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INSIDE THIS SECTION

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- 71 Alcoholic Beverage Tax
- 76 Bank Franchise Tax
- 85 Business and Occupational License and Gross Receipts Tax
- 104 Cigarette and Other Tobacco Products Tax
- 109 Corporate Franchise Tax
- 115 Corporate Income Tax
- 126 Estate Tax
- 130 Insurance Tax
- 138 Limited Partnership/  
Limited Liability Tax
- 140 Lottery
- 147 Marijuana Tax
- 149 Motor Carriers Fuel Purchase Tax
- 153 Motor Fuel / Special Fuel Tax
- 158 Personal Income Tax
- 174 Personal Income Tax  
*S Corporations*
- 176 Personal Income Tax  
*Fiduciaries*
- 177 Public Accommodations Tax
- 180 Public Utility Tax
- 186 Realty Transfer Tax
- 191 Unclaimed Property /  
Escheat
- 198 Unemployment Insurance Tax

# Section 7

# State Revenue Sources

DELAWARE



FISCAL NOTEBOOK

2025 Edition

*Department of  
Finance*

## ALCOHOLIC BEVERAGE TAX

**STATUTORY PROVISION:** Title 4, Delaware Code Chapter 5.

**COLLECTION/ADMINISTRATIVE AGENCY:** The Delaware Department of Finance, Division of Revenue administers and collects all taxes due under the alcoholic beverage tax code. The Alcoholic Beverage Control Commissioner (ABCC) regulates and licenses firms that sell or distribute alcohol.

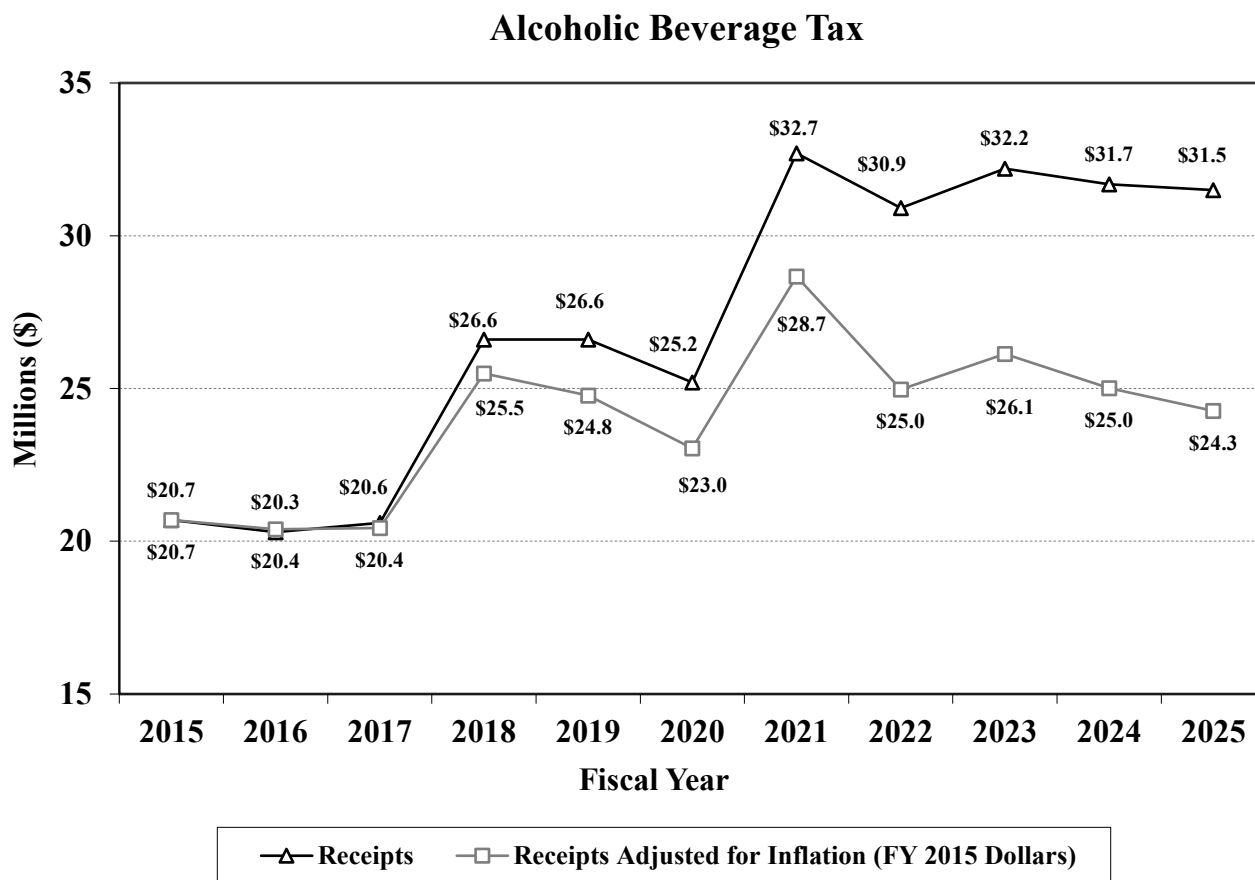
**GENERAL LIABILITY:** Effective July 1, 2019, all alcoholic liquors purchased and received from a manufacturer or imported are subject to the excise tax imposed by the Liquor Control Act upon the sale of alcoholic beverages to any person who purchases alcohol from an importer in the State. Craft Manufacturers (Farm Wineries, Brewery-pubs, Microbreweries and Craft Distilleries) are required to pay the tax upon the sale to consumers, but not the product sold to an importer. 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 or fermented beverage                                       | \$8.15 per barrel (31 gallons/barrel) |
| Cider  | \$0.27 per gallon                     |
| Wine   | \$1.63 per gallon                     |
| Distilled spirits with 25% or less ethyl alcohol by volume       | \$3.00 per gallon                     |
| Distilled spirits with more than 25% ethyl alcohol by volume     | \$4.50 per gallon                     |
| For each gallon of alcohol per gallon of ethyl alcohol contained | \$8.15 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. 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).   |

## ALCOHOLIC BEVERAGE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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 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).   |

## ALCOHOLIC BEVERAGE TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>   |
|----------------------|-----------------------|---|
| 12/16/99             | 12/16/99              | Alcoholic Beverage Control Commission issued Rule 76 to maintain the tax rates established in 1996 by 70 Delaware Laws 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).   |
| 7/19/04              | 7/19/04               | Removed and repealed the sunset provisions previously imposed by §2, Chapter 29, Volume 74, Laws of Delaware (74 Del. Laws c 384; HB 468).  |
| 6/18/08              | 6/18/08               | Permitted the sale of alcoholic liquors in establishments licensed for sale for consumption off-premises where sold, typically package stores, on all election days, general, primary, and special (76 Del. Laws c 237; SB 195).  |
| 7/1/09               | 7/1/09                | Increased fees on licenses to sell alcoholic liquors and required that all licensees selling alcoholic liquors on Sunday pay an additional fee. (77 Del. Laws c 72; HB 210).  |
| 6/5/12               | 6/5/12                | Created a new license type known as a “Craft Distillery” which enabled entities to obtain a license to distill spirits. (78 Del. Laws c 251; SB 180).   |
| 7/3/17               | 9/1/17                | Increased the tax on beer from \$4.85 to \$8.15 per barrel, on wine from \$0.97 to \$1.63 per gallon, on cider from \$0.16 to \$0.27 per barrel, on spirits with 25% or less ethyl alcohol by volume from \$2.50 to \$3.00 per gallon and on spirits with more than 25% ethyl alcohol by volume from \$3.75 to \$4.50 per gallon. Assessed a floor tax on unsold wholesale stock levied upon the effective date of the act with payment due by April 1 <sup>st</sup> 2018. (81 Del. Laws c 54; HB 241 w/ HA 1). |
| 6/27/18              | 6/27/18               | Enabled manufacturers of craft liquors to sell or ship alcoholic beverages manufactured on site to licensed entities under common ownership and control of said manufacturers. (81 Del. Laws c 276; HB 405).  |
| 5/22/19              | 5/22/19               | Allowed licensed Delaware brewery pubs and microbreweries to affiliate with other in-state or out-of-state brewers while retaining their current license privileges so long as production does not exceed 6 million barrels annually. (82 Del. Laws c 22; HB 125 w/ HA 1).  |
| 6/26/19              | 7/1/19                | Allowed importers to pay tax upon the sale of alcoholic beverages to retailers, instead of when the alcoholic beverages come to rest in the State of Delaware. For the months of August 2019 and July 2020, importers are entitled to a nonrefundable credit in an amount equal to half of the tax previously paid on the inventory resting in the State on July 31, 2019. (82 Del. Laws c 68; HB 122 w/ HA 2).   |

## ALCOHOLIC BEVERAGE TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 7/10/19              | 7/10/19               | Clarifies that retail licensees may only purchase authorized product from an importer, also known as wholesaler, except that a retail licensee may purchase up to 20 gallons a day from a licensee licensed to sell for off-premises consumption. This Act also clarifies that off-premises licensees may sell untapped kegs for off-premises consumption. (82 Del. Laws c 99; SB 57). |
| 6/3/21               | 6/3/21                | Allows brewery-pub and microbrewery license holders to brew hard seltzers or other non-malt based fermented products. These products will be taxed at \$8.15 per barrel, the same rate as beer. (83 Del. Laws c 36; HB 46).  |
| 8/15/25              | 8/15/26               | Permits wine producer license holders to obtain a license and ship wine directly to Delaware consumers through a common carrier permit. This Act includes a sunset provision of five years if no action is taken by the General Assembly (85 Del. Laws c 139; HS 2 for HB 187)   |

**FILING PROCEDURES:** 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 Commissioner, as well as business licenses from the Division of Revenue. 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 spirit sales. Statements must be received by the Division on the third business day following the fifteenth day of the month 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 sales by the third business day following the last calendar day of the month. Effective July 1, 2019, taxes are due from the importing liquor wholesaler upon the sale of alcoholic beverages to a retailer, instead of when alcoholic beverages come to rest in the State of Delaware.

**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 or out-of-state branches 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 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 or branches 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.

Banks have the option of using an “Alternative Franchise Tax”. The Alternative Franchise Tax has two parts:

1. A traditional income tax employing three-factor apportionment with a double-weighted receipts factor. The tax’s regressive rates range from 7.0% on taxable income not in excess of \$50 million to 0.5% on taxable income in excess of \$1.3 billion.
2. A “Location Benefit Tax” based on net assets. The minimum tax is \$1.6 million with additional liability ranging from 0.012% on the value of net assets not in excess of \$5.0 billion to 0.004% on net assets in excess of \$20 billion but not in excess of \$90 billion. The maximum Location Benefit Tax is \$6.2 million.

## BANK FRANCHISE TAX

**TAX RECEIPTS:** The rate of tax upon taxable income is as calculated under the standard franchise tax:

| TAXABLE INCOME RANGE          | TAX RATE |
|-------------------------------|----------|
| 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%     |

The rate of tax on elective income tax base as calculated under the alternative franchise tax:

| TAXABLE INCOME RANGE           | TAX RATE |
|--------------------------------|----------|
| Not greater than \$50 million  | 7.0%     |
| \$50 million to \$100 million  | 5.0%     |
| \$100 million to \$500 million | 3.0%     |
| \$500 million to \$1.3 billion | 1.0%     |
| Greater than \$1.3 billion     | 0.5%     |

The rate of tax on the value of net assets as calculated under the location benefits tax:

| VALUE OF ASSETS              | TAX RATE               |
|------------------------------|------------------------|
| Not greater than \$5 billion | \$1.6 million + 0.012% |
| \$5 billion to \$20 billion  | 0.008%                 |
| \$20 billion to \$90 million | 0.004%                 |

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

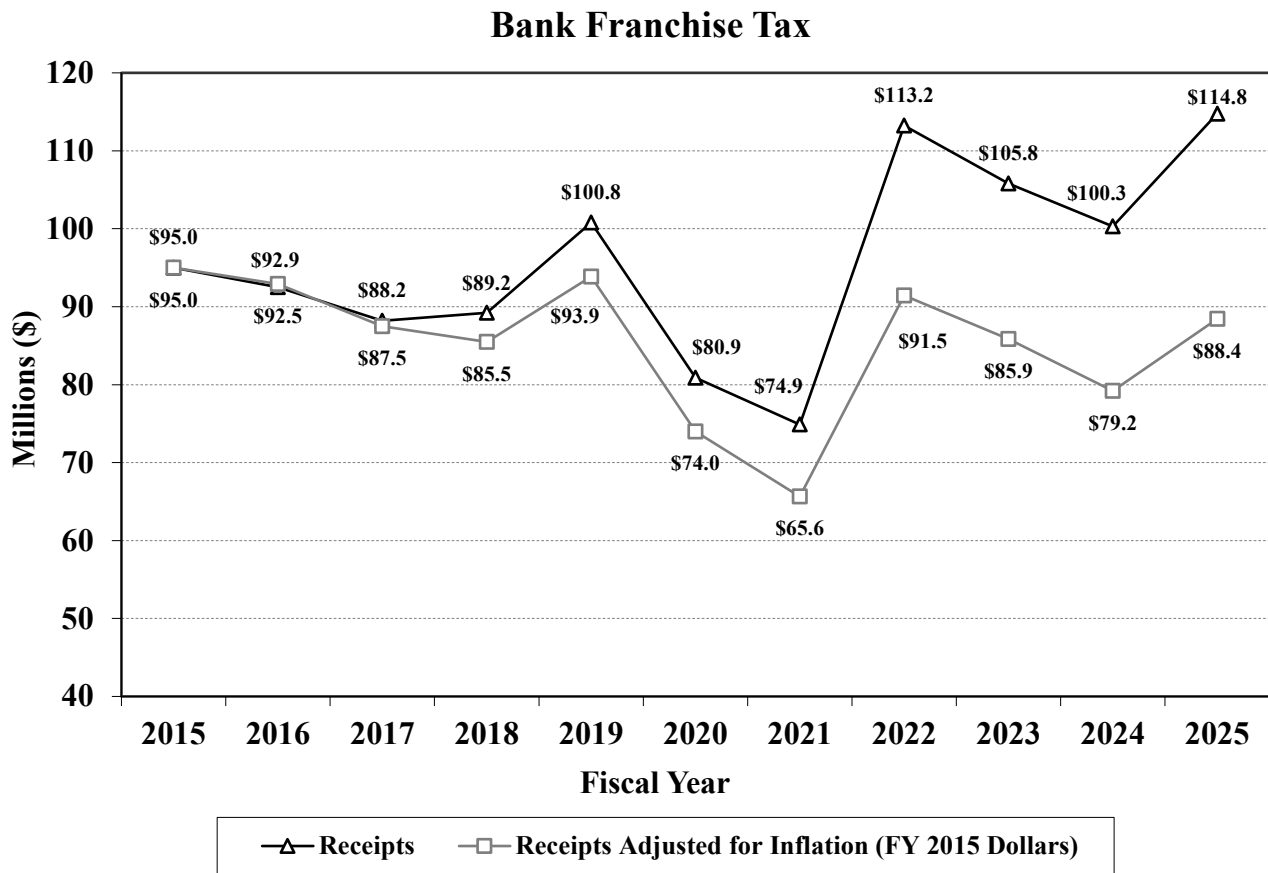
- Travelink tax credits calculated in accordance with Department of Transportation Travelink tax credit reporting requirements;
- An employee tax credit for certain new bank employees, provided the bank creates at least 200 new jobs for qualified employees and invests at least \$15,000 per new qualified employees;
- A Historic Preservation tax credit as administered by the Delaware State Historic Preservation Office;
- The New Economy Tax Credit designed to attract high paying, competitive jobs for new bank employees, provided the bank creates at least 50 net new jobs which each must have an annual salary of at least \$100,000 (adjusted for inflation). Up to 40% of the withholding taxes collected and paid on behalf of new qualified employees during the taxable year will be rebated. Higher credits are granted to banks that locate jobs in preferred geographic locations. This Act was expanded effective 6/30/12 and provides that employers relocating at least 200 jobs with average salaries of \$70,000 or greater to Delaware will be entitled to a tax credit on the withholding paid on behalf of the relocated employees. The size of the tax

## BANK FRANCHISE TAX

credit increases if more than 200 jobs are relocated and can reach as high as 40% if the employer relocates 500 or more employees to Delaware;

- The Business Finder’s Fee Tax Credit creates incentives for existing businesses to partner with the State in an effort to create new employment opportunities for Delaware Citizens, and to stimulate the Delaware economy by expanding the tax base. This tax program would award each Sponsor Firm and each New Business Firm with a \$500 annual tax credit per Delaware job created by the new business, with the tax credit available for three years; and
- The Vocational Rehabilitation Hiring Tax Credit provides an incentive for Delaware’s employers to hire referrals from vocational rehabilitation. The credit shall be awarded to employers hiring qualified disabled workers. The amount of the credit shall equal 10%, but not exceed \$1,500, of the gross wages paid by the qualified employer to a vocational rehabilitation referral. Employers may take the credit in the year the qualified disabled worker is hired and for the 2 taxable years thereafter.

### TAX RECEIPTS



## BANK FRANCHISE TAX

### LEGISLATIVE HISTORY

| Approved<br>Date | Effective<br>Date | Description of Changes  |
|------------------|-------------------|---|
| 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). |
| 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).

## BANK FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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 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. 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).   |

## BANK FRANCHISE TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>   |
|----------------------|-----------------------|---|
| 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).  |
| 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). |

## BANK FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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).   |
| 6/30/06          | 6/30/06           | Extended the employment tax credit program for an additional five years, through 2011 (75 Del. Laws c 335; SB 343).   |
| 1/24/06          | 1/1/07            | Permitted certain banking organizations and trust companies to elect into an alternative bank franchise system consisting of a three-factor apportioned income tax and a location benefit tax (75 Del. Laws c 223; SB 249).   |
| 6/30/07          | 6/30/07           | Extended the Blue Collar Jobs Credit program through June 20, 2009, and implemented the New Economy Jobs Credit Program (76 Del. Laws c 78; SB 149).  |
| 6/3/08           | 1/1/09            | Provided that subsidiaries of banking organizations may not elect to be taxed as asset management companies under Title 30 (76 Del. Laws c 234; SB 213).  |
| 6/16/10          | 10/1/10           | Created a tax credit program that would award each Sponsor Firm and each New Business Firm with a \$500 annual tax credit per Delaware job created by the new business, with the tax credit available for three years. The program requires that the new business be brought to Delaware as a result of the efforts of the sponsor, and would specifically exclude those business, such as real estate agents, banks and commercial landlords, that already have an incentive to bring out-of-state business to Delaware. (77 Del. Laws c 300; HB 380). |
| 7/19/10          | 7/1/10            | Provided for a 10-year extension to the Historic Preservation Tax Credit Act which was scheduled to expire in June 2010. (77 Del. Laws c 413; SB 209).  |
| 7/1/11           | 1/1/12            | Created a 10-year tax credit for banking organizations and trust companies that add 200 or more jobs after 2011. (78 Del. Laws c 72; SB 91).  |
| 7/1/11           | 1/1/12            | Increased the incentive for major financial institutions to locate their charters and operations in Delaware by lowering the location benefit tax paid by banks that elect into the alternative franchise tax. (78 Del. Laws c 72; SB 92).  |
| 7/31/12          | 1/1/12            | Established the Veterans' Opportunity Credit, which shall be awarded to employers hiring qualified veterans (initially hired on or after January 1, 2012, and prior to January 1, 2016). The credit shall equal 10% of a qualified veteran's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified veteran is hired and the subsequent two tax years. (78 Del. Laws c 381; HB 275 w/SA 2).   |

## BANK FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 8/13/12          | 6/30/12           | Expanded the New Economy Jobs Program by creating another means by which employers relocating jobs to Delaware may qualify for the tax credit. Under this Act, employers that relocate at least 200 jobs with average salaries of \$70,000 or greater to Delaware will be entitled to a tax credit equal to 25% of the withholding paid by the employer on behalf of the relocated employees. If employers relocate more than 200 jobs, the size of the tax credit increases and can reach 40% if the employer relocates 500 or more employees. The Act also maintains incentives for relocating jobs into municipalities, targeted growth areas and counties, and on to redeveloped brownfields. Altogether, the maximum tax credit can reach 65% of the withholding paid on behalf of the relocated employees. (78 Del. Laws c 396; SB 271). |
| 1/30/13          | 1/1/13            | Removed obsolete provisions related to the imputed capital addback for a banking organization that is a resulting branch in this State of an out-of-state bank. Resulting branch imputed capital addback shall not apply to tax years beginning after December 31, 2012. (79 Del. Laws c 3; SB1).  |
| 6/5/14           | 6/5/14            | Designated \$1,500,000 in annual Historic Preservation Credit funds as reserved for projects in Downtown Development Districts. (79 Del. Laws c 240; SB 191).  |
| 7/1/14           | 1/1/14            | Extended the 10 year tax credit available to bank franchise taxpayers that create 200 or more jobs by extending the sunset of the tax credit from January 1, 2022 to January 1, 2032 and providing for a rolling base year for measuring employment growth. (79 Del. Laws c 291; HB 414).  |
| 3/17/16          | 1/1/17            | Reinstated the New Economy Jobs Tax Credit, which had sunset in 2014, and also expanded the scope of the credit to include provisions covering retained jobs for companies involved in or resulting from a corporate restructuring. (80 Del. Laws c 207; SB 200).  |
| 8/29/16          | 1/1/17            | Established the Vocational Rehabilitation Hiring Tax Credit, which shall be awarded to employers hiring qualified disabled workers. The credit shall equal 10% of a qualified disabled worker's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified disabled worker is hired and the subsequent two tax years. (80 Del. Laws c 400; SB 221).  |
| 7/17/19          | 7/17/19           | Modified the New Economy Jobs Tax Credit by allowing a prorated credit for job creation activity in the first certified year, indexing the salary threshold prior to the calendar year to assist with business planning (in line with the indexation of other tax provisions), and establishing an incentive to maintain employment above the credit thresholds. (82 Del. Laws c 101; SB 74).  |
| 6/30/20          | 6/30/20           | Extended the Historic Preservation Tax Credit Act through June 30, 2021. (82 Del. Laws c 243; SB 260).   |
| 9/15/21          | 9/15/21           | Extended the Historic Preservation Tax Credit Act through June 30, 2030. (83 Del. Laws c 154; SB 182).   |
| 6/30/22          | 6/30/22           | Increased the annual maximum amount of Historic Preservation Tax Credits to \$8 million through June 30, 2028 (83 Del. Laws c 340; HB 475).  |

## BANK FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 6/30/23          | 6/30/23           | Extended the \$8 million annual maximum amount of Historic Preservation Tax Credits through June 30, 2029 (84 Del. Laws c 83; SB 160).  |
| 6/30/24          | 6/30/24           | Extended the \$8 million annual maximum amount of Historic Preservation Tax Credits through June 30, 2030 (84 Del. Laws c 297; HB 475). |
| 7/1/25           | 7/1/25            | Extended the \$8 million annual maximum amount of Historic Preservation Tax Credits through June 30, 2031 (85 Del. Laws c 64; SB 200).  |

**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.

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 privilege of operating a business in the State, as well as a tax on the gross receipts of most businesses. Business and occupational license tax rates range from 0.0945% to 1.19914% (and 15.5% for Interactive Fantasy Sports Operators), 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. Generally, 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.

**TAX RATES (In effect 1/1/2021):**

| TITLE 30,<br>DELAWARE<br>CODE; SECTION: | TAX TYPE  | ANNUAL FEE                                  | TAX RATE | EXCLUSION             |
|---|---|---|----------|-----------------------|
| 2703                                    | Automobile<br>Manufacturer                        | \$75 for each place of<br>business          | 0.0945%  | \$1,250,000/<br>month |
| 2702                                    | Clean Energy<br>Technology Device<br>Manufacturer | \$75 for each place of<br>business          | 0.0945%  | \$1,250,000/<br>month |
| 2502                                    | Contractors                                       | \$75  | 0.6472%  | \$100,000/month       |
| 2907                                    | Farm Machinery<br>Retailers                       | \$75 for each place of<br>business          | 0.0996%  | \$100,000/month       |
| 2903                                    | Food Processors                                   | \$75 for each place of<br>business          | 0.1991%  | \$100,000/month       |
| 2301(b) & (d)                           | General Services                                  | \$75 + \$25 for each extra<br>establishment | 0.3983%  | \$100,000/month       |
| 2904                                    | Commercial Feed<br>Dealers                        | \$75 for each place of<br>business          | 0.0996%  | \$100,000/month       |
| 4305                                    | Lessors   | \$75 + \$25 for each extra<br>establishment | 0.2987%  | \$300,000/quarter     |
| 4302                                    | Lessees   | N/A   | 1.9914%  | None                  |
| 4305                                    | Motor Vehicle Lessors                             | \$75 + \$25 for each extra<br>establishment | 0.2987%  | \$300,000/quarter     |
| 4302                                    | Motor Vehicle Lessees                             | N/A   | 1.9914%  | None                  |
| 2702                                    | Manufacturers                                     | \$75 for each place of<br>business          | 0.1260%  | \$1,250,000/month     |

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

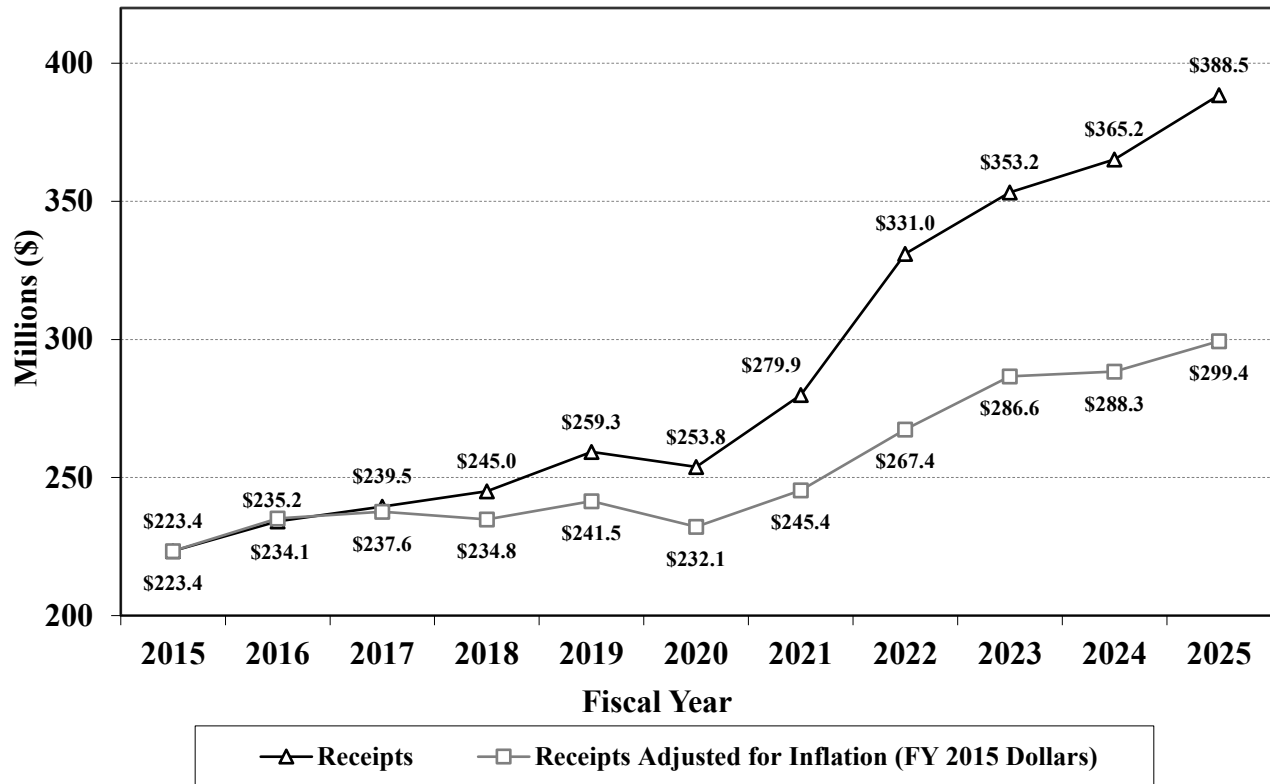
| <b>TITLE 30, DELAWARE CODE; SECTION:</b>      | <b>TAX TYPE</b>   | <b>ANNUAL FEE</b>  | <b>TAX RATE</b>           | <b>EXCLUSION</b> |
|---|---|--|---------------------------|------------------|
| 2301(a) & (d)                                 | Occupations   | \$75 + \$25 for each extra establishment   | 0.3983%                   | \$100,000/month  |
| 2906  | Restaurant Retailers  | \$75 + \$25 for each extra establishment   | 0.6472%                   | \$100,000/month  |
| 2908  | Grocery Supermarket Retailers                               | \$75 + \$15 retail crime unit fee + \$25 for each extra establishment                  | 0.3267%                   | \$100,000/month  |
| 2905 & 2911                                   | Retailers   | \$75 + \$15 retail crime unit fee + \$25 for each extra establishment                  | 0.7468%                   | \$100,000/month  |
| 2910  | Tire Retailers  | None.  | \$2 per tire              | None             |
| 2905 (f) –(g), 2911 & 6 Del. Code, Chapter 47 | Transient Retailers (defined under 6 Del. Code, Chap 47)    | \$75 + \$15 retail crime unit fee + \$25 for each extra establishment                  | 0.7468%                   | \$100,000/month  |
| 2905(f)-(g)                                   | Transient Retailers <sup>(1)</sup> (defined under Title 30) | \$25   | 0.7468%                   | \$3,000          |
| 2905 (i)                                      | Transient Nursery Retailers <sup>(2)</sup>                  | \$75 for each location the applicant seeks to do business + \$15 retail crime unit fee | 0.7468%                   | \$3,000          |
| 2902 (b)-(c)(2)                               | Wholesalers   | \$75 for each place of business  | 0.3983%                   | \$100,000/month  |
| 2902 (b)-(c)(4) and 7 Del. Code, § 9114       | Petroleum Wholesalers                                       | \$75 for each place of business  | 1.7672% <sup>(3)</sup>    | \$100,000/month  |
| 2905 (a)-(b), (h)                             | Petroleum Retailers   | \$75 + \$15 retail crime unit fee + \$25 for each extra establishment                  | 1.8868% <sup>(4)(5)</sup> | \$100,000/month  |
| 2301 (a)(27) and (d)(3)                       | Interactive Fantasy Sports Operator                         | \$50,000   | 15.5%                     | \$100,000/month  |

- (1) The maximum length of license is 10 days.
- (2) The maximum length of license is 30 days.
- (3) Composite rate of 1.4218% includes the General Fund tax of 0.3983%, Hazardous Substance tax of 1.120% and the Petroleum Surtax of 0.2489%. In 2026, the Hazardous Substance tax will increase to 1.1902%, so the composite rate will be 1.8374%. (Effective July 1, 2007, the imposition of the Hazardous Substance tax is limited to the first transaction that is taxable under the general wholesale tax.)
- (4) Composite rate of 1.8668% includes the General Fund tax of 0.7468% and the Hazardous Substance tax of 1.120%. In 2024, the Hazardous Substance tax will increase to 1.1902%, so the composite rate will be 1.937%.
- (5) Tax applies only in the event the petroleum product was not taxed at the wholesale level.

