

CHAPTER 195
FORMERLY
HOUSE BILL NO. 235

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO BUSINESS TAX COMPUTATIONS AND ADMINISTRATION.

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 § 502, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 502. Definitions.

(a) Meaning of terms, in general. -- Any term used in this chapter shall have the same meaning as when used in a comparable context in the internal revenue laws of the United States, unless a different meaning is clearly required or unless subsection (b) of this section ascribes a different meaning to such term. Any reference in this chapter to the internal revenue laws of the United States shall mean the Internal Revenue Code of 1986 (26 U.S.C. § 1 et seq.) and amendments thereto and other laws of the United States relating to federal taxes, as the same are or may become effective for the taxable year.

(b) Specific definitions. -- Whenever used in this title, the following terms shall have the meanings ascribed to them in this subsection:

(1) "Applicable thresholds" means any dollar figure listed within this title that is used to determine notification requirements, filing frequencies, tax or tax credit calculations that shall be subject to annual adjustment through the application of the threshold adjustment factor, including, without limitation, those specifically set forth in § 515(c)(1) of this title.

~~(2)~~ "Deficiency" means, in the case of any tax imposed by this title or, where applicable, Title 4, the amount by which such tax so imposed exceeds the excess of:

a. The sum of the amount shown as the tax by the taxpayer upon the return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus the amounts previously assessed (or collected without assessment) as a deficiency, over

b. The amount of any abatements, credits or refunds made.

~~(3)~~ "Director" means the Director of the Division of Revenue or the Secretary of Finance of the State.

~~(4)~~ "Division of Revenue" means the Division of Revenue of the Department of Finance of the State.

~~(5)~~ "Internal Revenue Service" means the Internal Revenue Service of the Department of Treasury of the United States.

~~(6)~~a. "Last known address," except as provided in paragraph (b)~~(5)~~b. of this section, shall mean:

1. The address for the receipt of mail last made known by the taxpayer to the Division of Revenue on a tax return or written notice; or

2. A mailing address with respect to such taxpayer provided ~~directly, or indirectly through~~ by a service provider, ~~by the United States Postal Service~~ to the Division of Revenue

Whichever address shall have been provided later to the Division of Revenue.

b. Notwithstanding the provisions of paragraph (b)~~(5)~~a. of this section, "last known address" shall mean the address determined under paragraph (b)~~(5)~~a.1. whenever the taxpayer shows that the address determined under paragraph (b)~~(5)~~a.1. of this section is the taxpayer's actual address and that the address determined under paragraph (b)~~(5)~~a.2. of this section is not the taxpayer's actual address, or that mail sent to the address determined under paragraph (b)~~(5)~~a.1. of this section is more likely to reach the taxpayer than mail sent to the address under paragraph (b)~~(5)~~a.2. of this section.

~~(7)~~ "Notice of proposed assessment" means a notice sent to a taxpayer by the Director or the Director's delegate pursuant to § 521(c) of this title that tax, interest, penalty, additional amount or addition to the tax is proposed for assessment and is due.

~~(8)~~ "Person" means and includes an individual, a trust, estate, partnership, association, company or corporation.

~~(8)~~(9) "State Tax Commissioner" means the Director of the Division of Revenue.

~~(9)~~(10) "State Tax Department" means the Division of Revenue.

~~(10)~~(11) "Tax" shall be deemed also to refer to license fees imposed under Part III of this title.

~~(11)~~(12) "This title," except when used in reference to specific chapters, sections or other provisions of Title 30, shall mean Title 30 of the Delaware Code, except § 3003 and Chapters 51 and 52.

~~(12)~~(13) "Threshold adjustment factor" means an amount equal to the Consumer Price Index prepared by the Bureau of Labor Statistics, U.S. Department of Labor for urban consumers, U.S. city average, all items, for the month of June during the year in which an applicable threshold is adjusted, divided by the equivalent Consumer Price Index figure for June 2016.

~~(12)~~(14) "Title 4," for purposes of this chapter, shall be deemed to refer only to subchapter VII, Chapter 5 of Title 4.

Section 2. Amend Subchapter II, Chapter 5, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 515. Filing Frequency and Tax Computation Thresholds.

(a) Annual Adjustment. – Each year, the Department of Finance shall calculate the threshold adjustment factor no later than September 20th of that year and shall present such adjustment to the Delaware Economic and Financial Advisory Council at its September meeting.

(b) Calculation.

