



DELAWARE STATE TAX & ESCHEAT LAW UPDATE

FOR IMMEDIATE RELEASE

During the Second Session of Delaware's 144th General Assembly that ended on June 30, 2008, several tax bills were enacted of interest to or having impact on taxpayers of the State of Delaware ("Delaware" or "State") or the Delaware Division of Revenue ("Division"). Following is a selected summary of the recently enacted legislation.

LEGISLATION THAT DIRECTLY AFFECTS FILING REQUIREMENTS AND TAX PROCEDURES FOR BUSINESSES AND INDIVIDUALS BEGINNING AFTER THE YEAR ENDING DECEMBER 31, 2008.

Rate Changes Affecting Gross Receipts Taxes

A number of gross receipts tax rates increase effective for taxable periods beginning after December 31, 2008. For taxable periods beginning after March 31, 2012, however, the gross receipts tax rates that increase effective for taxable periods beginning after December 31, 2008 will revert back to the gross receipts tax rates in effect for taxable periods beginning prior to December 31, 2008. Taxpayers affected by the changes to gross receipts taxes include: Occupations requiring licenses; Contractors; Manufacturers; Wholesalers; Petroleum Products Wholesalers; Food Processors; Commercial Feed Dealers; Retailers; Transient Retailers; Restaurant Retailers; Farm Machinery Retailers; Grocery Store Retailers; Lessees; and, Lessors. These changes were signed into law on July 1, 2008.

Single Ratio Apportionment for Gross Receipts Derived from Asset Management Services by an Asset Management Corporation

For corporations transacting business within and without Delaware, rather than use the three ratio average apportionment factor for the computation of Delaware corporate income taxes, this new legislation provides for an annual election to utilize a single ratio apportionment for the net income of an asset management corporation.

An "asset management corporation" is defined in Section 1901(2) of Title 30 of the Delaware Code ("Title 30") as a corporation that derives 90% or more of its federally reported gross receipts from asset management services. "Asset management services" are defined in Section 1901(3) of Title 30 as services rendered with respect to intangible investments and consist of rendering investment advice, determining the timing of sales and purchases of intangible investments, selling and purchasing intangible investments, rendering administration and distribution services and managing contracts for subadvisory services. The sourcing of gross receipts derived from providing asset management services is based generally on the domicile of the consumer of asset management services.

Subsidiaries of banking organizations, trust companies or electing banking organizations and trust companies taxed under the Delaware Bank Franchise Tax of Title 5 of the Delaware Code are prohibited from electing to be taxed as asset management corporations.

These changes were signed into law on June 3, 2008 and become effective for taxable years beginning after December 31, 2008.

**LEGISLATION THAT DIRECTLY AFFECTS FILING
REQUIREMENTS AND TAX PROCEDURES FOR BUSINESSES
BEGINNING WITH THE YEAR ENDING DECEMBER 31, 2008.**

Lower Period of Dormancy for Investment-type Property

Section 1198(9)(a) of Title 30 reduced from five (5) to three (3) as the number of years of dormancy prior to the obligation to escheat unclaimed investment-type property to the State. This provision became effective when signed into law on June 30, 2008 and the Division reported that the first filing thereafter shall include a "catch-up" of investment-type property with a dormancy period beyond three (3) years.

New Period of Dormancy for Pari-Mutuel Tickets

Section 1198(9)(c) was added to Title 30 to provide for a one (1) year period of dormancy prior to the obligation to escheat funds held for payment to the State for pari-mutuel tickets unclaimed one (1) year following the date of the meet. This provision became effective when signed into law on June 30, 2008 and the Division reported that pari-mutuel tickets sold prior to June 30, 2008 are not subject to the new one (1) year period of dormancy.

For additional information with respect to the recently enacted legislation or for other legal issues, please contact:

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