



SPONSOR: Rep. Longhurst & Rep. Schwartzkopf & Rep. Viola &
Sen. Henry & Sen. McBride & Sen. Poore
Reps. Baumbach, Keeley

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 240

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES ON PERSONAL INCOME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 515(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows and redesignate accordingly:

§ 515. Filing frequency and tax computation thresholds.

(c) *Applicability.* —

(1) The applicable thresholds subject to annual adjustment shall include:

a. The figure "\$1,000" as it appears in § 521(c) of this title;

b. The figure "\$1,000" as it appears in § 552(b) of this title;

c. The figures "\$4,500" and "\$25,000" wherever they appear in § 1154(a) of this title;

d. The figure "\$800" as it appears in § 1169(a) of this title;

Section 2. Amend § 1102(a), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1102. Imposition and rate of tax; separate tax on lump-sum distributions.

(a)(14) For taxable years beginning after December 31, 2013, and before January 1, 2018, the amount of tax shall be determined as follows:

2.2% of taxable income in excess of \$2,000 but not in excess of \$5,000;

3.9% of taxable income in excess of \$5,000 but not in excess of \$10,000;

4.8% of taxable income in excess of \$10,000 but not in excess of \$20,000;

5.2% of taxable income in excess of \$20,000 but not in excess of \$25,000;

5.55% of taxable income in excess of \$25,000 but not in excess of \$60,000; and

6.6% of taxable income in excess of \$60,000.

(15) For taxable years beginning after December 31, 2017, the amount of tax shall be determined as follows:

2.4% of taxable income in excess of \$2,000 but not in excess of \$5,000;

4.2% of taxable income in excess of \$5,000 but not in excess of \$10,000;
5.2% of taxable income in excess of \$10,000 but not in excess of \$20,000;
5.5% of taxable income in excess of \$20,000 but not in excess of \$25,000;
5.7% of taxable income in excess of \$25,000 but not in excess of \$60,000;
6.8% of taxable income in excess of \$60,000 but not in excess of \$150,000; and
6.95% of taxable income in excess of \$150,000.

Section 3. Amend § 1106(b)(3), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§1106. Modifications.

(b) Subtractions. — There shall be subtracted from federal adjusted gross income:

(3)a. Amounts received as pensions by persons ~~under age 60~~ from employers, the United States, the State or any subdivision thereof, not to exceed \$2,000. ~~For taxable years beginning on or after January 1, 1987, amounts received as pensions by persons age 60 or older from employers, the United States, the State or any subdivision thereof, not to exceed \$3,000;—~~The amount subtracted from federal adjusted gross income permitted under this subparagraph a. shall be available to persons:

1. Under age 61 in tax years beginning after December 31, 2017 and before January 1, 2019;
2. Under age 62 in tax years beginning after December 31, 2018 and before January 1, 2020;
3. Under age 63 in tax years beginning after December 31, 2019 and before January 1, 2021;
4. Under age 64 in tax years beginning after December 31, 2020 and before January 1, 2022; and
5. Under age 65 in tax years beginning after December 31, 2021.

~~b.1. Amounts not to exceed \$2,000 received by persons under age 60 as pensions from employers, the United States, the State or any subdivision, or~~

~~b. 2.(A)–~~Amounts not to exceed \$12,500 received by persons ~~age 60 or older~~ as pensions from employers, the United States, the State or any subdivision or as eligible retirement income. The amount subtracted from federal adjusted gross income permitted under this subparagraph b. shall be available to persons:

1. Age 61 or over in tax years beginning after December 31, 2017 and before January 1, 2019;
2. Age 62 or over in tax years beginning after December 31, 2018 and before January 1, 2020;
3. Age 63 or over in tax years beginning after December 31, 2019 and before January 1, 2021;
4. Age 64 or over in tax years beginning after December 31, 2020 and before January 1, 2022; and
5. Age 65 or over in tax years beginning after December 31, 2021.

(B)c. For the purposes of subparagraph b. of this paragraph, "eligible retirement income" shall include distributions received from qualified retirement plans defined in § 4974 of the federal Internal Revenue Code ("IRC") [26 U.S.C. § 4974] or a successor provision, cash or deferred arrangements described in IRC § 401(k) [26 U.S.C. § 401(k)] or a successor provision, government deferred compensation plans described in IRC § 457 [26 U.S.C. § 457] or a successor provision, dividends, capital gains, interest and rental income from real property less deductible rental expenses. For purposes of this paragraph, eligible retirement income received by spouses as joint tenants with right of survivorship or as tenants by the entirety shall be deemed to have been received one-half by each;

Section 4. Amend § 1107 through § 1110, Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1107. Deductions.

The deduction of a resident individual shall be the standard deduction, ~~unless the individual elects to itemize deductions as provided in § 1109 of this title.~~

§ 1108 Standard deduction.

