

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

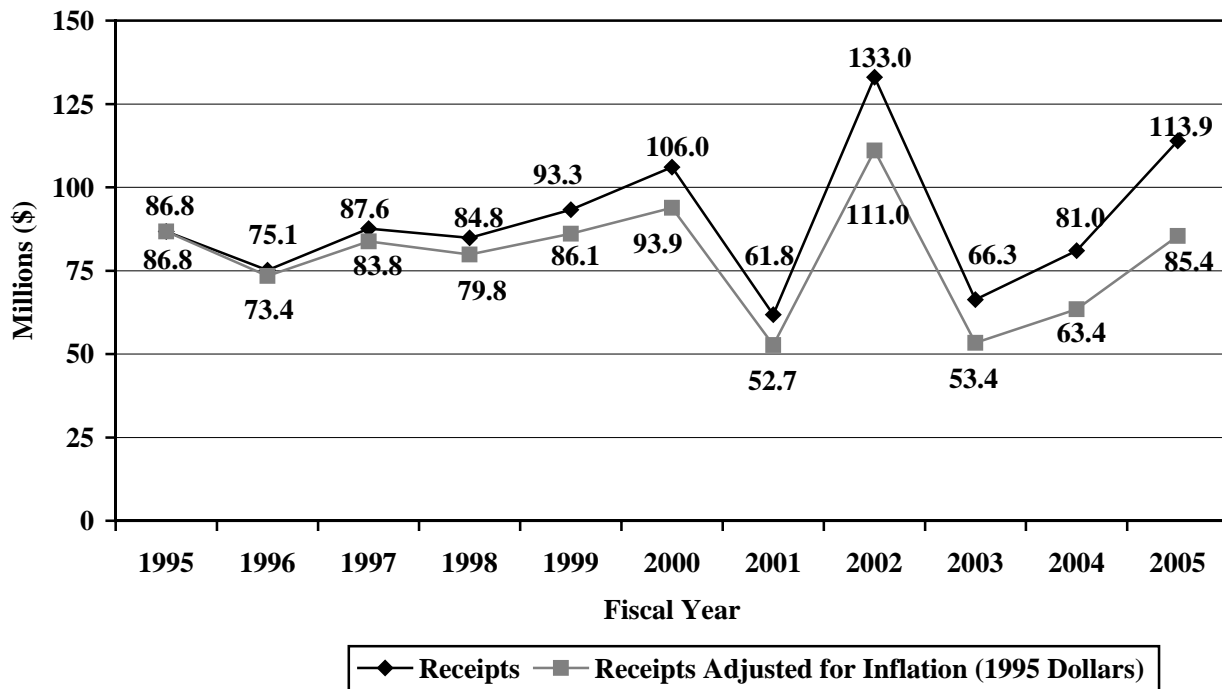
HEADQUARTERS MANAGEMENT COMPANIES (HMC)

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).

CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
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 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).

CORPORATION INCOME TAX

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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; 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).

CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
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 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:

<u>Tax Credit</u>	<u>Qualified Property Placed in Service Prior to 1/1/97</u>	<u>Qualified Property Placed in Service After 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

(70 Del. Laws c 487; SB 484)

CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</u>
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 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).

CORPORATION INCOME TAX

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Change</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).
7/13/01	10/1/01	Updated definition of "Brownfields" (73 Del. Laws c 183; SB 183).
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

CORPORATION INCOME TAX

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 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.

CORPORATION INCOME TAX

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 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.