(1) The applicable thresholds for notification requirements, filing frequencies, tax and tax credit calculations shall be recomputed after the annual adjustment described in subsection (a) by multiplying each applicable threshold by the threshold adjustment factor calculated as set forth in §502(b)(13).

(2) For any applicable threshold less than \$1,000,000, the resulting product of the calculation in paragraph (1) shall be rounded to the nearest \$10. For any applicable threshold of \$1,000,000 or more, the resulting product of the calculation in paragraph (1) shall be rounded to the nearest \$1,000.

(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 "\$20,000,000" as it appears in §1905(5) of this title;
- e. The figure "\$1,500,000" as it appears in §2301(d)(2) of this title;
- f. The figure "\$1,500,000" as it appears in §2502(c)(2) of this title;
- g. The figure "\$1,500,000" as it appears in §2702(b)(3) of this title;
- h. The figure "\$1,500,000" as it appears in §2703(c)(2) of this title;
- i. The figure "\$1,500,000" as it appears in §2902(c)(2) of this title;
- j. The figure "\$1,500,000" as it appears in §2903(c)(2) of this title;
- k. The figure "\$3,000,000" as it appears in §2904(c)(2) of this title;
- l. The figure "\$1,500,000" as it appears in §2905(b)(2) of this title;
- m. The figure "\$1,500,000" as it appears in §2906(c)(2) of this title;
- n. The figure "\$3,000,000" as it appears in §2907(c)(2) of this title; and
- o. The figure "\$1,500,000" as it appears in §2908(c)(2) of this title.

(2) The annual adjustment of the applicable thresholds for notification requirements, filing frequencies, tax and tax credit calculations occurring each September as required pursuant to subsection (a) of this section shall be effective for determining the applicable thresholds for notification requirements, filing frequencies, tax and tax credit calculations for tax periods beginning after December 31 of the year in which the applicable thresholds were adjusted.

(d) Publication. – No later than October 15 each year, the Department of Finance shall publish the annual adjustments to all applicable thresholds on the Division of Revenue Internet Website and engage in public outreach notifying businesses, employers, payroll processors, tax professionals and the general public of such adjustments.

Section 3. Amend § 521(c), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(c) Notice of proposed assessment. -- A notice of proposed assessment shall:

(1) Be in writing,

(2) State that tax, interest, penalty, additional amount, or addition to tax is proposed for assessment and is due, and

(3) Set forth the amount and the reason for the proposed assessment.

Such notice shall be ~~mailed by the Director~~ sent by mail to the taxpayer at the taxpayer's last known address within the time limit provided by § 531 of this title, ~~(by certified or registered mail if~~ If the amount of the proposed assessment exceeds the applicable threshold of \$1,000, such notice shall be sent by certified or registered mail. ~~\$500) to the taxpayer at the taxpayer's last known address. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.)~~ In the case of a joint return of personal income tax, a notice of proposed assessment shall be a single joint notice, except that if the Director is notified by either spouse in writing that separate addresses have been established, the Director shall mail a joint notice to each spouse at each such address. In the case of a combined separate return of personal income tax, a single notice of proposed assessment shall be sent by the Director to the taxpayers' last known address except that, if the Director is notified by either spouse in writing that separate addresses have been established, the Director shall mail separate notices to each spouse, using reasonable means to allocate the proposed assessment between the spouses. If the taxpayer is deceased, under a legal disability or is a corporation which has terminated its existence, a notice of proposed assessment shall be mailed to such taxpayer's last known address, except that if the Director has received notice of the existence of a fiduciary relationship with respect to such taxpayer, such notice shall be mailed to the last known address of such fiduciary. Except where the Director determines that collection would be jeopardized by delay, no notice of proposed assessment of any tax shall be mailed prior to the last date, including any date fixed by extension, prescribed for the payment of such tax.

Section 4. Amend § 552(b), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(b) The Director shall, as soon as practicable after an assessment of tax, interest, penalty, additional amount or addition to the tax becomes final pursuant to § 522 or § 530 of this title, give written notice to each person liable for the payment of the assessed amount, stating the amount so assessed and demanding payment thereof within 10 days of the date of such notice. Such notice shall be sent by mail ~~(by certified or registered mail if the amount assessed exceeds \$500)~~ to such person at the last known address. If the amount assessed exceeds the applicable threshold of \$1,000, such notice shall be sent by certified or registered mail. (The applicable threshold in this subsection is subject to annual adjustment as more fully set forth in § 515 of this title.) Except where the Director determines that collection would be jeopardized by delay, if any amount is assessed prior to the last date, including any date fixed by extension, prescribed for payment of such amount, payment of such amount shall not be demanded under this subsection until after such date.