(a) Except as otherwise provided in subsections (b) and (c) of this section:

(1) For taxable periods ending before January 1, 1999, the standard deduction of a resident individual shall be \$1,300, and the standard deduction of resident spouses shall be \$1,600 if they file a joint return and \$800 each if they file separate returns;

(2) For taxable periods beginning after December 31, 1998, and before January 1, 2000, the standard deduction of a resident individual shall be \$3,250, and the standard deduction of resident spouses shall be \$4,000 if they file a joint return and \$2,000 each if they file separate returns; ~~and~~

(3) For taxable periods beginning after December 31, 1999, and before January 1, 2018, the standard deduction of a resident individual shall be \$3,250, and the standard deduction of resident spouses shall be \$6,500 if they file a joint return and \$3,250 each if they file separate returns; ~~and~~

(4) For taxable periods beginning after December 31, 2017, the standard deduction of a resident individual shall be \$5,000, and the standard deduction of resident spouses shall be \$10,000 if they file a joint return and \$5,000 each if they file separate returns.

(b) The sum of \$2,500 shall be added to the standard deduction determined under subsection (a) of this section in each of the following circumstances:

(1) For the taxpayer who has attained the age of 65 before the close of the taxable year;

(2) For the spouse of the taxpayer if a joint return is not made by the taxpayer and the spouse, if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(3) For the taxpayer who is blind at the close of the taxable year; and

(4) For the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(c) For purposes of this section, an individual is blind only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

~~§ 1109 Itemized deductions [For application of this section, see 66 Del. Laws, c. 86, § 8]~~

~~(a) General. — In determining taxable income under this chapter, in lieu of the standard deduction provided by § 1108 of this title, a resident individual may elect to deduct the sum of the itemized deductions claimed on the federal income tax return as shall be permitted under the laws of the United States as the same are or shall become effective for any taxable year in determining the federal taxable income, or, if the person does not itemize deductions or elects the credit for foreign taxes paid on the federal return, the person may deduct the sum of the itemized deductions to which the person would have been entitled had the person itemized the deductions (including the deduction for foreign taxes paid) on the federal return:~~

~~(1) Reduced by:~~

~~a. The amount thereof representing income taxes imposed by this State;~~

~~b. The amount of any income tax imposed on the person for the taxable year by another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources therein if the person elected to take such amount as a credit in accordance with § 1111(a) of this title; and~~

~~(2) Increased by:~~

~~a. An amount equal to the excess of the state employee automobile mileage reimbursement allowance over the standard mileage rate allowed as a charitable deduction for federal income tax purposes for unreimbursed~~

111 ~~automobile transportation expense incurred by an individual while serving as a volunteer for a charitable~~
112 ~~organization as defined in § 170(c), Internal Revenue Code [26 U.S.C. § 170(c)]; and~~

113 ~~b. In the case of a self-employed individual, the amount paid during the taxable year for insurance which~~
114 ~~constitutes medical care for the taxpayer, the taxpayer's spouse and dependents, less the amount allowed the~~
115 ~~taxpayer as a deduction pursuant to § 162(l)(26 U.S.C. § 162(l)) or successor provision of the Internal Revenue~~
116 ~~Code. For purposes of this subparagraph, "self-employed taxpayer" shall mean a resident individual whose gross~~
117 ~~income is more than one-half derived from a trade, business or profession and not derived as an employee. Income~~
118 ~~in the nature of interest, dividends or other investment income shall not constitute self-employment income. No~~
119 ~~self-employed taxpayer whose total cost of insurance for health care for the taxpayer, spouse and dependents~~
120 ~~exceeds the gross income from the trade, business or profession shall be entitled to the deduction under this~~
121 ~~subparagraph.~~

122 ~~c. [Repealed.]~~

123 ~~(b) Spouses. — Spouses, both of whom are required to file returns under this chapter, shall be allowed to itemize~~
124 ~~their deductions only if both elect to do so.~~

125 ~~(c) For purposes of subsection (a) of this section, the amount of itemized deductions representing income taxes~~
126 ~~imposed by: (i) this State, or (ii) another state of the United States or a political subdivision thereof or the District of~~
127 ~~Columbia on income derived from sources therein if a resident elected to take such amount as a credit in accordance with §~~
128 ~~1111(a) of this title shall be deemed to equal the amount of such taxes reduced by the amount of such taxes multiplied by~~
129 ~~the percentage determined under § 68(a) of the Internal Revenue Code [26 U.S.C. § 68(a)] or successor provision thereof.~~

