



LAWS OF DELAWARE
VOLUME 85
CHAPTER 301
153rd GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 296

AN ACT TO AMEND TITLE 6 AND TITLE 30 OF THE DELAWARE CODE RELATING TO THE ADMINISTRATIVE RESPONSIBILITIES OF THE DEPARTMENT OF FINANCE.

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

Section 1. Amend § 368, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 368. Secrecy of returns and information; penalty.

(e) For purposes of this section, the terms “return” and “return information” shall not be construed to include any information appearing on or to appear on the face of a current or former license required to be displayed under § 2109 of this title or the name or mailing address of the licensee of ~~said~~ the current or former license.

Section 2. 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.

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

(17) “Trust fund tax”, for purposes of this chapter, means a tax where a third-party collects and remits to the State the tax levied on another entity with a statutory liability to the State of Delaware and includes all of the following:

a. 988 surcharge under § 10222A of Title 16.

b. E911 surcharge under §§ 10103 and 10111 of Title 16.

c. Hazardous Substance Cleanup Act (HSCA) Tax under § 9114 of Title 7.

d. Lessee tax under § 4302 of this title.

e. Lodging tax (public accommodation tax) under § 6102 of this title.

f. Marijuana tax under § 1382 of Title 4.

g. Public utility tax under § 5502 of this title.

h. Scrap tire fee under § 2910 of this title.

i. Short-term rental lodging tax under § 6202 of this title.

j. Withholding tax under § 1151 of this title.

Section 3. Amend Subchapter III, Chapter 5, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 522. Assessment final if no protest.

Sixty days after the date on which it was mailed (30 days in the case of a proposed assessment of ~~withholding taxes or retail marijuana trust fund~~ taxes, or, in the case of other taxes imposed by Chapter 11 of this title, 120 days if the taxpayer is outside the United States), a notice of proposed assessment under § 521(c) of this title shall constitute a final assessment of the amount of tax, interest, penalties, additional amounts and additions to the tax specified in such notice, excepting only those amounts as to which the taxpayer has filed a timely protest with the Director under § 523 of this title.

§ 523. Protest by taxpayer.

Within 60 days (30 days in the case of ~~withholding taxes or retail marijuana trust fund~~ taxes, or, in the case of other taxes imposed by Chapter 11 of this title, 120 days if the taxpayer is outside the United States) after the date of the mailing of a notice of proposed assessment under § 521(c) of this title or the date of the mailing of a notice of the disallowance of a claim for credit or refund under § 542 of this title, the taxpayer may file with the Director a written protest against the proposed assessment or disallowance in which the taxpayer shall set forth the grounds upon which the protest is based. If such a protest is filed, the Director shall reconsider the proposed assessment or disallowance of claim for credit or refund and, if the taxpayer has so requested, shall grant the taxpayer or the taxpayer's authorized representative an oral hearing.

§ 525. Determination of Director final.

The determination of the Director under § 524 of this title on the taxpayer's protest shall be final (and such determination shall constitute a final assessment of any amount determined by the Director to be due) upon the expiration of 60 days (30 days in the case of ~~withholding taxes or retail marijuana trust fund~~ taxes, or, in the case of other taxes imposed by Chapter 11 of this title, 120 days if the taxpayer is outside the United States) from the date when the Director mails notice of the determination to the taxpayer, unless within such period the taxpayer seeks review of the Director's determination pursuant to § 544 of this title.

§ 530. Assessment of tax.

(a) The amount of tax which is shown to be due on any return (including any additional amount subject to notice under § 528(a) of this title as a result of a mathematical or clerical error) shall be deemed to be assessed on the date of filing such return, and an increase in such tax which is shown on an amended return shall be deemed to be assessed on the date of filing such amended return. In the case of a return filed without the computation of the tax, the tax computed by the Director shall be deemed to be assessed on the date when payment of such tax is due. If a notice of proposed assessment has been mailed pursuant to § 521(c) of this title, the amount of the proposed assessment shall be deemed to be assessed, if no protest under § 523 of this title is timely filed, on the date provided in § 522 of this title, or, if such a protest is timely filed, on the date when the determination of the Director becomes final pursuant to § 525 of this title; provided, however, that, if the taxpayer seeks review of the Director's determination pursuant to § 544 of this title, the amount of the proposed assessment shall not be deemed to be assessed until the expiration of 60 days (30 days in the case of ~~withholding taxes or retail marijuana trust fund~~ taxes, or, in the case of other taxes imposed by Chapter 11 of this title, 120 days if the taxpayer is outside the United States) from the first date when:

Section 4. Amend § 531, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 531. Limitations on assessment.

