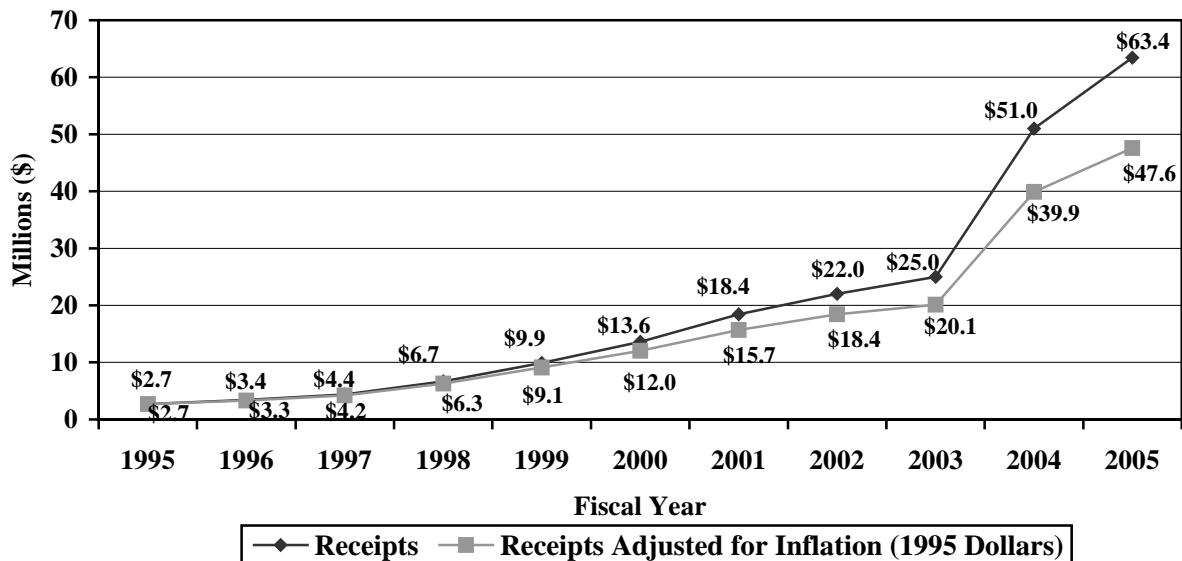
Every domestic Limited Partnership and Limited Liability Company formed in Delaware, and every foreign Limited Partnership and Limited Liability Company registered to do business in Delaware is required to pay an annual tax. Such tax is due and payable on the first day of June each year.

### TAX RATE

The annual tax for each Limited Partnership and Limited Liability Company is \$200.

### TAX RECEIPTS

#### Limited Partnership/Limited Liability Company Tax



## **LIMITED PARTNERSHIP/LIMITED LIABILITY COMPANY TAX**

### **LEGISLATIVE HISTORY**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
	1/1/88	Established Limited Partnership Taxes. First collected for tax year 1988. The tax rate was \$100 per year. (66 Del. Laws c 316).
	1/1/92	Established Limited Liability Company tax. Collections were first paid for tax year 1992. Tax rate was \$100 per year. (66 Del. Laws c 434).
6/19/03	1/1/03	Increased the tax rate for Limited Partnerships and Limited Liability Companies to \$200. (74 Del. Laws c 52; HB 268).

### **PAYMENT DATE**

Limited Partnership and Limited Liability Company taxes are due and payable on the first day of June following the close of the calendar year or upon the cancellation of a certificate of formation of the entity. The Secretary of State shall, at least 60 days prior to the first day of June each year, mail to each entity required to pay the annual tax an annual statement for the tax due.

### **PENALTIES FOR NON-PAYMENT OF TAX**

A penalty in the amount of \$100 is applied to all Limited Partnerships and Limited Liability Companies which have not paid the annual tax on or before June 1. Interest on the unpaid taxes and penalties accrues at the rate of 1.5% per month. Any Limited Partnership or Limited Liability Company which fails to pay the annual tax due for a period of three years from the date it is due, shall be deemed to be cancelled on the third anniversary of such due date.

# LOTTERY

## STATUTORY PROVISION

Title 29, Delaware Code, Chapter 48.

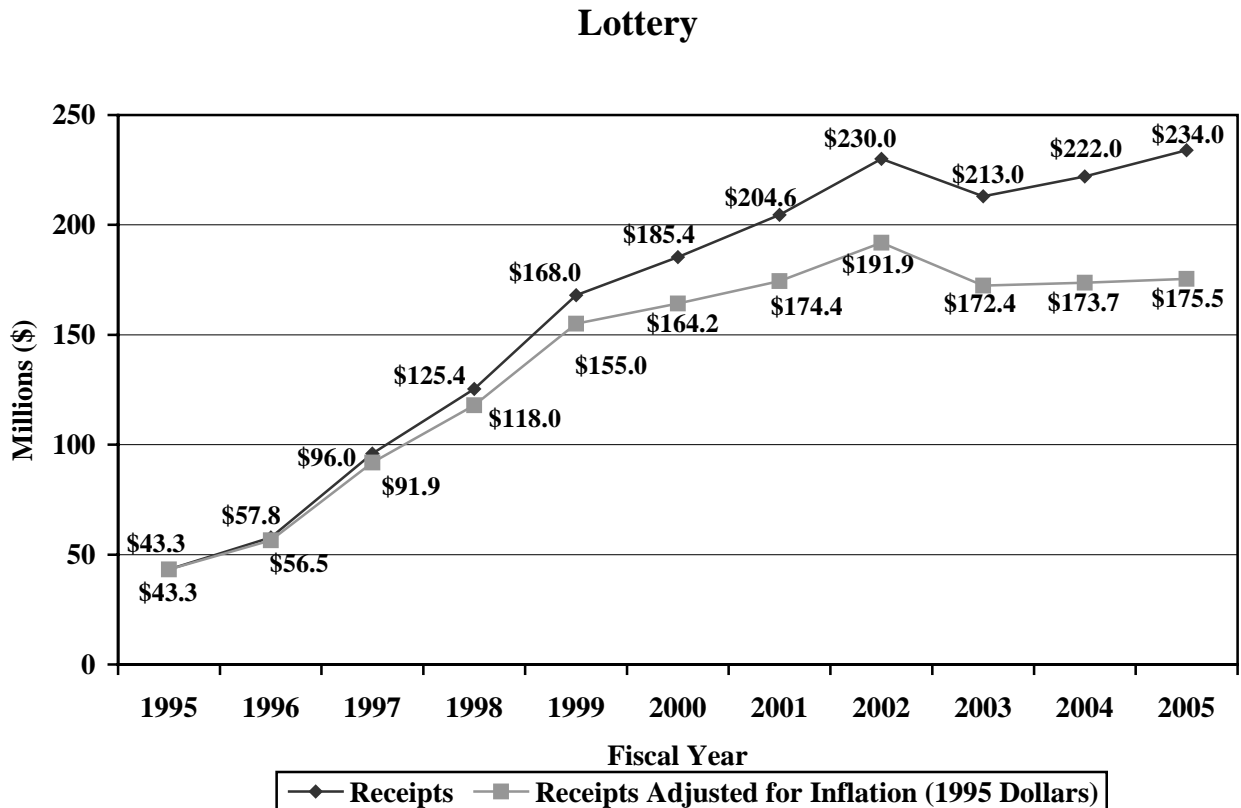
## COLLECTION/ADMINISTRATIVE AGENCY

The Department of Finance, State Lottery Office administers and collects revenue from the operation of traditional and video lotteries.

## GENERAL INFORMATION

The Lottery consists of traditional lottery products in the form of daily drawings, lotto, instant tickets, and the multi-state Powerball. The video lottery is state-operated using video lottery machines or a network of linked video lottery machines restricted in operation to those locations authorized by statute (harness and thoroughbred race tracks).

## REVENUE RECEIPTS



## LOTTERY

### REVENUE ALLOCATION

**Traditional Lottery:** The distribution of gross revenues generated through lottery ticket sales is subject to the following restrictions:

- Prizes must constitute no less than 45% of gross revenues;
- The cost of operations and administration may not exceed 20% of gross revenues, and;
- The amount deposited into the General Fund must be no less than 30% of gross revenues.

**Video Lottery:** The distribution of gross revenues generated through video lottery wagering varies depending upon levels of play and the terms of contracts negotiated between the State and video lottery machine vendors. Generally speaking, however, the distribution of gross revenues is as follows:

- Approximately 92% of the total amount wagered is returned to players in the form of prizes.
- Of the remaining 8% of the total amount wagered, funds are distributed in approximately the following pattern:
  - 48% to agents (tracks);
  - 11% to supplement the purses offered at Delaware harness and thoroughbred tracks;
  - 5.5% to machine and central computer vendors;
  - 34.5% to the General Fund;
  - Remaining proceeds are split between Department of Health and Social Service's treatment programs for compulsive gamblers, administrative costs, and a Delaware horse breeder's fund.

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
5/31/74	5/31/74	Established Delaware State Lottery (59 Del. Laws c 348; HB 647).
7/7/76	7/7/76	Moved State Lottery Office from the Executive Office of the Governor to the Department of Finance (60 Del. Laws c 539; SB 819).
7/16/94	7/16/94	Authorized the video lottery at three venues: Delaware Park, Dover Downs,

## LOTTERY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Harrington Raceway (69 Del. Laws c 446; HB 628).
3/26/98	3/26/98	Re-authorized the video lottery. Raised the limit on the number of video lottery machines from 1,000 to 2,000 per licensed agent. Provides the State with 100% of the savings resulting from the renegotiated or new vendor contracts (71 Del. Laws c 253; HB 463).
7/9/01	7/9/01	Permitted Lottery Director to procure video lottery machines under the procedures used for professional services contracts (29 Del. Laws c 6981-82; SB 217).
6/19/03	6/19/03	Revised the video lottery distribution formula to increase the State's share of video lottery proceeds. Extended operating hours for video lottery agents. Permitted the Lottery Director to authorize an additional 500 machines at each racetrack (maximum of 1500 per track). Allowed video lottery agents to use video lottery machines for promotional tournaments. Required video lottery agents to pay 50% of costs associated with machines with license and proprietary fees. Created an Advisory Council on Lottery Planning (74 Del. Laws c 53; HB 269).
4/8/04	1/1/04	Increased the State's contribution to the Standardbred Breeders' Fund from \$1.0 million to \$1.5 million and increased the contribution to the Standardbred Breeders' Fund from video lottery revenues already dedicated for harness racing purses (74 Del. Laws c 222; SB 201).

## **MOTOR CARRIERS FUEL PURCHASE TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapter 52 and Title 21, Delaware Code, Chapter 4.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The Delaware Department of Transportation, Motor Fuel Tax Administration administers and receives the tax. Effective July 1, 1996, the Delaware Motor Fuel Tax Administration entered the International Fuel Tax Agreement (IFTA). The Motor Fuel Tax Administration also administers the International Registration Plan (IRP) in Delaware.

### **GENERAL LIABILITY**

All persons operating a qualified vehicle are subject to the tax. A qualified vehicle includes any two axle power unit (tractor) weighing more than 26,000 pounds, three axle power unit regardless of weight, or any combination of power unit and trailing unit having a combined weight in excess of 26,000 pounds. Recreational vehicles are excluded from the tax unless used for business purposes.

Under the International Registration Plan, Delaware based motor carriers operating on an interstate basis must register each qualified vehicle and display an apportioned license plate. The duration of the initial registration of a vehicle under IRP may range from three (3) to eighteen (18) months. Thereafter vehicles are registered annually.

Under the International Fuel Tax Agreement, the State receives reports and tax revenues from those motor carriers "based" in Delaware. These reports and revenues are inclusive of the motor carriers' intrastate and interstate operations. After collecting these revenues, the Delaware Fuel Tax Administration distributes any taxes due to other IFTA members. Similarly, other member jurisdictions collect road use taxes on Delaware's behalf.

### **REGISTRATION FEES**

**International Registration Plan:** Motor carrier IRP registration fees are derived by first multiplying each jurisdiction's respective fee by the ratio of miles traveled within its borders to total miles traveled. The resulting products of these state-by-state calculations are then summed to arrive at a motor carrier's overall IRP registration fee. In lieu of IRP registration, motor carriers may obtain individual trip permits in order to legally operate on an interstate basis.

## MOTOR CARRIERS FUEL PURCHASE TAX

**International Fuel Tax Agreement:** IFTA qualified vehicles must display two IFTA decals and carry a copy of the IFTA license in the cab of the vehicle. IFTA decals are effective from January 1 through December 31 of each year. A 60 day grace period exists for all qualified IFTA motor vehicles displaying a prior year decal.

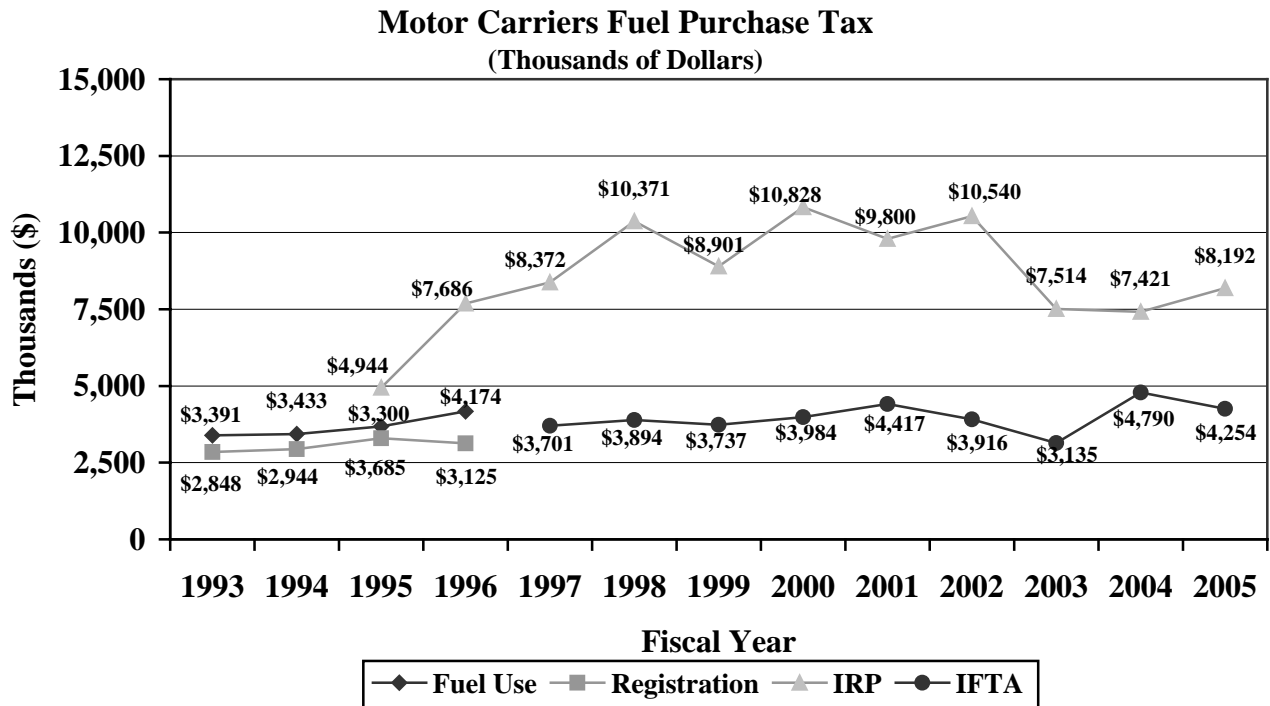
Each vehicle that operates on an intrastate basis must display two non-IFTA decals and carry a copy of the non-IFTA license in the cab of the vehicle. Non-IFTA decals are effective from January 1 through December 31 of each year.