Section 5. Amend § 535(c)(5), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(5) ~~In the case of a large corporation, paragraph~~ Paragraph (c)(4) of this section shall ~~not~~ not apply only in the case of a small corporation. For purposes of this paragraph, the term "~~large~~ small corporation" shall have the meaning set forth ~~means any corporation if such corporation (or any predecessor corporation) had Delaware taxable income of \$200,000 or more for any of the 3 taxable years immediately preceding the taxable year involved in §1905(5) of this title.~~

Section 6. Amend § 1154(a), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) Every employer required to deduct and withhold tax under this chapter shall file a withholding return as prescribed by the Division of Revenue and pay over such tax to the Division of Revenue, or to a depository designated by the Division of Revenue, at a frequency to be determined as follows:

(1) An employer whose aggregate amount of taxes required by this subchapter to be deducted and withheld during the lookback period did not exceed ~~\$3600~~ the applicable threshold of \$4,500 shall be a quarterly filer;

(2) An employer whose aggregate amount of taxes required by this subchapter to be deducted and withheld during the lookback period exceeded ~~\$3600~~ the applicable threshold of \$4,500 but did not exceed ~~\$20,000~~ the applicable threshold of \$25,000 or which had no employees within Delaware during the lookback period shall be a monthly filer; and

(3) An employer whose aggregate amount of taxes required by this subchapter to be deducted and withheld during the lookback period exceeded ~~\$20,000~~ the applicable threshold of \$25,000 shall be an 8th-monthly filer.

The levels of the applicable thresholds in this subsection are subject to annual adjustment as more fully set forth in § 515 of this title.

Section 7. Amend §1901(13)-(18), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(13) "Non-U.S. corporation" means a foreign corporation organized under the laws of a state other than the United States of America (or any of the states, territories or possessions of the United States of America) that is engaged in a trade or business in the United States.

~~(13)~~ (14) "Risk analytics" means performing risk analysis of intangible investments (as such term is defined in § 1902(b)(8) of this title), providing reports of such analyses and providing interactive, software-based risk analytical tools to users of such tools.

~~(14)~~ (15) "Secretary" and "Secretary of Finance" mean the Secretary of Finance or the Secretary's duly authorized designee; provided, that any such delegation of authority is consistent with the provisions of Chapter 83 of Title 29.

~~(15)~~ (16) "Sponsor" means the person that has contracted directly with the beneficiaries of a pension plan or retirement account or the owner of any account or interest in a pool of intangible investments to administer and manage the pension plan or retirement account, other account or pool of intangible investments.

~~(16)~~ (17) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States and any foreign country or political subdivision thereof.

~~(17)~~ (18) "Taxpayer" means any corporation subject to the tax imposed by this chapter.

(19) "Telecommunications Corporation" means a corporation that is a member 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 this title, 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 term is defined in § 5501(6) of this title, in excess of fifty (50) billion dollars.

~~(18)~~ (20) "Treasury Department" means the Treasury Department of the United States.

(21) "Worldwide Headquarters Corporation" means a corporation that:

a. In its Form 10-Q filing with the Securities and Exchange Commission for the quarterly period immediately preceding the calendar quarter in which this act is effective, records as the site of its principal executive offices an address that is located within this State;

b. As of January 1, 2016, employed at least 400 full-time employees within the structure or structures housing the corporation's headquarters located within this state; and

c. Between July 1, 2014 and June 30, 2018, makes, or contracts with a real estate developer that makes, a capital investment of not less than \$25 million to renovate and improve the structure or structures housing the corporation's headquarters located within this state.

Section 8. Amend § 1903(b)(6), Title 30 of the Delaware Code, by making deletions as shown by strike through and insertions as shown by underline as follows:

(6) If the entire business of the corporation is transacted or conducted within this State, the remainder of its entire net income shall be allocated to this State. If the business of the corporation is transacted or conducted in part without this State, such remainder, whether income or loss, shall be apportioned to this State: ~~on the basis of the ratio obtained by taking the arithmetical average of these 3 ratios:~~

(i) for taxable periods beginning before January 1, 2017, by multiplying such remainder by the arithmetical average of the three (3) factors set forth in subparagraphs a., b., and c. of this paragraph (6);