## 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 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 \$100,000 monthly exclusion. For tax periods beginning after 12/31/2013, contractor gross receipts are taxed at the rate of 0.6472%.

**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.

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

The first \$100,000 of a retailer's monthly gross receipts is 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. For tax periods beginning after 12/31/2013, retailer gross receipts are taxed at the rate of 0.7468%.

**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 \$100,000 is allowed against gross receipts for each month. For tax periods beginning after 12/31/2013, farm machinery retailer gross receipts are taxed at the rate of 0.0996%.

**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 \$100,000. For tax periods beginning after 12/31/2013, restaurant retailers are taxed at the rate of 0.6472%.

**Tire Retailer:** In addition to the retailer license requirements, any person in this state who engages in the retail sale of tires must also obtain a tire retailer's license at no additional cost. Tire retailers shall pay a \$2 fee for every tire sold.

**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. For tax periods beginning after 12/31/2013, the monthly exclusion is \$100,000, and the tax rate is 0.7468%.

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 0.7468% on all receipts received in excess of \$3,000.

**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 \$100,000 in monthly gross receipts is excluded from tax. For tax periods beginning after 12/31/2013, the rate is 0.3267%.

**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

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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

category, described below.) In computing the taxes due on such gross receipts, an exclusion of \$100,000 is allowed each month. 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. For tax periods beginning after 12/31/2013, monthly receipts in excess of the exclusion are taxed at the rate of 0.3983%.

**Food Processor:** All firms engaged in the processing of food or foodstuffs that are to be resold 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 \$80,000 is allowed. For tax periods beginning after 12/31/2013, Amounts in excess of this deduction are taxed at a rate of 0.1991%.

**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. (All rates provided below are for tax periods beginning after 12/31/2013.) First, sales of petroleum products are subject to the rate generally applied to other businesses: 0.3983% for wholesalers and 0.7468% for retailers. Second, wholesale sales of petroleum products are subject to an additional tax of 0.2489%. Lastly, a Hazardous Substance tax is imposed at a rate between 0.675% and 1.675%. The tax applied in any given calendar year is determined by the below calculation:

$(0.9\%) * (\$15\text{m/prior Fiscal Year HSCA deposits})$

The Hazardous Substance tax is scheduled to sunset on December 31, 2028. When imposed on the wholesaler, the Hazardous Substance tax may be passed along to the buyer as a separate line item on the invoice. Effective July 1, 2007, the imposition of the Hazardous Substance tax is limited to the first transaction that is taxable under the general wholesale tax.

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 \$100,000 monthly exclusion. Retailers receive a monthly exclusion of \$100,000.

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

The following table summarizes the tax treatment of petroleum products:

| PRODUCT  | PRODUCT SOLD TO A<br>WHOLESALER OR RETAILER      | PRODUCT SOLD TO ULTIMATE<br>CONSUMER |
|--|--|--------------------------------------|
| <b>Tax Rates (In effect 1/1/2024)</b>  |  |                                      |
| Products not used for heating ambient space -- e.g., gasoline, motor oil, jet fuel, lubricants, etc.<br>(Note: Crude oil is not subject to the Hazardous Substance Tax.) | <u>Component</u>                                 | <u>Component</u>                     |
|  | General  | 0.3983%                              |
|  | Additional                                       | 0.2489%                              |
|  | Hazardous Substance*                             | <u>0.6750%</u>                       |
|  | Total  | 1.3222%                              |
|  | * Applies to first transaction only.             |                                      |
|  | Applies only if tax not paid at wholesale level. |                                      |
| Products used to heat ambient space -- e.g., home heating oil  | <u>Component</u>                                 | Not Taxable                          |
|  | General  | 0.3983%                              |
|  | Additional                                       | 0.2489%                              |
|  | Hazardous Substance                              | <u>0.6750%</u>                       |
|  | Total  | 1.3222%                              |
| <b>Tax Rates (In effect 1/1/2025)</b>  |  |                                      |
| Products not used for heating ambient space -- e.g., gasoline, motor oil, jet fuel, lubricants, etc.<br>(Note: Crude oil is not subject to the Hazardous Substance Tax.) | <u>Component</u>                                 | <u>Component</u>                     |
|  | General  | 0.3983%                              |
|  | Additional                                       | 0.2489%                              |
|  | Hazardous Substance*                             | <u>1.1200%</u>                       |
|  | Total  | 1.7672%                              |
|  | * Applies to first transaction only.             |                                      |
|  | Applies only if tax not paid at wholesale level. |                                      |
| Products used to heat ambient space -- e.g., home heating oil  | <u>Component</u>                                 | Not Taxable                          |
|  | General  | 0.3983%                              |
|  | Additional                                       | 0.2489%                              |
|  | Hazardous Substance                              | <u>1.1200%</u>                       |
|  | Total  | 1.7672%                              |

**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 0.0996% for tax periods beginning after 12/31/2013 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 \$100,000 is allowed.

**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. With the exception of automobile manufacturers and clean energy technology device manufacturers, which are taxed at 0.0945%, the manufacturer's gross receipts tax rate is 0.1260%. (both rates are for tax periods beginning after 12/31/2013). 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 \$1,250,000. Manufacturers are also subject to licensing as wholesalers or retailers and to the respective gross receipts tax.

**Lessee/Lessor:** A lessor is any person that grants a lease to a lessee and any assignee of the person that grants a lease other than an assignee for security or financing. 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.

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

**Lessor:** Lessors may take an exclusion of \$300,000 against their gross receipts from leases for each quarter. Gross receipts in excess of the quarterly exclusion are taxed at the rate of 0.2987% for tax periods beginning after 12/31/2013.

**Lessee:** For tax periods beginning after 12/31/2013, lessees pay a 1.9914% tax rate on the value of rental payments they make to a lessor.

**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 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 \$300,000 against their gross receipts from lease for each quarter. Gross receipts in excess of the quarterly exclusion are taxed at the rate of 0.2987% for tax periods beginning after 12/31/2013.

**Motor Vehicle Lessee:** For tax periods beginning after 12/31/13, lessees pay a 1.9914% tax rate on the value of rental payments they make to a lessor.

**Occupational, Professional and General Service:** Twenty-five 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 0.3983% for tax periods beginning after 12/31/2013 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 \$100,000 per month.

**Interactive Fantasy Sports Operator:** Any person or entity that offers an online simulated game of skill wherein 1 or more contestants compete against each other by using their knowledge and understanding of athletic events and athletes to select and manage rosters of players whose performance directly corresponds with the actual performance of competitors on sports teams and in sports contests through an interactive fantasy sports platform. These games exclude free contests and season-long contests with less than 150 competitors. For tax periods beginning after 8/25/2017, all holders of Interactive Fantasy Sports Operator license will pay a \$50,000 annual license fee and a quarterly gross receipts tax at a rate of 15.5%.

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
- Drayperson (or Mover)\*
- Finance or Small Loan Agency
- Tourist Home\*\*
- Hotel\*\*
- Motel\*\*
- Non-Resident Junk Dealer
- Trailer Park

\* Intrastate receipts are taxable; interstate receipts are exempt

\*\* Subject to the Public Accommodations Tax

## **BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS 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

### **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/month, from \$20,000 per quarter. Gave restaurateurs a \$5,000 monthly exemption in place of \$50,000 annual exclusion. Subjected services 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).   |
| 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).  |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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).   |
| 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).  |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>   |
|----------------------|-----------------------|---|
| -                    | 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).  |
| 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).  |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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 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 326 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 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).  |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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 "look back 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 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 hereunder to the Transportation Trust Fund (71 Del. Laws c 150; HB 400).  |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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).   |
| 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 dray persons 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).   |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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).  |
| 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 exclusion amount by \$30,000 for all categories except manufacturing (75 Del. Laws c 199; HB 303).  |
| 6/27/06          | 1/1/03            | Established an exemption from business license and gross receipts taxes for individuals providing instructional services to the Delaware State Fire School on a contractual basis for periods beginning after 12/31/02 and ending on or before 12/31/05 (75 Del. Laws c311; HB 382).   |
| 6/30/06          | 1/1/07            | Created a \$2 fee for tires sold at retail establishments (75 Del. Laws c346; HB 455).   |
| 7/1/06           | 7/1/06            | Extended "Blue Collar" provisions, for one month, through January 31, 2007 (75 Del. Laws c352; SB 400).  |
| 7/10/06          | 1/1/02            | Repealed Foreign Sales Corporation and Export Trading Company exemptions and conformed Delaware law to amendments of the Internal Revenue Code and rulings by the World Trade Organization (75 Del. Laws c 412; HB 398).   |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 7/10/06          | 7/10/06           | Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118). |
| 7/10/06          | 1/1/07            | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).  |
| 6/30/07          | 6/30/07           | Extended the Blue Collar Jobs Credit program through June 20, 2009, and implemented the New Economy Jobs Credit Program (76 Del. Laws c 78; SB 149).  |
| 7/12/07          | 7/1/07            | Ensured the Hazardous Substance Cleanup surcharge on the wholesale sale of petroleum products is levied only upon the initial transaction within the State (76 Del. Laws c 135; HB 234).  |
| 7/24/07          | 7/24/07           | Transferred the administration of the Neighborhood Assistance Tax Credit program to the Delaware Housing Authority and expanded eligibility requirements to all entities paying personal and corporate income tax (76 Del. Laws c 172; SB 169).   |
| 6/30/08          | 7/1/08            | Repealed the earmark of the lessees' use tax and the lessors' license taxes to the Transportation Trust Fund, resulting in the deposit of such taxes into the General Fund (76 Del. Laws c 278; SB 336).  |
| 7/1/08           | 1/1/09            | Increased by 25% most General Fund business and occupational gross receipts tax rates and also established a sunset provision that automatically repeals said gross receipts tax rate increases for taxable periods beginning after March 31, 2012 (76 Del. Laws c 282; HB 513).  |
| 7/17/08          | 9/15/08           | Established an additional annual \$15 fee on all general retail and grocery store licenses to fund the 'Retail Crime Unit' within the Department of Justice (76 Del. Laws c 390; HB 458).   |
| 7/01/09          | 1/1/10            | Established a business license for firms engaged in the business activity of crude oil lightering of \$100,000. Exempts crude oil lightering operators from the gross receipts tax on services. Directs that all such license fees are deposited into the Hazardous Substance Cleanup Fund. (77 Del. Laws c 81; HB 287).                              |
| 7/01/09          | 1/1/10            | Increased by 8% most General Fund business and occupational gross receipts tax rates and also established a sunset provision that automatically repeals said gross receipts tax rate increases for taxable periods beginning after December 31, 2013 (77 Del. Laws c 83; HB 289 with HA 2).   |
| 7/1/09           | 7/1/09            | Extended the "Blue Collar Job" program's tax incentives through June 30, 2011 (77 Del. Laws, c. 86, § 30; HB 295).  |
| 7/19/10          | 7/19/10           | Clarified that a pharmaceutical wholesaler located inside or outside of the state that ships pharmaceutical drugs to a pharmaceutical distribution wholesaler in this state is exempt from the gross receipts tax (77 Del. Laws c 412; HB 477).   |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 6/16/10          | 10/1/10           | Established a business finder's fee which creates a tax credit program that would award each Sponsor Firm and each New Business Firm with a \$500 annual tax credit per Delaware job created by the new business, with the tax credit available for three years. The program would require that the new business be brought to Delaware as a result of the efforts of the sponsor, and would specifically exclude those business, such as real estate agents, banks and commercial landlords, that already have an incentive to bring out-of-state business to Delaware. (77 Del. Laws c 300; HB 380). |
| 7/19/10          | 7/1/10            | Provided a 10-year extension to the Historic Preservation Tax Credit Act which was scheduled to expire in June 2010. (77 Del. Laws c 413; SB 209).   |
| 7/1/11           | 1/1/12            | Cut rates across-the-board by 3% and increased by 25% the monthly and quarterly exclusion levels for all business categories. Clarified the rate reduction scheduled to take effect in 2014 and restored full funding for the Hazardous Substance Clean-up program two-years earlier than originally planned (78 Del. Laws c 73; HB 127 w/HA1).  |
| 1/28/11          | 1/28/11           | Exempted from the Wholesale Merchants' Gross Receipts Tax and from the Manufacturers' Gross Receipts Tax the gross receipts realized in certain intermediate transactions engaged in by petroleum product refiners with certain specialized trade parties during the petroleum refining process. (78 Del. Laws c 1; HB 10 w/HA1).  |
| 6/22/11          | 7/1/11            | Updated the State's primary economic development tax incentive program (Blue Collar Jobs). Specifically, the Act: 1) made the program permanent by eliminating a sunset provision; 2) established a three-year application deadline; 3) increased the amount of the corporate or personal income tax credits; and 4) included provisions designed to attract manufacturers of advanced clean energy technology power generating devices and systems. (78 Del. Laws c 47; SB 40).   |
| 7/8/11           | 1/28/11           | Defined a new class of occupational license tax licensee for direct care workers and provided for the license fee of such direct care workers to be reduced if the gross receipts of such direct care workers for the 12 months, beginning July 1 and ending June 30, preceding the year of license application or renewal are less than \$10,000. (78 Del. Laws c 104; HB 92).  |
| 7/7/11           | 1/31/11           | Clarified 78 Del. Laws c 1 by establishing that the exemption established therein applies to the sale of all feedstock petroleum products and not just to the sale of crude oil. (78 Del. Laws c 100; HB 142).   |
| 6/26/12          | 9/30/11           | Expanded the exemption established by 78 Del. Laws c 1 and 78 Del. Laws c 100 by specifying that, in addition to sales to petroleum refiners, sales of crude oil or petroleum feedstock between feedstock wholesalers are also exempt from tax. (78 Del. Laws c 275; HB 369).  |
| 7/5/12           | 12/31/12          | Exempted from the Delaware Tax on the lease of motion picture films a broad number of not-for profit organizations exempt from income tax under the Internal Revenue Code. (78 Del. Laws c 298; HB 341).   |
| 3/29/12          | 3/29/12           | Eliminated the \$100,000 business license fee for firms engaged in crude oil lightering. (78 Del. Laws c 218; HB 251).   |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 8/13/12              | 6/30/12               | Expanded the New Economy Jobs Program by creating another means by which employers relocating jobs to Delaware may qualify for the tax credit. Under this Act, employers that relocate at least 200 jobs with average salaries of \$70,000 or greater to Delaware will be entitled to a tax credit equal to 25% of the withholding paid by the employer on behalf of the relocated employees. If employers relocate more than 200 jobs, the size of the tax credit increases and can reach 40% if the employer relocates 500 or more employees. The Act also maintains incentives for relocating jobs into municipalities, targeted growth areas and counties, and on to redeveloped brownfields. Altogether, the maximum tax credit can reach 65% of the withholding paid on behalf of the relocated employees. (78 Del. Laws c 396; SB 271). |
| 6/19/12              | 8/6/12                | Provided the Director of Revenue in conjunction with the Division of Professional Regulation with the authority to deny or suspend professional license for taxpayers with a judgment on debts in excess of \$1,000. (78 Del. Laws c 265; HB 257).   |
| 7/16/13              | 7/16/13               | Exempted from taxation emergency response by infrastructure companies when it is necessary for them to temporarily provide out-of-state resources and personnel during a State of emergency declared by the Governor or the President of the United States. (79 Del. Laws c 119; HB 145).  |
| 3/28/13              | 1/1/14                | Beginning 2014, established rates on all gross receipts business categories other than manufacturers' tax rates that are one percent below the rates in effect in 2013. Established rates on manufacturers 30% below the rates in effect in 2013. (79 Del. Laws c. 13; HB 53).   |
| 1/27/2016            | 1/1/17                | Adjusted the thresholds which trigger monthly (instead of quarterly) gross receipts filings. Raised the thresholds to \$1,500,000 for most businesses (and \$3,000,000 for farm machinery and commercial feed businesses). Subjected these thresholds to annual inflation adjustments. (80 Del. Laws c. 195; HB 235).  |
| 6/28/16              | 6/28/16               | Extended the business licensing and gross receipts taxation exemption for non-commercial generation of solar electricity to include rural electric cooperatives. (80 Del. Laws c.285; HB 93 w/ HA1)  |
| 5/18/17              | 5/18/17               | Set the start of the statute of limitations period for a substantial underpayment of a license fee or gross receipts tax to commence at the end of the period for which the license is issued. (81 Del. Laws c 19; HB 66 w/ HA1 and SA 1).   |
| 7/26/17              | 8/25/17               | Authorized interactive fantasy sports. Established a \$50,000 annual license fee and a quarterly gross receipts tax on interactive sports gross revenue. Required the quarterly gross receipts tax rate be the greater of 15.5% or the highest rate adopted by another state, which shall be determined on an annual basis. Sets a sunset date of July 1, 2019. (81 Del. Laws c 05; HB 249 w/ HA1, HA1 to HA1, HA2, and SA 1).   |
| 8/10/18              | 8/10/18               | Codified the tax administration of Fantasy Sports to the Division of Revenue. Assigned the prior registration fees and taxation of Interactive Fantasy Sports (at 15.5% of gross receipts or the highest rate adopted by another state) to the Gross Receipts Tax. (81 Del. Laws c 371; HB 340).   |

## BUSINESS AND OCCUPATIONAL LICENSE AND GROSS RECEIPTS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 9/13/18          | 9/13/18           | Required the Division of Revenue to annually determine a new Hazardous Substance Cleanup Act (HSCA) tax rate during the inflation adjustment process published alongside September DEFAC forecasts. Defined the tax rate calculation as (0.9%) * (\$15m/prior Fiscal Year HSCA deposits) with a floor at 0.0675% and a ceiling at 1.675%. Earmarked 1/3 of HSCA deposits for the Brownfields Grant Program. Maintained the current HSCA tax sunset on December 31, 2021. (81 Del. Laws c 435; HB 451 w/ HA 1). |
| 6/26/19          | 6/26/19           | Permanently removed the July 1, 2019 sunset date for the authorization of interactive fantasy sports and set the registrants' license fee rate at 15.5%. (82 Del. Laws c 69; HB 190).  |
| 8/12/19          | 1/1/21            | Provides that the Hazardous Substance Cleanup Act Fund's 15% cap on administrative costs must be based on the average of the moneys deposited into the Fund over a period of the previous 10 fiscal years and extends the HSCA Fund tax assessment expiration date to December 31, 2028. (82 Del. Laws c 195" SB 113 w/ SA 1).   |
| 7/30/21          | 7/30/21           | Eliminates the requirement that multiple business licenses for the same licensee be on the same licensing schedule and clarifies the definition of "Mercantile agency or collection agency" to include those agencies involved in the collection of both commercial and consumer debt. (83 Del. Laws c 107; HB 171).   |
| 6/15/22          | 6/15/22           | Clarifies the definitions of "lessor" and "lessee" to reflect modern leasing transactions. (83 Del. Laws c 323; HB 397).   |
| 2/7/25           | 6/2/2025          | Codifies the longstanding practice of Delaware "Doing Business As" registrations for corporations and LLCs, which was not previously required but commonly utilized for convenience by many businesses incorporated in Delaware. Introduces a new \$25 annual license fee for entities not actively doing business in Delaware and postpones online registration date to June 2 <sup>nd</sup> , 2025 (85 Del. Laws c 1; HB 40 w/HA 1).   |
| 5/19/25          | 2/2/26            | Delays the effective date of changes made to the trade name registration process made by SB 291 of the 152 <sup>nd</sup> General Assembly and HB 40 of the 153 <sup>rd</sup> General Assembly. (85 Del. Laws c 30; HB 177).  |

**FILING PROCEDURES AND PAYMENT DATES:** Every company or person conducting any business activity in Delaware must maintain an active business license issued by the Division of Revenue unless an applicable exemption applies. To obtain a business license, a business must register online using the One Stop Business Registration and Licensing System ([onestop.delaware.gov](http://onestop.delaware.gov)) or contact the Division of Revenue for assistance. Business licenses may be renewed either through the Division of Revenue tax portal ([tax.delaware.gov](http://tax.delaware.gov)) or the One Stop system. Business information provided by the taxpayer is entered in the State's integrated revenue administration system (IRAS), which houses records of all transactions subject to this tax.

Businesses that register online using the One Stop Business Registration and Licensing System can also register with the Department of Labor's Division of Unemployment Insurance and Office of Workers Compensation in addition to the Division of Revenue, and complete formation documents to print and file with the Delaware Department of State, Division of Corporations. Links are also provided to the Internal Revenue Service where the business may obtain a Federal Employer Identification Number (FEIN).

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

Although the One Stop System addresses basic registration requirements, businesses must independently comply with local zoning laws; the Division of Professional Regulations; and the Departments of Agriculture, Health & Social Services, Natural Resources & Environmental Control, State and Transportation, as necessary.

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. The threshold which delineates between quarterly and monthly filers is annually adjusted for inflation. Certain 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 1/2% 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% 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, manufactures, 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.