The cost of IFTA and non-IFTA decals is \$5.00 per set.

### TAX RATE

The tax rate on motor fuels is 23¢ per gallon; 22¢ per gallon on special fuels.

### TAX RECEIPTS



**Note:** Motor Carrier registration ended with the implementation of the International Fuel Tax Agreement in FY96. IFTA registration and fuel use revenues are included in the IFTA fiscal year totals.

## MOTOR CARRIERS FUEL PURCHASE TAX

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/3/70	7/1/70	Instituted the motor carriers fuel tax (57 Del. Laws c 496).
7/13/73	7/17/73	Shifted administration responsibility to the Department of Public Safety, from the Department of Finance (59 Del. Laws c 216; HB 444).
7/13/82	10/1/82	Increased the registration (decal) fee to \$10 (63 Del. Laws c 387; HB 809).
7/17/84	7/17/84	Increased the maximum required surety bond to \$20,000 (64 Del. Laws c 365; HB 643).
6/28/85	6/28/85	Increased the victims' compensation surcharge, in violations, to 15% of the fine imposed (65 Del. Laws c 36; SB 20).
9/6/85	9/6/85	Exempted road-testing vehicles with dealer's tags from registration fees and fuel taxes (65 Del. Laws c 205; SB 45).
5/28/86	5/28/86	Changed the description of a covered passenger vehicle to a bus operated by a carrier with a seating capacity greater than twenty (20) passengers (65 Del. Laws c 272; SB 400).
6/27/86	10/1/86	Allowed registrants to file a fuel tax report annually if they meet certain tax liability requirements established by regulation (65 Del. Laws c 328; HB 513).
7/2/87	9/1/87	Increased the tax rate on gasoline and special fuel to 16 cents per gallon (66 Del. Laws c 87; HB 371).
2/2/88	2/2/88	Extended the period over which a motor carrier may apply credits against its tax liability, to eight quarters (was six quarters). Extended the period over which a motor carrier may apply for over-purchase refunds, to two years (from one year) (66 Del. Laws c 205; HB 167).
5/7/88	5/7/88	Redefined "miles traveled" in determining the tax liability due the state (66 Del. Laws c 244; SB 166).
7/18/90	10/1/90	Redefined "motor vehicle," and exempted farm trucks weighing less than 40,001 pounds (67 Del. Laws c 405; HB 63).
7/2/90	1/1/91	Increased the rate of tax to 19 cents per gallon (67 Del. Laws c 285; HB 777).

## **MOTOR CARRIERS FUEL PURCHASE TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/11/91	7/11/91	Authorized the Secretaries of the Departments of Public Safety and Transportation to enter into agreements for an International Registration Plan (IRP) and Cooperative Motor Carrier agreements between the states. Created statutory limitations for claims against the Transportation Trust Fund. (68 Del. Laws c 156; HB 390). Note: Delaware began participating in International Registration Plan on 1/1/95 and in the International Fuel Tax Agreement (IFTA) on 7/1/96. Both arrangements were necessitated by the federal Intermodal Surface Transportation Efficiency Act of 1991.
5/21/92	5/21/92	Specified that public carriers that are subject to regulation by the Transportation Authority must bear the expense of regulation – assessed at 0.002 times the gross operating revenue for each of Delaware's fiscal years. This charge is in addition to all other fees and charges imposed by the Authority under Title 2 (68 Del. Laws c 255; HB 27).
7/1/92	7/1/92	Transferred responsibility for the administration of the tax and the Division of Motor Fuel Tax to the Department of Transportation from the Department of Public Safety (68 Del. Laws c 290; SB 444).
7/1/93	9/1/93	Increased the motor fuel tax rate to 22 cents per gallon (was 19 cents), but left the special fuel tax unchanged at 19 cents per gallon (69 Del. Laws c 77; HB 350).
7/1/93	1/1/95	Increased the motor fuel tax rate to 23 cents per gallon, and the special fuel tax rate to 22 cents per gallon, from 22 cents and 19 cents, respectively (69 Del. Laws c 77; HB 350).
7/11/95	7/11/95	For tax payments made prior to 7/1/96, limited to four (4) from eight (8) the number of tax quarters which may be used to offset tax liability or apply for a fuel over-purchase refund. Per Delaware's entrance into IFTA, fuel purchase credits accrued after 6/30/96 are entitled to be carried forward for a period not to exceed eight (8) quarters from the quarter in which the credit was accrued (70 Del. Laws c 210; SB 260).

### **TAX FILING AND PAYMENT PROCEDURES**

Fuel use returns are not required by those Delaware based motor carriers that have applied for and received non-IFTA decals and a non-IFTA license. All Delaware based motor carriers, which

## **MOTOR CARRIERS FUEL PURCHASE TAX**

have applied for and received an IFTA license must file an IFTA 100 tax return with applicable schedules on or before the last day of April, July, October, and January of each year.

Any motor carrier that accrues an over-purchase credit on its IFTA tax return may, regardless of size of the credit, carry over the credit for a period of up to eight quarters. If the accrued credit is \$25 or more, the motor carrier may also request a refund on the IFTA 100 Tax Report.

### **REGISTRATION PROCEDURES**

Intrastate Delaware based motor carriers must request a non-IFTA registration form (MFTA-2) and obtain the required number of decals for each vehicle operating exclusively in the State of Delaware. Each intrastate qualified vehicle must display two (non-IFTA) decals and carry the non-IFTA license in the cab of the vehicle. Delaware based motor carriers with interstate operations must apply for IFTA registration and the required accompanying IFTA decal sets by submitting form MFTA-1. As noted above, the cost is \$5.00 per decal set for both IFTA and non-IFTA decal sets.

## **MOTOR FUEL/SPECIAL FUEL TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapter 51.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The motor fuel excise tax is administered and collected by the Department of Transportation, Motor Fuel Tax Administration.

### **GENERAL LIABILITY**

Delaware imposes an excise tax on each gallon of gasoline sold or used in the State. The tax is collected by and paid to the State by licensed distributors. An excise tax is also imposed on the retail sale or use of special fuel, which includes all combustible gases and liquids suitable for the propulsion of motor vehicles, except gasoline. The special fuel tax is collected by and paid to the State by licensed users, dealers, or suppliers.

### **TAX RATES**

The tax rate on motor fuels is 23¢ per gallon; 22¢ per gallon on special fuels.

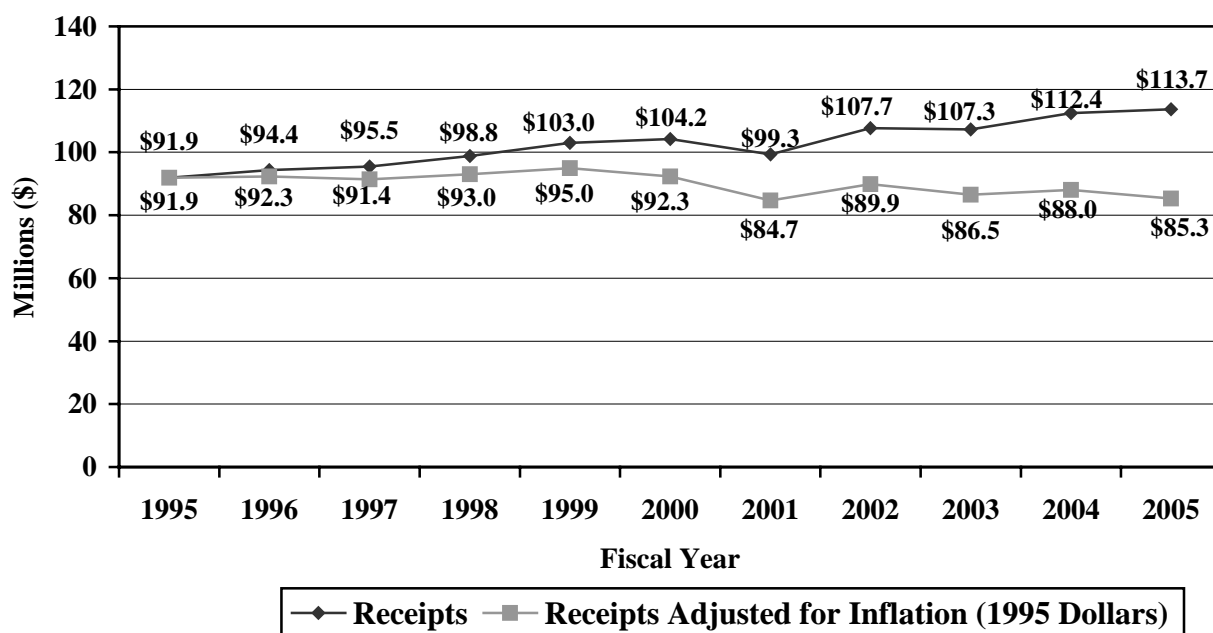
### **GASOLINE TAX REFUNDS**

The gasoline tax is refundable upon application, for off-highway, taxicab, boat and airplane use (Form MFT-4).

## MOTOR FUEL/SPECIAL FUEL TAX

### TAX RECEIPTS

#### Motor Fuel/Special Fuel Tax



### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/23/70	7/23/70	Shifted tax collection and administration responsibilities to the Department of Finance from the Highway Department (57 Del. Laws c 741).
7/30/71	8/1/71	Increased the gasoline tax rate to 8 cents per gallon, from 7 cents (58 Del. Laws c 289; HB 505).
7/17/73	8/1/73	Shifted tax collection and administration responsibilities to the Department of Public Safety from the Department of Finance (59 Del. Laws c 216; HB 444).
7/19/73	8/1/73	Instituted a temporary gasoline tax rate increase to 9 cents per gallon, from 8 cents (59 Del. Laws c 218; HB 550).

## MOTOR FUEL/SPECIAL FUEL TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/30/74	6/30/74	Made permanent the temporary 9 cent per gallon gasoline tax (59 Del. Laws c 416; HB 978).
3/27/75	4/1/75	Increased the special fuels' rate to 9 cents per gallon, from 8 cents (60 Del. Laws c 14; HB 130).
6/8/77	7/1/77	Instituted a temporary increase in the gasoline and special fuel tax to 11 cents per gallon (61 Del. Laws c 74; HB 157).
6/8/77	9/1/78	Reduced the gasoline and special fuel tax to 9 cents per gallon, from 11 cents.
7/24/81	8/1/81	Raised the gasoline and special fuel rate to 11 cents per gallon, from 9 cents (63 Del. Laws c 179).
7/17/84	7/17/84	Increased the maximum bonding requirement to \$50,000, the retail license fee to \$5, the distributor license to \$10, and the special fuel license to \$10 (65 Del. Laws c 365 and 368; HB 643 and HB 647).
7/2/87	9/1/87	Increased the gasoline and special fuel tax rate to 16 cents per gallon (66 Del. Laws c 87; HB 371).
7/8/87	7/8/87	Increased the maximum surety bond to \$100,000 (66 Del. Laws c 97; HB 165).
6/17/88	6/17/88	Transferred jurisdiction for licensing violations to the Justice of Peace Courts, from the Superior Court System (66 Del. Laws c 273; HB 166).
7/2/90	1/1/91	Increased the tax on gasoline and special fuels to 19 cents per gallon, from 16 cents (67 Del. Laws c 582; HB 777).
7/2/90	7/2/90	Permitted payment of tax via hand delivery and electronic funds transfer. Increased the penalties on gasoline distributors, special fuel licensees, and motor carriers for failure to file reports or pay tax (67 Del. Laws c 340; HB 562).
7/1/92	7/1/92	Transferred the Division of Motor Fuel Tax, and its tax administration responsibilities, to the Department of Transportation (from the Department of Public Safety) (68 Del. Laws c 290; SB 444).
7/1/93	9/1/93	Increased the motor fuel tax rate to 22 cents per gallon (was 19 cents), but left the special fuel tax unchanged at 19 cents per gallon (69 Del. Laws c 77; HB 350).

## **MOTOR FUEL/SPECIAL FUEL TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/1/93	1/1/95	Increased the motor fuel tax rate to 23 cents per gallon, and the special fuel tax rate to 22 cents per gallon, from 22 cents and 19 cents, respectively (69 Del. Laws c 77; HB 350).
7/29/93	10/29/93	Specified that "special fuel" does not include combustible gases and liquids which, prior to January 1, 1996, were used in a program to determine commercial feasibility of alternatively-fueled vehicles. The number of vehicles involved in the programs, must not exceed 10 vehicles or 10% of the taxpayer's vehicles, whichever is greater (69 Del. Laws c 171; HB 51).
3/22/96	7/1/96	Increased the minimum and maximum surety bond amounts as follows: minimum special fuel bond from \$500 to \$5000; maximum special fuel bond from \$100,000 to \$200,000; minimum motor fuel bond from \$1,000 to \$5,000; maximum motor fuel bond from \$100,000 to \$200,000 (70 Del. Laws c 311; HB 311).
7/17/98	7/17/98	Prohibited the use of dyed diesel fuel on highways: imposed penalties for violations (71 Del. Laws c 459; HB 669).

### **LICENSE, BOND, FILING PROCEDURES - GASOLINE**

Gasoline Retailers License: A gasoline retailer (service station) must obtain an annual license from the Motor Fuel Tax Administration to engage in the retail sale of gasoline. The license fee is \$5.00, and the license application (Form MFT-6) must be renewed before July 1st of each year. No reporting is required. In addition, the retailer must obtain a business (retailer) license from the Division of Revenue.

Gasoline Distributor's License: A gasoline distributor must obtain an annual license from the Motor Fuel Tax Administration to import and/or export, use, sell, distribute, or manufacture gasoline in Delaware. The license fee is \$10.00, and the license application (Form MFT-2) must be renewed before July 1st of each year.

The distributor's monthly report (Form MFT-1), with remittance, is to be filed on or before the 25th day of the month for the preceding month's sales. This report shows the gasoline inventories, receipts, disbursements and amount of tax remitted to the State. Companies or firms with \$20,000 or more in combined motor fuel/special fuel tax liability must remit their tax payments electronically.

Any gasoline distributor must obtain a surety bond (Form MFT-3) in the amount of a three (3) month's

## **MOTOR FUEL/SPECIAL FUEL TAX**

tax liability (minimum \$5,000, maximum of \$200,000) before a license can be issued. Gasoline distributors also must obtain a wholesaler's license from the Division of Revenue.