(ii) for taxable periods beginning after December 31, 2016, and before January 1, 2018, by multiplying such remainder by a fraction, the numerator of which is the sum of the property factor set forth in subparagraph a. of this paragraph (6) plus the payroll factor set forth in subparagraph b. of this paragraph (6) plus double the sales factor set forth in subparagraph c. of this paragraph (6), and the denominator of which is four (4);

(iii) for taxable periods beginning after December 31, 2017, and before January 1, 2019, by multiplying such remainder by a fraction, the numerator of which is the sum of the property factor set forth in subparagraph a. of this paragraph (6) plus the payroll factor set forth in subparagraph b. of this paragraph (6) plus triple the sales factor set forth in subparagraph c. of this paragraph (6), and the denominator of which is five (5);

(iv) for taxable periods beginning after December 31, 2018, and before January 1, 2020, by multiplying such remainder by a fraction, the numerator of which is the sum of the property factor set forth in subparagraph a. of this paragraph (6) plus the payroll factor set forth in subparagraph b. of this paragraph (6) plus six-times the sales factor set forth in subparagraph c. of this paragraph (6), and the denominator of which is eight (8); and

(v) for taxable periods beginning after December 31, 2019, by multiplying such remainder by the sales factor set forth in subparagraph c. of this paragraph (6).

The factors shall be calculated as follows:

a. The property factor shall equal the average of the value, at the beginning and end of the income year, of all the real and tangible personal property, owned or rented, in this State by the taxpayer, expressed as a percentage of the average of the value at the beginning and end of the income year of all such property of the taxpayer both within and without this State; provided, that any property, the income from which is separately allocated under paragraph (b)(1) of this section or which is not used in the taxpayer's business, shall be disregarded, and provided further, that in the case of a Non-U.S. corporation, property without this State shall include only property located without this State, but also within the United States of America. For the purposes of this paragraph, property owned by the taxpayer shall be valued at its original cost to the taxpayer, and property rented by the taxpayer shall be valued at 8 times the annual rental;

b. The payroll factor shall equal the ~~W~~ wages, salaries and other compensation paid by the taxpayer to employees within this State, except general executive officers, during the income year expressed as a percentage of all such wages, salaries and other compensation paid within and without this State during the income year to all employees of the taxpayer, except general executive officers; provided, that in the case of a Non-U.S. corporation, wages, salaries and other compensation paid without this State during the income year shall include only wages, salaries and other compensation paid during the income year to employees of the taxpayer, except general executive officers, that are deductible under §882 of the Internal Revenue Code of 1986 (26 U.S.C. §882), as amended, in determining federal taxable income which is effectively connected with the conduct of a trade or business within the United States of America;

c. The sales factor shall equal the ~~G~~ gross receipts from sales of tangible personal property physically delivered within this State to the purchaser or the purchaser's agent (but not including delivery to the United States mail or to a common or contract carrier for shipment to a place outside this State) and gross income from other sources within this State for the income year expressed as a percentage of all such gross receipts from sales of tangible personal property and gross income from other sources both within and without the State for the income year; provided, that any receipts or items of income that are excluded in determining the taxpayer's entire net income or are directly allocated under paragraphs (b)(1) to (5) of this section shall be disregarded.

This paragraph (b)(6) shall not apply in the case of: (i) an asset management corporation, (ii) a telecommunications corporation or (iii) a worldwide headquarters corporation.

Section 9. Amend § 1903(b), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(8) If the entire business of a telecommunications corporation or a worldwide headquarters corporation is transacted or conducted within this State, the remainder of its entire net income shall be allocated to this State. If the business of a telecommunications corporation or a worldwide headquarters corporation is transacted or conducted in part without this State, such remainder, whether income or loss, shall be apportioned to this State:

a. for taxable periods beginning before January 1, 2017, by multiplying such remainder by the arithmetical average of the three (3) factors set forth in subparagraphs a., b., and c. of paragraph (6) of this subsection; and

b. for taxable periods beginning after December 31, 2016, by electing, on an annual basis, either to:

1. multiply such remainder by the sales factor set forth in subparagraph c. of paragraph (6) of this subsection; or

2. multiply such remainder by the arithmetical average of the three (3) factors set forth in subparagraphs a., b., and c. of paragraph (6) of this subsection.

Section 10. Amend § 1905, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1905. Payment of tax.