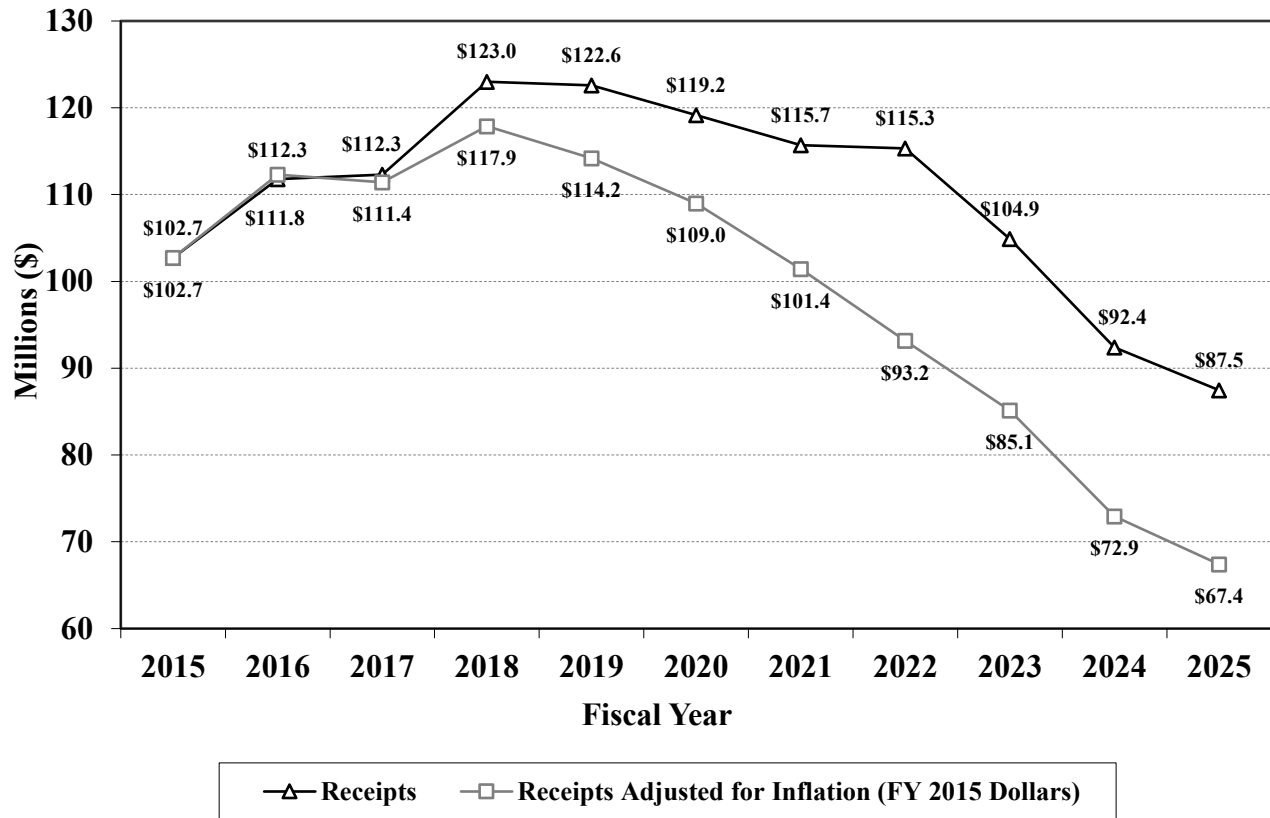
### **TAX RATES**

- Cigarettes – 105.0 mills per cigarette (i.e., \$2.10 per 20 cigarettes)
- Moist Snuff - 92 cents per ounce
- Vapor Products – 5 cents per fluid millimeter
- Other Tobacco Products - 30% of the wholesale price

## CIGARETTE AND TOBACCO PRODUCTS TAX

### TAX RECEIPTS

#### Cigarette & Tobacco Products Tax



### LEGISLATIVE HISTORY

| Approved Date | Effective Date | Description of Changes  |
|---------------|----------------|---|
| -             | 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).                                 |
| -             | 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).                                    |

## CIGARETTE AND TOBACCO PRODUCTS TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>   |
|----------------------|-----------------------|---|
| 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 31 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 resolution for the preceding fiscal year (75 Del. Laws c 199; HB 303).  |
| 7/10/06              | 7/10/06               | Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118).   |
| 7/10/06              | 1/1/07                | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).  |
| 6/30/07              | 8/1/07                | Increased cigarette tax from 55 cents to \$1.15 per 20 cigarette pack. Established floor tax on inventories of cigarettes in possession on August 1, 2007 (76 Del. Laws c 75; HB 249).  |
| 6/30/07              | 1/1/08                | Changes the method of taxing moist snuff from 15% of the wholesale price to a rate of 54 cents per ounce for tax periods beginning on or after January 1, 2008 (76 Del. Laws c 74; HB 245).   |
| 7/24/07              | 7/24/07               | Removed cigars and pipe tobacco from certain information requirements pertaining to internet sales/delivery of tobacco products (76 Del. Laws c 171; SB 157).   |
| 7/1/09               | 8/1/09                | Increased the tax on cigarettes from \$1.15 to \$1.60 per 20-cigarette pack. (77 Del. Laws c 73; HB 211).   |

## CIGARETTE AND TOBACCO PRODUCTS TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 7/2/10               | 7/2/10                | Required the destruction of any tobacco products forfeited for violations of §5342 of Title 30, which prohibits the possession of more than 10 packs or packages of untaxed tobacco. (77 Del. Laws c 336; HB 408).   |
| 6/12/14              | 6/12/14               | Extended the license suspension penalties regarding the sale of tobacco products to minors to include any tobacco substitutes not approved by the USDA. (79 Del. Laws c 249; HB 241).  |
| 7/3/17               | 9/1/17                | Increased the tax on cigarettes from \$1.60 to \$2.10 per 20 cigarette pack, the tax on moist snuff from 54 cents per ounce to 92 cents per ounce, and the tax on unspecified other tobacco products from 15% of the wholesale price to 30% of the wholesale price. Increased retail licensing fees to \$50 annually and vending machine license fees to \$15 annually. Floor tax assessed upon effective date and due by December 31 <sup>st</sup> , 2017. (81 Del. Laws c 55; HB 242). |
| 7/3/17               | 1/1/18                | Defined vapor products and included vapor products as a type of tobacco product. Subjected vapor product wholesalers, retailers, and vendors to the appropriate tobacco licensing. Taxed vapor products at a rate of 5 cents per fluid millimeter. (81 Del. Laws c 55; HB 242).  |
| 4/17/19              | 7/16/19               | Increased the legal age to purchase tobacco products and tobacco substitutes from age 18 to age 21. (82 Del. Laws c 10; SS1 for SB 25).  |
| 2/10/20              | 2/10/20               | Changed the June payment date for stamp affixing agents from June 30 <sup>th</sup> to June 25 <sup>th</sup> . (82 Del. Laws c 226; HB 273).  |

**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 \$50 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 an identification stamp identifying the owner's name and address and must be licensed by the Division of Revenue. Each vending machine license costs \$15. Where two or more tobacco product vending machines are fastened together, each set of mechanisms requires a separate vending machine license.

## **CIGARETTE AND TOBACCO PRODUCTS TAX**

### **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 affixing agent.

**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:** Payment for licenses must be made at the time of application, and before January 1 of every taxable period. Payment for cigarette stamps must be made upon the purchase of the cigarette stamps, unless the affixing agent has entered into an agreement with the Division of Revenue and provided a bond to ensure payment, in which case payment is due within 30 days of purchase of the stamps. Payment of tax on other tobacco products is due with the filing of the monthly report.

**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% 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 stock corporations are taxed based on the number of authorized shares at the following tax rates:

| <u>Corporations With:</u> | <u>Fee:</u>   |
|---------------------------|---|
| Up to 5,000 shares        | \$175.00 (Minimum Tax)  |
| 5,001 - 10,000 shares     | \$250.00  |
| Over 10,000 shares        | \$250.00, plus \$85.00 for each additional 10,000 shares or part thereof, not to exceed \$200,000 |

Non-stock, non-exempt domestic corporations pay an annual tax of \$175.

The maximum tax on regulated investment companies is \$100,000. Periods of inactivity are taxed at 50% of the amount otherwise due, but never less than the minimum tax of \$175.

Domestic corporations may also opt to pay taxes based on the assumed par value capital method. The tax rate using this method is \$400 per \$1 million or portion of a \$1 million assumed par value capital. The assumed par value capital is calculated using a formula that takes into account a corporation's issued shares, authorized shares and total gross assets. Corporations paying on the assumed par value capital method will never pay less than \$400.

In 2017, a two-tier franchise tax methodology was implemented for domestic Delaware corporations that qualify for the maximum tax rate. As of December 1 of each calendar year, the Secretary of State shall compile a list of each corporation that as of such date, met the criteria of a large corporate filer as follows:

- (1) Had a class or series of stock listed on a national securities exchange; and
- (2) Reported in its financial statements prepared in accordance with United States generally accepted accounting principles (GAAP) or International Financial Reporting Standards (IFRS) and included in its most recent annual report filed with the United States Securities and Exchange Commission or any similar agency outside the United States with responsibility for enforcing securities laws or serving as a public repository for the corporation's financial disclosures, both of the following:
  - a. Consolidated annual gross revenues equal to or greater than \$750,000,000 or consolidated assets equal to or greater than \$750,000,000; and
  - b. Consolidated annual gross revenues not less than \$250,000,000 and consolidated assets not less than \$250,000,000; provided that if the corporation's financial statements are reported in a currency

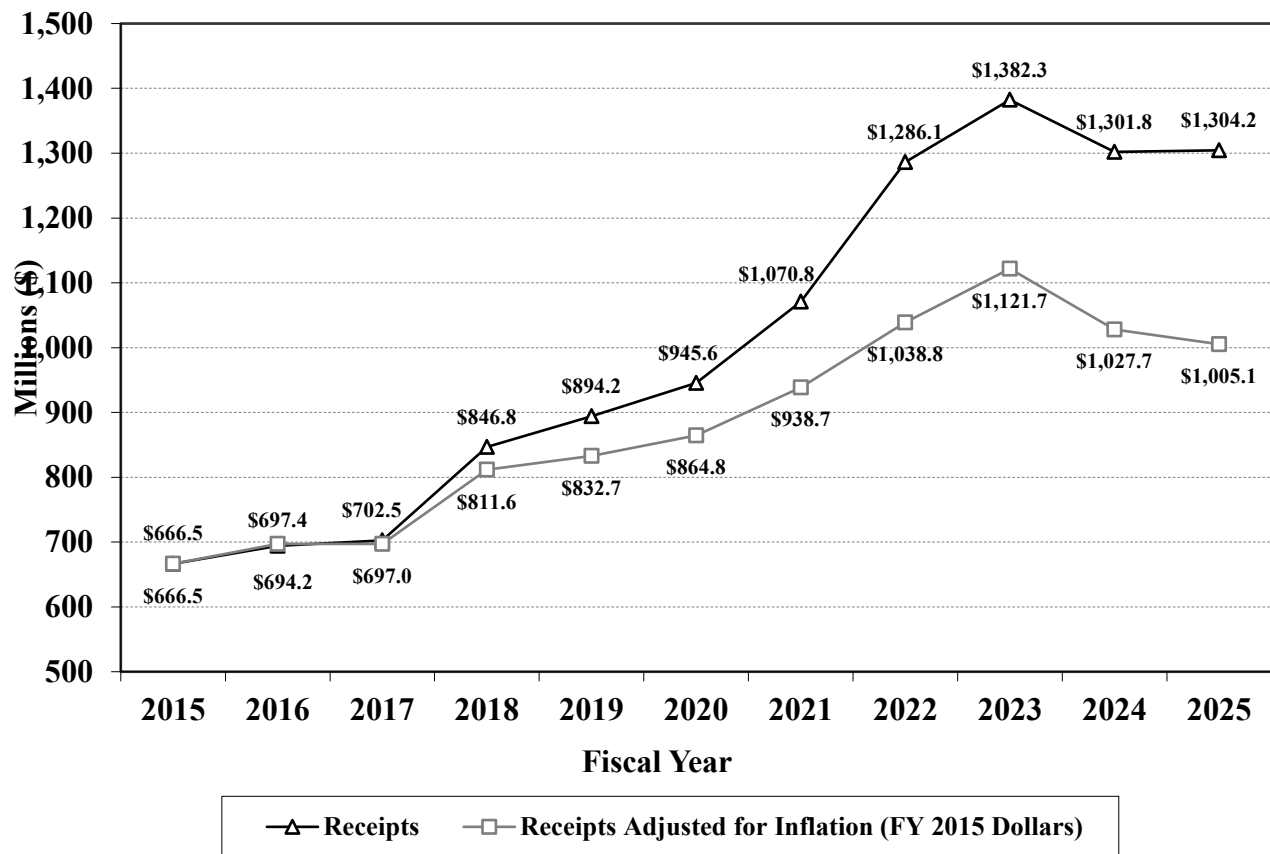
## CORPORATE FRANCHISE TAX

other than United States dollars, then, for purposes of measuring the amount of revenues and assets set forth therein, such amounts shall be converted into United States dollars using the applicable spot exchange rate for value established by Bloomberg as of the last day of the corporation's most recently completed fiscal year.

Each corporation complying with (1) and (2) above for a fiscal year for which its annual franchise tax would otherwise be \$200,000 as computed by either the authorized shares method or assumed par value methods (as stated in preceding paragraphs) are considered a "large corporate filer" and the annual franchise tax for such taxable year will be fixed at \$250,000. In the event that a corporation would otherwise qualify as a large corporate filer but has no filed annual report with the United States Securities and Exchange Commission (or any similar foreign agency), and became listed on a national securities exchange in connection with a succession within the taxable year, then reference shall be made to the most recent annual report of the predecessor of such corporation for purposes of determining whether such corporation has satisfied the requirements of (2)a. and b. above. "Predecessor" means, with respect to any corporation, any other corporation or other entity whose consolidated assets and liabilities, immediately prior to a succession, are substantially the same as the consolidated assets and liabilities of such corporation immediately following such succession; and "Succession" means the direct acquisition of assets and liabilities comprising a going business from a predecessor, whether by merger, consolidation, purchase or other direct transfer.

### TAX RECEIPTS

#### Corporate Franchise Tax (Net of Refunds)



## CORPORATE FRANCHISE TAX

### LEGISLATIVE HISTORY

| Approved<br>Date | Effective<br>Date | Description of Changes   |
|------------------|-------------------|--|
| 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).  |
| 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).  |

## CORPORATE FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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 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 increased to \$165,000 (from \$150,000). Increased the penalty 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).   |
| 6/27/06          | 1/1/07            | Implemented a \$100 penalty for failure to file a complete annual franchise tax report. (75 Del Laws c 306; SB 322).  |
| 7/1/08           | 1/1/08            | Increased rates on all domestic corporations paying on the authorized shares method. Minimum tax increased to \$75 (from \$35). Maximum tax rate and assumed par value method unchanged. Increase annual report fee for foreign corporations from \$60 to \$100. (76 Del Laws c 286; HB 519).   |
| 7/1/09           | 1/1/09            | Increased the multiplier for domestic corporations filing taxes using the assumed par value capital method from \$250 to \$350; increased maximum franchise tax from \$165,000 to \$180,000; and increased maximum franchise tax for Regulated Investment Companies from \$75,000 to \$90,000 (77 Del Laws c 78; HS1 for HB 267 w/ HA2).  |

## CORPORATE FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 7/1/09           | 8/1/09            | Increased foreign corporation annual filing fee from \$100 to \$125; increased foreign corporation penalty from \$100 to \$125. Increased domestic corporation annual filing fee for non-exempt corporations from \$25 to \$50 (77 Del Laws c 78; HS1 for HB267 w/ HA2).   |
| 7/1/09           | 1/1/10            | Increased domestic corporation penalty from \$100 to \$125. Increased the minimum tax paid by corporations filing using the assumed par value capital method from \$75 to \$350 (77 Del Laws c 78; HS1 for HB 267 w/ HA2).   |
| 5/3/10           | 8/1/10            | Provided that non-stock domestic corporations which are not exempt from tax pay an annual tax of \$75. (77 Del Laws c 253; HB 341).  |
| 3/28/13          | 3/28/13           | Eliminated the sunset on current bank franchise tax rates. (79 Del Laws c 12; HB 52).  |
| 6/30/13          | 4/1/14            | Permitted Delaware corporations to file certificate(s) of validation and provided that the filing of any certificate of validation will not reduce the amount of franchise taxes due for any period prior to such filing or serve as the basis for a refund of franchise taxes paid or due for prior calendar years. (79 Del Laws c 72; HB 127).   |
| 4/15/14          | 1/1/14            | Increased the minimum franchise tax to \$175 (from \$75). (79 Del Laws c 212; HB 265 w/ HA 1 and HA 3).  |
| 7/2/17           | 8/1/17            | Increased domestic corporation penalty from \$125 to \$200.  |
| 7/2/17           | 1/1/18            | Increased the assumed par value multiplier for calculation of the corporate franchise tax and the authorized shares multiplier for corporations with greater than 10,000 authorized shares for calculation of the corporate franchise tax from \$75 to \$85. For assumed no-par capital calculations the \$350 added for each \$1,000,000 or fraction thereof in excess of \$1,000,000 of an assumed par value capital is increased to \$400, and increased minimum for assumed par value method from \$350 to \$400. Effective date of amendments is August 1, 2017 which will be effective for the tax year beginning January 1, 2018. (81 Del Laws c 53; HB 175).   |
| 7/2/17           | 1/1/17            | Created a two-tier franchise tax methodology for domestic Delaware corporations who qualify for the maximum tax rate. The maximum tax was increased from \$180,000 to \$200,000 and will apply to those companies who qualify for the tier one tax. Companies qualifying for the tier two tax rate are subject to a maximum tax of \$250,000. (81 Del Laws c 53; HB 175).  |
| 7/21/17          | 8/1/17            | In order to conform the annual reporting requirements for foreign corporations with the requirements for domestic corporations, the following amendments were instituted: mandated the annual report be on a form designated by the Secretary of State of Delaware, required name and address of only 1 officer who signs the report, required names and addresses of all directors and deleted requirement for term expiration date of directors to be listed, deleted requirement for stock and par value to be listed, deleted requirement for what stock has been issued, deleted requirement for amount of capital invested in real estate in other property in this State and the tax paid thereon, deleted requirement for exempt entities to state facts of eligibility for tax exemption, added the penalty of perjury statement for any knowingly false statements on report. Amended domestic annual report statute to remove the requirement to list the county of the registered agent on the annual report. (81 Del Laws c 86; SB 69). |

## CORPORATE FRANCHISE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 7/23/18          | 8/1/18            | Removed the requirement to list within the annual report the specific facts entitling the corporation to exemption from taxation. (81 Del Laws c 354; SB 180).   |
| 6/19/19          | 1/1/19            | Increased the multiplier for a Registered Investment Company filing taxes using the assumed par value capital method from \$350 to \$400 and increased maximum franchise tax for Regulated Investment Companies from \$90,000 to \$100,000. (82 Del Laws c 45; SB 88).   |
| 7/27/22          | 8/1/22            | When providing principal place of business information on an annual report, unless a corporation maintains its principal place of business in this State and serves as its own registered agent, the principal place of business address shall not be the address of the registered office of the corporation in Delaware. (83 Del Laws c 377; SB 273)   |
| 7/27/22          | 8/1/22            | Provided that once a corporation is designated by the Secretary of State as a large corporate filer, it will be considered a large corporate filer until it submits evidence to the Secretary of State for any year in which the corporation does not meet the criteria of a large corporate filer. Removal of designation as a large corporate filer will be effective as of the date the evidence is received by the Secretary of State and will not retroactively modify the large corporate filer status of any corporation and there shall be no refund of taxes paid due to its failure to comply with these requirements. (83 Del Laws c 377; SB 273) |

**FILING PROCEDURES:** All domestic corporations must file an Annual Franchise Tax Report with the Secretary of State on or before March 1 each year. Exempt corporations are required to pay an annual filing fee of \$25 and a fee of \$50 shall be paid by all other corporations. All stock corporations incorporated in Delaware must pay a franchise tax of not less than \$175 but not more than \$200,000. All non-stock, non-exempt corporations incorporated in Delaware must pay a franchise tax of \$175. Exempt corporations (non-profit organizations, religious, etc.) are not assessed any tax. Foreign corporations (companies incorporated elsewhere but doing business in Delaware) are required to file an annual report with the Secretary of State and pay a \$125 annual report filing fee, both of which are due on or before June 30<sup>th</sup> each year, 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 \$200 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 may be declared null and void.

## CORPORATION INCOME TAX

**STATUTORY PROVISION:** Title 30, Delaware Code, Chapters 19 and 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, is allocated directly to the state in which the property is physically located or the transactions took place, reduced by the applicable and related expenses.

Starting in tax year 2020, apportionment of unallocated income is based only on Delaware gross receipts as a share of total United States gross receipts for interstate businesses. The apportionment formula is applied to a company's entire taxable income, excluding its allocated and exempt income. For reference to apportionment formulas in use prior to tax year 2020, see 80 Del. Laws c. 195 (HB 235 of the 148<sup>th</sup> General Assembly) or prior year versions of this Notebook.

**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.

**TELECOMMUNICATION CORPORATIONS (TCC):** Telecommunication Corporations (TCCs) are members “of a group of corporate and non-corporate entities, which group (a) consists of corporate and non-corporate entities that are affiliated through relationships described in § 267(b) of the Internal Revenue Code, (b) provides both intrastate mobile telecommunications services and other intrastate telephone services, as such terms are used in § 5501(8)a.3. of [title 30], and (c) in the aggregate earns annual gross receipts in the United States from providing intrastate and interstate telephone and telecommunications services, and from providing Internet access, as such

## CORPORATION INCOME TAX

term is defined in § 5501(6) of [title 30], in excess of' \$50 billion.

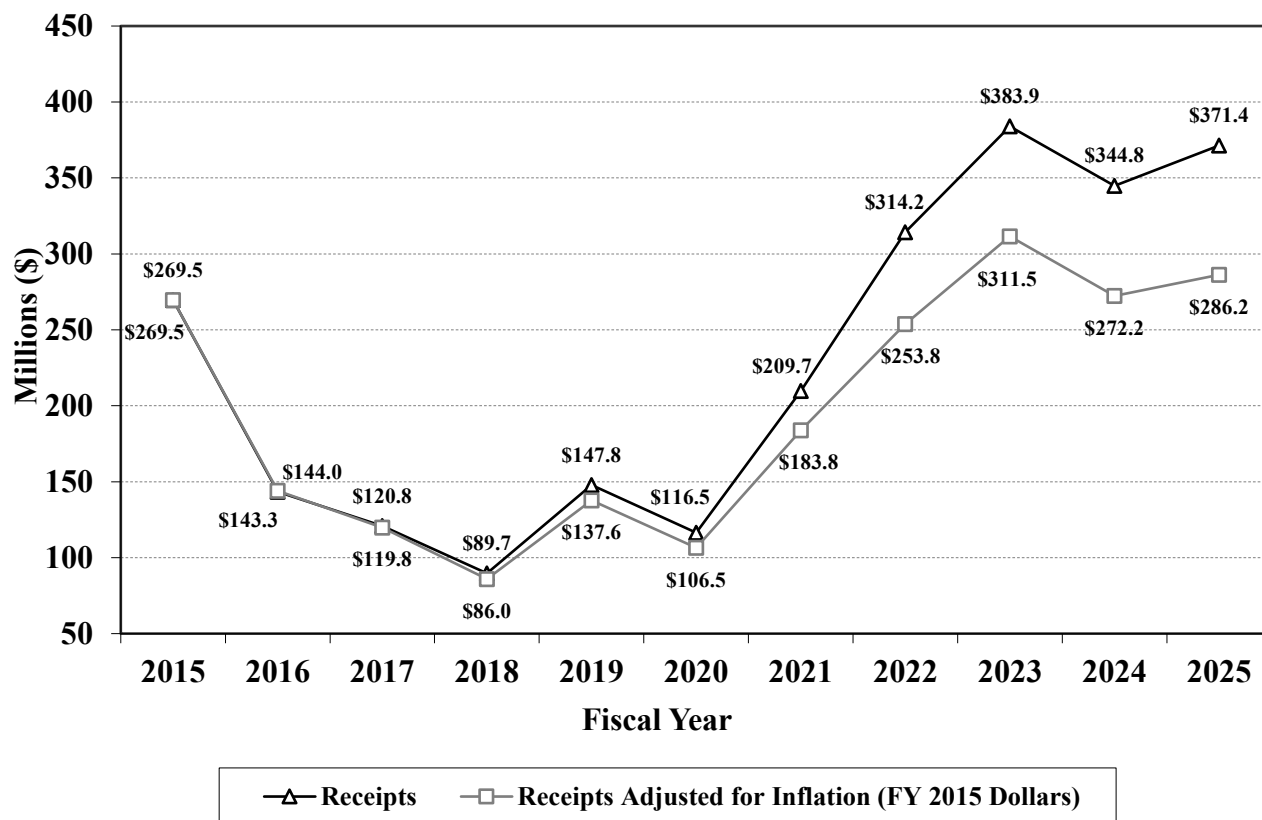
As of January 1, 2017, TCCs may elect annually whether to apportion unallocated income using either the equally weighted three-factor formula applied to years 2016 and prior or the singles sales factor applied to years 2020 and beyond.

**WORLDWIDE HEADQUARTERS COMPANIES (WHC)** Worldwide Headquarters Companies (WHCs) are corporations that (a) list the site of their principal executive offices as an address in Delaware in their From 10-Q filing with the SEC for the quarter immediately prior to January 1<sup>st</sup>, 2017, (b) employ at least 400 full-time employees at the corporate headquarters in Delaware as of January 1<sup>st</sup>, 2016, and (c) make or contract for a capital investment of not less than \$25 million to renovate or improve the corporate headquarters in Delaware between July 1<sup>st</sup>, 2014 and June 30<sup>th</sup> 2018.

As of January 1, 2017, WHCs may elect annually whether to apportion unallocated income using either the equally weighted three-factor formula applied to years 2016 and prior or the singles sales factor applied to years 2020 and beyond.

### TAX RECEIPTS

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



## CORPORATION INCOME TAX

### 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 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).   |

## CORPORATION INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Change</u>  |
|----------------------|-----------------------|---|
| -                    | 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; 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

| Approved<br><u>Date</u>         | Effective<br><u>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:  |                   |   |  |                        |       |       |                       |     |     |                                 |     |     |                            |     |     |                       |     |     |                  |     |     |                       |     |     |
|                                 |   | <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<br/>Placed in Service<br/><u>Prior to 1/1/97</u></th> <th style="text-align: center;">Qualified Property<br/>Placed in Service After<br/><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<br>Placed in Service<br><u>Prior to 1/1/97</u> | Qualified Property<br>Placed in Service After<br><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 |
| <u>Tax Credit</u>               | Qualified Property<br>Placed in Service<br><u>Prior to 1/1/97</u> | Qualified Property<br>Placed in Service After<br><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  |                   |   |  |                        |       |       |                       |     |     |                                 |     |     |                            |     |     |                       |     |     |                  |     |     |                       |     |     |
|                                 |   | (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 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).   |                   |   |  |                        |       |       |                       |     |     |                                 |     |     |                            |     |     |                       |     |     |                  |     |     |                       |     |     |

## CORPORATION INCOME TAX

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

## CORPORATION INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Change</u>   |
|----------------------|-----------------------|--|
| 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).  |
| 7/1/06               | 7/1/06                | Extended “Blue Collar” provisions, for one month, through January 31, 2007 (75 Del. Laws c352; SB 400).  |
| 7/10/06              | 1/1/02                | Repealed Foreign Sales Corporation and Export Trading Company exemptions and conformed Delaware law to amendments of the Internal Revenue Code and rulings by the World Trade Organization. (75 Del. Laws c 412; HB 398).  |
| 7/10/06              | 7/10/06               | Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118).  |
| 7/10/06              | 1/1/07                | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).   |
| 6/30/07              | 6/30/07               | Extended the Blue Collar Jobs Credit program’s tax incentives through June 30, 2009, and Implemented the New Economy Jobs Credit Program (76 Del. Laws c 78; SB 149).  |
| 7/24/07              | 7/24/07               | Transferred the administration of the Neighborhood Assistance Tax Credit program to the Delaware Housing Authority and expanded eligibility requirements to all entities paying personal and corporate income tax (76 Del. Laws c 172; SB 169).  |
| 6/3/08               | 1/1/09                | Established separate tax treatment for “Asset Management Corporations,” which are corporations that derive 90% or more of their federally reported gross receipts from asset management services. Rather than the three-factor apportionment used by other corporations, asset management corporations are entitled to use customer-based sourcing and single factor, receipts-based apportionment (76 Del. Laws c 234; SB 213).                               |
| 7/1/09               | 7/1/09                | Extended the “Blue Collar Job” program’s tax incentives through June 30, 2011 (77 Del. Laws, c. 86, § 30; HB 295).   |

## CORPORATION INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Change</u>   |
|----------------------|-----------------------|--|
| 6/16/10              | 10/1/10               | Established a business finder's fee which creates a tax credit program that would award each Sponsor Firm and each New Business Firm with a \$500 annual tax credit per Delaware job created by the new business, with the tax credit available for three years. The program would require that the new business be brought to Delaware as a result of the efforts of the sponsor, and would specifically exclude those business, such as real estate agents, banks and commercial landlords, that already have an incentive to bring out-of-state business to Delaware. (77 Del. Laws c 300; HB 380).   |
| 7/19/10              | 7/1/10                | Provided for a 10-year extension to the Historic Preservation Tax Credit Act which was scheduled to expire in June 2010 (77 Del. Laws c 413; SB 209).  |
| 6/22/11              | 7/1/11                | Updated the State's primary economic development tax incentive program (Blue Collar Jobs). Specifically, the Act: 1) made the program permanent by eliminating a sunset provision; 2) established a three-year application deadline; 3) increased the amount of the corporate or personal income tax credits; and 4) included provisions designed to attract manufacturers of advanced clean energy technology power generating devices and systems. (78 Del. Laws c 47; SB 40).   |
| 7/31/12              | 1/1/12                | Established the Veterans' Opportunity Credit, which shall be awarded to employers hiring qualified veterans (initially hired on or after January 1, 2012, and prior to January 1, 2016). The credit shall equal 10% of a qualified veteran's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified veteran is hired and the two subsequent tax years. (78 Del. Laws c 381; HB 275).   |
| 8/13/12              | 6/30/12               | Expanded the New Economy Jobs Program by creating another means by which employers relocating jobs to Delaware may qualify for the tax credit. Under this Act, employers that relocate at least 200 jobs with average salaries of \$70,000 or greater to Delaware will be entitled to a tax credit equal to 25% of the withholding paid by the employer on behalf of the relocated employees. If employers relocate more than 200 jobs, the size of the tax credit increases and can reach 40% if the employer relocates 500 or more employees. The Act also maintains incentives for relocating jobs into municipalities, targeted growth areas and counties, and on to redeveloped brownfields. Altogether, the maximum tax credit can reach 65% of the withholding paid on behalf of the relocated employees. (78 Del. Laws c 396; SB 271). |
| 7/1/13               | 7/1/13                | Made permanent the research and development tax credit. (79 Del. Laws c 143; HB 143).  |
| 7/3/13               | 7/1/13                | Amended the Neighborhood Assistance Tax Credit to increase the number of individuals and businesses that can take advantage of available tax credits, thereby equalizing opportunity for receipt of tax benefits and broadening the base of support for neighborhood organizations, by lowering the maximum annual tax credit and capping the total amount of tax credits that an individual or business may receive over a three-year period. (79 Del. Laws c 95; SB 84).   |
| 7/16/13              | 7/16/13               | Exempted from taxation emergency response by infrastructure companies when it is necessary for them to temporarily provide out-of-state resources and personnel during a State of emergency declared by the Governor or the President of the United States. (79 Del. Laws c 119; HB 145).  |

