



SPONSOR: Rep. Baumbach & Rep. Dorsey Walker & Sen. Brown &
Sen. Mantzavinos
Sens. Poore, Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 159

AN ACT TO AMEND TITLE 12, TITLE 29, AND TITLE 30 OF THE DELAWARE CODE RELATING TO TAXES.

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

1 Section 1. Amend §2103, Title 12 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 2103. Debts of which notice is presumed.

4 (a) Except as provided in subsection (b), An ~~an~~ executor or administrator ~~shall~~ will be deemed to have notice only
5 to mortgages (but not of the bonds accompanying such mortgages) and of such judgments as would be liens against real
6 estate at the date of death of the decedent, which mortgages and judgments are of record in the county of this State in which
7 letters were granted upon the estate of the decedent, unless there has been a failure to insert them in the general indices of
8 the office wherein it is proper that they be recorded.

9 (b) An executor or administrator will be deemed to have notice of a judgment of record obtained under § 554 of
10 Title 30 regardless of the county in which letters were granted upon the estate of the decedent.

11 Section 2. Amend §6534, Title 29 of the Delaware Code by making deletions as shown by strike through and
12 insertions as shown by underline as follows:

13 § 6534. Revenue estimates.

14 (a) The Governor shall submit to all members of the General Assembly and the Controller General an estimate of
15 anticipated General Fund revenues by major categories for the current and next immediate fiscal year. Such report shall be
16 made not later than October 25, December 25, March 25, May 25, and June ~~20~~ 21.

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

19 § 564. Closing agreements.

20 The Director, or any person authorized in writing by the Director, is authorized to enter into an agreement in
21 writing with any person relating to the liability of such person (or of another person for whom such person acts) with
22 respect to any tax that is subject to administration and enforcement by the Department of Finance and imposed by this title

23 ~~or Title 4 under the Code~~ for any taxable period. Such agreement shall be final and conclusive, and, except upon a showing
24 of fraud or malfeasance or misrepresentation of a material fact:

25 (1) The case shall not be reopened as to matters agreed upon or the agreement modified by any officer,
26 employee or agent of this State; and

27 (2) In any suit, action or proceeding, such agreement, or any determination, assessment, collection, payment,
28 abatement, refund or credit made in accordance therewith, shall not be annulled, modified, set aside or disregarded.

29 § 571. Attempt to evade or defeat tax; class E felony.

30 Any person who willfully attempts in any manner to evade or defeat any tax that is subject to administration and
31 enforcement by the Department of Finance and imposed by Title 4 or by this title under the Code, other than § 3002 and
32 Chapters 51 and 52 of this title, or the payment thereof, shall, in addition to the penalties imposed by law, be guilty of a
33 Class E felony as defined in Title 11.

34 § 572. Failure to collect or pay over tax; class E felony.

35 Any person required under this title to collect, account for and pay over any tax that is subject to administration
36 and enforcement by the Department of Finance and imposed by Title 4 or by this title under the Code, other than § 3002
37 and Chapters 51 and 52 of this title, who willfully fails to collect or truthfully account for and pay over such tax shall, in
38 addition to other penalties provided by law, be guilty of a Class E felony as defined in Title 11.

39 § 573. Failure to file return, supply information or pay tax; class A misdemeanor.

40 With respect to any tax or estimated tax subject to administration and enforcement by the Department of Finance
41 and required to be paid under the Delaware Code or by regulations made under authority thereof, Any any person required
42 under Title 4, or by this title, other than § 3002 and Chapter 51 and 52 of this title, to pay any estimated tax or tax required
43 by Title 4 or by this title, other than § 3002 and Chapters 51 and 52 of this title, or by regulations made under authority
44 thereof, to make a return (other than a return of estimated tax), or keep any records or supply any information, who
45 willfully fails to pay such estimated tax or tax, make such return, or keep such records or supply such information, at the
46 time or times required by law or regulations, shall is, in addition to other penalties provided by law, be guilty of a Class A
47 misdemeanor as defined in Title 11. In the case of any individual with respect to whom there is a failure to pay any
48 estimated tax, this section ~~shall~~ does not apply to such individual with respect to such failure if there is no addition to the
49 tax under § 535(b) of this title with respect to such failure. Notwithstanding any law or regulation to the contrary, this
50 section does not apply to any person required to pay any estimated tax or tax required under § 3002 and Chapters 51 and 52
51 of this title.