### **LICENSE, BOND, FILING PROCEDURES - SPECIAL FUEL**

Special Fuel Dealer's License: Persons or firms that handle special fuels at retail, or that deliver fuel into supply tanks of motor vehicles they do not own, must obtain a special fuel dealer's license from the Motor Fuel Tax Administration, unless they pay the applicable tax to their supplier(s). A license is required for each separate place of business or location where special fuels are stored or placed into motor vehicles' fuel supply tanks. The monthly tax report (Form SF-4), totalizer report (Form SF-24), and tax remittance must be submitted on or before the 25th day of each month for the preceding month's sales. In addition, each special fuel dealer must obtain a retailer's license from the Division of Revenue.

Special Fuel User's License: Persons or firms that place special fuel into their own motor vehicle(s), from any source other than a licensed dealer or supplier, must obtain a special fuel user's license from the Motor Fuel Tax Administration. A license is required for each separate place of business or location where special fuels are stored. Any person who is both a user and a dealer of special fuel must obtain both the user's and dealer's licenses. User's must make a monthly tax report (Form SF-4) and tax remittance on or before the 25th day of each month, for the preceding month's use.

Special Fuel License Fees: The annual license fee for any special fuel license is \$10.00. The corresponding license application (Form SF-1) must be renewed before July 1st of each year. A surety bond (Form SF-3) in the amount of three (3) month's tax liability--not less than \$5,000, but not more than \$200,000--is required before a license can be issued.

## PERSONAL INCOME TAX

### STATUTORY PROVISION

Title 30, Delaware Code, Chapter 11.

### COLLECTION/ADMINISTRATIVE AGENCY

The personal income tax is administered by the Department of Finance, Division of Revenue.

### GENERAL LIABILITY

#### Resident

Every resident of Delaware must file a personal income tax return whenever such resident:

- (a) is required to file a federal tax return; or
- (b) has adjusted gross income (after modifications) that exceeds the maximum filing thresholds. The maximum filing thresholds for each filing status are listed below:

**(Levels Effective Beginning with the 2000 Tax Year)**

<b>AGE/STATUS</b>	<b>FILING SINGLE</b>	<b>MARRIED FILING A JOINT RETURN (1)</b>	<b>MARRIED FILING SEPARATE</b>	<b>FILING AS A DEPENDENT ON ANOTHER PERSON'S RETURN</b>
Under 60	\$9,400	\$15,450	\$9,400	\$5,250
60 to 64	\$12,200	\$17,950	\$12,200	\$5,250
65 and over OR Blind	\$14,700	\$20,450	\$14,700	\$7,750
65 and over AND Blind	\$17,200	\$22,950	\$17,200	\$10,250

- (1) This dollar amount represents a taxpayer's individual Adjusted Gross Income, NOT a total combined with anyone else.

Every resident must report all income earned during the taxable year to Delaware, regardless of the source.

#### Non-Resident

Every non-resident must file a tax return to report all income earned within the State. This includes only income attributable to employment or personal services performed in Delaware, or to the

## PERSONAL INCOME TAX

ownership or disposition of any interest in real or tangible personal property in Delaware (i.e., wages, business income (or losses), capital gains (or losses), rents and royalties, partnerships, farm income and any other income or derived from a Delaware source). Interest, dividends and pensions, even if attributable to Delaware employment, are excluded.

Non-residents calculate their liabilities as if they were residents except that non-residents' final liabilities are prorated according to their ratio of Delaware source income to total income.

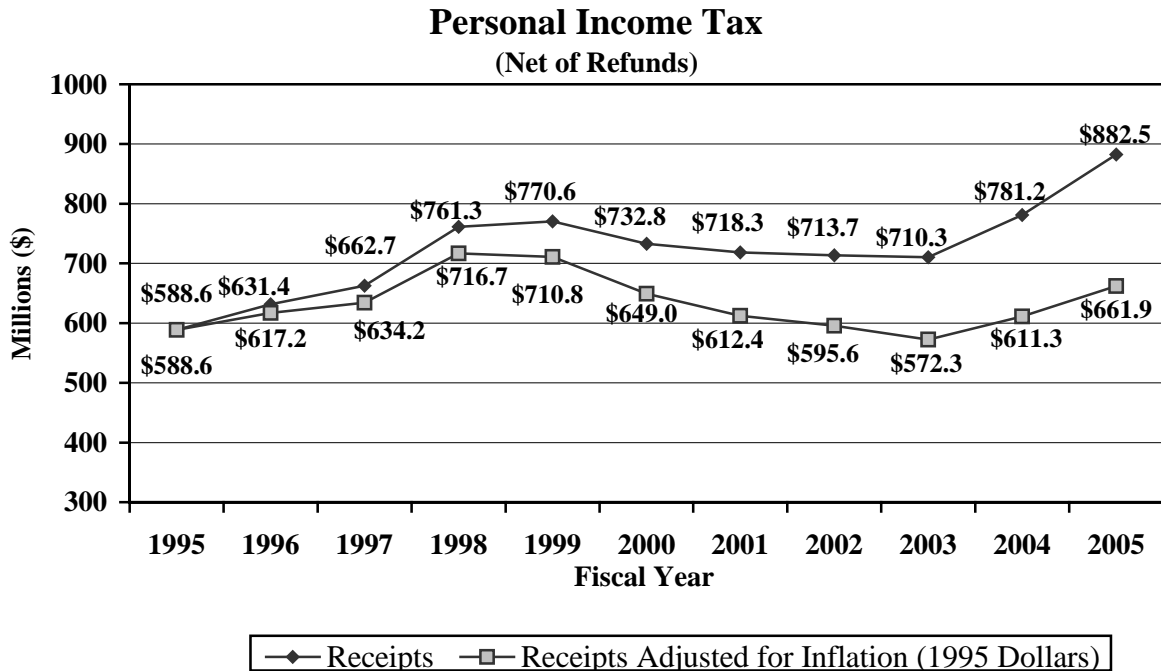
### Part-Year Resident

Part-year residents have the option of filing as a resident or a non-resident. By filing as a non-resident, final liability is reduced because it is prorated according to the taxpayer's ratio of Delaware source income to total income. Filing a resident return, however, allows the taxpayer to make use of certain tax credits (e.g., the child care credit) not available to non-residents. If large enough, these tax credits can produce a final liability that is lower than that which may be obtained by filing as a non-resident.

## **BUSINESS DEVELOPMENT TAX INCENTIVES**

See Appendix I (page 173) for a description of the employment and investment incentives commonly referred to as the "Blue Collar Job Act."

## **TAX RECEIPTS**



## PERSONAL INCOME TAX

### TAX RATES

The tax rate table presented below is used to determine "gross liability." In determining final liability, taxpayers first calculate gross liability based on their taxable income. From gross liability, taxpayers subtract a \$110 personal credit for themselves and each dependent claimed on the return.

**Personal Income Tax Rates  
(Effective January 1, 2000)**

IF TAXABLE INCOME IS GREATER THAN:	BUT LESS THAN:	TAX LIABILITY IS CALCULATED AS:	PLUS:	ON TAXABLE INCOME OVER:
\$0	\$2,000	\$0.00	0.00%	\$0
\$2,000	\$5,000	\$0.00	2.20%	\$2,000
\$5,000	\$10,000	\$66.00	3.90%	\$5,000
\$10,000	\$20,000	\$261.50	4.80%	\$10,000
\$20,000	\$25,000	\$741.50	5.20%	\$20,000
\$25,000	\$60,000	\$1,001.00	5.55%	\$25,000
\$60,000		\$2,943.50	5.95%	\$60,000

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
5/6/71	4/1/71	Required monthly withholding deposits when taxable withholdings exceed \$200 (58 Del. Laws c 56; HB 116).
7/31/71	8/1/71	Increased marginal rates for incomes over \$20,000. Added 4 new tax brackets. Brought the top rate to 18% on taxable income greater than \$100,000 (58 Del. Laws c 300; HB 532).
7/6/73	7/6/73	Made 100% of any capital gains taxable (59 Del. Laws c 151; HB 546).
7/6/73	1/1/74	Increased all rates by 10% (59 Del. Laws c 152).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
3/27/75	4/1/75	Disallowed the previous deduction for a percentage depletion of oil and gas wells (60 Del. Laws c 639).
3/27/75	4/1/75	Required employers who withhold more than \$100 during either of the first two months of a calendar quarter to pay the amount withheld within 15 days after the end of the month (60 Del. Laws c 17).
7/11/75	7/11/75	Created an exclusion for up to \$2,000 in pension income (60 Del. Laws c 269).
8/4/75	1/1/76	Required monthly payment of withheld taxes before the fifteenth day of the month following the end of such calendar month (was quarterly) (60 Del. Laws c 276).
7/16/76	1/1/77	Adopted the federal deduction for long-term capital gains for Delaware tax purposes (60 Del. Laws c 639).
7/12/77	7/12/77	Permitted the withholding of personal income tax from pay of military personnel (61 Del. Laws c 136).
12/30/77	12/30/77	Required the federal adjustment for lump-sum pension distributions to be added back to State adjusted gross income.
6/6/78	6/6/78	Provided that federal filing extensions no longer extend automatically to the Delaware return.
7/12/78	7/12/78	Offered a \$200 credit for the installation of certain solar energy devices (61 Del. Laws c 512).
-	1/1/79	Adopted federal rule that unemployment compensation is to be included in adjusted gross income.
6/6/79	1/1/79	Reduced personal income tax rates, with the top rate falling to 16.65% (heretofore 19.8%).
-	1/1/80	Cut personal income tax rates, bringing the top rate to 13.5% (62 Del. Laws c 56; HB 334).
2/14/80	4/1/79	Repealed the 25% penalties for individuals' late filing and employers' failure to pay withholding taxes (where withholding is required).
7/09/81	1/1/81	Amended the definition of "resident" so that an individual working in another country for a period of 18 months or longer will not be considered domiciled

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		in Delaware if certain requirements are met. (63 Del. Laws c 122).
6/29/82	7/1/82	Increased to 5% per month (25% maximum) the penalty for failure to pay all or part of income tax liability on a timely filed return. Allowed current year unpaid liability to be offset by claims for prior-year refunds. Reduced the penalty for late filing of returns to 5% per month (was 10% per month) (63 Del. Laws c 345).
2/1/83	4/1/83	Required employers which withhold more than \$5,000 in any month to file within 3 working days following the close of any of 8 monthly periods in which the tax withheld exceeds \$5,000 (64 Del. Laws c 6; HB 49).
7/6/83	7/6/83	Established a set-off of taxpayers' refunds to service delinquent indebtedness owed to State Department of Health and Social Services (64 Del. Laws c 105; SB 143).
7/13/83	7/13/83	Established a checkoff by which taxpayers can designate a portion of their tax payments to a special fund for wildlife preservation (64 Del. Laws c 151; HB 149).
-	12/31/83	Required estimated tax filing if liability is expected to exceed \$100 (64 Del. Laws c 153; HB 218)
1/26/84	1/1/84	Excluded all social security benefits from Delaware personal income tax (64 Del. Laws c 224; SB 278).
-	1/1/84	Created a deduction for mileage performed in certain charitable services in an amount equal to the difference between the state employee mileage reimbursement and the amount permitted as a federal deduction (64 Del. Laws c 410; HB 398).
7/2/84	1/1/85	Reduced tax rates by approximately 10%. Brought the marginal rate to 11% on amounts of taxable income between \$40,000 - \$50,000 and 12.2% on amounts exceeding \$50,000 (64 Del. Laws c 317 HB 500).
7/2/84	1/1/85	Increased the personal exemption from to \$800, from \$600. Increased the gross income at which a return is required to be filed to \$800 for single taxpayers (was \$600); and to \$1,600 for a married couple (was \$1,200) (64 Del. Laws c 330; SB 405).
7/2/84	1/1/85	Reduced the top rate temporarily to 10.7% on taxable amount greater than \$40,000. Required revocation of top rate reduction for Tax Year 1988 (64 Del.

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Laws c 317) unless total full-time employment averaged an annual increase of 6,000 jobs from 6/1/84 through 5/31/87 (64 Del. Laws c 325; HB 700).
7/17/84	7/17/84	Authorized the Director of Revenue to prescribe tax tables for taxable incomes less than \$20,000 (64 Del. Laws c 376; HB 688).
7/20/84	1/1/84	Established an income tax return check-off for an Olympics fund (64 Del. Laws c 422; HB 624).
7/20/84	1/1/84	Established an income tax return check-off for an emergency shelter fund (64 Del. Laws c 425; SB 648).
7/20/84	1/1/85	Increased to \$75 the tax credit for duty expenses of active volunteer fire fighters (64 Del. Laws c 406; HB 20).
7/20/84	10/1/84	Established an income tax return check-off for a children's trust fund (64 Del. Laws c 431; SB 449).
7/12/85	1/1/86	Increased the personal exemption to \$1,000, from \$800, thereby raising the gross income at which a return is required to be filed likewise to \$1,000 (from \$800) and to \$2,000 (from \$1,600) for a married couple (65 Del. Laws c 147; SB 1).
9/5/85	1/1/87	Provided a credit for child and dependent care equal to 25% of the corresponding federal credit (65 Del. Laws c 202; SB 18).
9/5/85	1/1/87	Increased to \$3,000 the pension exclusion for taxpayers 60 years and older (was \$2,000) (65 Del. Laws c 203; SB 29).
9/5/85	1/1/86	Reduced marginal rates by approximately 9%, bringing the top rate down to 9.7% for taxable incomes in excess of \$40,000 (65 Del. Laws c 204; HB 337).
-	1/1/87	Cut marginal rates by approximately 9%, reducing the top rate to 8.8%, from 9.7% (65 Del. Laws c 394; HB 765).
-	1/1/87	Extended the \$75 firefighters' credit to members of volunteer ambulance or rescue services for purchase of clothing, etc. (65 Del. Laws c 397; SB 199).
-	1/1/87	Eliminated the limitation on deductibility of charitable contributions (previously capped at 20% of adjusted gross income) (65 Del. Laws c 403; SB 459).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
-	1/1/87	Allowed deduction of up to ½ the cost of health insurance for self-employed persons (65 Del. Laws c 461; SB 578).
-	1/1/87	Extended the \$75 firefighters' credit to Fire Company Auxiliary members for purchases of clothing, etc. (65 Del. Laws c 518; SB 378).
-	1/1/87	Created an additional standard deduction of \$1,000 for persons who are blind or age 65 or over. Offered a one-time, 12% boost in itemized deductions for Tax Year 1987.
-	1/1/88	Increased the personal exemption to \$1,250, from \$1,000; and the standard deduction to \$1,300 single, \$1,600 married filing jointly, and \$800 married filing separately. Repealed deduction for federal taxes paid. Instituted a new rate schedule with a \$2,000 zero bracket, a total of eight brackets, and a top rate of 7.7% (66 Del. Laws c 86, 93 and 95; SB 292 and 296 and HB 370).
7/8/87	7/8/87	Allowed set-off of taxpayers' tax refunds for debts they owe to the Department of Labor (66 Del. Laws c 118; SB 203).
7/8/87	7/8/87	Established administrative procedures regarding withholding taxes, and reduced the time for filing a protest to 30 days, from 90 days (66 Del. Laws c 122; SB 205).
7/10/87	1/1/88	Repealed the \$200 solar energy credit (66 Del. Laws c 129; HB 265).
7/10/87	7/10/87	Created a penalty for late filing of a zero balance or balance due return; equal to the amount of refund due on the return, or \$35, whichever is less (66 Del. Laws c 130; HB 266).
2/3/88	2/3/88	Exempted from tax the income of members of the military who die from injuries incurred outside the United States in a terroristic or military action (66 Del. Laws c 215; HB 164).
6/15/88	6/15/88	Clarified the exemption of REMIC's from personal income tax, corporation income tax and license/gross receipts tax (66 Del. Laws c 267; HB 465).
7/13/88	1/1/89	Offered an additional personal exemption for persons age 60 years or over (66 Del. Laws c 362; SB 494).
7/14/88	1/1/89	Allowed the use of joint filing status rules for couples filing separate Delaware returns when computing special rental real estate loss allowances (66 Del.