## CORPORATION INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Change</u>  |
|----------------------|-----------------------|---|
| 7/15/14              | 12/31/13              | Expanded the research and development tax credit to greater benefit small business. If average annual gross receipts do not exceed \$20,000,000, the research and development tax credit is equal to 100% of the amount of corresponding federal tax credit that is attributable to Delaware research activity. (79 Del. Laws c 298; HB 318).   |
| 6/5/14               | 6/5/14                | Designated \$1,500,000 in annual Historic Preservation Credit funds as reserved for projects in Downtown Development Districts. (79 Del. Laws c 240; SB 191).   |
| 1/27/16              | 1/1/17                | Adopted Delaware Competes Act, which changed apportionment procedures for multi-state firms by applying a double weight to the sales factor in 2017, a triple weight to the sales factor in 2018, a sextuple weight to the sales factor in 2019, and a single sales factor apportionment method from 2020 and beyond. Allowed Telecommunications Corporations and Worldwide Headquarters Corporations to annually elect their income apportionment method between equally weighted three factors or a single sales factor beginning in 2017. Specified that Non-U.S. corporations may not use property or payroll without the United States of America to dilute their payroll and property apportionment factors. (80 Del. Laws c. 195; HB 235). |
| 1/27/16              | 1/1/17                | Defined a small corporation as one whose total gross receipts did not exceed \$20,000,000 for two of the three prior tax years (this threshold is subject to annual adjustment). Allowed small corporations to make even quarterly estimated tax payments and exempted small corporations from safe harbor requirements. (80 Del. Laws c. 195; HB 235).   |
| 3/17/16              | 1/1/17                | Adopted Commitment to Innovation Act, which subjected the qualification threshold for the expanded research and development tax credit for small businesses to annual inflation adjustment. Converted the research and development tax credit to a refundable credit and removed the annual statewide cap. Reinstated the New Economy Jobs Tax Credit and expanded the credit to include retained jobs for companies involved in or resulting from corporate restructuring. (80 Del. Laws c. 207; SB200).   |
| 8/29/16              | 1/1/17                | Established the Vocational Rehabilitation Hiring Tax Credit, which shall be awarded to employers hiring qualified disabled workers. The credit shall equal 10% of a qualified disabled worker's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified disabled worker is hired and the subsequent two tax years. (80 Del. Laws c 400; SB 221).   |
| 5/18/17              | 1/1/17                | Adjusted Delaware's deadlines for filing income tax returns for corporations to be consistent with the new deadlines set forth by the IRS. Moved calendar year taxpayers' final payment and first estimated payment deadline from April 1 <sup>st</sup> to April 15 <sup>th</sup> . (81 Del. Laws c 19; HB 66 w/ HA1 and SA 1).   |
| 7/3/17               | 7/3/17                | Increased the annual cap on Historic Preservation Tax Credit awards to \$6.5 million from FY 18 through FY 20. (81 Del. Laws c 59; SB 125 Section 61).  |
| 5/8/18               | 5/8/18                | Created a one-time, refundable, \$100 credit for placing Automatic External Defibrillators in service in Delaware and available against business taxes. (81 Del. Laws c 236; SB 26).  |

## CORPORATION INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Change</u>  |
|----------------------|-----------------------|---|
| 7/1/18               | 7/1/18                | Increased the annual cap on Historic Preservation Tax Credit awards to \$8 million from FY 19 through FY 24. (81 Del. Laws c 303; HB 475 Section 51).   |
| 7/23/18              | 7/23/18               | Increased the aggregate amount of Neighborhood Assistance Tax Credits that can be approved in a fiscal year from \$500,000 to \$1 million. (81 Del. Laws c 351; SB 224 w/ SA 1).  |
| 8/29/18              | 8/29/18               | Increased the maximum Historic Preservation Tax Credit available for owner occupied historic property from \$20,000 to \$30,000. (81 Del. Laws c 390; SB 212).  |
| 7/1/19               | 7/1/19                | Maintained the annual cap on Historic Preservation Tax Credit awards at \$8 million for FY 20 through FY 25. (82 Del. Laws c 86; SB 180).   |
| 7/17/19              | 7/17/19               | Modified the New Economy Jobs Tax Credit by allowing a prorated credit for job creation activity in the first certified year, indexing the salary threshold prior to the calendar year to assist with business planning (in line with the indexation of other tax provisions), and establishing an incentive to maintain employment above the credit thresholds. (82 Del. Laws c 101; SB 74). |
| 7/30/21              | 7/30/21               | Clarified Net Operating Loss deductions are limited to the amount of deductions claimed on a federal return. (83 Del. Laws c 107; HB 171).  |
| 6/15/22              | 6/15/22               | Ensures regular updates are made to census tract definitions used as part of the Creation of Employment and Qualified Investment (“Blue Collar Jobs”) tax credit; limits eligibility for New Economy retained jobs credits. (83 Del. Laws c 323; HB 397).   |
| 10/3/22              | TBD                   | Provides to employers a refundable tax credit of up to 25% of the gross wages paid to an employee during the time missed from work for organ donation, not including any amount paid as traditional paid time off. To be effective tax years beginning on or after the corporate income tax is implemented in IRAS (83 Del. Laws c 440; SS 1 for SB 301).                                     |
| 8/3/23               | 8/3/23                | Expands eligibility for the New Business Facility Tax Credit to the operators of climate-controlled fruit or vegetable growing facilities with at least 400,000 square feet of enclosed space and a qualified investment of at least \$40 million (84 Del. Laws c 134; HB 219).   |

**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 the date on which the federal return is due (currently 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 taxpayers must file their first tentative return -- covering estimated income tax

## CORPORATION INCOME TAX

liability for the current income year -- with the Division of Revenue on or before April 15 of the current income year. Fiscal-year corporations must file their first tentative return on or before the fifteenth day of the fourth month of the current tax year. Interest is calculated at 1.5% per month for failure to timely pay estimated tax and is incurred if total tentative payments are less than 80% of the tax shown on the final return for the tax year.

“Small corporations” with total gross receipts below \$24,588,000 for two of three prior years are beholden to the payment dates below, but make even quarterly estimated payments equivalent to 25% of their estimated tax. This threshold is adjusted for inflation annually. Additionally, small corporations face no penalty for underpayment of estimated tax if 100% or more of the previous year's tax liability was timely paid as tentative tax during the current tax year.

### **PAYMENT DATES**

|              |  |
|--------------|--|
| Form 1100T-1 | Due April 15, (or 15th 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 AND INTEREST:** 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 0.5% 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% 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% per month is also assessed for failing to pay the full tax due when the final return is filed.

## ESTATE TAX

**STATUTORY PROVISION:** Title 30, Delaware Code, Chapter 15.

**COLLECTION/ADMINISTRATIVE AGENCY:** The Department of Finance, Division of Revenue administers the estate tax.

**GENERAL LIABILITY:** For individuals dying prior to January 1<sup>st</sup> 2018, the State of Delaware imposes an estate tax on the value of an individual's estate at the time of death. Delaware's estate tax applies as follows:

### Resident Decedents

**Tax Base:** Delaware's tax is based on the federal estate tax. The calculation that determines the taxable estate for Delaware purposes begins with the value of the decedent's federal taxable estate calculated under the provisions of the federal estate tax laws as in effect on the date of the decedent's death.

This amount is then adjusted based on the application of Delaware modifications, including a reduction for the value of agricultural land, and agricultural buildings on such land, enrolled in farmland assessment or farmland preservation programs to the extent such property was included in the federal taxable estate. The result of this calculation is known as the decedent's "modified federal taxable estate."

Delaware's taxable estate is the decedent's modified federal taxable estate, reduced, but not below zero, by the applicable exclusion amount set forth in § 2010(c) of the Internal Revenue Code (26 U.S.C. § 2010(c)) as in effect on the date of the decedent's death. (For 2017 the applicable exclusion is \$5,490,000 for an individual.)

**Tax Rates:** The amount of tax shall be determined pursuant to the table set forth below:

| <b>If the Delaware taxable estate is</b> |                         | <b>The tax shall equal the sum of the figures calculated pursuant to columns (C) and (D)</b> |   |
|--|-------------------------|--|---|
| <b>Over (A)</b>                          | <b>But not over (B)</b> | <b>Tax on lower amount (C)</b>   | <b>Plus this % of the excess amount (D)</b> |
| \$0                                      | \$40,000                | \$0  | 0   |
| \$40,000                                 | \$90,000                | \$0  | 0.8   |
| \$90,000                                 | \$140,000               | \$400  | 1.6   |
| \$140,000                                | \$240,000               | \$1,200  | 2.4   |
| \$240,000                                | \$440,000               | \$3,600  | 3.2   |
| \$440,000                                | \$640,000               | \$10,000   | 4.0   |
| \$640,000                                | \$840,000               | \$18,000   | 4.8   |
| \$840,000                                | \$1,040,000             | \$27,600   | 5.6   |
| \$1,040,000                              | \$1,540,000             | \$38,800   | 6.4   |
| \$1,540,000                              | \$2,040,000             | \$70,800   | 7.2   |
| \$2,040,000                              | \$2,540,000             | \$106,800  | 8.0   |
| \$2,540,000                              | \$3,040,000             | \$146,800  | 8.8   |
| \$3,040,000                              | \$3,540,000             | \$190,800  | 9.6   |
| \$3,540,000                              | \$4,040,000             | \$238,800  | 10.4  |
| \$4,040,000                              | \$5,040,000             | \$290,800  | 11.2  |
| \$5,040,000                              | \$6,040,000             | \$402,800  | 12.0  |
| \$6,040,000                              | \$7,040,000             | \$522,800  | 12.8  |
| \$7,040,000                              | \$8,040,000             | \$650,800  | 13.6  |
| \$8,040,000                              | \$9,040,000             | \$786,800  | 14.4  |
| \$9,040,000                              | \$10,040,000            | \$930,800  | 15.2  |
| \$10,040,000                             |                         | \$1,082,800  | 16.0  |

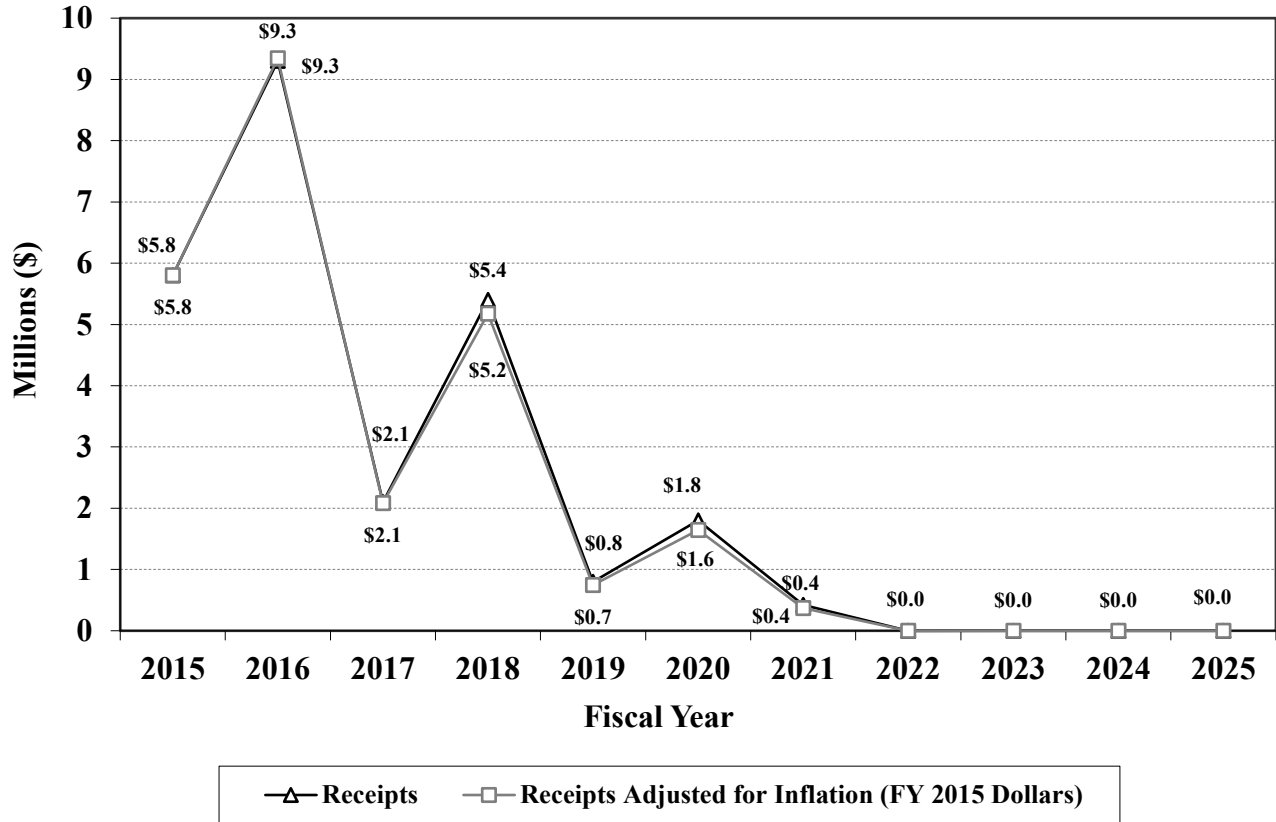
## ESTATE TAX

### Non-Resident Decedents

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



### LEGISLATIVE HISTORY

| Approved Date | Effective Date | Description of Changes  |
|---------------|----------------|---|
| 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).  |

## ESTATE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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). |
| 7/10/06          | 1/1/07            | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c. 411; HB 397).   |
| 7/1/09           | 7/1/09            | Effectively reinstated Delaware's estate tax with a sunset scheduled for four (4) years from the effective date. (77 Del. Laws c. 85; HB 291 w/ HA2).   |
| 3/28/13          | 3/28/13           | Eliminated sunset scheduled for July 1, 2013. (79 Del. Laws c. 11; HB 51).  |
| 8/5/13           | 7/1/13            | Clarified Delaware estate tax by eliminating references to outdated provisions and structuring Delaware law based upon updated federal statute (79 Del. Laws c. 162; SB 149).   |
| 7/2/17           | 1/1/18            | Repealed the estate tax for individuals dying after December 31 <sup>st</sup> , 2017. (81 Del. Laws c. 52; HB 16 w/ HA 1).  |

**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. 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 0.5% 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.

## **ESTATE TAX**

Failure to pay the amount of tax due will result in a failure-to-pay penalty of 1% 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.

| INSURANCE CATEGORY  | TAX RATE   |
|---|--|
| 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.<br><br>Employer Owned/Trust Owned Life insurance: 2% regressive scale per §702(c)(2)  |
| Wet marine and transportation Insurers  | 5% of taxable underwriting profits §702(e)(1)).  |
| Insurers of real or personal property within the State from fire, other allied lines, homeowners' multiple peril, commercial multiple peril (nonliability portion), multiple peril crop, farmowners multiple peril, federal flood, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage and aircraft (all perils) | 3.75% of gross premiums as detailed in Title 18 Delaware Code, Section 705 to volunteer fire companies and the City of Wilmington Firemen's Pension Fund of the Bureau of Fire.<br><br>0.08% of gross premiums written as detailed in Title 18 Delaware Cord, Section 705(g) to the State Insurance Coverage Office for a Cancer Presumption Policy.   |
| Workers' compensation insurers:<br><br>Insurance Carriers<br><br>Self-Insurers<br><br>Foreign Insurers Retaliatory Tax<br><br>Captive Insurers Premium Tax  | 2% of gross premiums to General Fund (§704) and a fee of 1% of gross premiums to maintain the Second Injury Fund to the Department of Labor.<br><br>4% of gross premiums to the General Fund and 1% of gross premiums to maintain the Second Injury Fund to the Department of Labor.<br><br>Per 18 Del. C. §536 foreign insurers may be subject to additional tax as compared to the company's state of domicile tax rates.<br><br>Title 18, Chapter 69. Taxes go to a special captive insurance regulatory and supervision fund, but at the end of each year, the balance of that fund in excess of the next succeeding year's administration expenses gets paid to the General Fund. |

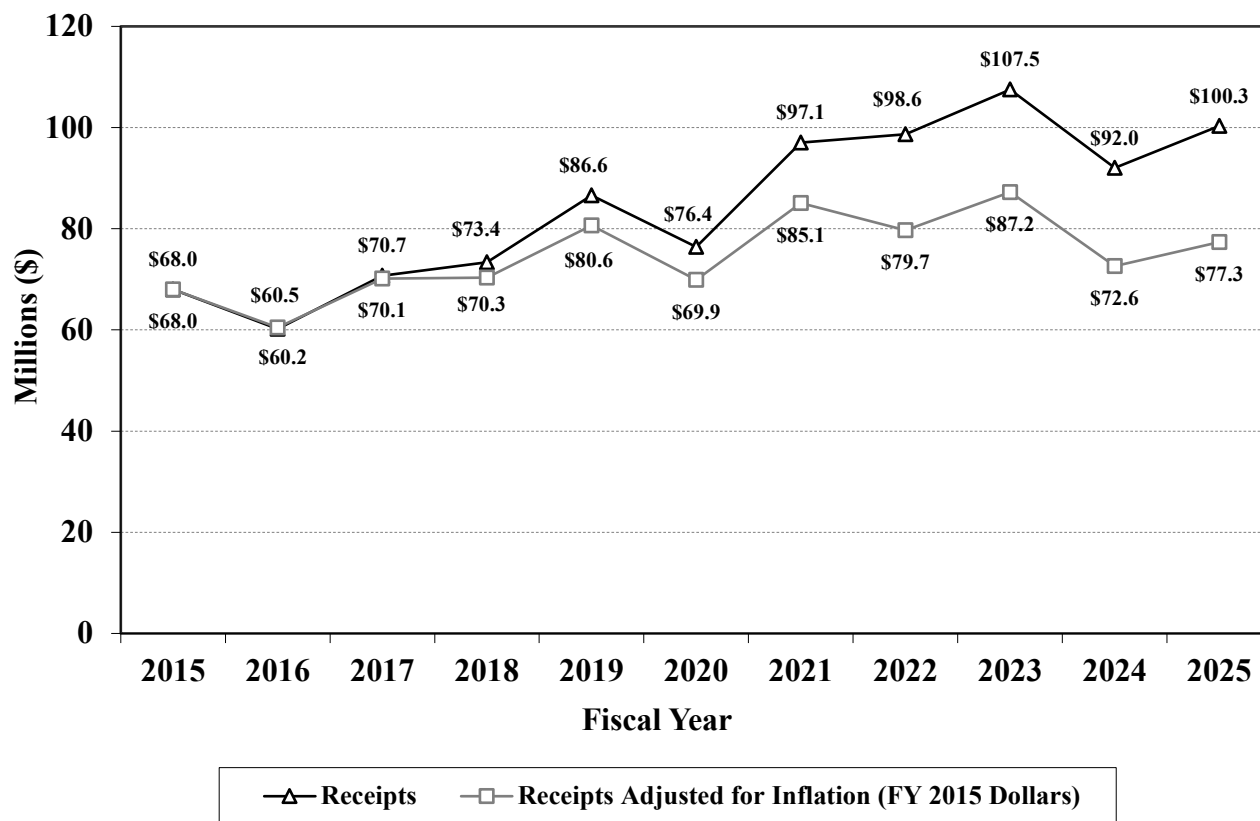
## INSURANCE TAX

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 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). |

## INSURANCE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 2/8/91           | 2/8/91            | Decreased the rate of workers' compensation or employers' liability premiums tax from 3% to 2% (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 insured (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 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).  |

## INSURANCE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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 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).   |
| 6/30/08          | 1/1/09            | Changed the estimated payments for the Insurance Premiums Tax from four equal 25% payments (in April, June, September, and December) to 50% in April, 20% in June, 20% in September, and 10% in December (76 Del. Laws c 275; SB 333).  |
| 7/19/08          | 1/19/09           | Established a \$100 filing fee for the registration and renewal of bail agent licenses (76 Del. Laws c. 394; HB 299)  |
| 8/30/10          | 8/30/10           | Established a \$500 initial licensing fee and \$100 renewal fee for Discount Medical Plan Organization licenses (77 Del. Laws c. 470; SB 228)   |
| 8/16/11          | 7/21/11           | Title 18 Chapter 19 changed in its entirety to bring the Delaware Code into compliance with the requirements of the Nonadmitted and Reinsurance Reform Act of 2010, referred to as the NRRA. The changes provide: for a 2% premium tax when Delaware is the home state of the insured, 100% of the premium for all policies written on home state insureds, whether single-state or multi-state, is considered Delaware premium for tax purposes; update surplus lines broker licensing regulation; provide for the payment of 2% premium tax on independently procured nonadmitted insurance; and provide that the Insurance Commissioner may enter into |

## INSURANCE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
|                  |                   | an interstate cooperative agreement or compact, for the purpose of carrying out the tax allocation intentions of the NRRA.  |
| 1/26/12          | 1/26/12           | Increased the annual fee levied on each insurance company to provide funds necessary for the operation of the Delaware Insurance Fraud Prevention Bureau from \$550 to \$750 (78 Del. Laws c.205; SB 80)  |
| 7/3/13           | 7/3/13            | Increased some of the fees provided by the Delaware Insurance Department (79 Del. Laws c. 87; HB 99)  |
| 7/30/14          | 7/30/14           | Increased surplus lines tax from 2% to 3% (79 Del. Laws c. 373; HB 213), the proceeds of such increase to be used to fund medical coverage for retired State, county and municipal police officers and firefighters who are retired from the State Policy Pension plan or the County/Municipal Police/Firefighters Pension Plan   |
| 9/4/14           | 1/1/14            | Established a new license for limited lines travel producers and includes a \$1,000 initial licensing fee and \$500 licensing renewal fee (79 Del. Laws c. 428; HB 379)   |
| 9/24/14          | 9/24/14           | Increased the earmarked amount of premium taxes earned by life and health insurance companies to fund the special fund to assist in financing ambulance and rescue operations from fifteen one-hundredths of 1 percent to twenty one-hundredths of 1 percent (79 Del. Laws c. 437; HB 317)  |
| 3/17/16          | 1/1/17            | Reinstated the New Economy Jobs Tax Credit, which had sunset in 2014, and expanded the scope of the credit to include provisions covering retained jobs for companies involved in or resulting from a corporate restructuring. (80 Del. Laws c 207; SB 200).  |
| 8/29/16          | 1/1/17            | Established the Vocational Rehabilitation Hiring Tax Credit, which shall be awarded to employers hiring qualified disabled workers. The credit shall equal 10% of a qualified disabled worker's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified disabled worker is hired and the subsequent two tax years. (80 Del. Laws c 400; SB 221).           |
| 7/3/17           | 7/3/17            | Implemented across-the-board increases to the filing fees associated with the Department of Insurance. Required revenue from fee increases in FY 18 be used to make grant-in-aid appropriations. (81 Del. Laws c 57; HB 147 with SA1).  |
| 6/19/19          | 6/19/19           | Required captive insurance companies to pay premium taxes on or before April 15, ensuring that annual statements and payments of premium taxes are both due on the same date. (82 Del. Laws c 56; HB 96).   |
| 7/17/19          | 7/17/19           | Modified the New Economy Jobs Tax Credit by allowing a prorated credit for job creation activity in the first certified year, indexing the salary threshold prior to the calendar year to assist with business planning (in line with the indexation of other tax provisions), and establishing an incentive to maintain employment above the credit thresholds. (82 Del. Laws c 101; SB 74). |
| 7/17/19          | 7/7/19            | Created a registration process and fee for Pharmacy Benefit Managers (82 Del. Laws c 115;   |

## INSURANCE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
|                  |                   | HB 194 with HA 1).   |
| 7/17/19          | 7/1/19            | Prevented the Insurance Commissioner from charging more than \$2,000 per filing for form filing fees (82 Del. Laws c 112; HB 242).   |
| 7/30/21          | 7/30/21           | Delaware joined the Interstate Insurance Product Regulation Compact, which manages review and approval of product filings for life insurance, annuities, and disability income policies. While permitted to collect a filing fee to cover costs, remittance of filing fees to states does still occur (83 Del. Laws c 103; HB 229).  |
| 7/30/21          | 7/30/21           | Allowed for deviations from rating organization filings to be effective continuously until terminated with approval of the Commissioner or subsequently modified, therefore eliminating the need to file and pay a \$100 fee annually (83 Del. Laws c. 94; SB 81).   |
| 8/10/21          | 8/10/21           | Allowed the Insurance Coverage Office to purchase a policy to cover cancer for active Volunteer Firefighters, Paid Firefighters, Fire Marshals, Fire Instructors, Fire Police, EMTs, and Paramedics of the State of Delaware using a portion of collected premium taxes. (83 Del. Laws c 123; SB 160).   |
| 9/17/21          | 9/17/21           | Required that entities that provide funds to bail agents for the purposes of furnishing bail be similarly licensed as bail agents and pay relevant fees. (83 Del. Laws c 183; SB 102).   |
| 10/26/21         | 10/26/21          | Created a regulatory framework around Pharmacy Benefit Managers and increased fees (83 Del. Laws c 256; HB 219).   |
| 4/28/22          | 4/28/22           | Prohibited the practice of out-of-state applicants using Delaware registered agents or postal boxes to establish residency in Delaware. Applicants for Delaware licenses are not Delaware residents or do not work for entities with physical locations in the state out of which business is conducted, therefore they must apply and pay for a nonresident license (83 Del. Laws c 297; SB 229). |
| 6/14/22          | 6/14/22           | Required the Commissioner's retention of any outside attorneys, actuaries, accountants, and other experts in the review of any application for merger or consolidation of a domestic insurer be at the expense of the party applying for such merger or consolidation (83 Del. Laws c 320; HB 323).  |
| 6/29/23          | 6/29/23           | Increased the assessments charged to insurance companies to fund the increases costs of the operation of the Fraud Prevention Bureau. (84 Del. Laws c 68; HB 146).   |
| 8/2/24           | 8/2/24            | Centralized provisions relating to licensing and filing fees within the Insurance Code's Fees and Taxes Chapter and created new licensing and registration fees for reciprocal jurisdiction reinsurers and certified reinsurers (84 Del. Laws c 336; HB 283 with HA 1).  |
| 10/9/24          | 1/1/25            | Simplified the fire tax allocation process by reducing distributions to once annually, retains allocation by calendar year rather than fiscal year, and provides a new method for calculating the split of funds between New Castle County fire companies and the City of Wilmington Firemen's Pension Fund of the Bureau of Fire (84 Del. Laws c 512; HB 371).                                    |

## INSURANCE TAX

**PAYMENT DATES:** All taxes are payable to the Insurance Commissioner. Quarterly estimate prepayments on premium taxes, worker's compensation and employers' liability premium taxes, and domestic insurer's privilege taxes must be received on or before April 15, June 15, September 15, and December 15 of the current taxable year with any remaining balance due by March 1 of the following year. Effective January 1, 2009, estimated payments are weighted as follows: 50% in April, 20% in June, 20% in September, and 10% in December. 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.