(i) If a taxpayer ~~omits from~~ misstates on a return any ~~amount of income, gross gifts or gross estate properly includible therein which~~ element of an income tax calculation which results in tax that exceeds 25% of the amount of tax stated on the return, the tax may be assessed at any time within 6 years after the return was filed. If a taxpayer ~~omits from~~ misstates on a return any amount of license fee or tax under Part III of this title includible therein which exceeds 25% of the amount of tax stated on the return, the tax may be assessed at any time within 6 years after the expiration date of the license to which the proposed assessment relates.

Section 5. Amend § 542, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 542. Notice of disallowance; finality.

If the Director disallows a claim for credit or refund, in whole or in part, the Director shall mail written notice of the disallowance to the taxpayer, and such notice shall set forth the reason for the disallowance. The action of the Director in disallowing all or any part of a claim for credit or refund shall become final upon the expiration of 60 days (30 days in the case of ~~withholding taxes or retail marijuana trust fund~~ taxes, or, in the case of other taxes imposed by

Chapter 11 of this title, 120 days if the taxpayer is outside the United States) from the date on which the Director mailed the notice of disallowance to the taxpayer, unless within such period the taxpayer protests the Director's disallowance pursuant to the provisions of § 523 of this title.

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

§ 1154. Information returns and payment of tax withheld.

(i) *Information returns.* — Any person:

(1) Required to withhold, account for, and pay over taxes under this chapter for which federal information return form W-2 is required;

(2) Making any payment of salary, fee, commission or other compensation for services to any Delaware resident individual or to any individual nonresident for work done or services performed or rendered within Delaware for which federal information returns form 1099 MISC or successor form is required;

(3) Otherwise withholding Delaware taxes from payment of any wage, pension, distribution or other remuneration; or

(4) Making any payment of any other remuneration to any Delaware resident individual for which any other federal information return is required,

shall also file with the Division of Revenue information returns with respect to each such individual to whom such federal forms are required to be issued. If a person is required to make and return such information reports to the Internal Revenue Service on magnetic media or in other machine-readable form under Internal Revenue Code § 6011 (26 U.S.C. § 6011) and regulations thereunder or successor provision, then the information returns required to be made under this section shall, unless excepted by the Director, also be made on magnetic media or in other machine-readable form. All returns required to be filed under this section shall be filed with the Division of Revenue on or before ~~the date on which such returns are required to be filed with the Internal Revenue Service.~~ January 31 following the close of the taxpayer's taxable year.

Section 7. Amend § 5401, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 5401. Definitions [For application of this section, see 81 Del. c. 384, § 3].

As used in this subchapter, except where the context clearly indicates a different meaning:

(9) a. Notwithstanding paragraph (1) of this section, there shall be included in the definition of “document” for purposes of this chapter any contract or other agreement or undertaking for the construction of all or a part of any building, except for 1 or more buildings of which 85% or more of the total square footage was constructed for the purpose of manufacturing, as defined in § 2701 of this title, all or a portion of which contract, agreement, or undertaking (or any amendment to the foregoing) is entered into, or labor or materials are supplied, either prior to the date of the transfer of the land on which the building is to be constructed or within 1 year from the date of the transfer to the grantee.

e. A “transfer” for purposes of this paragraph (9)e. shall include any transfer made by a “document” as described in this section, other than this paragraph (9)e., and shall not include any transaction excluded from the definition of “document” under the provisions of paragraphs ~~(1)a.-u.~~ (1)a. through y. of this section.

Section 8. Amend § 3105, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3105. False affidavit; penalty.

Whoever wilfully makes or files, under § 3101, § 3102, ~~§ 3103,~~ or § 3108 of this title, any affidavit which is false commits the crime of false swearing and shall be punishable therefor.

Section 9. Amend § 3106, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3106. Penalties.

If any person, firm or association violates any of the provisions of §§ 3101, 3102, ~~3103~~ and 3104 of this title, every such person, and each and every person comprising such firm or association, shall be fined not more than \$100 or imprisoned not more than 3 months, or both.

Section 10. Amend § 3108, Title 6 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3108. Registration of trade names of corporations and limited liability companies.

(c) The Division of Revenue must do all of the following:

- (1) Number the certificates filed under this ~~section-~~ chapter consecutively.
- (2) Record the date of filing on the certificate.
- (3) Electronically record the filed certificates in the Delaware Trade Name Registry.

Entries must reflect the trade name and title of the corporation or limited liability company and the date of the filing of the certificate. For the filing and making of the entries, the Division of Revenue must collect from the person filing the certificate a fee of \$25, which amount shall be credited to the account of the Division of Revenue to be disposed of in the same manner as other fees which are by law payable to the Division of Revenue.

(d) The Division of Revenue may adopt regulations to implement, administer, and enforce this ~~section~~.
chapter.

Section 11. Sections 1 through 7 of this Act take effect 60 days after this Act's enactment into law.

Section 12. Sections 8 through 10 of this Act take effect retroactively on February 3, 2026.

Approved June 24, 2026