

CHAPTER 275
FORMERLY
HOUSE BILL NO. 369

AN ACT TO AMEND CHAPTER 29, TITLE 30 OF THE DELAWARE CODE PERTAINING TO WHOLESALE GROSS RECEIPTS TAXES.

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

Section 1. Amend §2901(4), Title 30 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(4) 'Feedstock wholesaler' means every person engaged, as owner or agent, in the business of selling ~~to or exchanging with a petroleum product refiner~~ for cash or barter or any consideration ~~either~~ (i) crude oil to or with a petroleum product refiner or another feedstock wholesaler, or (ii) feedstock petroleum products to or with a petroleum product refiner or another feedstock wholesaler for the purpose of refining and resale by a petroleum product refiner, and includes without limitation crude oil and feedstock petroleum products sold or exchanged through pipelines, warehouses or other storage facilities and distribution depots of persons whose principal place of business is located inside or outside of the State.

Section 2. Amend §2901(6), Title 30 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(6) "Finished petroleum products wholesaler" means every person engaged, as owner or agent, in the business of buying from a petroleum product refiner finished petroleum products for cash or barter or any consideration for the purpose of further resale by the finished petroleum products wholesaler to a wholesaler or to a petroleum product refiner, and includes without limitation finished petroleum products sold or exchanged through pipelines, warehouses or other storage facilities and distribution depots of persons whose principal place of business is located inside or outside this State.

Section 3. Amend §2901(8)b., Title 30 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

~~8.~~ Receipts derived by a feedstock wholesaler from the sale of crude oil ~~or feedstock petroleum products~~ to a petroleum product refiner or another feedstock wholesaler if:

A. The feedstock wholesaler that first owned the crude oil in this State took delivery of the crude oil ~~or feedstock petroleum products~~ outside of the State; or

B. The wholesaler of the crude oil ~~or feedstock petroleum products~~ that ~~it~~ such wholesaler sold to or exchanged with the feedstock wholesaler paid the tax imposed by § 2902(b) and (c) of this title on the gross receipts from the sale to or exchange with the feedstock wholesaler of such crude oil;

~~9.~~ Receipts derived by a feedstock wholesaler from the sale of feedstock petroleum products to a petroleum product refiner or another feedstock wholesaler if:

A. The feedstock wholesaler that first owned the feedstock petroleum products in this State took delivery of the feedstock petroleum products outside of the State; or

B. The wholesaler of the feedstock petroleum products that such wholesaler sold to or exchanged with the feedstock wholesaler paid the tax imposed by § 2902(b) and (c) of this title on the gross receipts from the sale to or exchange with the feedstock wholesaler of such feedstock petroleum products;

~~10.~~ Receipts derived by a petroleum product refiner from the sale of intermediate petroleum products to an intermediate petroleum products wholesaler;

~~11.~~ Receipts derived by an intermediate petroleum products wholesaler from the sale of intermediate petroleum products to a petroleum product refiner;

~~12.~~ Receipts derived by a petroleum product refiner from the sale of finished petroleum products to a finished petroleum products wholesaler;

~~13.~~ Receipts derived by a finished petroleum products wholesaler from the sale of finished petroleum products to a petroleum product refiner or a wholesaler; provided that the finished petroleum products wholesaler and the wholesaler stand in a control relationship. For purposes of the preceding sentence a 'control relationship' means that the finished petroleum products wholesaler directly or indirectly controls the wholesaler, the wholesaler directly or indirectly controls the finished petroleum products wholesaler or the finished petroleum products wholesaler and the wholesaler are directly or indirectly controlled by the same person. For purposes of the preceding sentence 'controls' shall mean the direct or indirect ownership by one person of one hundred percent of the stock or ownership interest in another person;

~~14.~~ Receipts received by a non-U.S. person from a person commercially domiciled in Delaware that is related within the meaning of § 2010(10) of this title:

A. For the sale of active ingredient or formulated active ingredient which is formulated or packed into a finished ethical pharmaceutical product within the State by a Delaware commercially domiciled entity related within the meaning of § 2010(10) of this title, or

B. For the sale of finished ethical pharmaceutical product which has been formulated or packed into a finished ethical pharmaceutical product within the State by a commercially domiciled entity related within the meaning of § 2010(10) of this title; or

~~44~~ 15. Receipts derived by a pharmaceutical wholesaler from the sale of pharmaceutical drugs that are physically delivered to a pharmaceutical distribution wholesaler within this State.”

Section 4. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

Section 5. This Act shall become effective for tax periods beginning after September 30, 2011.

Approved June 26, 2012