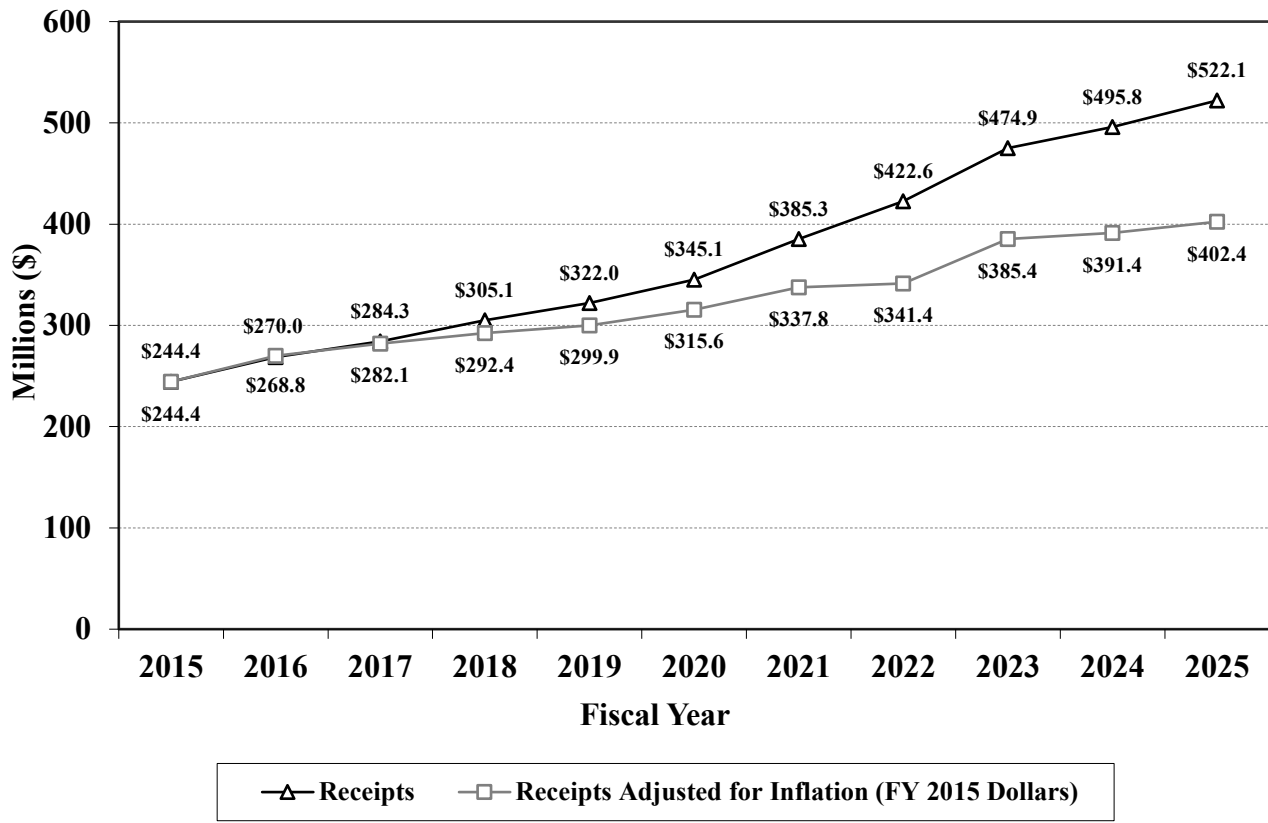
**COLLECTION/ADMINISTRATIVE AGENCY:** The Secretary of State’s Office, Division of Corporations administers the Limited Partnership/Limited Liability Company taxes.

**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 \$300.

### 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).  |
| 7/1/08               | 1/1/08                | Increased from \$200 to \$250 the annual tax assessed on partnerships, limited partnerships and limited liability companies (76 Del. Laws c 287; HB 520).   |
| 7/1/09               | 8/1/09                | Increased from \$100 to \$200 the penalty assessed for late payment of tax on partnerships, limited partnerships and limited liability companies (77 Del Laws c 78; HS1 for HB267 w/ HA2).  |
| 4/15/14              | 1/1/14                | Increased from \$250 to \$300 the annual tax assessed on partnerships, limited partnerships and limited liability companies. (79 Del Laws c 212; HB 265 w/ HA 1 and HA 3).  |
| 7/23/18              | 8/1/19                | Established an annual tax of \$75 for each registered series of a domestic limited liability company and a \$50 penalty for failure to pay the annual tax by June 1 of each year for each registered series. (81 Del Laws c 354; SB 180). |
| 6/19/19              | 8/1/19                | Established an annual tax of \$75 for each registered series of a domestic limited partnership and a \$50 penalty for failure to pay the annual tax by June 1 of each year for each registered series. (82 Del Laws c 46, SB 89).         |

**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 \$200 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, sports betting, table games and internet gaming.

**GENERAL INFORMATION:** The Lottery consists of:

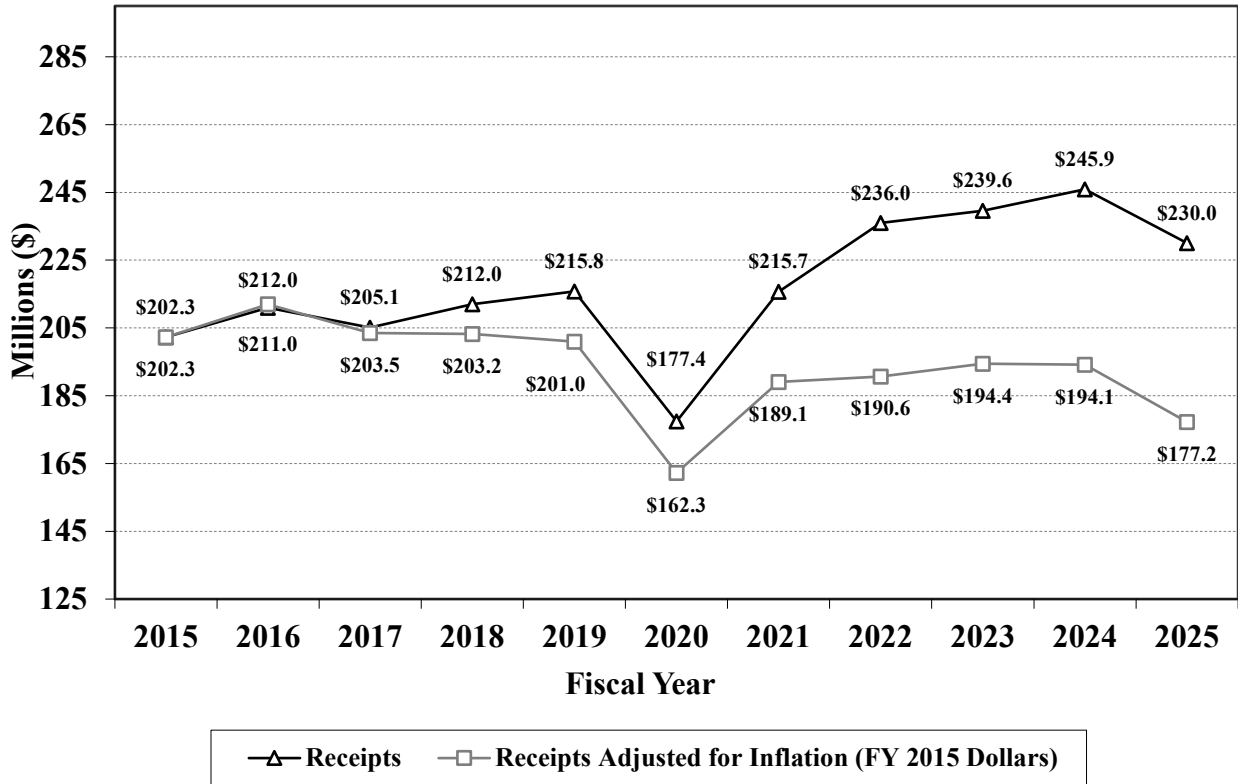
- **Traditional Lottery-** products in the form of daily drawings, lotto, instant tickets, keno, and the multi-state Powerball and Mega Millions sold at retail locations (e.g. convenience stores).
- **Video Lottery-** state-operated video lottery on a network of linked video lottery machines restricted in operation to those locations authorized by statute (standardbred and thoroughbred racetracks).
- **Sports Lottery-**parlay style betting on National Football League and college football games at licensed retail locations (e.g. restaurants and convenience stores) and full-scale, Las Vegas style sports betting on all sports, college and pro, at the three racetrack casino venues.
- **Table Games-**games such as poker, blackjack, roulette, craps and others held exclusively at the state's three racetrack casino venues with administrative and regulatory oversight from the Delaware Lottery.
- **Charitable Gaming-**limited video lottery machines under control of the Lottery are managed by fraternal or veteran's organizations subject to the approval from the Director of the Lottery. The number of video lottery terminals allowed within charitable organizations is limited based on the size of membership and subject to similar regulatory requirements as casino-based video lottery.
- **Internet Gaming-**access to video lottery and table gaming through websites operated by the racetrack casinos.

On December 27, 2003, the Lottery launched a new iGaming platform which includes a Sport betting option with vendor Rush Street Interactive with all three Delaware Video Lottery Agents.

# LOTTERY

## REVENUE RECEIPTS

### Lottery



## REVENUE ALLOCATION

**Traditional Lottery:** The distribution of net revenues generated through lottery ticket sales, internet ticket games and keno 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 Lottery shall undertake to provide into the General Fund 30% of gross revenues.

**Video Lottery:** The distribution of net proceeds (revenue) 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. In general, the distribution of net proceeds 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:
  - 44.0% to agents (tracks)
  - 10.7% to supplement the purses offered at Delaware standard bred and thoroughbred tracks;
  - 7.8% to machine and central system vendors;
  - 37.5% to the General Fund (less administrative expenses);

## LOTTERY

**Sports Lottery (Sportsbooks):** The distribution of the handle generated by the sports lottery at video lottery agent venues, less the amounts returned to winning players and vendor fees, is as follows:

- 50% to the General Fund (less administrative expenses);
- 40% to the agents (tracks);
- 10% to supplement the purses offered at Delaware standard bred and thoroughbred tracks.

**Sports Lottery (Retailers):** The distribution of the handle generated by the sports lottery at Sports Lottery retail venues, less the amounts returned to winning players, vendor fees, and retailer commissions is as follows:

- 90% to the General Fund (less administrative expenses);
- 10% to supplement the purses offered at Delaware standard bred and thoroughbred tracks.

**Table Games:** The distribution of the win (amount remaining after players are paid) generated by table games, is as follows:

- 15.5% to the General Fund (less administrative expenses);
- 80.0% to the agents (tracks);
- 4.5% to supplement the purses offered at Delaware standard bred and thoroughbred tracks.

**Charitable Gaming Organizations (Video Lottery):** The distribution of net proceeds generated through video lottery wagering at licensed Charitable Gaming Organizations (CGOs'), is as follows:

- 40% to the General Fund (less administrative expenses including vendor fees)
- 60% to the CGO's

**Internet Gaming:** Revenues from the internet versions of table games, poker and video lottery games played via the 3 casino websites are distributed generally pursuant to the formulae applicable to those games in the brick-and-mortar casinos, with the exception that the first \$3.75 million is retained by the State.

## 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, 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).  |

## LOTTERY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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).  |
| 2/1/06           | 2/1/06            | Enacted Video Lottery Competitiveness Act of 2006 which included: 24-hour video lottery operations; Exclusion of free promotional play from net proceeds through May 31, 2007; Guaranteed minimum annual payment of \$1,000,000 to the treatment and prevention of problem gambling; and Increased the maximum number of video lottery machines at each racetrack from 2,500 to 4,000 and implements annual fees for additional machines (75 Del. Laws c 229; HB 332).   |
| 5/10/07          | 5/10/07           | Eliminated the sunset on the video lottery agent promotional credit program; Created a FY 2008 performance benchmark for video lottery agents (76 Del. Laws c 19; HB 148).   |
| 7/1/08           | 7/1/08            | Reduced the state's annual contribution to the Delaware Standard bred Breeder's Fund and Delaware Certified Thoroughbred Program by \$750,000 and \$250,000 respectively. Increased the surcharge imposed upon each video lottery agent's commission to 3.25% (effective 7/1/08) and 5.25% (effective 7/1/09). Stipulated that each respective video lottery agent shall pay all equipment costs consisting of video lottery machine license or proprietary fees. Established that the amount of free promotional play offered by the video lottery agents and the hours of operation on Sundays shall be determined by the recommendation of the Lottery Director with the approval of the Secretary of Finance (76 Del. Laws c 283; HB 514). |
| 5/14/09          | 5/28/09           | Ordered the State Lottery Director to commence a sports lottery as soon as practicable. Increased the State's share of video lottery net proceeds to 43.5%. Instituted a \$4 million aggregate annual video lottery agent license fee with each agent paying a prorated share. Reduced the amount of video lottery net proceeds directed to supplement the purses offered at Delaware harness and thoroughbred tracks. Directed various State officials and a representative of the racino industry to submit a proposal and any legislation deemed necessary for the operation of table games. (77 Del. Laws c 28; HS 1 for HB 100 w/ HA's 2, 3, 4 & 5).  |

## LOTTERY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 1/28/10          | 1/28/10           | <p>Authorized the introduction and operation of table games by the Delaware Lottery at licensed video lottery agents. Imposed a license fee structure that rewards video lottery agents for making capital investments by allowing them to reduce the annual license fee by up to 50% to account for the cost of capital projects, and that reduces the total license fee further if the video lottery agents can achieve certain table gaming revenue annual targets.</p> <p>Authorized the creation of a Lottery Commission, which would be responsible for conducting hearings on disputed licensing and exclusion matters. Authorized the Division of Gaming Enforcement (DGE), which would be responsible for investigating table gaming crimes. The DGE would also be responsible for conducting the employee and vendor background checks currently being conducted by the Video Lottery Enforcement Unit of the State Police. (77 Del. Laws c 219; HB 310 w/HA 2, HA 5, HA 6, HA 7, HA 8, HA 10, HA 11)</p> |
| 5/21/12          | 5/21/12           | Operators of video lottery facilities must use data provided by the Division of Child Support Enforcement to identify large video lottery prize winners having outstanding child support debts. Once identified, such prizes would be used to pay child support debts. The Delaware Child Support System (DECSS) upon which this process would function is expected to be operational in the autumn of 2013. (78 Del. Laws c 245; SS1 for SB151 w/HA 1)   |
| 6/28/12          | 6/28/12           | Authorized internet gaming under the control and operation of the Delaware Lottery including traditional lottery games as well as table and video lottery (offered in conjunction with video lottery agents). Authorized Keno and the expansion of sports lottery to additional venues. Established formulae for dividing new games proceeds. Restructured Video lottery agents' fees. (78 Del. Laws c 285; HB 333 w/ HA2, HA 1 to HA2)   |
| 1/24/13          | 1/30/13           | Put in place a temporary solution to allow for a fraternal or veterans organization with national affiliation or an organization whose membership consists primarily of veterans honorably discharged or active-duty service member to operate charitable video lottery machines within their organizations upon approval from the Director of the Lottery. Such activity was only permitted until June 30, 2013. (79 Del. Laws, c 1, §2; 79 Del. Laws, c. 77, §§2, 5; HB1)   |
| 7/1/13           | 7/1/13            | Established a permanent solution to allow for a fraternal or veterans organization with national affiliation or an organization whose membership consists primarily of veterans honorably discharged or active-duty service member to operate charitable video lottery machines within their organizations upon approval from the Director of the Lottery. Established formulae for dividing net proceeds and calculating number of machines allowed per organization. Set guidelines for organization's charitable enterprises. Set a deadline of July 1, 2014, for these organizations to be connected to the state's central system for reporting and auditing purposes. (79 Del. Laws, c. 1, §2; 79 Del. Laws, c. 77, §§2, 5; SB 112 w/ SA1, HA2)   |

## LOTTERY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 7/1/14           | 7/1/14            | Implemented the recommendations of the Lottery & Gaming Study Commission created by the 147th General Assembly. Video lottery equipment costs related to machine vendors, including franchise fees for particularly popular branded video lottery machines, will be deducted prior to calculation of the State's share of revenue. No changes are being made to the revenue sharing model as it relates to purses for the harness and thoroughbred industries. Held lottery revenue neutral for fiscal year 2015 using one-time appropriations. (79 Del. Laws c 311; SB 220 w/ SA3, 79 Del. Laws c 292; HB 425)  |
| 7/1/15           | 7/1/15            | Required charitable video lottery machines to be under the control of the Lottery and authorized the Lottery Director to promulgate rules for charitable video lottery monthly proceeds reporting. Removed redundant language concerning charitable video lottery machines' required connection to the lottery's central computer system. Authorized charitable gaming organizations that are connected to the lottery's central system a 35% state's share of net receipts instead of the typical 40% state's share. (80 Del. Laws c 78; SB 160, Sections 73-75).   |
| 6/30/18          | 7/1/18            | Reduced the State's share of gross table game revenues from 29.4% to 15.5%. Suspended the table game license fee due June 1, 2019. Suspended subsequent table game license fee contingent upon increased agent expenditures on marketing, wages, and benefits. Increased purses for horsemen by 0.6 percentage points phased in over two years. Reduced the State's share of gross video lottery revenues 1%. Allowed operation of video lottery facilities on Christmas and Easter. Authorized additional reductions in the State's share of gross video lottery revenues in future fiscal years contingent upon agents hitting qualified capital expenditure targets. (81 Del. Laws c 287; SS 1 for SB 144 w/ HA 2). |
| 7/23/19          | 7/23/19           | Reduced the required number of meetings that the Advisory Council on Video Lottery Planning and the Advisory Council on Charitable Gaming Planning must hold each calendar year. Authorized the Lottery Director to add certain sports lottery players to an involuntary exclusion list by order. (82 Del. Laws c 158; HB 131).  |
| 6/30/20          | 7/1/20            | Authorized the Secretary of Finance to waive the 2020 thresholds for making qualified capital expenditures or investments contained in 81 Del. Laws c 287. (82 Del. Laws c 242; SB 240)  |
| 6/30/21          | 7/30/21           | Updated licensing requirements, references to which law enforcement agencies are responsible, clarifies internet video lottery calculations, and clarified that the prohibition on selling a lottery ticket for a greater price applies to sports lotteries as well as drawing and instant lottery tickets. (83 Del. Laws c 70; SB 201).   |
| 7/29/21          | 7/1/21            | Provides an additional \$1.5 million, half from Lottery proceeds and half from purses, for the Delaware Standardbred Breeder's Program and the Delaware Certified Thoroughbred Program. (83 Del. Laws c 88; SB 29 w/SA1).  |
| 6/30/21          | 6/30/21           | Due to the COVID-19 emergency, the Secretary of Finance may waive the 2020 and 2021 thresholds for making qualified capital expenditures or investments contained in 81 Del. Laws c 287. (83 Del. Laws c 56; SB 200).  |

## LOTTERY

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 5/25/23              | 5/25/23               | Restructures the table games licensing fee reduction to allow capital investments greater than the minimum amounts required under current law to count toward the allowable license fee reductions and aligns time periods for both table games and video lottery calculations. (84 Del. Laws c 32; SB 64 w/ HA 2).  |
| 5/24/24              | 5/26/24               | Restructures the table games licensing fee reduction to allow capital investments greater than the minimum amounts required under current law to count toward the allowable license fee reductions and aligns time periods for both table games and video lottery calculations. This bill was identical to the prior year's SB 64 except that it did away with the sunset provision. (84 Del. Laws c 263; SB 205 w/ HA 2). |

## MARIJUANA TAX

**STATUTORY PROVISION:** Title 4, Delaware Code Chapter 13.

**COLLECTION/ADMINISTRATIVE AGENCY:** The Delaware Department of Finance, Division of Revenue administers and collects all taxes due under the Delaware Marijuana Control Act. The Office of the Marijuana Commissioner (OMC) regulates and licenses firms that produce or sell marijuana.

**GENERAL LIABILITY:** Adult-use sales of marijuana began in August 2025. All marijuana products including edible products, ointments, and tinctures are subject to the 15% excise tax imposed by the Delaware Marijuana Control Act. If a consumer presents a valid medical marijuana registry identification card at the time of purchase, the transaction is exempt from tax.

All revenue is special fund revenue, credited to the Marijuana Regulation Fund. Monthly, 7% of collections will be transferred to the Justice Reinvestment Fund for appropriation to the Criminal Justice Council for specified purposes. The remainder is used for administrative costs of the OMC, Division of Revenue, the Department of Health and Social Services, the Department of Agriculture, and other agencies involved with the regulation of marijuana and administrative costs of the Criminal Justice Council for managing the Justice Reinvestment Fund. The maximum unencumbered balance which shall remain in the Marijuana Regulation Fund at the end of the fiscal year shall not exceed \$5,000,000. Any remaining funds shall be deposited to the General Fund.

### **LEGISLATIVE HISTORY**

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 4/23/23              | 4/23/23               | Legalized the use, possession purchase and transportation of a personal use quantity of marijuana and marijuana accessories for those 21 years old or older. (84 Del. Laws c 15; HB 1).  |
| 4/27/23              | 8/1/23                | In addition to establishing the regulation of commercial, non-medical sales of marijuana in the State including licensing provisions for the cultivation, manufacture and sale of marijuana and marijuana products, the Act created the marijuana control enforcement tax on retail sales of marijuana at the rate of 15% and provided for the distribution of revenue. The Act also created an income tax deduction for ordinary and necessary business expenses, reflecting the inability of a licensed business to deduct these expenses from federal taxes and exempts marijuana taxes paid to the State from the gross receipts tax. (84 Del. Laws c 24; HB 2). |
| 7/17/24              | 7/17/24               | Clarified administration of the retail marijuana tax by the Division of Revenue by applying existing provisions regarding assessments, protests, penalties, determinations of fraud, and others to the tax, and clarified many aspects of marijuana regulation by the OMC. (84 Del. Laws 301; HB 334 w/ HA 1).   |
| 7/17/24              | 7/17/24               | Created a temporary conversion license allowing existing medical marijuana compassion centers to operate as a retail sales outlet. Conversion licenses may not be issued after November 1, 2024, and expire after four years at which point the license may be renewed as an open license. (84 Del. Laws 303; HB 408).   |

## MARIJUANA TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 7/1/25               | 7/1/25                | States that the maximum unencumbered balance that shall remain in the Marijuana Regulation Fund at the end of the fiscal year shall not exceed \$5,000,000. Any remaining revenue beyond the required transfer to the Juvenile Justice Fund and the maximum unencumbered balance shall be deposited to the General Fund (85 Del. Laws 62; HB 225). |

**FILING PROCEDURES AND PAYMENT DATES:** All marijuana establishments are required to obtain a business license from the Division of Revenue to conduct a trade or business in the State of Delaware. A business license is a requirement to obtain any marijuana license (testing, cultivation, manufacturing or retailer) from the OMC.

Returns and remittances must be filed electronically with the Division of Revenue, due the 15<sup>th</sup> day of the following month (or next business day). Amounts due may not be paid in cash.

**PENALTIES:** Failure to timely file the required tax return results in a late filing penalty of 5% per month (maximum of 25%) of the amount of tax due, plus interest of 0.5% per month from the due date of the payment. Failure to pay the amount of tax due will result in a failure to pay penalty of 1% per month up to a maximum of 25% of the amount of tax unpaid, with interest also at 0.5% per month.

Failure to obtain or renew a business license is subject to a \$200 penalty, and may result in the reporting of tax delinquencies to the OMC and further penalties at the discretion of the OMC, including the potential denial of a marijuana establishment license renewal.

## 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 Delaware Department of Transportation, Division of Motor Vehicles now administers the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA) 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 twelve (12) 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 Department of Transportation 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.

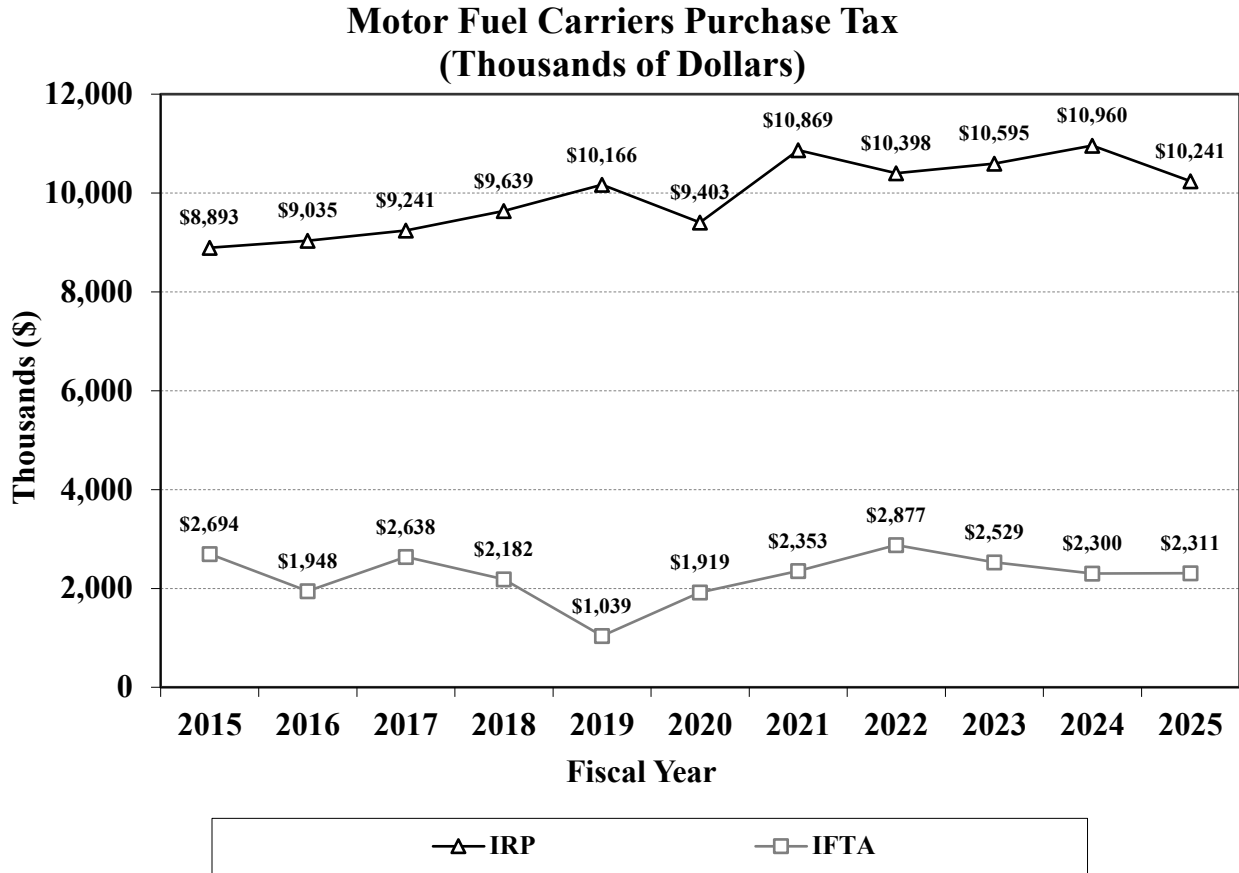
**International Fuel Tax Agreement:** IFTA qualified vehicles must display two IFTA decals and carry a copy of the IFTA license in the cab of the vehicle. IFTA decals are effective from January 1 through December 31 of each year. A 60-day grace period exists for all qualified IFTA motor vehicles displaying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

The cost of IFTA decals is \$5.00.

