SPONSOR: Rep. Harris & Sen. Townsend & Rep. Minor-Brown & Rep. Osienski & Sen. Sokola & Sen. Lockman
Reps. Griffith, Neal, Berry, Heffernan, Burns, Morrison, K. Williams, Romer; Sens. Seigfried, Cruce

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 255

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO CORPORATE AND PERSONAL INCOME TAX.

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 § 1903, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1903. Computation of taxable income.

(a) The "entire net income" of a corporation for any income year means the amount of its federal taxable income for such year as computed for purposes of the federal income tax as modified under subsection (d) of this section and increased by:

(d) ~~In determining the taxable income of a fiscal year taxpayer for that portion of its fiscal year ending within 1977 which falls within the calendar year 1977, the taxpayer may, at its election, treat such period as though it were the entire fiscal year, or it may compute its taxable income for the entire fiscal year and pay the tax herein imposed on that portion of the taxable income so determined which the number of days from January 1, 1977, to the close of the fiscal year in 1977 bears to 365.~~ To determine entire net income for any income year under this chapter, an amount is added to or subtracted from the amount of federal taxable income for such year as computed for purposes of the federal income tax:

(1) For domestic research and experimental expenditures made after December 31, 2021, but on or before December 31, 2025, to continue the expensing of such expenditures under the United States Internal Revenue Code provisions in effect immediately before the enactment of § 70302 of P.L. 119-21, rather than under § 70302 of P.L. 119-21.

(2) For property acquired and placed in service after January 19, 2025, which would otherwise be eligible for expensing under § 70301 of P.L. 119-21, to continue the amortization and depreciation of such property under the United States Internal Revenue Code provisions in effect immediately before the enactment of § 70301 of P.L. 119-21, rather than under § 70301 of P.L. 119-21.

(3) For qualified production property, as defined in § 70307 of P.L. 119-21, to continue the amortization and depreciation of such property under the United States Internal Revenue Code provisions in effect immediately before the enactment of § 70307 of P.L. 119-21, rather than under § 70307 of P.L. 119-21.

Section 2. Amend § 1106, Title 30 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1106. Modifications.

(d) To determine taxable income under this subchapter, an amount is added to or subtracted from the amount of federal taxable income for such year as computed for purposes of the federal income tax:

(1) For property acquired and placed in service after December 31, 2025, which would otherwise be eligible for expensing under § 70301 of P.L. 119-21, to continue the amortization and depreciation of such property under the United States Internal Revenue Code provisions in effect immediately before the enactment of § 70301 of P.L. 119-21, rather than under § 70301 of P.L. 119-21.

(2) For qualified production property, as defined in § 70307 of P.L. 119-21, acquired and placed in service after December 31, 2025, to continue the amortization and depreciation of such property under the United States Internal Revenue Code provisions in effect immediately before the enactment of § 70307 of P.L. 119-21, rather than under § 70307 of P.L. 119-21.

Section 3. Section 1 of this Act is effective upon enactment and applies to tax years beginning on or after January 1, 2022. Section 2 of this Act is effective January 1, 2026.

Section 4. This Act is severable. If a provision of this Act or the application of this act to a person or circumstance is held invalid, the invalidity does not affect the provisions or applications of this Act that can be given effect without the invalid provision or application.

SYNOPSIS

This Act decouples select provisions of Delaware's tax code from provisions of Public Law 119-21, also known as the federal "One Big Beautiful Bill Act" (OBBBA). Absent legislative action, most provisions of federal tax law are automatically incorporated into Delaware's tax law. This Act does not eliminate depreciation of property or expensing, but instead modifies the timing of deductions that were impacted by the OBBBA.

For corporations taxed as separate entities, commonly called "C corporations," this Act does the following:

(1) Continues expensing provisions for domestic research and experimental expenditures made after December 31, 2021, but on or before December 31, 2025, under the provisions in place before the OBBBA.

(2) Decouples from the OBBBA provision for full expensing of certain business property acquired and placed in service after January 19, 2025.

(3) Decouples from the special depreciation allowance for qualified production property.

For individuals with business income such as an S corporation or a partnership, the following changes are made to Delaware's personal income tax code, beginning January 1, 2026:

(1) Decoupling from the OBBBA allowance for full expensing for certain business property acquired and placed in service after December 31, 2025.

(2) Decoupling from the special depreciation allowance for qualified production property acquired and placed in service after December 31, 2025.