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Laws c 377; SB 493).
7/15/88	1/1/89	Increased the child care credit to 50% of the taxpayer's federal credit (was 25%) (66 Del. Laws c 411; SB 495)
6/27/89	6/27/89	Extended confidentiality provisions to all tax returns (67 Del. Laws c 40; SB 55).
7/2/90	7/1/90	Limited net operating loss carrybacks to \$30,000 per year for each of previous three years (67 Del. Laws c 263; HB 730).
7/18/90	1/1/90	Exempted income from certain federal sources even if they are received in the form of distributions from mutual funds (67 Del. Laws c 399; HB 578).
7/18/90	1/1/90	Required trusts with assets equal to, or greater than, \$1,000,000, to pay estimated taxes (67 Del. Laws c 399; HB 578).
2/6/90	2/6/90	Excluded from Delaware AGI any employer-provided commuter benefits qualifying under the State's traffic mitigation program, to the extent such benefits are included in a taxpayer's federal AGI (67 Del. Laws c 160; HB 32).
7/18/90	1/1/91	Authorized the Division of Revenue to issue tax tables up to \$40,000 in taxable income (previously \$20,000) (67 Del. Laws c 407; SB 381).
7/18/90	1/1/91	Included in taxable income any income received from mutual funds, to the extent such proceeds are attributable to interest from non-Delaware state and local bonds or obligations (67 Del. Laws c 399; HB 578).
4/9/91	4/9/91	Permitted the suspension of tax obligations for armed services or support personnel serving in a combat zone (68 Del. Laws c 22; HB 121).
6/20/91	1/1/92	Amended the taxation of non-residents by calculating liability as if they were residents, but pro-rating such liability according to the Delaware share of their total income (68 Del. Laws c 82; HB 349).
8/1/91	1/1/92	Repealed procedural provisions in light of enactment of Chapter 5 of Title 30 (68 Del. Laws c 187; HB 281).
7/21/92	1/1/92	Required taxation of non-resident, S Corporation shareholders according to their individual share of any S Corporation income derived from Delaware sources (68 Del. Laws c 423; HB 573).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
2/6/92	1/1/92	Permitted any taxpayer who is not subject to the corporate income tax to be eligible for tax credits for new employees, qualified investments, and recycling activities. Established that resident shareholders in eligible S Corporations are entitled to a proportionate share of the credits listed above (68 Del. Laws c 202; HB 415).
2/6/92	1/1/92	Provided a 15% credit for taxpayers who invest in "qualified" Delaware businesses (subject to certification by the Delaware Economic Development Office) (68 Del. Laws c 203; HB 416).
7/22/92	10/1/92	Classified a domestic or foreign limited liability company as a partnership, unless the company is classified otherwise for federal income tax purposes (68 Del. Laws c 434; HB 608).
2/4/94	2/4/94	Exempted investment companies registered under the Investment Company Act of 1940, and real estate investment trusts, from the corporate income tax (69 Del. Laws c 188; HB 244).
2/4/94	2/4/94	Clarified various provisions with respect to intangible assets treated as investments for federal tax purposes; identified these intangibles as tax liabilities at the State level as well (69 Del. Laws c 188; HB 244).
7/12/94	7/12/94	Amended various administration, classification, and enforcement provisions of Title 30 (69 Del. Laws c 369; SB 159).
7/1/95	1/1/95	Removed the penalty for failure to timely file personal income tax returns on which a refund is due (70 Del. Laws c 117; HB 377).
7/1/95	1/1/96	Reduced personal income tax rates as follows: 6.35% for taxable income between \$20,000 and \$25,000; 6.65% for taxable income between \$25,000 and \$30,000; and 7.1% for taxable income above \$30,000. Eliminated the tax bracket for taxable income between \$30,000 and \$40,000 (70 Del. Laws c 117; HB 377).
7/1/95	1/1/96	Replaced the personal exemption with a non-refundable \$100 personal credit, increasing the gross income threshold above which taxpayers must file a return (70 Del. Laws c 116; SB 267).
2/1/96	1/1/96	Allowed non-residents to claim personal credits proportional to their Delaware source income (70 Del. Laws c 297; SB 271).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/19/96	1/1/96	Established new withholding tax filing requirements whereby an employer's filing frequency is determined according to amounts withheld during a "lookback" period. Required that employers subject to federal electronic filing requirements for withholding taxes must also file Delaware withholding taxes electronically (70 Del. c 371; SB 281).
7/8/96	1/1/97	Reduced the top (taxable income over \$30,000) marginal tax rate to 6.9%, from 7.1%. Reduced all marginal tax rates on taxable income above \$2,000 and less than \$30,000. Maintained zero bracket on taxable income under \$2,000 (70 Del. Laws c 454 and c 455; SB 482 and HB 713).
7/11/96	1/1/96	Established an exemption from tax for early distributions from qualified retirement funds or cash deferred compensation plans, provided the distribution is used to pay for books, tuition, or fees at an institution of higher education (70 Del. Laws c 495; HB 715).
7/11/96	1/1/96	Increased to 100% (by virtue of piggy-backing on federal itemized adjustments) the extent to which self-employed individuals may deduct the cost of health care insurance premiums (70 Del. Laws c 486; SB 335).
7/9/96	7/9/96	Established a breast cancer donation "checkoff" on personal income tax returns (70 Del. Laws c 472; SB 405).
4/7/97	12/31/96	Permitted the Division of Revenue to require rounding to the nearest dollar on tax returns or portions of tax returns (71 Del. Laws c 14; SB 33).
7/23/97	12/31/97	Added real estate investment trusts (REITs) to the list of entities specifically exempted from personal income tax (71 Del. Laws c 217; HB 257).
7/1/97	1/1/97	Broadens the scope of the \$3,000 "pension" exclusion available to individuals age 60 or over by including "eligible retirement income" among those sources of income which qualify for the exclusion. Eligible retirement income includes dividends, interest, and rental income and many retirement plans approved under the Internal Revenue Code, such as IRA's and Keogh plans (71 Del. Laws c 131; SB 219).
7/3/97	7/3/97	Ensured that the period of time for collection and assessment of taxes outside bankruptcy will not expire during the period of assessment, and collection is stayed pursuant to an order of the United States Bankruptcy Court under Title 11 of the United States code. Allowed an additional 60 days after the lifting of the stay to make an assessment and 6 months to commence collection

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		proceedings (71 Del. Laws c 144, SB 201).
7/16/97	7/16/97	Exempted income earned by trusts which are recognized as “designated” or “qualified” settlement funds under section 468B of the Internal Revenue Code (71 Del. Laws c 189; HB 143).
6/25/98	1/1/99	Imposed a penalty of 5% of withholding taxes owed or \$500, whichever is the lesser, on employers required by Delaware Law to pay withholding taxes by electronic funds transfer but fail to do so. Eliminated the requirement on non-Delaware partnerships to file a copy of federal schedule K-1 for partners who are residents of Delaware; this provision is effective 1/1/98 (71 Del. Laws c 314; HB 605).
7/1/98	1/1/99	Reduced personal income tax rates as follows: 2.6% for taxable income between \$2,000 and \$5,000; 4.3% for taxable income between \$5,000 and \$10,000; 5.2% for taxable income between \$10,000 and \$20,000; 5.6% for taxable income between \$20,000 and \$25,000. Increased the standard deduction by 150% for individuals, married couples, blind persons and persons over 65 years of age (71 Del. Laws c 347; SB 434).
7/1/98	1/1/99	Reduced marginal tax rates as follows: from 6.45% to 5.95% on taxable income between \$25,000 and \$30,000; from 6.90% to 5.95% on taxable income between \$30,000 and \$60,000; and from 6.9% to 6.4% on taxable income over \$60,000 (71 Del. Laws c 350; HB 769).
7/1/98	1/1/99	Increased from \$3,000 to \$5,000 the exclusion from taxable income for pension and "eligible retirement income" for persons age 60 or over (71 Del. Laws c 352; HB 770).
7/1/99	1/1/00	Exempted charitable trusts from tax on their income to the same extent as corporations (72 Del. Laws c 111; SB 147).
8/4/99	1/1/00	Reduced marginal tax rates by 0.4 percentage points for all brackets other than the top bracket (72 Del. Laws c 248; SB 243).
8/4/99	1/1/00	Increased the personal credit from \$100 to \$110 and updated filing thresholds (72 Del. Laws c 247; SB 244).
8/4/99	1/1/00	Increased standard deduction amounts to \$3,250 for married taxpayers filing separate returns and to \$6,500 for those filing jointly (72 Del. Laws c 241; HB 411).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
8/4/99	1/1/00	Reduced from 6.4% to 5.95% the top tax rate paid on taxable income in excess of \$60,000 (72 Del. Laws c 242; HB 414).
8/4/99	1/1/00	Increased from \$5,000 to \$12,500 the aggregate amount of income received as dividends, interest, rents, employer provided pensions, and qualified retirement plans (e.g., IRA's & 401(k) plans) that individuals age 60 and over may exclude from taxable income (72 Del. Laws c 246; SB 245).
8/4/99	1/1/00	Included capital gains within the definition of "eligible retirement income" for which an exclusion from taxable income may be taken by individuals aged 60 or over (72 Del. Laws c 243; HB 412).
8/4/99	1/1/99	Increased from \$150 to \$300 the amount of the credit available to volunteer fire company and auxiliary members for expenses incurred for the purchase of clothing, equipment, motor fuel and other essential items (72 Del. Laws c 244; HS 1 to HB 64).
8/5/99	1/1/00	Established the Land and Historic Resource Tax Credit for gifts of land to public agencies and qualified private non-profit charitable organizations. The amount of the credit is equal to the lesser of 40% of the appraised fair market value of the gift or \$50,000. No more than \$1 million in credits may be awarded per year. The program will sunset on December 31, 2020 (72 Del. Laws c 254; HB 413).
6/20/00	6/20/00	Created a new check-off on personal income tax returns for Delaware Diabetes Education Fund (72 Del. Laws c 330; HB 514 w/ HA1, HA3, HA5).
7/18/00	1/1/01	Raised from \$100 to \$400 the amount of money which people can owe the state without being subject to a penalty for insufficient pre-payment of estimated taxes (72 Del. Laws c 445; SB 354).
7/18/00	1/1/00	Extended the "Blue Collar Jobs" credit program for an additional 5-year period (72 Del. Laws c 442; SB 304).
7/18/00	1/1/00	Reorganized Delaware tax statutes covering pass-through entities by consolidating existing code and codifying and administrative interpretations into a single chapter (72 Del. Laws c 467; HB 651).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
2/1/01	1/1/01	Established Historic Preservation Credit, which provides a 20% credit for qualified rehabilitation expenditures on properties that qualify for the federal credit, and 30% for those properties that do not qualify for the federal credit. These amounts are increased to 30% and 40% for certain low-income housing projects. Credits granted may not exceed \$3 million in any one fiscal year (73 Del Laws c 06, HB1 as amended by SA1).
7/9/01	7/9/01	Clarified and provided procedures relating to the filing of returns by digital or other electronic means (73 Del. Laws c 131; SB 182).
7/9/01	7/9/01	Established that contributions to the Delaware College Investment Plan are not exempt from execution or attachment processes in the case of taxes owed to the State of Delaware under §554 of Title 30 (73 Del. Laws c 169; HB 107).
7/12/01	7/12/01	Streamlined the placement of check-off statutes within the Code and removed requirements that check-offs must be placed on the front of the personal income tax return (73 Del. Laws c 179; HB 257).
8/22/02	8/22/02	Established an income tax return check off for the Veterans' Home Fund. (73 Del. Laws c 433; HB 500).
7/12/04	1/1/04	Increased the tax credit for volunteer firefighters and ambulance or rescue service members or auxiliary members from \$300 to \$400. (74 Del.Laws c 338; HB 356)
8/23/04	8/23/04	Added the Delaware National Guard and Reserve Emergency Assistance Fund check off to the Delaware Personal Income Tax Form. (74 Del.Laws c 422; SB 299)
6/30/05	1/1/04	Eliminated the requirement that active members of Delaware fire, rescues, ambulance companies, and their auxiliaries provide proof of expenditures in the performance of their service prior to taking a \$400 personal income tax credit (75 Del. Laws c 79; HB 163).
7/12/05	7/12/05	Added a Delaware Juvenile Diabetes Fund check off to the Delaware Personal Income Tax Form (75 Del. Laws c 151; HB 220).
7/12/05	7/12/05	Increased the annual allocation for Historic Preservation Credits from \$3 million to \$5 million (75 Del. Laws c 152; HB 228).

## PERSONAL INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
8/22/05	1/1/06	Established a non-refundable Delaware Earned Income Tax Credit (EITC) equal to 20% of the Federal EITC (75 Del. Laws c 152; SB 230).

### **FILING PROCEDURES**

In general, for calendar year taxpayers, the Delaware personal income tax return is due on or before April 30 following the close of the tax year. For fiscal year taxpayers, the return is due on the last day of the fourth month following the close of the tax year. Employers are required to withhold and remit income tax from salary and wages. Individuals must pay estimated taxes quarterly if withholding from salary and wages is insufficient to meet the total estimated tax liability for the year.

### **PENALTIES AND INTEREST**

The civil penalty for failure to file a return is 5% per month or fraction of a month, up to 50% of the unpaid tax liability. If a deficiency is due to negligence, a penalty equal to 10% of the underpayment amount may be incurred. The civil penalty for fraud is 100% of the total tax due. A penalty of 1/2% per month is applied for failure to pay the tax liability shown to be due on a timely filed return. Interest is computed at 1% per month from the due date of the original return to date the balance is paid in full. Employers that are required, but fail, to deposit their withholding taxes by electronic funds transfer are penalized the lesser of 5% of the amount that should have been transferred or \$500.

## **PERSONAL INCOME TAX S CORPORATIONS**

### **STATUTORY PROVISIONS**

Title 30, Delaware Code, Chapters 11 and 19

### **COLLECTION/ADMINISTRATIVE AGENCY**

The tax is administered and collected by the Department of Finance, Division of Revenue.

### **GENERAL LIABILITY**

An S Corporation at the entity level is exempt from corporate taxation, and resident and non-resident shareholders must report their respective share of S distributive income on their individual personal income tax returns. An S corporation that has one or more non-resident shareholders is required to make estimated personal income tax payments on behalf of its non-resident shareholders. S corporations that conduct business in more than one state must allocate and apportion their income among the respective states.

### **TAX RATES**

Same as personal income tax rates. Estimated payments made on behalf of non-resident shareholders are made at the top marginal rate of 5.95%.