The tax imposed by this chapter shall be payable as follows:

(1) Calendar year corporations. –

(a) Except as provided in paragraph (b), 50%~~Fifty percent~~ of the estimated tax liability for the current taxable year shall be paid with the tentative return filed on April 1 of the current taxable year, and the balance of the estimated tax shall be paid in three installments as follows: 20% on June 15 of the current taxable year; 20% on September 15 of the current taxable year; and 10% on December 15 of the current taxable year.

(b) For small corporations, 25% of the estimated tax liability for the current taxable year shall be paid with the tentative return filed on April 1 of the current taxable year, and the balance of the estimated tax shall be paid in three equal installments of 25% on each of June 15, September 15, and December 15 of the current taxable year.

(2) Fiscal year corporations. –

(a) Except as provided in paragraph (b), 50%~~Fifty percent~~ of the estimated tax liability for the current taxable year shall be paid with the tentative return filed on the first day of the fourth month of the current taxable year, and the balance of the estimated tax shall be paid in three installments as follows: 20% on the fifteenth day of the sixth month of the current taxable year; 20% on the fifteenth day of the ninth month of the current taxable year; and 10% on the fifteenth day of the twelfth month of the current taxable year.

(b) For small corporations, 25% of the estimated tax liability for the current taxable year shall be paid with the tentative return filed on the first day of the fourth month of the current taxable year, and the balance of the estimated tax shall be paid in three equal installments of 25% on each of the fifteenth day of the sixth month of the current taxable year; the fifteenth day of the ninth month of the current taxable year; and the fifteenth day of the twelfth month of the current taxable year.

(3) Additional taxes due on final return. -- Any additional tax due as computed in the final return required to be filed pursuant to § 1904 of this title shall be paid with such final return.

(4) Tentative tax declarations and payments are not required for returns for taxable periods of less than 92 calendar days.

(5) For purposes of this section, the term "small corporation" means any corporation, including, without limitation, an S corporation subject to § 1158 of this title, if such corporation (or any predecessor corporation) had aggregate gross receipts from sales of tangible personal property and gross income from other sources both within and without the State for purposes of computing the ratio described in § 1903(b)(6)c. of this title that do not exceed the applicable threshold of \$20,000,000 for any two (2) of the three (3) taxable years immediately preceding the

taxable year for which estimated tax is being computed. (The applicable threshold in this subsection is subject to annual adjustment as more fully set forth in § 515 of this title.)

Section 11. Amend § 2301(d)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (d)(1) of this section, if the taxable gross receipts prescribed by paragraph (d)(1) of this section during the lookback period as defined in § 2122 of this title do not exceed ~~\$750,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 12. Amend § 2502(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$750,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 13. Amend § 2702(b)(3), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(3) Notwithstanding paragraph (b)(1) or (b)(2) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$300,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$3,750,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 14. Amend § 2703(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$300,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$3,750,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The

quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 15. Amend § 2902(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$750,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 16. Amend § 2903(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 17. Amend § 2904(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed the applicable threshold of \$3,000,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 18. Amend § 2905(b)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (b)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$500,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The

quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 19. Amend § 2906(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$500,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 20. Amend § 2907(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed the applicable threshold of \$3,000,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 21. Amend § 2908(c)(2), Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(2) Notwithstanding paragraph (c)(1) of this section, if the taxable gross receipts prescribed therein during the lookback period as defined in § 2122 of this title do not exceed ~~\$750,000~~ the applicable threshold of \$1,500,000, the return and payment of the additional license fee imposed for such month shall be due on or before the last day of the first month following the close of the quarter. (The applicable threshold in this paragraph is subject to annual adjustment as more fully set forth in § 515 of this title.) In the case of such return, in computing the fee due on such aggregate gross receipts for each quarter, there shall be allowed a deduction of \$300,000. For purposes of this paragraph, all branches or entities comprising an enterprise with common ownership or common direction and control shall be treated as one, and shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. The quarterly return shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 22. Sections 1-2 of this Act shall take effect on July 1, 2016 and shall require the initial calculations of filing frequencies and computation thresholds occur on or before September 20, 2016. Sections 3-4 of this Act shall be effective for notices mailed after December 31, 2016. Sections 5 and 10 of this Act shall be effective for tax periods beginning after December 31, 2016. Section 6 of this Act shall be effective for withholding taxes deducted and withheld after December 31, 2016. Sections 7-9 of this Act shall take effect for taxable periods beginning after December 31, 2015. Sections 11-21 of this Act shall be effective for returns reflecting gross receipts received after December 31, 2016.

Section 23. This Act may be cited as “The Delaware Competes Act of 2016.”

Approved January 27, 2016