**TAX RATE:** The tax rate on motor fuels is 23¢ per gallon; 22¢ per gallon on special fuels.

## MOTOR CARRIERS FUEL PURCHASE TAX

### 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.

### LEGISLATIVE HISTORY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 6/3/70           | 7/1/70            | Instituted the motor carrier's 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).                   |

## MOTOR CARRIERS FUEL PURCHASE TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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).  |
| 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).   |

## MOTOR CARRIERS FUEL PURCHASE TAX

| Approved<br>Date | Effective<br>Date | Description of Changes  |
|------------------|-------------------|---|
| 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:** All Delaware based motor carriers, which 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:** Delaware based motor carriers with interstate operations must apply for IFTA registration and the required accompanying IFTA decal sets by submitting an IFTA License Application. As noted above, the cost is \$5.00 per IFTA decal.

## MOTOR FUEL/SPECIAL FUEL/AVIATION JET FUEL TAX

**STATUTORY PROVISION:** Title 30, Delaware Code, Chapter 51.

**COLLECTION/ADMINISTRATIVE AGENCY:** The motor fuel, special fuel and aviation jet fuel excise tax is administered and collected by the Department of Transportation, Motor Fuel Tax Administration.

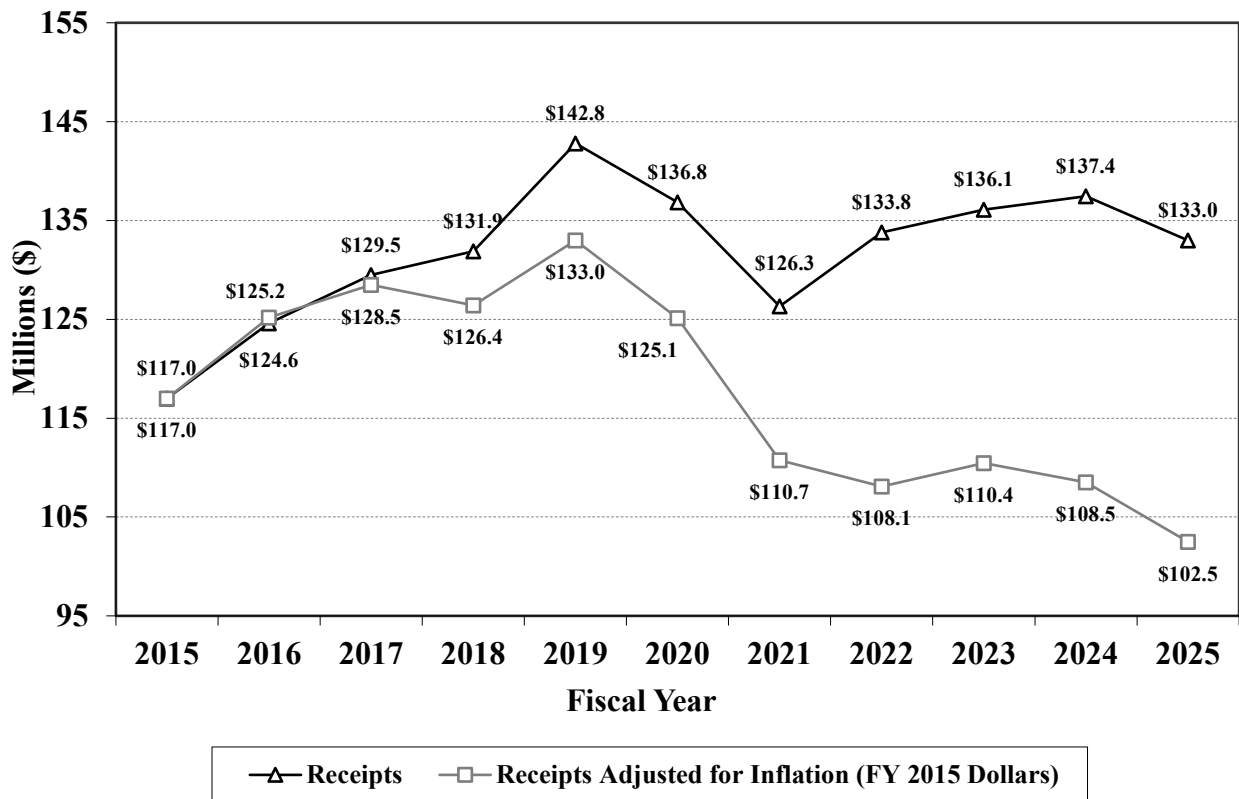
**GENERAL LIABILITY:** Delaware imposes an excise tax on each gallon of gasoline sold or used in the State. The tax is collected by and paid to the State by licensed distributors. An excise tax is also imposed on the retail sale or use of special fuel. The special fuel tax is collected by and paid to the State by licensed users, dealers, or suppliers. In addition, an excise tax is imposed on the sale or delivery of aviation jet fuel by a licensed aviation jet fuel supplier.

**TAX RATES:** The tax rate on motor fuels is 23¢ per gallon; 22¢ per gallon on special fuels; and 5¢ per gallon on aviation jet fuels.

**GASOLINE TAX REFUNDS:** The gasoline tax is refundable upon application, for off-highway use such as fuels for boat, airplane, lawn equipment, and farming equipment use (Form MFT-4).

### TAX RECEIPTS

#### Motor Fuel/Special Fuel/Aviation Jet Fuel Tax



## MOTOR FUEL/SPECIAL FUEL/AVIATION JET FUEL TAX

### LEGISLATIVE HISTORY

| Approved<br>Date | Effective<br>Date | Description of Changes  |
|------------------|-------------------|---|
| 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).   |
| 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;  |

## MOTOR FUEL/SPECIAL FUEL/AVIATION JET FUEL TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
|                      |                       | 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).  |
| 7/29/93              | 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).   |
| 6/29/10              | 7/15/10               | Responsibility for oversight of retail dealers was transferred to the Department of Agriculture as part of the Governor's initiative to better optimize resources and minimize the number of unnecessary compliance visits. (77 Del. Laws c 394; SB219).   |
| 7/17/19              | 7/1/19                | Imposes a 5 cent per gallon tax on certain aviation jet fuel and requires the Department of Transportation to deposit the proceeds of the tax into the Transportation Trust Fund. (82 Del. Laws c 118; HB 86 w/ HA 1).   |

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

Gasoline Retailers License: A gasoline retailer (service station) must register with the Motor Fuel Tax Administration to engage in the retail sale of gasoline. There is no registration fee and no reporting is required.

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 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.

## **MOTOR FUEL/SPECIAL FUEL/AVIATION JET FUEL TAX**

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

Special Fuel Supplier License: A Special Fuel Supplier is defined as any person in the business of handling or selling special fuel who delivers or places such fuel into a bulk supply tank or tanks of a special fuel user or special fuel dealer. Any business entities intending to operate as a Special Fuel Supplier must obtain a license from the Division.

In addition to the non-refundable \$10.00 application fee, a surety bond must be posted, in accordance with guidelines specified by 30 Del C c.51 §5134(d). The license must be renewed yearly and is valid 12 months from July 1 - June 30.

Upon issuance of a Supplier's license, the licensee must file a monthly tax return, identifying all taxable and non-taxable receipts and distributions of special fuel (as defined by 30 Del C c. 51 §5131(4)). These returns must be filed by the 25th of the month following the month in which activity occurs (or the next business day, if the 25th falls on a weekend or holiday).

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. Users 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.

### **LICENSE, BOND, FILING PROCEDURES – AVIATION JET FUEL**

Aviation Jet Fuel Supplier License: An Aviation Jet Fuel Supplier is defined as any wholesale seller or distributor of aviation jet fuel, i.e. fuel designed for use in the operation of jet or turbo-prop aircraft and sold or used for that purpose, that has procured a license from the Department. The licensed Aviation Jet Fuel Suppliers are required to report all receipts and distribution of aviation jet fuel. The tax is levied and imposed on the sale or delivery of aviation jet fuel by a licensed aviation jet fuel supplier. The aviation jet fuel tax attaches at the time of delivery to end user bulk storage tanks and/or supply tanks of jets or turbo-prop aircraft. The tax shall be collected by and paid to the State but once in respect to any jet fuel.

In addition to the non-refundable \$10.00 application fee, a surety bond must be posted, in accordance with guidelines specified by 30 Del C c.51 §5172(d). A surety bond in the amount of three month's tax liability – not less than \$5,000, but not more than \$200,000 – is required before a license can be issued. The license must be renewed yearly and is valid 12 months from July 1 - June 30.

## **MOTOR FUEL/SPECIAL FUEL/AVIATION JET FUEL TAX**

Upon issuance of a license, the licensee must file a monthly tax return. These returns must be filed by the 25th of the month following the month in which activity occurs (or the next business day, if the 25th falls on a weekend or holiday).

## 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 minimum filing thresholds. The minimum filing thresholds for each filing status are listed below:

| AGE/STATUS            | FILING SINGLE | MARRIED FILING A JOINT RETURN (1) | MARRIED FILING SEPARATE | FILING AS A DEPENDENT ON ANOTHER PERSON'S RETURN |
|-----------------------|---------------|-----------------------------------|-------------------------|--|
| 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.

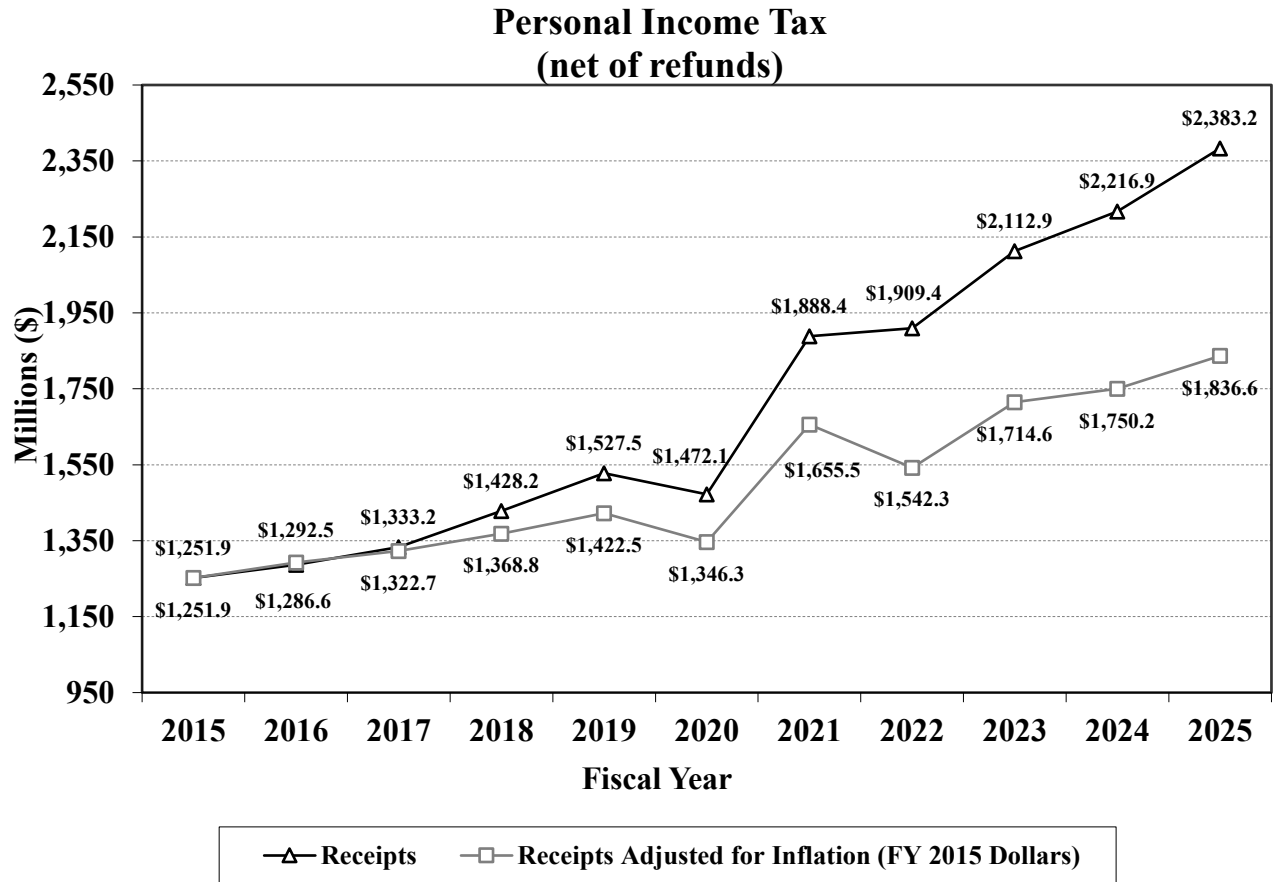
Non-Resident: Every non-resident must file a tax return to report all income earned within the State. This includes only income attributable to employment or personal services performed in Delaware, or to the ownership or disposition of any interest in real or tangible personal property in Delaware (i.e., 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 not Delaware source income.

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.

## PERSONAL INCOME TAX

### TAX RECEIPTS



**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, 2014)**

| 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                      | 6.60% | \$60,000                |

## PERSONAL INCOME TAX

### LEGISLATIVE HISTORY

| Approved<br>Date | Effective<br>Date | <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).  |
| 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).  |

## PERSONAL INCOME TAX

| <u>Approved<br/>Date</u> | <u>Effective<br/>Date</u> | <u>Description of Changes</u>  |
|--------------------------|---------------------------|--|
| 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 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 check-off 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. 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).  |

## PERSONAL INCOME TAX

| <u>Approved<br/>Date</u> | <u>Effective<br/>Date</u> | <u>Description of Changes</u>   |
|--------------------------|---------------------------|---|
| 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).  |
| -                        | 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).   |

## PERSONAL INCOME TAX

| <u>Approved<br/>Date</u> | <u>Effective<br/>Date</u> | <u>Description of Changes</u>   |
|--------------------------|---------------------------|---|
| 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. 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 carry-backs 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).   |

## PERSONAL INCOME TAX

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|--------------------------|---------------------------|--|
| 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).  |
| 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<br/>Date</u> | <u>Effective<br/>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 "look-back" 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 a 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 piggybacking 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 "check-off" 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 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).                          |

## PERSONAL INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 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).  |
| 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).               |

## PERSONAL INCOME TAX

| <u>Approved<br/>Date</u> | <u>Effective<br/>Date</u> | <u>Description of Changes</u>  |
|--------------------------|---------------------------|--|
| 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, and 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).   |
| 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<br/>Date</u> | <u>Effective<br/>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 221; SB 230).  |
| 6/29/06                  | 1/1/08                    | Established a \$50 tax credit for any veterinarian who performs spay/neuter and rabies inoculations in a public shelter. The total number of tax credits available statewide shall not exceed 5,000 or \$250,000 per calendar year (75 Del. Laws c. 326; HB 425).   |
| 7/1/06                   | 7/1/06                    | Extended “Blue Collar” provisions, for one month, through January 31, 2007 (75 Del. Laws c 352; SB 400).  |
| 7/10/06                  | 7/10/06                   | Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118). |
| 7/10/06                  | 1/1/07                    | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).  |
| 7/24/07                  | 7/24/07                   | Transferred the administration of the Neighborhood Assistance Tax Credit program to the Delaware Housing Authority and expanded eligibility requirements to all entities paying personal and corporate income tax (76 Del. Laws c172; SB 169).  |
| 7/1/08                   | 1/1/09                    | Eliminated the veterinarian services tax credit originally established under 75 Del. Laws c 326 (76 Del. Laws c 284; HB 515).   |
| 7/1/09                   | 1/1/10                    | Increased from 5.95% to 6.95% the personal income tax rate for taxable income in excess of \$60,000 and sunset said rate increase four (4) years from the act’s effective date (77 Del. Laws c 77; HS 1 for HB 264).  |
| 7/1/09                   | 1/1/10                    | Eliminated the personal income tax exemption for Delaware lottery winnings. (77 Del. Laws c 74; HS 1 for HB 260).   |
| 7/9/09                   | 7/9/09                    | Established a procedure to allow taxpayers to designate a contribution to the Delaware Children’s fund. Money deposited to the Fund will periodically be remitted to the 21st Century Fund for Delaware’s Children, Inc. (77 Del. Laws c 145; SB 62).   |
| 6/11/10                  | 1/1/11                    | Required nonresident persons, corporations or pass-through entities that sell real estate owned in this State to declare and pay their estimate of the tax due on the gain recognized from the sale before the deed will be recorded. (77 Del. Laws c 291; HB 349).   |
| 7/12/10                  | 1/1/10                    | Removed the Delaware Children’s Trust Fund as a contribution designation for income tax refunds, and removed the establishment and function of the Trust Fund from the Delaware Code. The Trust Fund has been defunct for several years. (77 Del. Laws c 351; HB 334).  |
| 4/14/10                  | 1/1/10                    | Directed the Secretary of Finance to develop the means by which individuals can deposit their State income tax return directly into a Delaware College Investment Plan account. (77 Del. Laws c 242; SB 335).   |

## PERSONAL INCOME TAX

| <u>Approved<br/>Date</u> | <u>Effective<br/>Date</u> | <u>Description of Changes</u>  |
|--------------------------|---------------------------|--|
| 6/16/10                  | 10/1/10                   | Created a tax credit program that would award each Sponsor Firm and each New Business Firm with a \$500 annual tax credit per Delaware job created by the new business, with the tax credit available for three years. The program would require that the new business be brought to Delaware as a result of the efforts of the sponsor, and would specifically exclude those business, such as real estate agents, banks and commercial landlords, that already have an incentive to bring out-of-state business to Delaware. (77 Del. Laws c 300; HB 380). |
| 7/19/10                  | 7/1/10                    | Provided for a 10-year extension to the Historic Preservation Tax Credit Act which was scheduled to expire in June 2010. (77 Del. Laws c 413; SB 209).   |
| 6/07/11                  | 7/1/11                    | Created a tax check-off for Delaware taxpayers to designate contributions to the White Clay Creek Wild and Scenic River Preservation Fund. (78 Del. Laws c 38; HB 44).   |
| 7/01/11                  | 1/1/12                    | Reduced from 6.95% to 6.75% the personal income tax rate on taxable income in excess of \$60,000. Maintained the 2014 sunset, which returns the top rate to 5.95%. (77 Del. Laws c 77; HB 128).  |
| 6/22/11                  | 7/1/11                    | Updated the State's primary economic development tax incentive program (Blue Collar Jobs). Specifically, the Act: 1) made the program permanent by eliminating a sunset provision; 2) established a three-year application deadline; 3) increased the amount of the corporate or personal income tax credits; and 4) included provisions designed to attract manufacturers of advanced clean energy technology power generating devices and systems. (78 Del. Laws c 47; SB 40).   |
| 7/31/12                  | 1/1/12                    | Established the Veterans' Opportunity Credit, which shall be awarded to employers hiring qualified veterans (initially hired on or after January 1, 2012, and prior to January 1, 2016). The credit shall equal 10% of a qualified veteran's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified veteran is hired and the two subsequent tax years. (78 Del. Laws c 381; HB 275).   |
| 8/13/12                  | 6/30/12                   | Expanded the New Economy Jobs Program. (78 Del. Laws c 396; SB 271).   |
| 7/27/12                  | 7/27/12                   | Created tax check-off for Home of the Brave Foundation Fund. (78 Del. Laws c 380; HB 350).   |
| 7/27/12                  | 7/27/12                   | Created tax check-off for Senior Trust Fund. (78 Del. Laws c 370; SB 244).   |
| 7/15/13                  | 7/15/13                   | Defined "newly hired employee" as "an employee who has not previously been employed by the employer, or who was previously employed by the employer but has been separated from such prior employment for at least 60 consecutive days." (79 Del. Laws c 114; HB 43).  |
| 7/16/13                  | 7/16/13                   | Exempted from taxation emergency response by infrastructure companies when it is necessary for them to temporarily provide out-of-state resources and personnel during a State of emergency declared by the Governor or the President of the United States. (79 Del. Laws c 119; HB 145).  |
| 9/17/13                  | 9/17/13                   | Created tax check-off for Delaware Veterans Trust Fund. (79 Del. Laws c 184; HB 140).  |

## PERSONAL INCOME TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 3/28/13          | 1/1/14            | Raised the personal income tax rate on taxable income in excess of \$60,000 from 5.95% to 6.6% for taxable years beginning after December 31, 2013. (79 Del. Laws c 10; HB 50).  |
| 6/5/14           | 6/5/14            | Designated \$1,500,000 in annual Historic Preservation Credit funds as reserved for projects in Downtown Development Districts. (79 Del. Laws c 240; SB 191).  |
| 7/15/14          | 7/15/14           | Created tax check-off for Protecting Delaware's Children Fund. (79 Del. Laws c 313; SB 182).   |
| 1/27/16          | 1/1/17            | Adjusted the thresholds which trigger monthly (instead of quarterly) and eight-monthly (instead of monthly) withholding filings. Raised the quarterly threshold to \$4,500 and the monthly threshold to \$25,000. Subjected these thresholds to annual inflation adjustments. (80 Del. Laws c. 195; HB 235).   |
| 3/17/16          | 1/1/17            | Reinstated the New Economy Jobs Tax Credit, which had sunset in 2014, and expanded the scope of the credit to include provisions covering retained jobs for companies involved in or resulting from a corporate restructuring. (80 Del. Laws c 207; SB 200).   |
| 8/29/16          | 1/1/17            | Established the Vocational Rehabilitation Hiring Tax Credit, which shall be awarded to employers hiring qualified disabled workers. The credit shall equal 10% of a qualified disabled worker's wages, up to a maximum of \$1,500. Employers may take the credit in the year the qualified disabled worker is hired and the subsequent two tax years. (80 Del. Laws c 400; SB 221).  |
| 5/18/17          | 1/1/17            | Adjusted Delaware's deadlines for filing income tax returns for pass-through entities (partnerships and S corporations) to be consistent with the new deadlines set forth by the IRS. Moved calendar year taxpayers' final payment and first estimated payment deadline from April 1 <sup>st</sup> to April 15 <sup>th</sup> . (81 Del. Laws c 19; HB 66 w/ HA1 and SA 1).   |
| 7/21/17          | 7/21/17           | Required all employees of the Department of Finance with access to Federal Tax Information get appropriate background checks to comply with obligations imposed by Section 6103(p)(4) of the Internal Revenue Code and Internal Revenue Service Publication 1075. Authorized the Director of Revenue to require electronic filing and allowed the Director to assess penalties of up to \$50 if a taxpayer fails to file a return in the manner prescribed by law. |
| 9/14/17          | 9/14/17           | Added 4 new check-off donation boxes for Food Bank of Delaware, Sussex County Habitat for Humanity, Central Delaware Habitat for Humanity and Habitat for Humanity of New Castle County. (81 Del. Laws c 176; HB 61).  |
| 5/18/17          | 1/1/18            | Conformed Delaware deadlines for filing certain information returns related to withholding payments to allow rolling conformity with deadlines established by the IRS. (81 Del. Laws c 19; HB 66 w/ HA1 and SA 1).   |
| 5/8/18           | 5/8/18            | Created a one-time, refundable, \$100 credit for placing Automatic External Defibrillators in service in Delaware and available against all business taxes. (81 Del. Laws c 236; SB 26).   |

## PERSONAL INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 5/24/18              | 12/31/18              | Created the Angel Investor Tax Credit, a refundable credit equivalent to 25% of a qualified investment in qualified Delaware small businesses. Limited single credits to \$125,000 (\$250,000 for joint filers). Limited total credits associated with one small business to \$500,000. Limited annual credits awarded in one calendar year to \$5 million. Set a sunset date of December 31, 2021. (81 Del. Laws c 244; HB 170 w/ SA 1 and SA 1 to SA 1). |
| 7/1/18               | 7/1/18                | Raised the tax liability trigger for estimated payments to \$800 for tax years commencing after December 31, 2017. (81 Del. Laws c 292; HB 392).   |
| 7/23/18              | 7/23/18               | Increased the aggregate amount of Neighborhood Assistance Tax Credits that can be approved in a fiscal year from \$500,000 to \$1 million. (81 Del. Laws c 351; SB 224 w/ SA 1).   |
| 8/29/18              | 8/29/18               | Increased the maximum Historic Preservation Tax Credit available for owner occupied historic property from \$20,000 to \$30,000. (81 Del. Laws c 390; SB 212).   |
| 10/1/18              | 10/1/18               | Replaced the US Olympic Committee tax check-off with the Beau Biden Foundation for the Protection of Children. Capped the number of tax check-offs permissible on the Personal Income Tax form at 21. (81 Del. Laws c 446; HB 163 w/ HA 1 and HA 2).   |
| 6/5/19               | 6/5/19                | Added a new check-off box for the Andrew McDonough B+ Foundation. Consolidated the three county Habitat for Humanity check-off boxes into a single statewide fund to be allocated to the counties based on residency of the donating individuals. (82 Del. Laws c 34; HB 23 w/ HA 2).  |
| 8/12/19              | 8/12/19               | Provides the Director of the Division of Revenue with the authority to exempt nonresident pass-through entities involved in the sale or exchange of five or more residential homes or lots per quarter from the requirement of remitting estimated income taxes due with each deed to the Recorder before the deed is recorded. (82 Del. Laws c 194; SB 125).  |
| 9/28/20              | 1/1/21                | Increased the tax credit for volunteer firefighters and ambulance or rescue service members or auxiliary members from \$400 to \$500. (82 Del. Laws c 289; HB 229 w/ HA 1).  |
| 2/8/21               | 2/8/21                | Exempts unemployment benefits from the state Personal Income Tax for tax year 2020 only. (83 Del. Laws c 2; HB 65).  |
| 6/30/21              | 6/30/21               | To the extent that federal adjusted gross income (FAGI) of a taxpayer includes prizes from the State's DE Wins! vaccine incentive program, the FAGI shall be reduced by the prize income to determine Delaware taxable income. (83 Del. Laws c 57; HB 265).  |
| 7/30/21              | 7/30/21               | Adds the Delaware Combined Campaign for Justice to the 21 charitable organizations listed on the Delaware personal income tax return to which Delaware taxpayers may contribute through an income tax check off. (83 Del. Laws c 109; HB 228).   |

## PERSONAL INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 7/30/21              | 7/30/21               | Clarifies that the withholding on non-resident sales of real estate should be completed by the closing attorney. Upon confirmation of the closing attorney that no funds were available to withhold, the Recorder of Deeds may process the transfer. Permits DOR to modify withholding filing frequency due to taxpayer hardship. Expands DOR authority to require information returns. Adds a new charity (Delaware Ovarian Cancer Foundation) to the Personal Income tax contribution list. (83 Del. Laws c 107; HB 171).  |
| 8/10/21              | 1/1/21                | Modifies the Earned Income Tax Credit to allow recipients to choose the most beneficial credit: a non-refundable credit of up to 20% of the federal EITC value or a refundable credit of up to 4.5% of the federal EITC value. (83 Del. Laws c 118; HB 16)   |
| 1/27/22              | 1/27/22               | Exempts unemployment benefits from the state Personal Income Tax for tax year 2021 only. (83 Del. Laws c 268; HB 285).   |
| 4/14/22              | 4/14/22               | Creates the Delaware Relief Rebate Program, which is a one-time direct payment of \$300 per adult Delaware resident. (83 Del. c 290; HB 360 w/ HA 1).  |
| 6/14/22              | 1/1/22                | Increases the amount of the nonrefundable tax credit for active members of volunteer fire, ambulance and rescue service companies and their auxiliaries from \$500 to \$1,000. (83 Del. Laws c 2; SB 189).   |
| 6/30/22              | 1/1/22                | Creates two new deductions for up to \$1,000 for contributions to a 529 College Savings Plan for individuals with federal adjusted gross income below \$100,000 and for up to \$5,000 for contributions to a Delaware-sponsored ABLÉ savings program. (83 Del. Laws c 338; HB 145 w/ HA 4).  |
| 7/20/22              | 1/1/22                | Increases the \$2,000 pension exclusion for those under age 60 to \$12,500, with the increase only available for United States military pension income. (83 Del. Laws c 2; SS 1 for SB 188).   |
| 10/3/22              | 1/1/23                | Creates a refundable tax credit of up to \$10,000 for unreimbursed medical and other expenses related to a donation of an organ or bone marrow (83 Del. Laws c 440; SS 1 for SB 301).  |
| 1/19/23              | 4/14/22               | Establishes that the Delaware Relief Rebate is intended to be a qualified disaster relief payment under § 139 of the Internal Revenue Code, and provides that the State makes no representations or warranties to recipients regarding the rebate program and that civil actions or claims of any nature are prohibited with respect to this legislation (84 Del. Laws c 1; HB 25).  |
| 8/31/23              | 1/1/24                | Creates an itemized deduction not to exceed \$500 for the annual cost to maintain membership in a labor organization, unless the taxpayer has taken a deduction on their federal income tax return. The deduction does not include payments that are not deductible under federal law for amounts paid to or through a labor organization for employee benefits, pension contributions, other compensation, or that were used in connection with lobbying or political expenditures, or settlement or investigatory costs of a government entity (84 Del. Laws c 192; SS 2 for SB 72). |

## PERSONAL INCOME TAX

| <u>Approved Date</u> | <u>Effective Date</u> | <u>Description of Changes</u>  |
|----------------------|-----------------------|--|
| 6/27/24              | 6/27/24               | Added an UnLocke the Light Foundation Fund check off and removed the limitation on the number of check boxes on the Delaware Personal Income Tax Form (84 Del. Laws c 280; HB 24 w/ HA 1).   |
| 9/26/24              | 9/26/24               | Defined “United States military pension” for the exclusion from taxable income as a pension received as a result of an individual’s service in the Army, Navy, Air Force, Marine Corps, Space Force, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, the commissioned corps of the Public Health Service, or the National Guard. (84 Del. Laws c 437; SB 329). |
| 7/1/25               | 1/1/26                | As a result of charity closure, the Senior Trust Fund check off from the Delaware Personal Income Tax Form was removed. Any remaining balance may be utilized by the Department of Health and Social Services, Division of Services for Aging and Adults with Physical Disabilities in aiding the senior population (85 Del. Laws c 65; HB 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, if the estimated tax can be reasonably expected to exceed \$800. 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 15 of the following 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 75% of the total tax due. A penalty of 1% per month is applied for failure to pay the tax liability shown to be due on a timely filed return, up to 25% of the unpaid liability. Interest is computed at ½% 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 6.6%.