### **FILING PROCEDURES**

The income year of an S corporation is the same as the taxable year for which the corporation reports for Federal purposes. The final return is due on or before the first day of the fourth month following the close of the taxable year for the corporation. Request for automatic extension of six months to the Internal Revenue Service for filing the returns will be accepted by the Division of Revenue up to the 16th day beyond the date granted by the Internal Revenue Service. Additional extensions granted by the Internal Revenue Service will be accepted by the Division of Revenue up to the 16th day beyond the date granted by the Internal Revenue Service. Copies of all extensions granted by the Internal Revenue Service must be attached to the Delaware final return.

The corporation is responsible for making estimated payments of personal income tax for non-resident shareholders based on the non-residents' share of the S corporation's distributive income. Estimated payments are paid throughout the year on a quarterly basis.

## **PERSONAL INCOME TAX S CORPORATIONS**

The first tentative return, covering estimated income tax liability for the current income year, must be filed with the Division of Revenue on or before April 1 of the current income year for calendar-year taxpayers. In the case of fiscal year corporations, the first tentative return is due on or before the first day of the fourth month of the current income year. Interest is calculated at 1.5% per month for failure to timely pay estimated tax. Provided that the current year's estimated tax liability was timely filed and equal to at least 100% of the previous year's tax liability, there is no penalty for underpayment of estimated tax. Corporations whose Delaware taxable income was \$200,000 or more in any of the last three preceding taxable years must make tentative payments equal to 80% of the current year's tax liability.

### **PAYMENT DATES**

Due April 1, (or first day of 4th month of fiscal year) 50% of the estimated tax is due on the first tentative payment, using form 1100P-1.

Due June 15, (or 15th day of 6th month of fiscal year) 20% of the estimated tax is due on the second tentative payment, using form 1100P-2.

Due September 15, (or 15th day of 9th month of fiscal year) 20% of the estimated tax is due on the third tentative payment, using form 1100P-3.

Due December 15, (or 15th day of 12th month of fiscal year) 10% of the estimated tax is due on the fourth tentative payment, using form 1100P-4.

### **PENALTIES**

Failure to timely file the required tax return will result in a late filing penalty of 5% per month to a maximum of 50% of the amount of tax due, plus interest of 1% per month from the due date of the payment. Failure to pay the amount of tax shown to be due will result in a failure to pay penalty of 1/2% per month up to a maximum of 25% of the amount of tax unpaid. A negligence penalty of 20% of the amount of the deficiency or a penalty of 40% may be imposed if such deficiency is due to a substantial understatement of the tax. A fraud penalty of 75% where any part of the deficiency is due to fraud, may also be imposed. Failure to pay estimated tax will result in a 1.5% per month penalty on the amount of underpayment of tax. A failure to pay penalty is also assessed for failing to pay the full tax due when the final return is filed in the amount of 1/2% per month.

## **PERSONAL INCOME TAX FIDUCIARIES**

### **STATUTORY PROVISIONS**

Title 30, Delaware Code, Chapter 11.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The tax is administered and collected by the Department of Finance, Division of Revenue.

### **GENERAL LIABILITY**

Every resident estate or trust which is required to file a Federal Fiduciary Income Tax Return (Form 1041) and every non-resident estate or trust having gross income from Delaware sources must file a Delaware Fiduciary Income Tax return. The return shall be filed by the trustee of the trust, or executor, administrator or personal representative of the decedent. An association, trust or other unincorporated organization that is taxable as a corporation for Federal income tax purposes is not required to file a fiduciary return. An association, trust or other unincorporated organization, which by reason of its purposes or activities is exempt from Federal income tax, is also exempt from filing a Delaware Fiduciary return except with respect to its unrelated business taxable income. Trusts, which are recognized as “designated” or “qualified” settlement funds under §468B of the Internal Revenue Code are exempt from, state income tax.

### **TAX RATES**

Same as personal income tax rates.

### **FILING PROCEDURES**

Every resident estate or trust and every non-resident estate or trust having gross income from Delaware sources must file a Delaware Fiduciary return. The return should be filed by the trustee of the trust, executor, administrator or personal representative of the decedent. The Fiduciary Return is due on or before April 30th of the year following the close of the taxable year.

Every resident and non-resident trust shall make a declaration and pay estimated taxes, if at the end of the taxable year, the fair market value of the assets of the trust equals or exceeds \$1 million. Declarations of Delaware Estimated Income Tax, may be paid in full with the Declaration or in equal installments on or before April 30th, June 15th and September 15th of the calendar year of the return and January 15th of the following calendar year. The last installment must be mailed no later than January 15th of the following year.

## **PUBLIC ACCOMMODATIONS TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapter 61.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The public accommodations tax is administered by the Department of Finance, Division of Revenue. Proceeds from the tax are distributed as follows: One-eighth is earmarked to the Department of Natural Resources and Environmental Control, one-eighth is earmarked to county level convention and visitors' bureaus, one-eighth is earmarked for the Delaware Tourism Office, and five-eighths are deposited in the General Fund.

### **GENERAL LIABILITY**

Any establishment engaged in the business of furnishing or providing rooms intended or designed for transient lodging in hotels, motels, or tourist homes must obtain a hotel, motel, or tourist home license. In addition, a public accommodations tax is imposed upon the rental charge for transient lodging in hotels, motels, or tourist homes. Persons who reside or have the right to reside in transient lodging more than five consecutive months are exempt from tax.

### **TAX RATES**

8% of the rent, plus an annual license fee as determined by the following schedule:

- Hotels ..... \$25 for each room and \$30  
for each suite
- Motels ..... \$25 for each room
- Tourist Homes ..... \$15 for each room

Lodging/housing offered by following is exempt from the public accommodations tax:

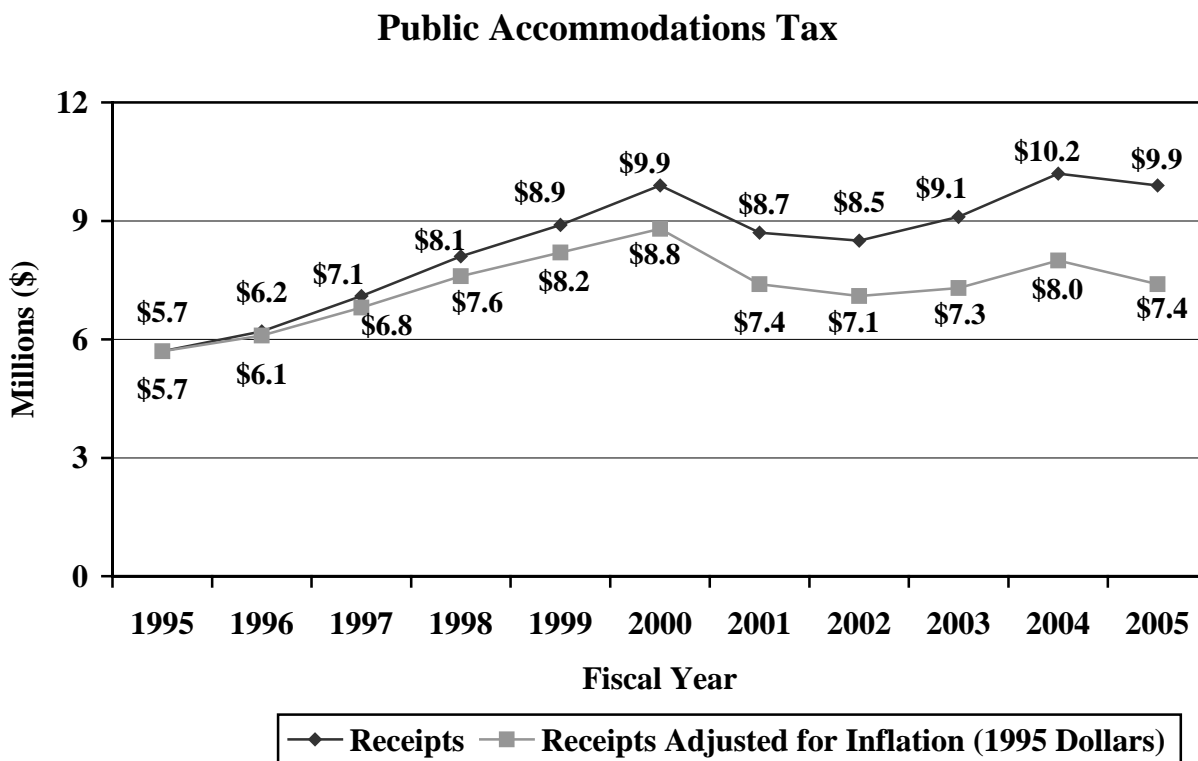
- Charitable, educational, or religious institutions
- Summer camps for children
- Nursing homes and hospitals

## PUBLIC ACCOMMODATIONS TAX

The following occupants/renters are exempt from the public accommodations tax:

- Employees of the U.S. Government on official business
- U.S. military personnel on official business
- Permanent residents of hotels, motels and tourist homes

### TAX RECEIPTS



### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
8/15/71	7/30/71	Instituted the public accommodations tax (58 Del. Laws c 288; HB 504).
6/30/81	6/30/81	Exempted from the 6% occupancy tax any tourist home rooms that provide cooking facilities for guests (63 Del. Laws c 68).
6/29/82	7/01/82	Imposed a 5% penalty (50% maximum) for failure of any owner to file a return or pay the 6% tax (65 Del. Laws c 291; HB 631).

## **PUBLIC ACCOMMODATIONS TAX**

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/29/82	6/29/82	Added administrative provisions, including assessment, appeal, and notice of demand procedures (63 Del. Laws c 294; HB 634).
7/19/89	7/1/89	Raised the tax rate to 8% of rent. Earmarked proceeds from 1% of the 8% rate to a beach preservation fund and another 1% to each county's visitors' bureau (General Fund receives the other 75% of total revenues) (67 Del. Laws c 138; HB 423).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Chapter 5 of Title 30 (68 Del. Laws c 187; HB 281).
7/1/00	7/1/00	Earmarked 1/8 of gross proceeds to the Delaware Tourism Office (72 Del. Laws c 395; SB 420).

### **FILING PROCEDURES**

The operator of the hotel, motel, or tourist home collects the tax from the occupant at the time of payment of the rent, based on the rent paid.

### **PAYMENT DATES**

Tax payments are made to the Division of Revenue monthly, by the 15th day of the following month.

### **PENALTIES AND INTEREST**

Failure to timely file the required tax return will result in a late filing penalty of 5% per month (maximum of 50%) of the amount of tax due, plus interest of 1% per month from the due date of the payment. Failure to pay the amount of tax shown to be due will result in a failure to pay penalty of 1/2% per month up to a maximum of 25% of the amount of tax unpaid. Where warranted, the Division of Revenue may apply a negligence penalty of 20% of the amount of the deficiency, or a penalty of 40% if such deficiency is due to a substantial understatement of the tax. The Division of Revenue may also impose a fraud penalty of 75% where any part of the deficiency is due to fraud. The Division of Revenue will assess a penalty for failure to pay the full tax due when the final return is filed in the amount of 1/2% per month.

## **PUBLIC UTILITY TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapters 33, 41, and 55.

### **COLLECTION/ADMINISTRATIVE AGENCY**

Public utility taxes are administered by the Department of Finance, Division of Revenue.

### **GENERAL LIABILITY**

Taxes are imposed on certain receipts earned by various public utilities -- gas and electric companies, telephone and telegraph companies, and cable television companies. A tax is imposed on the gross receipts of any distributor of gas, electricity, telephone, telegraph or cable television commodities and services. Electricity and gas delivered for consumption in Delaware from an out-of-state distributor is also subject to tax. The cable television tax base includes non-residential and residential consumption. All other commodities and services are taxed on non-residential customers only. A separate gross receipts tax is imposed on the production of gas or electricity (for sale) by a business. Co-generation is not subject to this tax if such utility is consumed by the co-generator. A tax is also imposed on the owners or operators of telephone and telegraph lines.

### **TAX RATES AND PAYMENT DATES**

<b>UTILITY</b>	<b>TAX RATE</b>	<b>PAYMENT DATES</b>
Electricity Distribution	4.25% of gross receipts from non-residential users. 2% of gross receipts from manufacturers, food processors, and agribusinesses. Sales to automobile and certain other types of manufacturers are exempt.	Returns and payment due on or before the 20th day after the end of each calendar month
Gas Distribution	4.25% of gross receipts from non-residential users. 2% of gross receipts from manufacturers, food processors, and agribusinesses for deliveries or distributions. Sales to automobile manufacturers are exempt.	Returns and payment due on or before the 20th day after the end of each calendar month
Intrastate Telephone & Telegraph(1) Services	4.25% of gross receipts from non-residential users	Returns and payment due on or before the 20th day after the end of each calendar month
Telegraph	\$ 0.60 per mile of the longest wire in DE \$ 0.30 per mile of the next longest wire in DE \$ 0.20 per mile for every other wire owned, maintained or operated within DE.	Returns and reporting the number of miles of wire and transmitters are due June 1st and tax payments are due by June 15 <sup>th</sup>

## PUBLIC UTILITY TAX

UTILITY	TAX RATE	PAYMENT DATES
Telephone	\$ 0.60 per mile of the longest wire in DE \$ 0.30 per mile of the next longest wire in DE \$ 0.20 per mile for every other wire owned, maintained or operated within DE. \$ 0.25 for each telephone transmitter within DE	Returns and reporting the number of miles of wire and transmitters are due June 1st and tax payments are due by June 15 <sup>th</sup>
Cable Television Distribution	2.125% of gross receipts	Returns and payment due on or before the 20th day after the end of each calendar month
Electricity and Gas Manufacturing and Production	0.1 % (one mill) on each dollar of gross receipts from the production of gas or electricity. Municipalities are exempt.	Returns and payments are due on the first Monday of May.

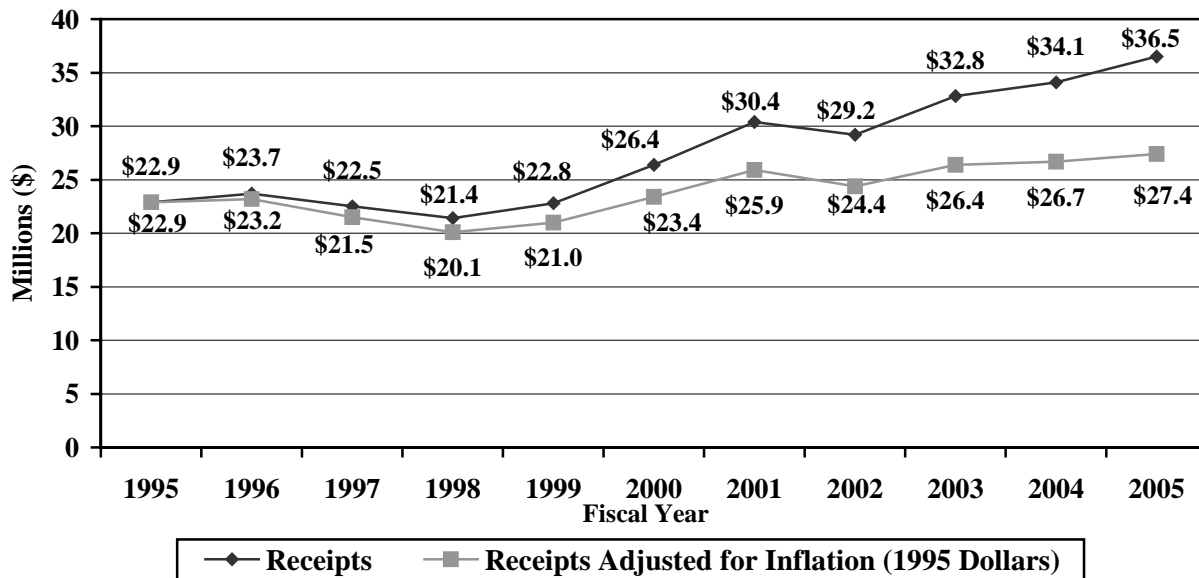
(1) Unlike telephone services, in the case of telegraph services, there is no exclusion of interstate receipts.