130 ~~§ 1110 Personal exemptions and credits.~~

131 ~~(a) For tax years ending before January 1, 1996, a resident shall be allowed an exemption of \$1,250 for each~~
132 ~~exemption to which that resident is entitled for the taxable year for federal income tax purposes. Resident persons age 60 or~~
133 ~~over shall be allowed one additional personal exemption.~~

134 ~~(b) For tax years beginning after December 31, 1995 and before January 1, 2018, resident individuals shall be~~
135 ~~allowed a personal credit against the individual's tax otherwise due under this chapter in the amount of:~~

136 ~~(1) \$110 for each personal exemption to which such individual is entitled for the taxable year for federal~~
137 ~~income tax purposes; plus~~

138 ~~(2) An additional \$110 in the case of each resident person age 60 or over.~~

139 ~~(b) For tax years beginning after December 31, 2017, resident individuals shall be allowed a personal credit~~
140 ~~against the individual's tax otherwise due under this chapter in the amount of:~~

(1) \$85 for each personal exemption to which such individual is entitled for the taxable year for federal income tax purposes; plus

(2) An additional \$85 in the case of each resident person:

a. Age 61 or over in tax years beginning after December 31, 2017 and before January 1, 2019;

b. Age 62 or over in tax years beginning after December 31, 2018 and before January 1, 2020;

c. Age 63 or over in tax years beginning after December 31, 2019 and before January 1, 2021;

d. Age 64 or over in tax years beginning after December 31, 2020 and before January 1, 2022; and

e. Age 65 or over in tax years beginning after December 31, 2021.

~~(c)(b)~~ In no event shall the credit allowed under ~~subsection (b)~~ of this section exceed the tax otherwise due under this chapter.

Section 5. Amend § 1121, Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1121 Imposition of tax upon nonresidents.

A tax is hereby imposed for each taxable year on the taxable income of every nonresident individual of this State equal to the tax determined under § 1102 of this title as if such individual were a resident, reduced by the credit allowed under § 1110~~(b)~~ of this title, and the difference, multiplied by a fraction, the numerator of which is such individual's modified Delaware source income and the denominator of which is such individual's Delaware adjusted gross income.

Section 6. Amend § 1161(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1161. Persons required to make returns of income.

An income tax return with respect to the tax imposed by this chapter shall be made by the following:

(1) Every resident individual who

a. Is required to file a federal income tax return for the taxable year, or

b. Is a single person and has for the taxable year adjusted gross income as modified by § 1106 of this title of more than ~~\$9,378~~ 10,310, or

c. Is a married individual who is entitled to file a joint federal income tax return for the taxable year, and whose adjusted gross income for the taxable year as modified by § 1106 of this title, when combined with the adjusted gross income of the individual's spouse, is more than ~~\$15,449~~ 15,310.

Section 7. Amend § 1169(a), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 1169. Declarations of estimated tax.

(a) Every resident and nonresident individual or trust shall make a declaration of estimated tax for the taxable year in such form as the Director of Revenue may prescribe, if the estimated tax can reasonably be expected to exceed ~~\$400~~ the applicable threshold of \$800. For purposes of this section, the term "trust" shall mean any trust the fair market value of whose assets at the end of the tax year next preceding the tax year for which estimated taxes are otherwise required by this section equal or exceed \$1,000,000. The level of the applicable threshold in this subsection is subject to annual adjustment as more fully set forth in § 515 of this title.

Section 8. If any clause, sentence, section, provision or part of this Act shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not impair, invalidate, or affect the remainder of this Act, which shall remain in full force and effect.

Section 9. This Act shall be effective for tax periods commencing after December 31, 2017.

SYNOPSIS

Sections 1 and 7 of this Act update from \$400 to \$800 the threshold which triggers the penalty for insufficient payment of estimated tax. The current threshold has been in place since 2000. Because it has not been modified in almost 20-years, the penalties generated as a result of this low threshold are often trivial amounts, which frustrate taxpayers. However, despite the penalties' low dollar amounts, they still require significant resources to administer and resolve. Sections 1 and 7 also provide for an inflation adjustment for the threshold ensuring that it will automatically keep pace with future economic trends.

Section 2 of this Act increases tax rates in all existing brackets by 0.15 to 0.4 percentage points and creates a new bracket of 6.95% at \$150,000.

Section 3 of this Act raises the eligibility age from 60 to 65 in one-year increments over a five-year period for the \$12,500 exclusion from income of pensions and other retirement income.

Section 4 of this Act eliminates itemized deductions and increases the standard deduction amount from \$3,250 to \$5,000 for single and married taxpayers filing separately and from \$6,500 to \$10,000 for taxpayers filing joint returns.

In addition, Section 4 reduces from \$110 to \$85 the amount of the personal credit. Lastly, Section 4 raises the eligibility age from 60 to 65 in one-year increments over a five-year period for the extra, age-based personal credit.

Sections 5 and 6 of this Act update cross references.