**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 date on which the corporation's federal income tax return is due, which is currently the fifteenth day of the third 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.

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 15 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 fifteenth 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 years 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. "Small corporations" with total gross receipts below \$20,000,000 for two of three prior years are beholden to the payment dates below, but make even quarterly estimated payments equivalent to 25% of their estimated tax.

### **PAYMENT DATES**

Due April 15, (or 15th 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.

## **PERSONAL INCOME TAX S CORPORATIONS**

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 0.5% 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% 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 0.5% 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 for a calendar year taxpayer and on or before the 30th day of the fourth month following the close of the taxable year for a fiscal year taxpayer.

Every resident and non-resident trust shall make a declaration and pay estimated taxes if the estimated tax can be reasonably expected to exceed \$800 and at the end of the preceding tax 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& 62.

**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.

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

For short-term rental agreements entered into on or after January 1, 2025, a short-term rental lodging tax is imposed on any residential dwelling unit where a tourist or transient guest rents sleeping or living accommodations for no more than 31 consecutive nights. The short-term rental lodging tax does not apply to hotels, motels or tourist homes; residential facilities of educational institutions, health care facilities licensed by the State; campgrounds; overnight camps; or rentals entered into directly by the property owner on a casual and isolated basis at substantially below market rates for no more than ten nights annually.

Neither tax applies to federal government employees including military personnel on official business, nor to permanent residents of hotels, motels or tourist homes.

### **TAX RATES:**

#### **Lodging Tax**

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

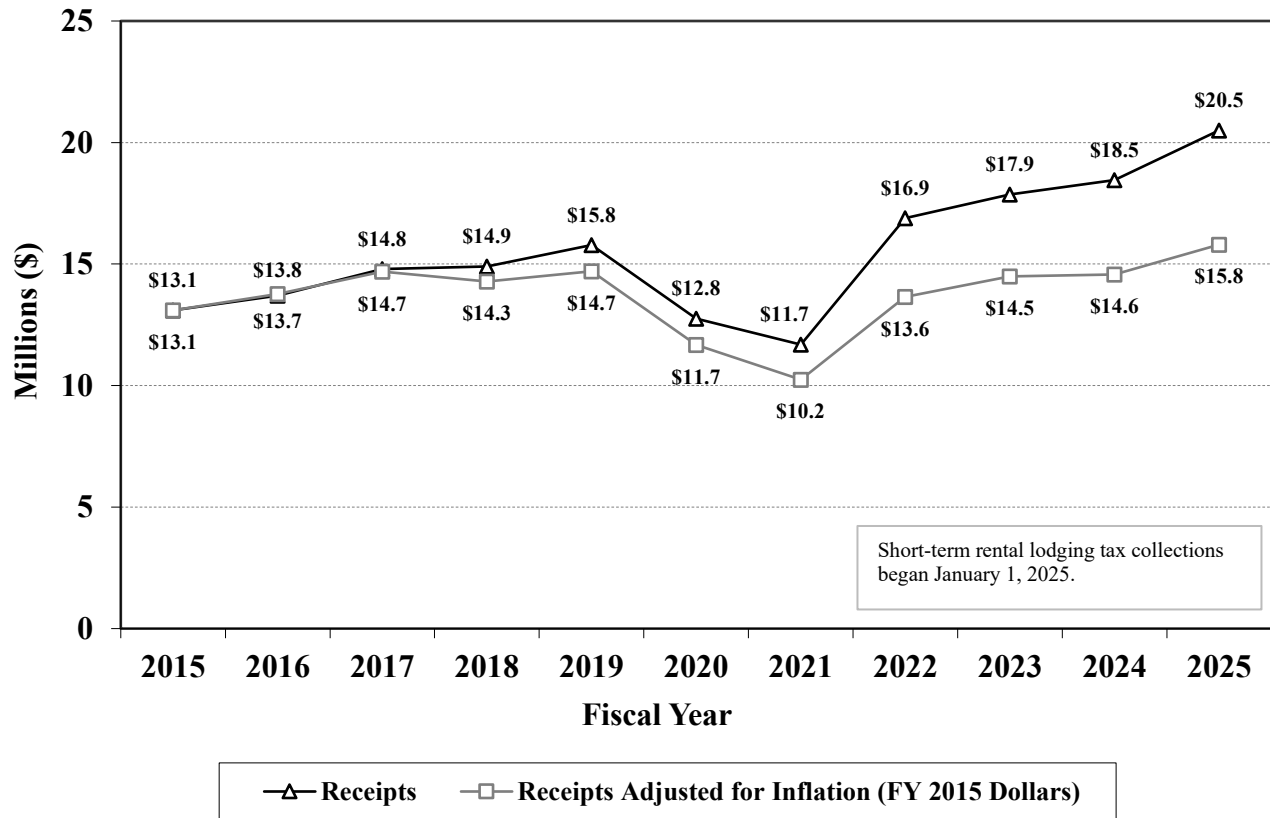
#### **Short-Term Lodging Tax**

4.5% of rent (the consideration received for occupancy, excluding municipal taxes, cleaning fees, or other add-on fees not usually considered part of rent), plus an annual license fee of \$25 for any Accommodations Intermediary.

## PUBLIC ACCOMMODATIONS TAX

### TAX RECEIPTS (General Fund)

### Public Accommodations Tax



### LEGISLATIVE HISTORY

| <u>Approved</u> | <u>Effective</u> | <u>Description of Changes</u>  |
|-----------------|------------------|--|
| <u>Date</u>     | <u>Date</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).   |
| 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). |

## PUBLIC ACCOMMODATIONS TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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).   |
| 7/10/06          | 7/10/06           | Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118).  |
| 7/10/06          | 1/1/07            | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).   |
| 7/1/09           | 7/1/09            | Capped the Fiscal Year 2010 Public Accommodations Tax revenue transfer to the Delaware Tourism Office at \$1.7843 million (77 Del. Laws c 84, § 97; HB 290).   |
| 7/1/10           | 7/1/10            | Capped the Fiscal Year 2011 Public Accommodations Tax revenue transfer to the Delaware Tourism Office at \$1.7632 million (77 Del. Laws c 327, § 97; SB 310).  |
| 7/1/11           | 7/1/11            | Capped the Fiscal Year 2012 Public Accommodations Tax revenue transfer to the Delaware Tourism Office at \$1.7687 million (78 Del. Laws c 78, § 97; HB 190).   |
| 9/30/24          | 1/1/25            | Instituted a short-term rental lodging tax of 4.5% on the rental of a residential dwelling unit by a tourist or transient guest for no more than 31 nights, required licensing of “accommodations intermediaries,” and required accommodations intermediaries to remit data to DOR including the number of nights each property is rented and aggregate rent for each property. (84 Del. Laws c 474; HS 2 for HB 168 w/ HA 1). |

**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. An accommodations intermediary must collect the short-term rental tax no later than the earlier of the final payment of all rent due or occupancy of the short-term rental. The short-term rental tax must be paid electronically.

**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 (including all information requested by the Division of Revenue from accommodations intermediaries) will result in a late filing penalty of 5% per month (maximum of 50%) of the amount of tax due, plus interest of 0.5% 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% 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.

## 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**

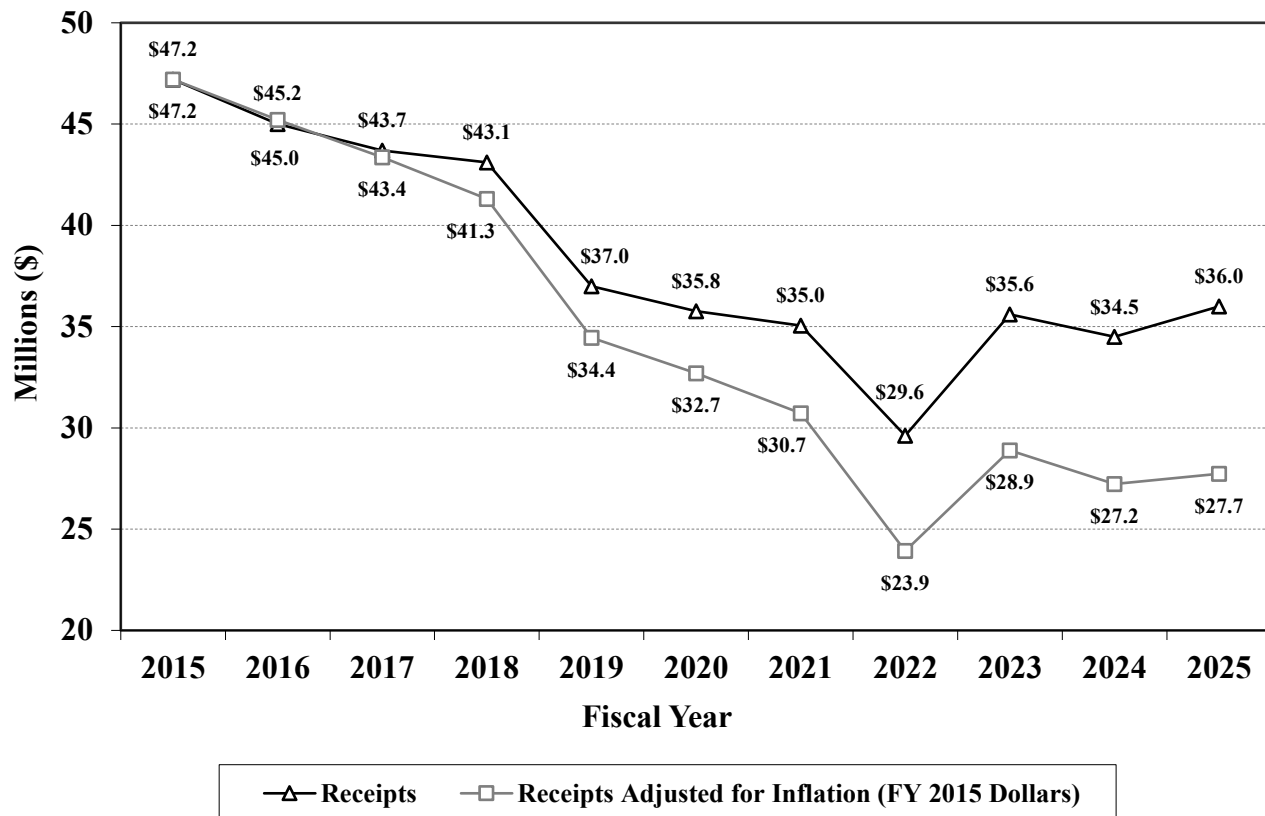
| UTILITY  | TAX RATE   | PAYMENT DATES  |
|--|--|--|
| Electricity<br>Distribution                            | 4.25% of gross receipts from non-residential users.<br>2.0% of gross receipts from manufacturers, food processors, and agribusinesses. Sales to automobile and certain other types of manufacturers 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.<br>2.0% 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<br>Telephone &<br>Telegraph(1)<br>Services  | 5.00% of gross receipts from non-residential users   | Returns and payment due on or before the 20th day after the end of each calendar month |
| Cable & Satellite<br>Television<br>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<br>Manufacturing and<br>Production | 0.1 % (one mill) on each dollar of gross receipts from the production of gas or electricity.<br>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.

## PUBLIC UTILITY TAX

### TAX RECEIPTS

### Public Utility Tax



### LEGISLATIVE HISTORY

| Approved Date | Effective Date | Description of Changes   |
|---------------|----------------|--|
| 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).   |

## PUBLIC UTILITY TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 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).  |
| 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).            |

## PUBLIC UTILITY TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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 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).  |
| 7/10/06          | 7/10/06           | Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118). |

## PUBLIC UTILITY TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 7/10/06          | 1/1/07            | Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).   |
| 7/1/09           | 8/1/09            | Added direct-to-home satellite services to the public utility tax base and increased tax rates, generally from 4.25% to 5.00%, on public utilities other than cable television. (77 Del. Laws c 82; HB 288).   |
| 7/1/11           | 7/31/11           | Reduced tax rate on electricity and gas from 5.00% to 4.25%. Reduce the rate on electricity and gas distributed to manufacturers, food processors and other agribusinesses from 2.35% to 2.00%. Earmarks the first \$5 million in proceeds generated each year by the public utility tax to the new Energy Efficiency Investment Fund. (78 Del. Laws c 75; HB 129).  |
| 6/22/11          | 7/1/11            | Updated the State's primary economic development tax incentive program (Blue Collar Jobs). Specifically, the Act: 1) made the program permanent by eliminating a sunset provision; 2) established a three-year application deadline; 3) increased the amount of the corporate or personal income tax credits; and 4) included provisions designed to attract manufacturers of advanced clean energy technology power generating devices and systems. (78 Del. Laws c 47; SB 40). |
| 7/5/12           | 7/5/12            | Provides a credit against the tax on telephone lines and transmitters that is measured as a percentage of the capital investment made in Delaware by a taxpayer and its affiliates, and provides the credit shall not be treated as an unforeseen change in a service provider's costs of providing telecommunications services. The Act also repeals the tax on telephone lines and transmitters after 2013. (78 Del. Laws c 294; HB 181).                                      |
| 7/1/13           | 7/1/13            | Required state to transfer \$3,400,000 from the General Fund to the Energy Efficiency Investment Fund during Fiscal Year 2014. (79 Del. Laws c 79; SB 145).  |
| 7/1/14           | 7/1/14            | Reduced from \$3.4 million to \$1 million the FY 2015 earmark for the Energy Efficiency Investment Fund (79 Del. Laws c 292; HB 425, Section 19).  |
| 7/21/14          | 1/1/15            | Expanded the E911 surcharge to include retail purchases of prepaid wireless telecommunications service. (79 Del. Laws c 332; HB 289).  |
| 7/1/15           | 7/1/15            | Suspended the FY 2016 earmark for the Energy Efficiency Investment Fund. (80 Del. Laws c 78; SB 160, Section 18).  |
| 7/1/16           | 7/1/16            | Suspended the FY 2017 earmark for the Energy Efficiency Investment Fund. (80 Del. Laws c 299; HB 450, Section 14).   |
| 7/3/17           | 7/3/17            | Suspended the FY 2018 earmark for the Energy Efficiency Investment Fund. (81 Del. Laws c 59; SB 125, Section 12).  |
| 6/30/20          | 7/1/20            | Suspended the FY 2021 earmark for the Energy Efficiency Investment Fund. (82 Del. Laws c 244; SB 242, Section 23).   |

## PUBLIC UTILITY TAX

| Approved<br><u>Date</u> | Effective<br><u>Date</u> | <u>Description of Changes</u>  |
|-------------------------|--------------------------|--|
| 6/16/23                 | 1/1/24                   | Created the E-988 surcharge, which is a 60-cent per month behavioral health crisis intervention services surcharge per business, residential, or wireless telephone line, and a one-time 60-cent surcharge on prepaid wireless telephone services. The surcharge is modelled after the existing E-911 surcharge (84 Del. Laws c 168; HS 2 for HB 160). |

## 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 3.0% of the fair market value of the property divided equally between the grantor and grantee. Local governments are permitted to levy a tax of up to 1.5%. In cases in which the local levy exceeds 1.0%, the state rate decreases to 2.5%. With few exceptions, in practice, the state tax is levied at a rate of 2.5% and the local taxes are levied at a rate of 1.5%, for a combined rate of 4.0%.

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.

### **EXEMPTIONS:**

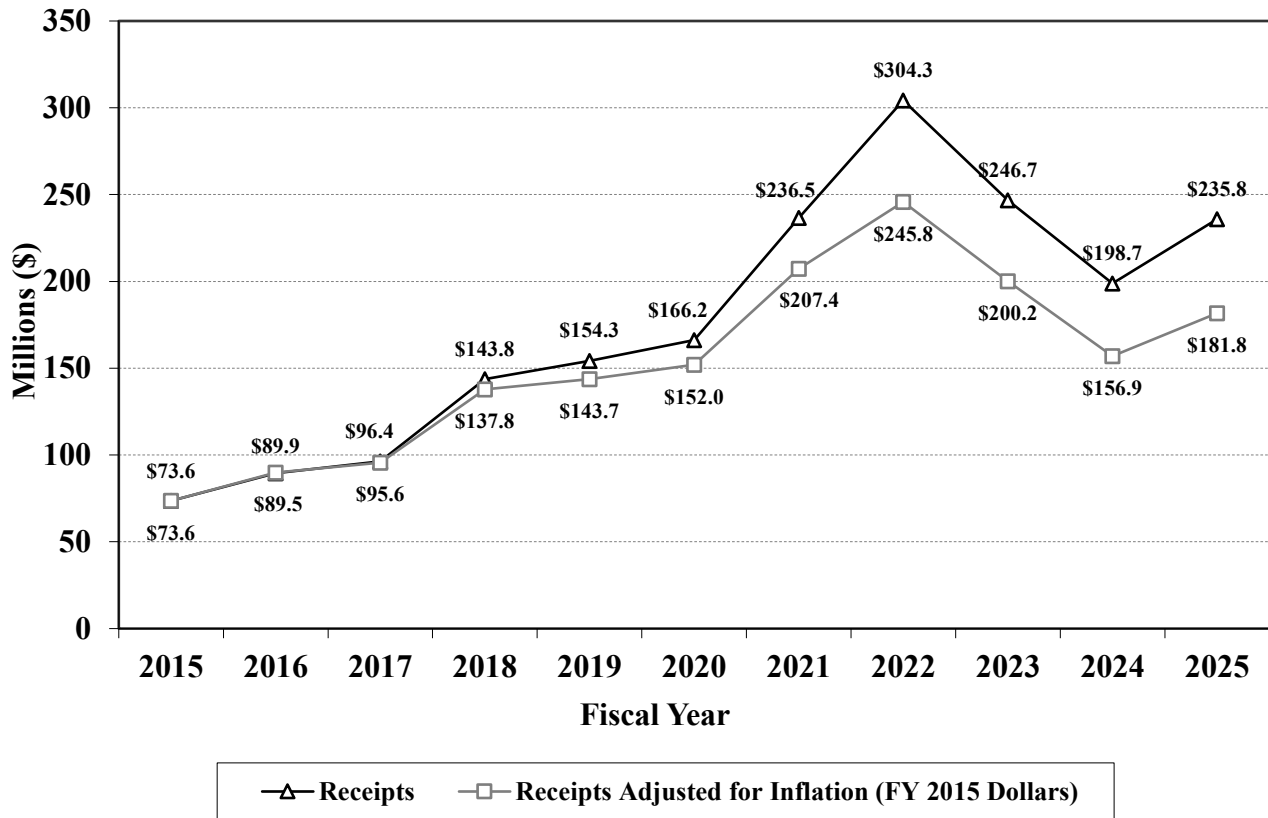
There are 22 exemptions. Below is a partial list. The remainder can be found in Title 30, Del. Code §5401.

- 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.

## REALTY TRANSFER TAX

### TAX RECEIPTS

### Realty Transfer Tax



### LEGISLATIVE HISTORY

Approved Effective

| <u>Date</u> | <u>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 (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).  |

## REALTY TRANSFER TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 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 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 349; 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).   |
| 1/26/06          | 1/26/06           | Ensured that merger transactions and all kinds of indirect dealings in intangible property, that are properly characterized as a sale of real property under § 5401(7), are taxable under the   |

## REALTY TRANSFER TAX

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
|                  |                   | Realty Transfer Tax (75 Del. Laws c 225; HB 330).  |
| 7/1/08           | 7/1/08            | Reduced from \$10 million to \$6 million the FY 2009 earmarks for Open Space; reduced from \$10 million to \$6 million the FY 2009 earmark for Farmland Preservation (76 Del. Laws c 288; HB 525, Sections 12-13).   |
| 7/1/09           | 7/1/09            | Reduced from \$10 million to \$3 million the FY 2010 earmarks for Open Space; reduced from \$10 million to \$3 million the FY 2010 earmark for Farmland Preservation (77 Del. Laws c 87; SB 190, Sections 6-7).  |
| 7/1/10           | 7/1/10            | Reduced from \$10 million to \$3 million the FY 2011 earmarks for Open Space; reduced from \$10 million to \$3 million the FY 2011 earmark for Farmland Preservation (77 Del. Laws c 329; HB 525, Sections 12-13).   |
| 7/1/13           | 7/1/13            | Required state to transfer \$6,000,000 in realty transfer taxes from the General Fund to the Project Account in the Delaware Land and Water Conservation Trust Fund for Fiscal Year 2014. Required state to transfer \$6,000,000 in realty transfer taxes from the General Fund to Farmland Preservation Fund for Fiscal Year 2014. (79 Del. Laws c 79; SB 145). |
| 7/1/14           | 7/1/14            | Reduced from \$10 million to \$2 million the FY 2015 earmarks for Open Space; reduced from \$10 million to \$2 million the FY 2015 earmark for Farmland Preservation (79 Del. Laws c 292; HB 425, Sections 17-18).   |
| 7/1/15           | 7/1/15            | Suspended the FY 2016 earmarks for Open Space and Farmland Preservation. (80 Del. Laws c 78; SB 160, Section 16-17).   |
| 8/11/15          | 9/10/15           | Enabled the creation of “land banks” by qualifying Delaware jurisdictions. Exempted the conveyance of property to and from land banks for the Realty Transfer Tax (80 Del Laws c 155; SB 66 w/ SA4).   |
| 7/1/16           | 7/1/16            | Suspended the FY 2017 earmark for Open Space. Reduced from \$10 million to \$2.5 million the FY 2017 earmark for Farmland Preservation (80 Del. Laws c 299; HB 450, Section 12-13).  |
| 7/3/17           | 7/3/17            | Suspended the FY 2018 earmark for Open Space. Reduced from \$10 million to \$3.0 million the FY 2018 earmark for Farmland Preservation (81 Del. Laws c 59; SB 125, Section 10-11).   |
| 7/3/17           | 8/1/17            | Increased by 1% the rate of realty transfer tax to be received by the State for transfer of real estate pursuant to contracts for the sale of real estate entered into after July 31, 2017. (81 Del. Laws c.56; HB 279)  |
| 8/28/18          | 8/28/18           | Created a first-time home buyer credit equivalent to 0.5% of the value of the property up to \$400,000. Authorized the credit for first-time home buyers who enter into transactions for the transfer of real estate on or after August 1, 2017. (Del. Laws c 384; HB 380 w/ HA 1).  |
| 6/30/20          | 7/1/20            | Reduced from \$10 million to \$5 million the FY 2021 earmark for Open Space; reduced from \$10 million to \$5 million the FY 2021 earmark for Farmland Preservation (82 Del. Laws c 244; SB 242, Sections 21-22).  |

## REALTY TRANSFER TAX

| Approved<br><u>Date</u> | Effective<br><u>Date</u> | <u>Description of Changes</u>  |
|-------------------------|--------------------------|--|
| 6/15/22                 | 6/15/22                  | Excludes manufacturing companies from a 2% State Realty Transfer Tax on certain construction contracts made within the first year of a realty transfer. (83 Del. Laws c 323; HB 397).  |
| 8/22/23                 | 8/22/23                  | Clarifies provisions related to exemptions for transfers to and from 501(c)(3) organizations, creates an exemption for certain conveyances for which it is the grantee's intent to construct affordable housing, and clarifies the definition of first-time homebuyers (84 Del. Laws c 179; SS 1 for SB 87). |
| 8/9/24                  | 8/9/24                   | Exempts contracts for the construction of affordable housing units from the realty transfer tax. (84 Del. Laws c 353; SB 25).  |

## UNCLAIMED PROPERTY

**STATUTORY PROVISION:** Title 12, Delaware Code, Chapter 11.

**COLLECTION/ADMINISTRATIVE AGENCY:** The Department of Finance, Office of Unclaimed Property (OUP) administers and collects unclaimed property. After unclaimed property is in the custody of the OUP, the OUP becomes the perpetual custodian of the unclaimed property until the property is returned to the correct owner or their heirs.

**GENERAL LIABILITY:** A holder of property presumed abandoned and subject to the custody of the OUP must report and remit timely any unclaimed property to the OUP, perform due diligence (attempt to locate and contact the owner before reporting), protect the property until reported and transferred to the OUP, and maintain copies of the unclaimed property reports and supporting documentation for at least 10 years after reporting.

**Holder** means any person having possession, custody, or control of the property of another person as defined in 12 Del Code, Chapter 11, Section 1130 (10). For statutory reporting deadlines, the holders are grouped into Banking Organizations, Insurance Companies, and All Other Holders and Business Associations other than Banking Organizations and Insurance Companies.

**Banking Organizations** include any organization, corporation, or association organized and existing under Chapter 7,15, or 17 of Title 5 or the corresponding provisions of statutes in effect prior to February 12, 1953, or any bank or credit union created under the laws of the United States or any state. (12 Del Code, Chapter 11, Section 1130(2))

**Insurance Companies** mean an association, corporation, or fraternal or mutual-benefit organization, whether or not for profit, engaged in the business of providing life endowments, annuities, or insurance, including accident, burial, casualty, credit-life, contract-performance, dental, disability, fidelity, fire, health, hospitalization, illness, life malpractice, marine, mortgage, surety, wage-protection, and worker-compensation insurance. (12 Del Code, Chapter 11, Section 1130(11))

**REPORTABLE ITEMS:** Unclaimed property consists of accounts and other financial instruments, usually intangible, being held at banking organizations, insurance companies, government organizations, or any other business organizations/associations that have gone dormant for a specific period of time based on property type. Common types of unclaimed property include, but are not limited to: dormant checking and savings accounts, uncashed checks, unredeemed gift cards, unexchanged stock certificates, unclaimed credit balances or refunds, uncashed money orders, unredeemed traveler's checks, unclaimed court deposits, forgotten utility deposits, uncashed death benefit checks, and uncashed insurance proceeds. Unclaimed property becomes reportable after the statutory dormancy period has been reached. The statutory dormancy period is the time specified in the unclaimed property law when property is presumed abandoned due to inactivity and there is not contact between a holder and an owner. In the State of Delaware, most properties are considered abandoned after 5 years of dormancy, 3 years for securities-related property, or 15 years for traveler's checks.