### BUSINESS DEVELOPMENT TAX INCENTIVES

See Appendix I (page 173) for a description of the employment and investment incentives commonly referred to as the “Blue Collar Job Act.”

### TAX RECEIPTS

#### Public Utility Tax



## PUBLIC UTILITY TAX

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/31/71	8/1/71	Instituted a 5% tax on gross receipts earned by electric and gas companies, telephone and telegraph companies, and cable television companies (59 Del. Laws c 301).
6/28/74	6/28/74	Increased the Public Service Commission's assessment to two mills, from one mill, and exempted utilities having sales of less than \$10,000 (59 Del. Laws c 397).
4/3/75	7/1/75	Exempted from the tax any receipts from sales to residential consumers and users. Stipulated that distributors of electricity, gas, or telegraph commodities are not to pass on the tax to the consumer (60 Del. Laws c 35).
7/7/76	7/1/76	Changed due date for returns to the 20th day of the month (was the 15th) (60 Del. Laws c 547; HB 869).
8/13/84	1/1/85	Lowered the rate for electricity and gas to 4.5% (was 5%). Permitted tax refunds to be claimed by users who obtain corporate income tax credits under the new/expanded business credit program (64 Del. Laws c 460; HS 1 for HB 698).
6/15/85	1/1/85	Exempted, for up to 36 months, corporations that filed in good faith under the reorganization provisions of the Bankruptcy Code (65 Del. Laws c 17; SB 183).
7/2/86	1/1/87	Reduced the rate to 4.25% and repealed the rebate for qualified users (65 Del. Laws c 387; SB 456).
7/8/87	7/8/87	Established administrative procedures relating to the public utility tax (66 Del. Laws c 113; HB 201).
7/10/87	7/10/87	Enacted negligence, fraud, and failure-to-file penalties (66 Del. Laws c 130; HB 266).
7/15/88	7/15/88	Exempted from tax any receipts from electricity sold for use in electrolytic, electroarcthermal, or air separation manufacturing processes (66 Del. Laws c 412; HB 269).
7/17/89	7/17/89	Extended "Blue Collar" credits to January 1, 1991 (67 Del. Laws c 120; SB 294).

## PUBLIC UTILITY TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
2/8/91	1/1/91	Extended "Blue Collar" job credits to January 1, 1992 (68 Del. Laws c 6; HB 96).
2/6/92	1/1/92	Extended "Blue Collar" job credits to 1997. Expanded the scope of activities eligible for "Blue Collar" credits to include computer processing, engineering services, and consumer credit reporting services (68 Del. Laws c 202; HB 415).
7/1/94	9/30/94	Reduced to 2% (from 4.25%) the tax rate on receipts received from the sale of electricity to facilities used primarily for the manufacture of goods within the state of Delaware (69 Del. Laws c 290; SB 447).
7/1/95	7/1/95	Exempted from tax receipts received from the sale of electricity used in the manufacture of automobiles (70 Del. Laws c 120; HB 234).
2/3/95	1/1/95	Reduced to 2% (from 4.25%) the tax rate on receipts received from the sale of electricity to food processors and agribusinesses (70 Del. Laws c 1; SB 1).
7/11/96	10/1/96	Reduced to 2.125% (from 4.25%) the tax rate on receipts received from the distribution of cable television services (70 Del. Laws c 485; HB 712).
7/11/96	7/1/96	Extended "Blue Collar Jobs" credits through 2001. Expanded scope of activities eligible to include aviation services, non-custom computer software, and telecommunications services (70 Del. Laws c 487; SB 484).
7/12/96	1/1/97	Exempted from tax receipts received from the sale of all services or commodities to the State of Delaware and the United States, or instrumentalities, agencies or political subdivisions of either (70 Del. Laws 507; HB 714).
7/23/97	7/23/97	Repealed the requirement that, in order to qualify for "Blue Collar" Tax Credit, the taxpayer must make the qualified investment and employ the requisite number of employees during the same taxable year and instead requires that the two events occur during the same consecutive 12 months (71 Del. Laws c 217; HB 257).
7/9/97	1/1/98	Extended the public utility tax to out-of-state gas providers. Lowered the rate of tax from 4.25% to 2.00% on gas consumed by manufacturers (71 Del. Laws c 170; HB 320).
6/25/98	6/25/98	Allowed facilities acquired through the purchase of assets or a corporate reorganization to continue to qualify as a 'qualified facility' for the purpose of

## PUBLIC UTILITY TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		the credits provided under the Blue Collar Jobs Act (71 Del. Laws c 314; HB 605).
3/31/99	10/1/99	Restructured and deregulated the industrial, commercial and residential customers markets within the service territories of Delmarva Power & Light Company and Delaware Electric Cooperative by eliminating their exclusive franchise for the supply of electricity (72 Del. Laws c 10, HB 10 as amended).
5/18/99	10/1/99	Extended the tax to the use of electricity that has been “wheeled” into Delaware from another state (72 Del. Laws c 39; HB 18).
7/1/99	7/1/99	Codified the Division of Revenue’s 1992 ruling which resolved that cellular phones are subject to the public utility tax. Excluded electronic pager services from the tax (72 Del. Laws c 101; HB 215).
7/1/99	1/1/00	Clarified that public utility companies are not exempt from obtaining occupational licenses and paying gross receipts taxes on their nontraditional services which are not taxable to them as a public utility (72 Del. Laws c 176, HB 216).
8/4/99	1/1/00	Exempted gas consumption by automobile manufacturers from the public utility tax (72 Del. Laws c 249; SB 247).
7/18/00	1/1/00	Extended the “Blue Collar Jobs” credit program for an additional five years (72 Del. Laws c 442; SB 304).
7/9/02	8/1/02	Conformed Delaware Law to the Federal Act regarding sourcing of tax revenues from charges for mobile telecommunications service (73 Del. Laws c 399; HB 492).
2/7/05	1/1/05	Exempted charges for internet access from the public utility tax and defined “Internet access” to include telecommunications, wireless and cable services to the extent they are purchased, used, or sold by a provider of Internet access to provide Internet access (75 Del. Laws c 5; HB 11).

## **REALTY TRANSFER TAX**

### **STATUTORY PROVISION**

Title 30, Delaware Code, Chapter 54.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The Department of Finance, Division of Revenue appoints designated affixing agents for the sale of realty transfer tax stamps. The Recorders of Deeds in New Castle, Kent, and Sussex Counties are generally designated as affixing agents. These agents are responsible for the collection of the tax upon the recording of a deed. In addition, the Division of Revenue collects a tax on the value of improvements exceeding \$10,000 when the underlying property has been held by the same owner for less than one year.

### **GENERAL LIABILITY**

A tax is imposed on real estate transactions at the time of the execution, delivery, or presentation for recording any documents transferring the property. In general, the following are excluded from the tax: leasehold interests; mortgage foreclosure sales; conveyances between husband and wife; conveyances between parent and child; conveyances to a religious organization; conveyances without consideration; conveyances between a parent corporation and a wholly owned subsidiary; conveyances to or from a corporation or partnership from the owner thereof if the ownership in the business is identical to the proportion of ownership in the real property; and conveyances to or from the United States, this state, or to or from their instrumentalities, agencies, or political subdivisions and the University of Delaware.

### **TAX RATE**

The state imposes a tax at the rate of 2.0% of the fair market value of the property divided equally between the grantor and grantee. Local governments are permitted to levy a 1.5% tax. In cases in which the local levy exceeds 1.0%, the state rate decreases to 1.5%. With few exceptions, in practice, the state and local taxes are both levied at a rate of 1.5% (a combined rate of 3.0%).

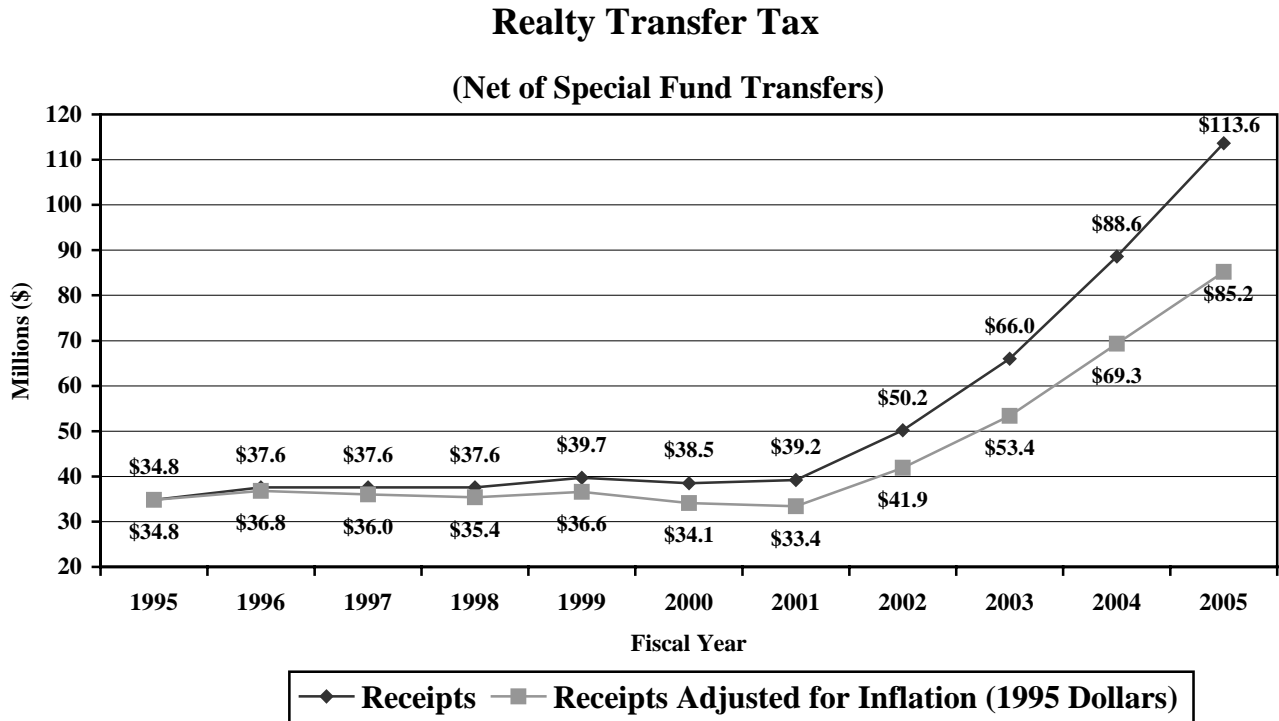
Where the value of property transferred is less than \$100, no tax is imposed. A 1% tax is levied on the value of improvements exceeding \$10,000 when the underlying property has been held by the same owner for less than one year.

## REALTY TRANSFER TAX

### Exemptions:

There are 22 exemptions. Below is a partial list. The remainder can be found in Title 30, Del. Code §5401.

- 1) Wills, mortgages, foreclosures, and leases of commercial property.
- 2) Property with value less than \$100.
- 3) Transfers without consideration and conveyances between parent corporations and subsidiaries.
- 4) Transfers involving nonprofit industrial development agencies.



## TAX RECEIPTS

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/31/71	8/1/71	Rate changed to 2% to be apportioned equally between the grantor and grantee

## REALTY TRANSFER TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		(58 Del. Laws c 297).
7/6/73	7/6/73	Applied the tax to condominiums and long-term leases (59 Del. Laws c 15).
7/1/83	7/1/73	Added that sales or assignments of long term leases of residential real estate are subject to tax. Extended to partnerships and partial corporate liquidations the three (3) year holding period required of corporations (64 Del. Laws c 182).
7/3/86	1/1/87	Added that the sale of intangible interest in partnerships, trusts and corporations, where the beneficial ownership has changed by more than 20%, is taxable as a conveyance (65 Del. Laws c 426; HB 462).
7/10/87	7/10/87	Negligence penalties enacted (66 Del. Laws c 130; HB 266).
7/2/87	7/1/87	Enacted revenue sharing in which 25% of realty transfer tax to be remitted by agent (i.e., county recorders) is earmarked for distribution to local governments. Expired 6/30/88 (66 Del. Laws c 94; SB 298).
6/27/89	6/27/89	Added exemptions for: (1) mobile homes provided document fee is paid; and (2) conveyance without consideration to §501(c)(3) organizations (67 Del. Laws c 40; SB 55).
7/2/90	9/1/90	Provided a 1% tax on amounts of construction exceeding \$10,000 when the underlying property has been held by the same owner for less than one year (67 Del. Laws c 262; HB 729).
7/20/90	7/20/90	Empowered county governments to impose and collect a realty transfer tax not to exceed 1% of the value of the real property (67 Del. Laws c 415; HB 727).
7/13/90	7/13/90	Created Conservation Trust Fund to which a portion of realty transfer tax revenues are earmarked (67 Del. Laws c 336; HB 110).
7/15/91	7/15/91	Established exclusion from tax for conveyances to non-profit organizations when the property is purchased for open space preservation purposes (68 Del. Laws c 165; SB 159).
7/8/91	7/8/91	Exempted from tax qualified conveyances under the Delaware Agricultural Lands Preservation Act (68 Del. Laws c 118; HB 200).
8/1/91	1/1/92	Repealed various procedural provisions in light of enactment of Chapter 5 of

## REALTY TRANSFER TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Title 30 (68 Del. Laws c 187; HB 281).
2/4/94	2/4/94	Clarified the term "value" with respect to realty transfers (69 Del. Laws c 188; HB 244).
7/1/98	7/1/98	Decreased the rate from 2% to 1.5% when and where county and municipal governments raise their maximum tax rate from 1.0% to 1.5%. Appropriated funds for the legal defeasance of the Delaware Land and Water Conservation Revenue Bonds (71 Del. Laws c 347; HB 757).
7/23/99	7/23/99	Exempted transfers of real estate acquired by a nonprofit corporation for the purpose of rehabilitation and resale without profit. (72 Del. Laws c 217; HB 175 w/ HA 1).
6/30/00	6/30/00	Exempted half-siblings and step-siblings from the real estate transfer tax ( 72 Del. Laws c 372; HB 551).
6/30/01	6/30/01	Restructured the allocation of Realty Transfer Tax revenues to the Land and Water Conservation Trust Fund accounts. At the end of each fiscal year, \$1 million will be deposited into the Endowment Account and \$9 million into the Project Account. Previously, deposits to each account were made in the amounts of \$7 million and \$3 million respectively. Additionally, the 2005 end date for Endowment Account growth was removed (73 Del. Laws c 88; HB 192).
7/20/05	7/1/05	Earmarked \$10 million annually in Realty Transfer Tax revenue for the Farmland Preservation Fund. (75 Del. Laws c 203; SB 229).

