



SPONSOR: Rep. Keeley & Sen. McDowell
Reps. Brady, Mitchell; Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 392

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATED TO TAX ADMINISTRATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend § 356, Title 30 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 356. Mailing tax return forms.

4 (a) ~~Except as provided in subsection (b) of this section, the~~ The Director of Revenue shall, on or before January 15
5 of each year, ~~mail to the last recorded address of each person, fiduciary, partnership or other entity that has made a return~~
6 ~~under Chapter 11 of this title during the preceding year a blank return~~ make available on an Internet site the blank,
7 downloadable returns required to be filed under Chapters 11 or 16 of this title that may be used by each person, fiduciary,
8 partnership, or other entity for the purpose of filing ~~a return~~ such tax returns as may be due for the preceding that tax year.

9 (b) The Director of Revenue ~~may, in the Director's discretion and in lieu of the requirements of subsection (a) of~~
10 ~~this section,~~ shall mail a blank return to any individual taxpayer who filed a tax return under Chapter 11 of this title in the
11 preceding year ~~which was~~ , unless one of the following apply to the tax return:

12 (1) ~~prepared~~ It was prepared by a paid tax ~~preparer, preparer.~~

13 (2) It was prepared with a filed as 2-D bar code or using other electronic preparation ~~media or media.~~

14 (3) ~~filed~~ It was filed in a manner other than by submission of a paper return.

15 ~~return, or, in the case of any return pursuant to § 1158 of this title, any S corporation, a notification setting forth:~~

16 (1) ~~The requirement of filing a tax return; and~~

17 (2) ~~Methods by which the taxpayer may obtain a blank return, including the telephone numbers of the~~
18 ~~Division of Revenue and, if applicable, an internet site containing downloadable returns.~~

19 Section 2. Amend § 554, Title 30 of the Delaware Code by making deletions as shown by strike through and
20 insertions as shown by underline as follows:

21 § 554. Obtaining court judgment by filing certificate.

(a) If any amount of tax, interest, penalties, additional amounts or additions to the tax payable under this title or Title 4 has been assessed and was not paid when due, the Director may file in the office of the prothonotary of any county a certificate by paper or electronic transaction specifying the amount of such tax, interest, penalties, additional amounts and additions to the tax due, the name and last known address of the taxpayer liable for such amount and the fact that the Director has complied with all of the provisions of this title or predecessor provisions in the assessment of such amount. From the time of such filing, the amount set forth in the certificate shall thereupon be and constitute a judgment of record in such court with like force and effect as any other judgment of the court, except that the renewal provisions of § 4711 of Title 10 shall not be applicable, and a judgment lien obtained under this subsection shall automatically continue for a period of 20 years from the date of its entry. The prothonotary in each county shall enter all such certificates in the regular judgment docket and index them as soon as they are filed regardless of the county of the taxpayer's residence.

Section 3. Amend § 581, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 581. Inspection of returns by federal, state and local officials.

(b) Notwithstanding any other provision of this section or § 368 of this title, the Director is specifically authorized to enter into an agreement with the Department of ~~Labor~~ Labor, the Office of the State Bank Commissioner, the Department of Natural Resources and Environmental Control, the Division of Motor Vehicles, the Division of Alcohol and Tobacco Enforcement, or the Alcoholic Beverage Control ~~Commission~~ Commissioner to provide for the inspection of any tax return filed under this title (other than Chapters 30, ~~54~~ 51, and 52) or under Title 4; provided, however, that such inspection shall be pursuant to the Department of Labor's duties under Title ~~49~~ 19, the Office of the State Bank Commissioner's duties under Title 5, the Department of Natural Resources and Environmental Control's duties under Title 7, the Division of Motor Vehicles' duties under Title 21, the Division of Alcohol and Tobacco Enforcement's duties under Titles 4 and 11, or the Alcoholic Beverage Control ~~Commission's~~ Commissioner's duties under Title 4, and may be subject to such additional requirements as may be imposed by the Director.

Section 4. Amend § 1169, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline 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~~. \$800. For the 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.

Section 5. Amend § 2302, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2302. Tax stamps required for amusement machines. [Repealed.]

(a) ~~Owners of coin-operated amusement machines, as referred to in § 2301 of this title, shall affix to each such machine a decalcomania stamp to be provided by the Department of Finance to evidence the payment of the respective license fee.~~

(b) ~~Whenever any decalcomania stamp issued under this section is defaced, destroyed or lost, the Department of Finance may issue a duplicate to the holder of the defaced, destroyed or lost decalcomania stamp upon the payment of a fee of \$1.00.~~

(c) ~~Whoever being the owner of a coin-operated amusement machine fails to affix to each such machine the decalcomania stamp required by this section shall be fined not less than \$25, nor more than \$50, for each machine not having such stamp affixed.~~

Section 6. Amend § 2304, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2304. Vending machine license and identifying labels.

(c) Vending machine license. — Every owner or operator of a coin-operated vending machine in this State, other than amusement machines specified in § 2301(a)(2) of this title, or cigarette machines specified in § 5308(c) of this title, shall ~~have affixed thereto an identifying stamp or decal issued by the Division of Revenue upon application by the owner and payment of~~ apply for a vending machine license and pay a fee of \$5 for each machine; provided, that the coin required to operate such machine is valued at \$.05 or more.

Section 7. If any provision of this Act or the application of this Act to any person or circumstance is held invalid, the provisions of this Act are severable if the invalidity does not affect the other provisions of this Act that can be given effect without the invalid provision or the application of this Act that can be given effect without the invalid application.

Section 8. Section 4 of this Act applies for tax years commencing after December 31, 2017.

SYNOPSIS

Section 1 of this Act provides that the Director of Revenue shall make tax returns available via the Internet on or before January 15 of each tax year.

Section 2 of this Act clarifies that a judgment lien, as opposed to the underlying judgment, filed by the Division of Revenue continues for 20 years. This makes the statutory language consistent with applicable case law.

Section 3 of this Act authorizes the Division of Revenue to enter into agreements to share information with agencies on whose behalf the Division receives and processes tax returns and payments.

Section 4 of this Act provides that estimated tax payments will not be required unless the taxpayer expects to owe more than \$800.

Sections 5 and 6 of this Act provide that licensees who operate amusement and vending machines are not obligated to affix a license to the machines because the Division of Revenue has not issued vending machine stamps for many years because of the cost to have them printed.

Section 7 of this Act provides that if any of the provisions are found to be unconstitutional, the remaining provisions will stand.

Section 8 of this Act provides that Section 4 of this Act applies for tax years commencing after December 31, 2017.