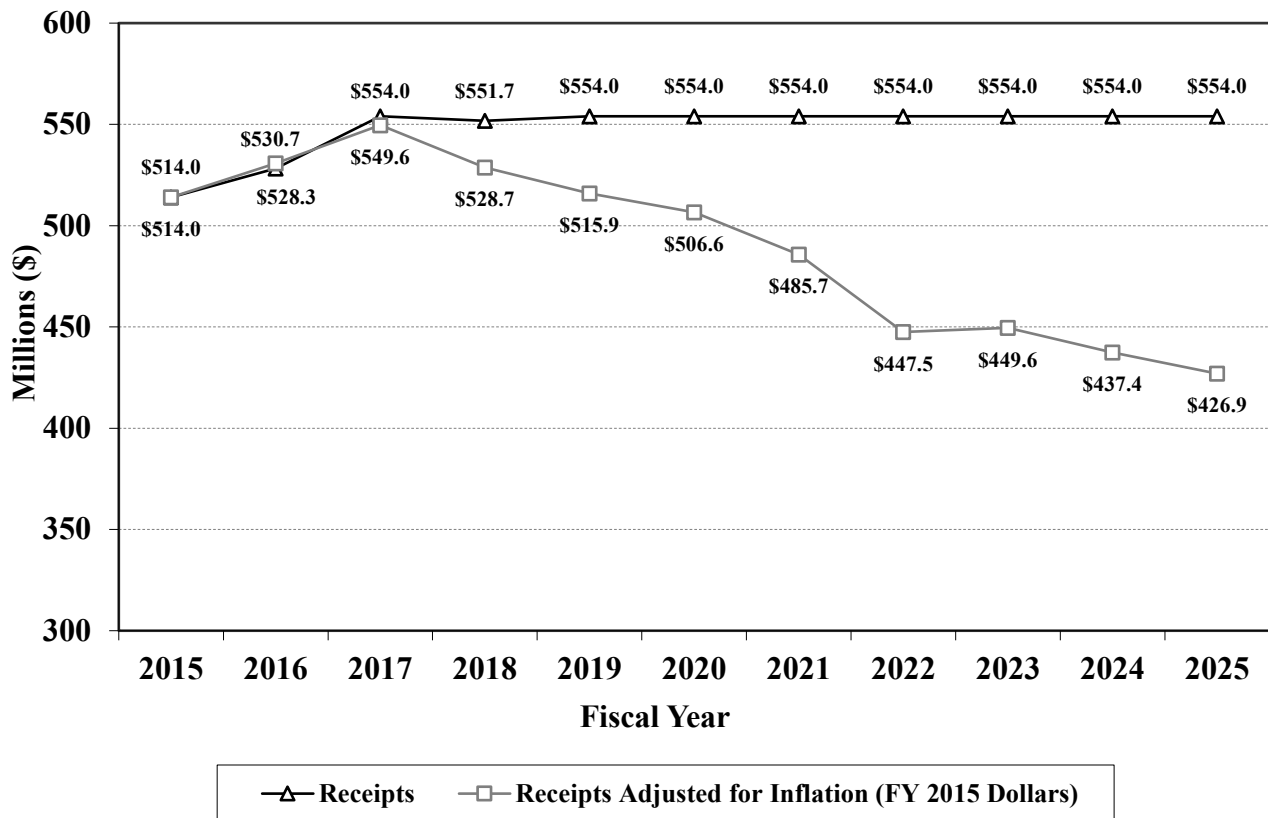
**REPORTABLE JURISDICTION:** Unclaimed property is reported to the State of Delaware pursuant to the Priority Rules established by the U.S. Supreme Court in Texas v. New Jersey, 379 U.S. 674 (1965). On March 30, 1993, the United State Supreme Court ruled in Delaware v. New York, 113 S. Ct. 1550 (1993) that the primary and secondary 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 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 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

## UNCLAIMED PROPERTY

incorporation of the holder. On February 28, 2023, the U.S. Supreme Court decided in *Delaware v. Pennsylvania*, 143 S. Ct. 696 (2023), that one particular property type reported by a particular holder (“official checks”) should be reported according to the Federal Disposition Act but declined to apply this ruling to other property types. The Court further declined to alter the Priority Rules established by *Texas v. New Jersey* and confirmed by *Delaware v. New York*.

### RECEIPTS

#### Unclaimed Property - Escheat



### LEGISLATIVE HISTORY

| Approved Date | Effective Date | Description of Changes  |
|---------------|----------------|---|
| 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). |

## UNCLAIMED PROPERTY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 8/2/55           | 8/2/55            | Major update of entire escheats code. General provisions established Unclaimed 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 Unclaimed 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).   |
| 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 unclaimed 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 unclaimed 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 Escheator's 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).  |

## UNCLAIMED PROPERTY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>   |
|------------------|-------------------|---|
| 2/4/94           | 2/4/94            | Added to the definition of all other unclaimed 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 unclaimed 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 unclaimed property beginning in 2003. This bill changed the effective date of the exemption to the year 2000 (72 Del. 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 unclaimed 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 unclaimed property (75 Del. Laws c 19; SB 25). |
| 7/01/06          | 7/01/06           | Increased annual earmark to the Transportation Trust Fund from \$10 million to \$24 million (75 Del. Laws c 350; SB 350).   |
| 4/16/08          | 4/16/08           | Suspended FY 2008 \$24 million earmark to the Transportation Trust Fund (76 Del. Laws c 205; HB 357).   |
| 6/30/08          | 6/30/08           | Reduced from five (5) to three (3) years the period of dormancy for investment type properties (76 Del. Laws c 276; SB 334).  |
| 6/30/08          | 6/30/08           | Mandated the escheat of monies due on unclaimed pari-mutuel tickets after a one-year period of dormancy (76 Del. Laws c 277; SB 335).   |
| 7/1/08           | 7/1/08            | Earmarked up to \$75 million in revenues in excess of \$390.4 million in collections for the K-12 School Construction Prioritization Fund. Suspended FY 2009 \$24 million earmark to the Transportation Trust Fund (76 Del. Laws c 288; HB 525, Sections 9 and 11).   |
| 7/1/09           | 7/1/09            | Suspended FY 2010 \$24 million earmark to the Transportation Trust Fund & Earmarked up to \$10 million in excess of \$374 million for OPEB (77 Del. Laws c 87; SB 190, Section 5; & 77 Del. Laws c 86; HB 295, Section 31).   |

## UNCLAIMED PROPERTY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 7/23/10          | 7/23/10           | Provides for an administrative review process at the conclusion of an unclaimed property examination. Creates a limited exemption from the definition of property for unclaimed property purposes that arises from transactions between merchants. Clarifies that the State may employ estimation techniques in certain circumstances in order to determine a holder's liability. Reduces the administrative burden of compliance. (77 Del. Laws c 417; SB 272).   |
| 7/1/10           | 7/1/10            | Suspended FY 2011 \$24 million earmark to the Transportation Trust Fund & Earmarked up to \$70 million in excess of \$424 million as follows: \$10 mm for OPEB; \$10 mm for the TTF; \$10 mm for Debt Reduction; and \$40 mm for K-12 Construction Fund (77 Del. Laws c 329; HB 500, Section 11; & 77 Del. Laws c 328; SB 315, Section 31).  |
| 7/1/11           | 7/1/11            | Increased from \$24 to \$40 million the annual earmark to the Transportation Trust Fund. Earmarked \$115 million to the Building Delaware's Future Now Fund (78 Del. Laws c 76; SB 130, Sections 15 & 39).   |
| 7/11/12          | 7/11/12           | Holders not currently reporting any or all amounts or types of unclaimed property or already engaged in claims an enforcement procedure with the State Escheator would be eligible to resolve claims via a voluntary disclosure agreement (VDA) with the Secretary of State. The "look-back" period covered by such VDAs is reduced. The Act sunsets on July 1, 2015. (78 Del. Laws c 317; SB 258).  |
| 1/30/13          | 1/30/13           | Expanded the program allowing holders of unclaimed property to enter a voluntary disclosure agreement (VDA) with the Secretary of State. Holders that elected into a voluntary self-disclosure prior to June 30, 2013 now have until June 30, 2015 to enter a payment plan with the state. Clarified that a holder may enter into the new voluntary disclosure program with respect to any related property that was not included in an earlier voluntary self-disclosure. Clarified State Escheator's duties with respect to protecting confidential information. (79 Del. Laws c 2; HB 2). |
| 7/1/13           | 7/1/13            | Capped the annual contribution to the general fund from unclaimed property \$514 million. Funds above that amount will be deposited into a holding account entitled "Escheat-Special Fund." The Joint Legislative Committee on the Capital Improvement Program may allocate funds from the holding account to The K-12 Construction Fund, The Debt Reduction Fund, and The Other Post-Employment Benefits Fund. (79 Del. Laws c 79; SB 145).   |
| 6/30/14          | 6/30/14           | Codified longstanding confidentiality practices of the Department of Finance and the Secretary of State regarding financial information obtained during examination of unclaimed property holders. Also changed the penalty for failing to file an unclaimed property report to the lesser of 5% per month or \$100 per day and the maximum penalty to \$5,000. Extended the Secretary of State voluntary disclosure agreement (VDA) submission deadline to September 30, 2014 and the VDA's sunset to July 1, 2016. (79 Del. Laws c 278; SB 228).   |
| 7/1/14           | 7/1/14            | Suspended FY 15 \$40 million earmark to the Transportation Trust Fund. (79 Del. Laws c 229; HB 425, Section 15).   |

## UNCLAIMED PROPERTY

| Approved<br>Date | Effective<br>Date | <u>Description of Changes</u>  |
|------------------|-------------------|--|
| 1/29/15          | 1/29/15           | Limited single audit firm to no more than 50% of the total examinations undertaken after January 1 <sup>st</sup> , 2015. Prohibited senior supervisory, Department of Finance staff related to unclaimed property from accepting employment or compensation from examining firms for two years after leaving employment with the State. Bound the Secretary of Finance to accept the determination of an independent reviewer within the administrative appeal process unless a proper appeal to the Delaware Court of Chancery is made. Required the Secretary of Finance to provide a best practice manual for unclaimed property examinations and to update regulations accordingly. Limited examination contracts with the Department of Finance to a maximum of five years and required current contracts are negotiated down to this five year maximum. (80 Del. Laws c 2; SB 11 w/ SA 2).   |
| 7/1/15           | 7/1/15            | Repealed the \$40 million earmark to the Transportation Trust Fund. Capped the annual contribution to the general fund from unclaimed property at \$554 million. (80 Del. Laws c 78; SB 160, Section 15).  |
| 7/22/15          | 7/22/15           | Required new examinations focus on parties that have neglected to enter the Secretary of States VDA or whom have otherwise failed to comply with holder requirements of Title 12. Shortened Delaware's look-back period for new examinations to 1991 from enactment until December 31st, 2016. Instituted a rolling look-back period for new examinations after January 1st, 2017 for twenty-two years from the calendar year in which written notice of the examination is provided. Set the interest rate on unpaid unclaimed property payments at 0.5% per month unless a reasonable cause for delay is proven. Capped total interest due at 25% of the unclaimed property payment due with the exception of penalties listed elsewhere (effective March 1, 2016). Extended a variety of deadlines and specified a variety of look-back periods for The Secretary of State's VDA Program. Barred Bad Actors and withdrawals from the Secretary of State's VDA from entering the Department of Finance's VDA program. Obligated Holders who have previously filed the past five years to designate a contact person for correspondence with the State and to update this contact information as necessary. (80 Del. Laws c 114; SB 141). |
| 2/2/17           | 2/2/17            | Reduced the lookback on VDAs and audits to ten years. Limited the period within which the State may seek payment on unclaimed property to ten years. Aligned holder record retention requirements with the ten-year lookback and statute of limitation thresholds. Allowed holders under audit prior to July 22, 2015 to convert to the Secretary of State's VDA program. Allowed all holders under audit as of February 2, 2017 to engage in an expedited audit process. Mandated interest be assessed on any late-filed unclaimed property. (81 Del. Laws c 1; SB 13 w/ SA 1).   |
| 6/29/17          | 6/29/17           | Clarified that the State will indemnify and defend a holder against claims made by a foreign jurisdiction for property paid or delivered to the State Escheator in good faith. Allowed the State Escheator to waive interest under specified circumstances. (81 Del. Laws c 48; SS 1 for SB 79).   |
| 6/30/21          | 8/1/21            | Adopts an express reporting requirement and related procedures for virtual currency. (83 Del. Laws c 58; SB 103).  |

## UNCLAIMED PROPERTY

| Approved<br>Date | Effective<br>Date   | <u>Description of Changes</u>  |
|------------------|---------------------|--|
| 6/30/21          | 6/30/21<br>& 8/1/21 | Clarifies various aspects of the State’s procedures to operate its unclaimed property program, including promoting and determining holder compliance, processing owner claims, and preventing fraudulent claims. (83 Del. Laws c 59; SB 104).  |
| 6/30/22          | 6/30/22             | Clarifies various aspects of the State’s unclaimed property laws including exempting from reporting property owed to non-Delaware government entities and confirming holder record retention requirements and claimant appeal rights. (83 Del. Laws c 346; SB 281).  |
| 8/14/24          | 8/15/24             | Clarifies the process and roles of the Attorney General, State Escheator, and Secretary of State in actions under the Delaware False Claims and Reporting Act (DFCRA) for failure to comply with reporting requirements of the Delaware Unclaimed Property Law (UPL). The Attorney General, may bring such an action after a 120-day period during which the State Escheator may initiate an examination or within the 120-day period, with the State Escheator's consent. Further, the Act clarifies how a whistleblower may submit information regarding a violation of UPL reporting requirements and defines what payment a whistleblower may receive in the event the State receives payment as a result of the whistleblower's information. (84 Del Laws c 367; SS1 for SB 266). |
| 8/14/24          | 8/15/24             | Clarifies various aspects of the State’s procedures to operate its unclaimed property program, including promoting and determining holder compliance, processing owner claims, and preventing fraudulent claims. (84 Del. Laws c 368; SB 267).   |

### **REPORTING AND PAYMENT DATES**

| Holder Type                                 | Reporting Cycle of 12<br>months Ending | Report and<br>Payment/Delivery Due |
|---|--|------------------------------------|
| Banking Organizations                       | 06/30                                  | 11/10                              |
| Insurance Companies                         | 12/31                                  | 12/20                              |
| All Other Holders and Business Associations | 12/31                                  | 3/1                                |

## UNEMPLOYMENT INSURANCE

**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 the current or preceding calendar year or (b) employ at least one person for some portion of a day in each of 20 different calendar weeks, whether or not such weeks were consecutive, in either the current or preceding calendar year. Agricultural employers are liable with respect to any calendar year if they pay \$20,000 or more in any calendar quarter in either the current or the preceding calendar year or employ 10 or more persons engaged in agricultural labor for some portion of a day in each of 20 different calendar weeks, whether or not such days were consecutive, in either the current or the preceding calendar year. 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 the current calendar year or the preceding calendar year. Government entities and nonprofit 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 the rate table Schedules in effect in 2025 and 2026, for experience-rated employers, the State's basic unemployment insurance rate ranges from 0.4% to 5.4% depending on the employer's benefit ratio and the Average High Cost Multiple (AHCM). For assessment rate years 2025 and 2026, the new employer unemployment insurance basic rate will be 1.0%. In addition, all liable contributory employers are charged an operations and technology assessment of 0.2%<sup>1</sup>. The effective assessment rate equals the basic rate plus (+) the operations and technology assessment rate multiplied by the taxable wage base, which in 2025 was set at \$12,500.00<sup>2</sup>. The assessment rate for delinquent employers is 6.3% plus (+) the operations and technology assessment of 0.2%, although new employers are assigned a lower delinquency rate during the first three years. The minimum effective assessment rate for 2025 is 0.6% and the maximum effective assessment rate is 5.6%.

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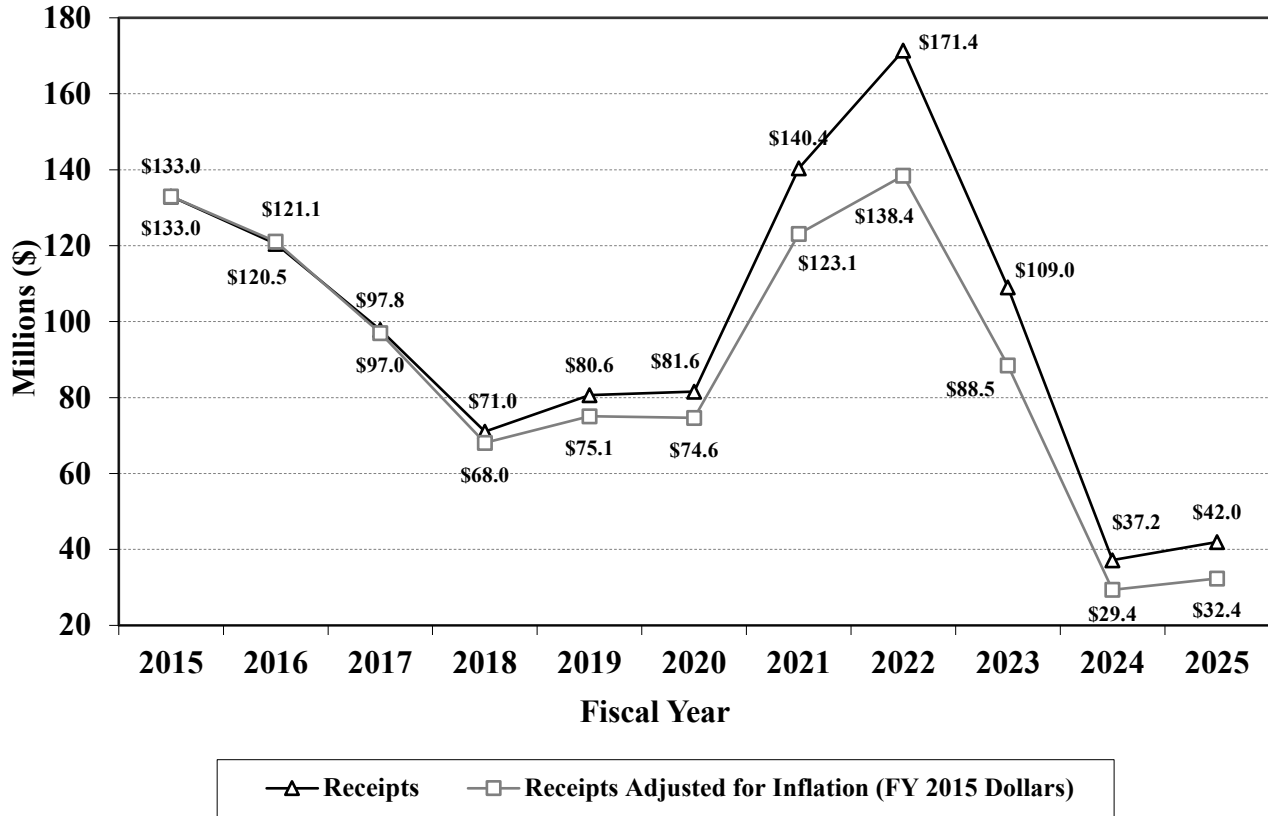
<sup>1</sup> Beginning January 1, 2004, the supplemental assessment rate, later changed to the operations and technology assessment, was set at 0.2% and no longer varies as a result of changes in the Unemployment Insurance Trust Fund balance.

<sup>2</sup> The taxable wage base in 2026 will increase to \$14,500.00 and in 2027 forward will be \$16,500.00. The taxable wage base is no longer tied to the balance in Delaware's Unemployment Trust Fund.

## UNEMPLOYMENT INSURANCE

### 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 (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.  |

## UNEMPLOYMENT INSURANCE

| <u>Approved</u><br><u>Date</u> | <u>Effective</u><br><u>Date</u> | <u>Description of Changes</u>  |
|--------------------------------|---------------------------------|--|
| -                              | 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). |
| 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).   |

## UNEMPLOYMENT INSURANCE

| <u>Approved</u><br><u>Date</u> | <u>Effective</u><br><u>Date</u> | <u>Description of Changes</u>  |
|--------------------------------|---------------------------------|--|
| 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 c143; 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).  |
| 6/27/06                        | 6/27/06                         | Removed cap on increases in the “State Experience Factor” and expanded “State Experience Factor” range from 1 through 50 to 1 through 80. Effective range of tax rates remains the same (75 Del. Laws c 313; HB 419).  |
| 6/18/07                        | 1/1/08                          | Increased from \$8,500 to \$10,500 the individual wage to which tax is applicable (76 Del. Laws c 46; HB 144).   |
| 8/15/13                        | 1/1/14                          | Established a “trigger” methodology to determine the taxable wage base for any given calendar year based on the balance in Delaware’s Unemployment Insurance Trust Fund as of the previous September 30. The taxable wage base for any given calendar year will be \$18,500, \$16,500, \$14,500, \$12,500, or \$10,500. (79 Del. Laws c 173; HB 168).  |
| 6/30/19                        | 6/30/19                         | Froze the taxable wage base used by employers to determine what portion of employee’s wages are subject to unemployment insurance tax assessments, for the period July 1, 2019 to October 29, 2020, to allow the Division of Unemployment Insurance and the Unemployment Compensation Advisory Council to analyze whether to revise the taxable wage base formula into the future. (82 Del. Laws c 80; HB 198).  |
| 8/25/20                        | 8/25/20                         | Ensured that employers are not charged for the benefit wages of employees who they had to terminate, furlough, or lay off due to the economic shutdown needed to respond to the COVID-19 public health crisis. The intention of the Department of Labor is to use other sources of federal funds to repay the Unemployment Insurance Trust Fund for the COVID-19 related benefits paid to these claimants, instead of charging the employers. It is not the intention to increase taxes on employers, and for most employers, this Act will avoid a significant increase in their unemployment tax assessment rates from COVID-19 related charges. (82 Del. Laws 285; HB 353). |

## UNEMPLOYMENT INSURANCE

| <u>Approved</u><br><u>Date</u> | <u>Effective</u><br><u>Date</u> | <u>Description of Changes</u>  |
|--------------------------------|---------------------------------|--|
| 1/11/21                        | 2/8/21                          | Established the 2021 new employer assessment rate, average industry assessment rate, and average construction industry assessment rate at the same rate as 2020 in order to avoid an increase in these rates as a result of the increase in unemployment claims due to COVID-19. (83 Del. Laws 2; HB 65).  |
| 1/27/22                        | 1/27/22                         | Held the 2022 new employer assessment rate, average industry assessment rate and average construction industry assessment rate at the same rate as 2020; reduced the unemployment tax assessment rate for merit rated employers to the lowest of their earned rates for 2020, 2021 and 2022; allowed the Department the administrative authority to reduce employer assessment rates below the delinquency rate and provide responding credits; held the taxable wage base at \$14,500 for 2022; extended the provisions in HB 65 authorizing the Delaware Secretary of Labor to issue emergency rules amending the Delaware Unemployment Insurance Code to deal with the continuing effects of COVID-19 and implement federal programs. (83 Del. Laws c 268; HB 285).   |
| 1/26/23                        | 1/26/23<br>4/2/23               | Provided post-pandemic related relief to both claimants receiving unemployment benefits and employers who are assessed unemployment taxes. This bill will increase the maximum weekly benefit amount payable to claimants from \$400.00 a week to \$450.00 a week (effective April 2, 2023). Also provided temporary relief to employers who pay unemployment tax assessments by reducing the new employer tax rates, reducing or holding constant overall employer tax rates, and reducing the maximum earned rate. The various tax assessment relief provisions set forth in Sections 2 and 3 of this Act are retroactive to January 1, 2023, and were intended to be in effect for the full calendar year 2023. (84 Del. Laws c 2; HB 49).  |
| 9/14/23                        | 9/14/23                         | Provided a 5-year statute of limitations to bring civil actions to recover nonfraud overpayment debts and no period of limitations to recover fraud overpayment debts, applicable to overpayment debts for which the statute of limitations has not yet run including those that accrued less than 3 years prior to the enactment of this Act. Also expressly codified current practice that there is no deadline for the Department to collect overpayment debts by offset of future benefits, by state Department of Revenue offset or by federal Treasury offset of tax refunds (the latter of which is mandated by federal law). Finally, created an overpayment waiver program, effective retroactively to the start of the COVID-19 pandemic, giving the Department authority to waive non-fraud overpayments of traditional unemployment benefits resulting from either Department error or claimants receiving certain low-income public assistance. (84 Del. Laws c 212; HS1 to HB 73). |
| 6/29/23                        | 6/29/23                         | Amended the renewal period for obtaining background checks for employees of the Department who have access to Federal Tax Information. This amendment was necessary to conform to revisions of the federal Internal Revenue Service in Publication 1075, which shortened the renewal period from 10 to 5 years. The language allows conformity with this and any future revisions to the renewal period. (84 Del. Laws c 63; HB 113).  |

## UNEMPLOYMENT INSURANCE

| <u>Approved</u><br><u>Date</u> | <u>Effective</u><br><u>Date</u> | <u>Description of Changes</u>   |
|--------------------------------|---------------------------------|---|
| 8/9/23                         | 10/1/23                         | Extended various deadlines in the Unemployment Code to provide claimants and employers additional time to receive and prepare a response or appeal of benefit determinations and other important documents that require a response, in an effort to reduce the incidents of late filed appeals and missed deadlines. Also made conforming changes to additional sections of the Unemployment Code that provide for delivery by mail or other delivery methods to provide flexibility to the Division and Board if they decide to send notices and other documents by email or other delivery methods to reduce mailing expenses and increase efficiency. Finally, confirmed Superior Court precedent that Code references to “days” mean “calendar days” unless otherwise specified. (84 Del. Laws c 150; HB 176).  |
| 7/25/23                        | 7/25/23                         | Continued for calendar year 2024 the temporary relief provided in calendar year 2023 to employers who pay unemployment tax assessments. It will continue to reduce new employer tax rates, hold constant overall employer tax rates from last calendar year, and reduce the maximum earned rate. Also continued the temporary simplification of the tax rate schedules that are used to calculate unemployment assessments paid by employers. Also restructured the supplemental assessment currently collected from all employers, keeping it at the same rate of 0.2%, but depositing it in the Special Administration Fund instead of the UI Trust Fund; expanded the uses for the Special Administration Fund to include future technology needs of the Department; and made technical corrections to the administration provisions of the Special Administration Fund to align with current State Treasurer practices. (84 Del. Laws c 120; HB 236). |
| 8/15/24                        | 8/15/24                         | Revised the benefit ratio methodology to be more responsive to economic changes and to better sustain the solvency of the Unemployment Trust Fund, beginning in 2027. Also reduced the new employer unemployment assessment rates and phased in an increase to the taxable wage base to \$12,500 for 2025, \$14,500 for 2026, and \$16,500 for 2027 and later, and provided temporary relief through 2026 for employers by reducing new employer tax rates, simplifying rate schedules, and other measures. (84 Del. Laws c 365; HB 433).   |

**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 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 [www.delawareworks.com](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.