## UNCLAIMED PROPERTY / ESCHEAT

### STATUTORY PROVISION

Title 12, Delaware Code, Chapter 11.

### COLLECTION/ADMINISTRATIVE AGENCY

The Department of Finance, Division of Revenue, Bureau of Unclaimed Property administers and collects unclaimed property.

### GENERAL LIABILITY

Entities required to report:

**Financial Institutions** - Including any bank, bank and trust company, trust company, savings bank, private bank, credit union, building and loan, and savings and loan association, must report. Both state and federally chartered institutions are required to report. (12 Del Code, Chapter 11, Section 1130)

**Life Insurance Company** - Includes all moneys held and owing by any life insurance company doing business in this state which shall have remained unclaimed and unpaid for five (5) years or more. (12 Del Code, Chapter 11, Section 1181)

**Corporation and other business entities** - Include a post office, a depository, a bailee, a trustee, a receiver or other liquidating officer, a fiduciary, a governmental department, institution or agency, a municipal corporation and the fiscal officers thereof, a public utility, service corporation and every other legal entity incorporated or created under the laws of this state or doing business in this state. (12 Del Code, Chapter 11, Section 1198,(6))

**Financial Intermediaries** - Are required to report and remit distributions for unknown owners on March 1 of each year. Distributions held by financial intermediaries for unknown owners are defined as "Dividends, interest, stock and other distributions made by issuers of securities which are held by financial intermediaries (including, by the way of example and not limitation, banks, transfer agents, brokers, and other depositories) for the beneficial owners whose identities are unknown."

### REPORTABLE ITEMS

Any debt or obligation which has gone unclaimed or undelivered or security that has remained undelivered for five (5) or more years after the date the owner should have received it or was entitled to claim it must be reported. All property that has gone unclaimed for five (5) or more years as of the preceding December 31, for all holders except Financial Institutions. Financial Institutions include all

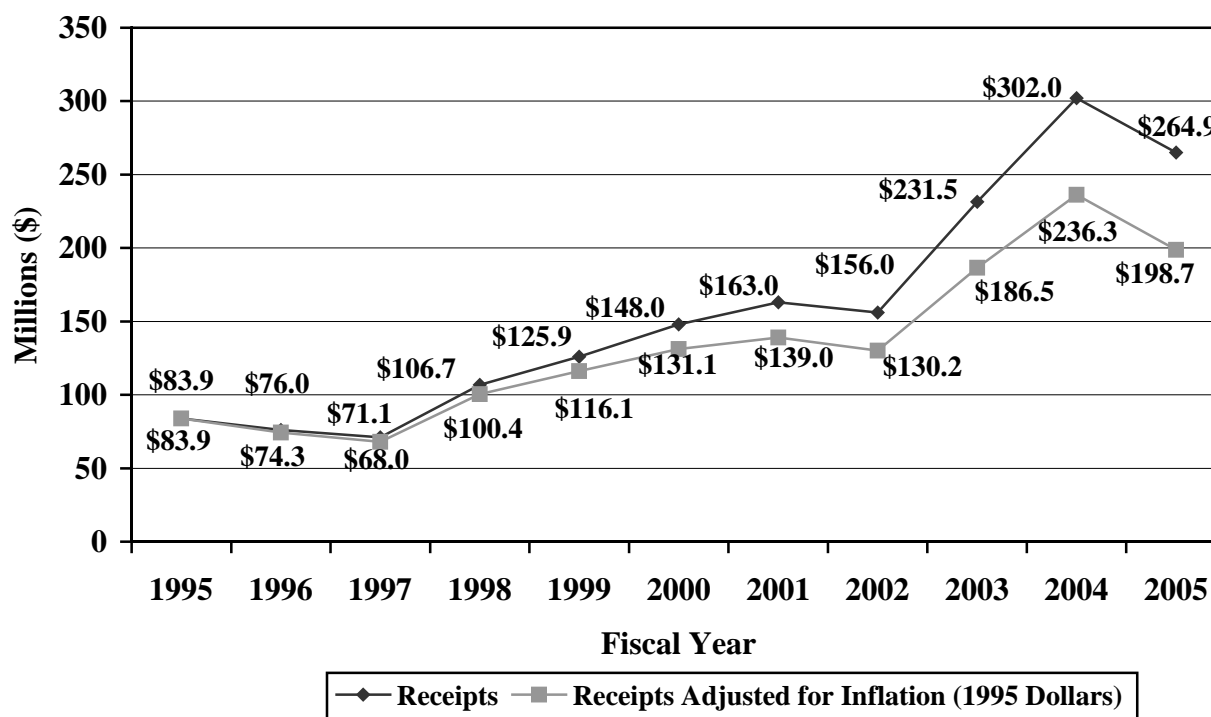
## UNCLAIMED PROPERTY / ESCHEAT

property that has gone unclaimed for five (5) years or more as of the preceding June 30. Holders also must report and deliver all underlying share certificates where the owner for five (5) years has failed to cash a dividend or correspond in writing regarding the property.

Unclaimed property is reported to the State of Delaware pursuant to the U.S. Supreme Court case Texas v New Jersey, 379 U.S. 674 (65). On March 30, 1993, the United State Supreme Court ruled in the case of Delaware v New York, 113 s.ct. 1550 (93) that the primary and backup rules set forth in Texas v New Jersey still stand and remain unchanged. Pursuant to Texas v New Jersey, unclaimed property will be reported to the state of the lost owner's last known address. If the owner's address is unknown or is in a foreign country, the unclaimed property is reported to the state of incorporation of the holder of the unclaimed property. For those lost owners with a last known address that is in a state which does not have an applicable statute for the type of property being reported, the unclaimed property is reported to the state of incorporation of the holder.

### REVENUE RECEIPTS

#### Unclaimed Property - Escheat



## UNCLAIMED PROPERTY / ESCHEAT

### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
4/17/39	4/17/39	Administration and Enforcement of Escheat's Law vested in the State Tax Department and the State Tax Commissioner shall be the State Escheator (42 Del. Laws c 57).
8/2/55	8/2/55	Major update of entire escheats code. General provisions established Abandoned Property Fund for payment of claims, annual report by escheator to the State Treasurer. Established publication requirements by State Escheator, sale of property, assumption of liability by the State and return of erroneously paid property, claims procedures, non payment of interest by State Escheator, verification of reports, penalties.  Established reporting, payment and publication requirements for Banking Organizations, Court of Chancery, and unclaimed property held by the State Bank Commissioner after receivership (50 Del. Laws c 507).
7/23/70	7/23/70	Vested administration and enforcement of Escheat's Law in the Department of Finance. Established the Secretary of Finance as the State Escheator (57 Del. Laws c. 741).
4/12/73	4/12/73	Established a provision for the sale of all abandoned property other than money within 15 months after delivery to the State Escheator (59 Del. Laws c 16; HB 99).
7/21/76	1/1/77	Repealed the Abandoned Property Fund and established that all escheated funds be deposited directly into the General Fund and that all claims to be paid from the General Fund. Repealed provision for the annual report by the State Escheator to the State Treasurer. Increased penalties for failure to report or make payment by banking organizations (60 Del. Laws c 598; HB 1031).
7/4/85	7/4/85	Dormancy period reduced from 25 years to 7 years for property held by banking organizations (65 Del. Laws c 140; HB 255).
6/28/88	6/28/88	Dormancy period reduced from 7 years to 5 years for property held by banking organizations, life insurance companies, and corporate holders. Reporting due dates changed from June 30 and September 30 to March 1 and May 31 for corporate holders (66 Del. Laws c 379; HB 686).

## UNCLAIMED PROPERTY / ESCHEAT

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
6/25/90	6/25/90	Amended general provision regarding sale of property from 15 months to "at the discretion of the State Escheator" (67 Del. Laws c 245; HB 580).
7/2/90	9/1/90	Amended all other abandoned property provisions to change the reporting requirements for gift certificates and added a provision addressing escheat of gift certificates (67 Del. Laws c 264; HB 731).
7/2/90	8/2/90	Definition of banking organization amended to include national banks and banks chartered in any state. Examination of records provisions amended to allow for the issuing of summons or to take testimony for persons holding abandoned property. Vested the examination of banking organizations to the State Bank Commissioner. Provided for the escheat of underlying shares (67 Del. Laws c 267; HB 751).
7/8/91	7/8/91	Amended State Escheators publication responsibilities. Reduced the dormancy period from 20 years to 5 years for unclaimed property being held by the Court of Chancery. Added a provision for the escheat of personal property held by the federal government. Revised penalty and added interest provisions for all types of holders. Repealed provision for private escheat of gift certificates and added a provision for private escheats in general (68 Del. Laws c 122; HB 346).
2/4/94	2/4/94	Added to the definition of all other abandoned property distributions held by financial intermediaries to be reported and remitted on March 1 (69 Del. Laws c 180; HB 370).
2/1/96	2/1/96	Changed the reporting requirements of credit unions from all other abandoned property to banking organizations. Eliminated provision for duplicate reports and the requirement of an annual report pertaining to the charge of a fee by the State Escheator regarding claims (70 Del. Laws c 298; HB 232).
7/14/98	7/14/98	Exemption of unclaimed capital credit payments held by rural electric cooperatives from the Escheats Law (71 Del. Laws c 448; HB 730).
6/14/99	1/1/94	Exempted from the escheats law gift certificates having a face value of \$5.00 or less (72 Del. Laws c 45; HB 54 w/ HA 1).
7/12/99	7/12/99	71 Del. Laws, c 448, exempted cooperative electric utilities from remitting unclaimed capital credits to the state as abandoned property beginning in 2003. This bill changed the effective date of the exemption to the year 2000 (72 Del.

## UNCLAIMED PROPERTY / ESCHEAT

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		Laws c 142; HB 178).
8/4/99	8/4/99	Earmarked \$10 million annually to the Transportation Trust Fund (72 Del. Laws c 249; SB 249).
7/22/02	7/22/02	Created a period of limitation and penalties for unclaimed property similar to those pertaining to tax requirements (73 Del. Laws c 417; SB 420).
4/27/05	4/27/05	Required payments when abandoned property reports are filed on March 1; Required holders to immediately report and pay over property that would ordinarily be payable to this State but may be paid elsewhere due to another jurisdiction's shorter dormancy or report period; And, provided that the State Escheator may, in certain circumstances, accept early custody of abandoned property (75 Del. Laws c 19; SB 25).

### **REPORTING AND PAYMENT DATES**

HOLDER TYPE	PERIOD ENDING	REPORT DUE	REMITTANCE DUE
CORPORATIONS	12/31	3/1	3/1
FINANCIAL INSTITUTIONS	6/30	8/1	11/10
FINANCIAL INTERMEDIARIES	12/31	3/1	3/1
LIFE INSURANCE COMPANIES	12/31	5/1	12/20
COURTS	12/31	4/10	4/10

## UNEMPLOYMENT INSURANCE TAX

### **STATUTORY PROVISION**

Title 19, Delaware Code, Chapter 33.

### **COLLECTION/ADMINISTRATIVE AGENCY**

The tax is administered by the Department of Labor, Division of Unemployment Insurance.

### **GENERAL LIABILITY**

All employers are liable for unemployment insurance tax with respect to any calendar year if they (a) pay wages of \$1,500 or more during any calendar quarter in that year or (b) employ at least one person on 20 days during such calendar year, each day being in a different week. Agricultural employers are liable with respect to any calendar year if they pay \$20,000 or more in any calendar quarter or employ 10 or more persons on each of 20 days, each being in a different week. Employers of domestic or household workers are liable with respect to any calendar year if the employer pays cash remuneration of \$1,000 or more in any calendar quarter of that year. Government entities and non-profit organizations are not liable under the Federal Unemployment Tax Act (FUTA), but are covered by State law and may pay assessments (taxes) or elect to reimburse the Unemployment Insurance Trust Fund for all benefits paid to their former employees on a dollar for dollar basis.

### **TAX RATES**

For experience-rated employers, the State's basic unemployment insurance rate ranges from 0.1% to 8.0% depending on the employer's benefit wage ratio and the State's experience factor. In addition, all assessed employers are charged a supplemental assessment of 0.2%. The effective assessment rate equals the basic rate plus (+) the supplemental assessment rate.<sup>6</sup>The minimum effective assessment rate is 0.3% and the maximum effective assessment rate is 8.2%.

New employers, except those in North American Industry Classification (NAICS) categories

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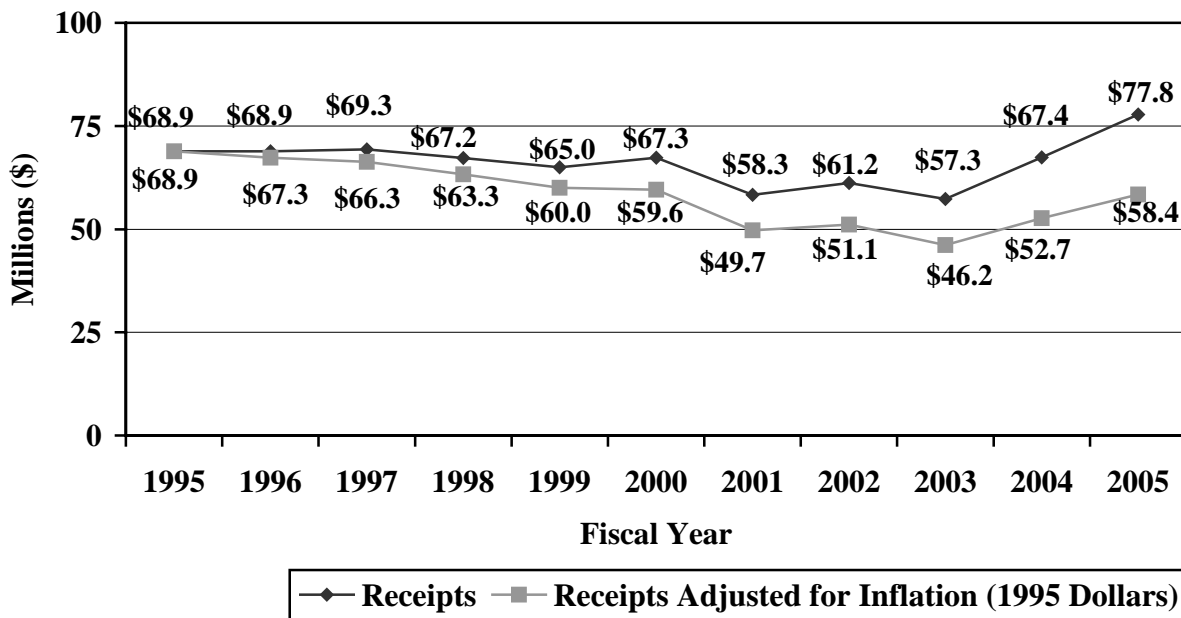
<sup>6</sup> Beginning January 1, 2004, the supplemental assessment rate was set at 0.2% and no longer varies as a result of changes in the Unemployment Insurance Trust Fund balance.