52 § 574. Fraud and false statements; class E felony.

53 (a) A person who commits one of the following acts shall be guilty of a Class E felony as defined in Title 11 if that
54 person does any of the following:

55 (1) Willfully makes and subscribes any return, statement or other document that is subject to administration
56 and enforcement by the Department of Finance which contains or is verified by a written declaration that it is made
57 under the penalties of perjury, and which the person does not believe to be true and correct as to every material ~~matter;~~
58 ~~or matter.~~

59 (2) Willfully aids or assists in, or procures, counsels or advises the preparation or presentation under, or in
60 connection with any matter that is subject to administration and enforcement by the Department of Finance and arising
61 under ~~Title 4 or this title, other than § 3002 and Chapters 51 and 52 of this title~~ the Code, of a return, affidavit, claim
62 or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with
63 the knowledge or consent of the person authorized or required to present such return, affidavit, claim or ~~document; or~~
64 document.

65 (3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry or other document that is
66 subject to administration and enforcement by the Department of Finance and required ~~by the provisions of Title 4 or~~
67 ~~this title, other than § 3002 and Chapters 51 and 52 of this title~~ under the Code, or by any regulation made in
68 pursuance thereof, or procures the same to be falsely or fraudulently executed, or advises, aids in or connives at such
69 execution ~~thereof; or thereof.~~

70 (4) Removes, deposits or conceals, or is concerned in removing, depositing or concealing, any goods or
71 commodities for or in respect whereof any tax is or shall be imposed, or any property which is subject to attachment or
72 garnishment for payment of taxes, with intent to evade or defeat the assessment or collection of any tax that is subject
73 to administration and enforcement by the Department of Finance and imposed ~~by Title 4 or by this title, other than §~~
74 ~~3002 and Chapters 51 and 52 of this title~~ under the Code.

75 (b) Notwithstanding any law or regulation to the contrary, subsection (a) of this section does not apply to any
76 matter arising, document required, or tax imposed under § 3002 and Chapters 51 and 52 of this title.

77 § 575. Period of limitations on criminal prosecutions: jurisdiction.

78 No person shall be prosecuted, tried or punished for any of the various offenses arising under this subchapter
79 unless the prosecution of such person is instituted within 3 years next after the commission of the offense, except that the
80 period of limitation shall be 6 years for offenses arising under §§ 571, 572 and 574 of this title. If an offense is the failure
81 to do an act required ~~by or under this title or Title 4~~ under the Code to be done before a certain date, the period of limitation
82 for such offense shall commence on such date for purposes of this subchapter, the failure to do any act required ~~by or under~~

83 ~~this title or Title 4~~ under the Code shall be deemed an act committed in part at the principal office of the Division of
84 Revenue in New Castle County. The Superior Court in and for any county where the person to whose liability the
85 proceeding relates resides or has a place of business or in any county in which the offense is alleged to have been
86 committed shall have original jurisdiction, exclusive of any inferior court or any court of special jurisdiction, over any
87 prosecution under this subchapter.

88 Section 4. If any provision of this Act or the application of this Act to any person or circumstance is held invalid,
89 the provisions of this Act are severable if the invalidity does not affect the other provisions of this Act that can be given
90 effect without the invalid provision or the application of this Act that can be given effect without the invalid application.

91 Section 5. Section 1 of this Act takes effect for decedents on or after the date of enactment.

SYNOPSIS

The statute in Section 1 is revised to establish that a judgment of record obtained as a result of the Director of Revenue filing the certificate under section 554 of Title 30 of the Delaware Code constitutes a judgment of record of which notice is presumed against the estate of the decedent regardless of the county in this State in which letters are granted. Section 2 modifies the deadline for having a June meeting of DEFAC to account for the for the new Juneteenth holiday. Section 3 enables the Department of Finance and the Division of Revenue to fully administer and enforce taxes where jurisdiction is assigned by the Delaware Code without reference to any specific Title. This avoids the need to revise applicable provisions of Title 30 (by enumerating each applicable title) when changes to the law make the Department responsible for the administration and enforcement of tax and tax-related laws established outside of Title 30. Section 1 of this Act applies to decedents on or at the effective date of this legislation.