## UNEMPLOYMENT INSURANCE TAX

15, 16 and 17, are taxed at the average contribution rate of all Delaware employers. New employers in North American Industry Classification (NAICS) categories 236, 237, and 238 (construction industry), are taxed at the average industry assessment rate in that employer's particular NAICS category or the average construction assessment rate of NAICS categories 236, 237, and 238 whichever is the greater.

### TAX RECEIPTS

#### Unemployment Insurance Tax



### LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/23/72	1/1/72	Increased from \$3,600 to \$4,200 the individual wage to which tax is applicable (58 Del. Laws c 573).
-	1/1/78	Extended coverage to many occupations previously unprotected (61 Del. Laws c 186).
-	1/1/78	Increased from \$4,200 to \$6,000 the individual wage to which tax is applicable

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
		(61 Del. Laws c 186).
-	1/1/82	Increased from 5.0% to 7.0% the maximum basic assessment rate.
-	1/1/82	State Experience Factor allowed to float to its actual level.
-	1/1/82	Based rate of assessment for any new employer on the average industry contribution rate in that employer's Standard Industrial Classification (SIC).
-	1/1/82	Increased from \$6,000 to \$6,600 the individual wage to which tax is applicable.
-	1/1/83	Increased from \$6,600 to \$7,200 the individual wage to which tax is applicable.
-	7/1/83	Clarified exclusion of coverage of corporate officers.
-	1/1/84	Increased from \$7,200 to \$8,000 the individual wage to which tax is applicable.
6/28/85	1/1/86	Increased from \$8,000 to \$8,250 the individual wage to which tax is applicable.
6/28/85	1/1/87	Increased from \$8,250 to \$8,500 the individual wage (FUTA amount) to which tax is applicable.
6/28/85	1/1/88	Increased to 8.0% the maximum basic assessment (65 Del. Laws c 45; SB 145).
6/18/86	7/1/86	Reduced from 3 years to 2 years, the period before which a new employer can receive assessment rate based on actual experience (65 Del. Laws c 513; HB 734).
6/30/87	1/1/88	Provided a tax reduction for employers whenever the Unemployment Insurance Trust Fund balance is \$90 million or more. Provided a supplemental assessment based upon the basic assessment (66 Del. Laws c 72; HB 215).
6/30/87	6/30/87	Allowed an employer to have a reduced unemployment insurance rate even if there is a break in employment. Required both rated and new employers to submit required reports and pay assessments in a timely manner or be subject to a delinquent assessment rate (66 Del. Laws c 74; HB 218).

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/8/87	7/8/87	Provided that the minimum assessment rate assigned to a new employer be not less than 1% (66 Del. Laws c 115; SB 184).
7/17/89	1/1/90	Increased the Unemployment Trust Fund balance (below which supplemental assessments are triggered) from \$90 million to \$130 million and, further, decreased supplemental assessment rates (67 Del. Laws c 119; SB 233).
7/17/89	1/1/90	Reduced supplemental rate whenever Unemployment Trust Fund balance equals or exceeds \$130 million (67 Del. Laws c 141; HB 72).
6/1/95	1/1/96	Reduced from 9.5% to 8.7% the maximum tax rate and the minimum tax rate from 1.0% to 0.8% (70 Del. Laws c 46; SB 93).
7/3/97	1/1/98	Reduced from 8.7% to 8.5%, the maximum tax rate and the minimum tax rate from 0.8% to 0.6% (71 Del. Laws c 147; HB 374).
7/1/99	1/1/00	Reduced from 8.5% to 8.3%, the maximum tax rate and the minimum tax rate from 0.6% to 0.4% (72 Del. Laws c 107; SB 199).
7/30/01	1/1/02	Reduced from 8.3% to 8.2%, the maximum tax rate and the minimum tax rate from 0.4% to 0.3% (73 Del. Laws c 209; SB 243).
6/20/02	1/1/03	Provides that the North American Classification System (NAICS), not the Standard Industrial Classification System (SIC) shall be used in the determination of the average employer assessment rate, average industry assessment rate, average construction industry rate and new employer rate (73 Del. Laws c 303; HB 425).
7/11/03	1/1/04	Set the supplemental assessment rate at 0.2%. Previously the supplemental assessment rate was dependent on the balance in the Unemployment Insurance Trust Fund (74 Del. Laws c 143; HB 223).
7/12/05	1/1/06	Brought Delaware's Unemployment Insurance Code into compliance and conformity with the provisions of federal law – Public Law No 108-295, the "SUTA Prevention Act of 2004" by prohibiting SUTA dumping (75 Del. Laws c 177; SB 130).

### **FILING PROCEDURES**

All persons or firms engaged in business in Delaware must report to the Delaware Division of Unemployment Insurance to determine liability for unemployment security tax, and if liable, apply for

## **UNEMPLOYMENT INSURANCE TAX**

an employer account number with the Division. The report and application is made on Form U-1.

All liable employers are required to submit for each calendar quarter, reports of remuneration and wages with the amount of tax due, even if the employer has had no payroll in the quarter and whether or not assessment is payable. Form U-8, the Employer's Summary Assessment Report, is used for reporting.

The reporting requirements and responsibilities of employers are detailed in the Employer's Unemployment Insurance Handbook available from the Delaware Department of Labor or on the Department's web site at <http://www.delawareworks.com>.

### **PAYMENT DATES**

An Assessment and Payroll Report with remittance is due quarterly, on or before the last day of the first month following the close of the quarter.

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**TAX CREDITS FOR THE CREATION OF EMPLOYMENT & QUALIFIED**  
**INVESTMENTS IN BUSINESS FACILITIES (BLUE COLLAR JOBS ACT)**

**STATUTORY BASIS**

Title 30, Delaware Code, Chapter 20, Subchapters II-III, V (More specific statutory references are also noted below).

**DESCRIPTION**

Generally, business taxpayers that: (1) are engaged in a qualified activity; (2) hire five or more qualified employees; and, (3) make an investment of at least \$200,000 (\$40,000 per qualified employee) in a qualified facility are entitled to tax credits against the corporation or personal income taxes, and reductions in the gross receipts and public utility taxes. To be eligible for the credits, qualified facilities must be placed in service prior to January 1, 2007. (The General Assembly periodically reviews this program's sunset date. Since its inception, the program has been endorsed and extended five times.)

**CORPORATION AND PERSONAL INCOME TAX CREDITS<sup>7</sup>**

Eligible businesses receive credits of \$400 for each qualified employee and \$400 for each \$100,000 invested. These credits may be taken during the tax year in which the qualified facility is placed in service and for any of the nine following years. The aggregate amount of credits claimed in any given year may not exceed fifty percent of the firm's tax liability. Credits may be carried forward.

Facilities acquired through a purchase of assets or a corporate reorganization continue to qualify as a "qualified facility" for the purposes of the credits so long as the facility continues to meet the qualifications of investment and employment required to take the credits. Businesses that are not subject to the corporation income tax (e.g., pass through entities such as S-Corporations) are entitled to use the credits against the personal income tax.<sup>8</sup>

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<sup>7</sup> Banks are also eligible for tax credits under 5 Del. C., Chapter 11, section 1105. Banks' eligibility requirements are somewhat different, however, than for other types of qualifying businesses.

<sup>8</sup> 30 Del. C., Chapter 20, section 2024

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Larger credits are available for businesses which, in addition to meeting the Blue Collar Job Act's employment and investment requirements, engage in other desirable behaviors.

<b>Amount of Credits for Property Placed in Service After 12/31/96</b>			
Tax Credit	Description	Amt.	Title 30, <u>Delaware Code</u>
Blue Collar Jobs (BCJ)	Tax credit for job creation and investment in Delaware.	\$400	section 2011(a)-(b)
BCJ in a Targeted Area (Qualified Activities)	Additional incentive for businesses investing in a qualified activity in certain underdeveloped areas of the state.	\$650	section 2021(a)
BCJ in a Targeted Area (Commercial or Retail Activities)	Tax credit for businesses investing in a commercial or retail activity in certain underdeveloped areas of the state.	\$400	section 2021(b)
BCJ + "Green Industry" Recycling <sup>9</sup>	Additional incentive for firms engaged in the business of removing materials from the Delaware solid waste stream.	\$650	sections 2042-2044
BCJ + Brownfield	Additional incentive for the development of an unoccupied site which is thought to have been environmentally contaminated.	\$650	section 2011(l)
BCJ + Green Industry in a Targeted Area	Additional incentives for firms engaged in the business of removing materials from the Delaware solid waste stream and operating in an underdeveloped area.	\$900	sections 2042-2044
BCJ + Brownfield in a Targeted Area	Additional incentives for investment in an unoccupied site which is thought to have been environmentally contaminated and is located in an underdeveloped area.	\$900	section 2021(d)

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<sup>9</sup> The Green Industries program also offers a \$400 tax credit for every 10% reduction in emissions as measured by the Toxic Release Inventory. This provision has no employment or investment requirements and, as such, is not considered an economic development tool. (See 30 Del., C. Chapter 20, section 2041.)

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**ELIGIBLE ACTIVITIES**

Generally speaking, in order to qualify for tax credits, investment and employment must occur within a “qualified activity.” Another, less restrictive standard for investments made within targeted areas exists for “commercial and retail activities.”

**QUALIFYING ACTIVITIES<sup>10</sup> (Activities eligible for the \$400 Blue Collar Jobs credit in non-targeted areas and for a \$650 credit in targeted areas.)**

1. Manufacturing;
2. Wholesaling;
3. Scientific, agricultural or industrial research, development or testing;
4. Computer processing or data preparation or processing services;
5. Engineering services;
6. Consumer credit reporting services, including adjustment and collection services and credit reporting services;
7. Aviation services;
8. Non-custom computer software;
9. Telecommunications services;
10. Any combination of the activities described above; or,
11. The administration, management or support operations, including marketing, of any activity described above.

**COMMERCIAL & RETAIL ACTIVITIES<sup>11</sup> (Additional activities eligible for a \$400 credit within targeted census tracks)**

Commercial Activity includes all services except: amusement conductor, amusement park operator, auctioneer, automobile race operator, bowling alley operator, circus exhibitor, entertainment agent, finance or small loan agency, floor show operator, health spa or health club, junk dealer, motion picture theater, outdoor music festival promoter, pawnbroker, pool table operator, public bath keeper, salvage yard operator, and self-service laundry or dry cleaner.

Retail Activity includes all retail trade except: eating and drinking places, automobile sales, or providing recreation or entertainment.

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<sup>10</sup> 30 Del. C., Chapter 20, section 2010(3)(a)-(k)

<sup>11</sup> 30 Del. C., Chapter 20, section 2020(3)-(4)

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**ALTERNATIVE INVESTMENT TAX CREDIT (No Employee Option)<sup>12</sup>**

For qualified investments of at least \$1 million (or 15% of the adjusted basis in the facility) in manufacturing, wholesaling, or aviation services, an alternative tax credit is available. The amount of the alternative investment credit is equal to 75% of the corresponding “regular” Blue Collar Jobs tax credit. (E.g., if it had qualified for an investment that would have earned a \$400 regular BCJ credit, the alternative investment credit would be \$300 [ $\$400 \times 0.75$ ]). Credits under this section are limited to \$500,000 per year per taxpayer.

**Alternative Investment and Employment Requirements Required for Telecommunications Services<sup>13</sup> and Banking<sup>14</sup>**

Instead of five employees and \$40,000 of investment per employee, telecommunication service businesses are required to hire at least 50 qualified employees and make a minimum investment of \$15,000 per qualified employee and at least \$750,000 in the qualified facility. Like other firms under the BCJ, telecommunication service businesses meeting these criteria are entitled to a \$400 tax credit for each qualified employee hired and a \$400 credit for each \$100,000 in qualified investment made.

Tax credits earned by banks are used to reduce their liability under the bank franchise tax. Like telecommunication services, banks must also increase employment by a minimum of 50 employees and make a minimum investment of \$15,000 per qualified employee. Unlike telecommunications services, however, there is no tax credit for each \$100,000 of investment. Furthermore, only full-time employees receiving health insurance benefits are counted when calculating the \$400 credit (per qualified employee).

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<sup>12</sup> 30 Del. C., Chapter 20, section 2011(k)

<sup>13</sup> 30 Del. C., Chapter 20, section 2011(b)(3)

<sup>14</sup> 5 Del. C., Chapter 11, section 1105(d)-(f)

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**Business and Occupational Gross Receipts Tax Reductions**

Businesses meeting the regular Blue Collar Jobs employment and investment qualifications are entitled to a reduction in their gross receipts tax liability attributable to the operation of a qualified (new or expanded) facility. Tax liabilities resulting out of gross receipts derived from manufacturing, wholesaling<sup>15</sup>, occupational and general services, food processing, commercial feed sales, or the retail element of aviation services may be reduced according to the following schedules:<sup>16</sup>

For Firms <b><u>Not</u></b> Operating in a Targeted Area	
Months Elapsed Since the Qualified Facility was Placed in Service	Percent Reduction in Gross Receipts Tax
1 through 12	90%
13 through 24	80%
25 through 36	70%
37 through 48	60%
49 through 60	50%
61 through 72	40%
73 through 84	30%
85 through 96	20%
97 through 108	10%
109 through 120	5%
Over 120	0%

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<sup>15</sup> Pursuant to 30 Del. C., Chapter 20, section 2012(a), petroleum wholesalers may claim reductions exclusively against the General Fund portion of the tax. Tax reductions may not be applied to the tax levied pursuant to the Hazardous Substance Cleanup Act (Chapter 91, Title 7 of the Delaware Code).

<sup>16</sup> Firms not operating in a targeted area: (30 Del. C., Chapter 20, section 2012); Firms operating in a targeted area: (30 Del. C., Chapter 20, section 2022).

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For Firms Operating in a Targeted Area*	
Months Elapsed Since the Qualified Facility was Placed in Service	Percent Reduction in Gross Receipts Tax
1 through 60	100%
61 through 72	90%
73 through 84	80%
85 through 96	70%
97 through 108	60%
109 through 120	50%
121 through 132	40%
133 through 144	30%
145 through 156	20%
157 through 168	10%
169 through 180	5%
Over 180	0%

\* Firms engaged in “commercial and/or retail activities” that qualify for income tax credits by virtue of operating in a targeted area do not reduce their gross receipts tax payments according to the schedule above. Though they operate in a targeted area, such firms follow the general schedule found on page **172**.

As is the case with the corporate and personal income tax credits, businesses qualifying under the alternative investment standard (no employee option) are entitled to a gross receipts tax reduction equal to 75% of the amounts listed above. (E.g., if the “regular” gross receipts tax reduction was set at 60%, the amount under the alternative investment standard would be 45% [0.60 x 0.75]).

**Public Utility Tax Rebates**<sup>17</sup>

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<sup>17</sup> 30 Del. C., Chapter 55, section 5507

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Any business that is eligible for tax credits by virtue of meeting the general BCJ employment and investment requirements is entitled to a 50% rebate of public utility taxes derived from utility consumption attributable to the qualified new or expanded facility. Eligible businesses are may claim the rebate for five years.