

2018 LEGISLATION
FED STATE PRESENTATION

2018 PERSONAL INCOME TAX
FED STATE PRESENTATION

ADMINISTRATIVE
(HB 392)

- HB 392 – Estimated Payments
- Raises the tax liability trigger for estimated payments to \$800 for tax years commencing after December 31, 2017.

**PIT FORM CHANGE
(HB 163 W HA 1 AND HA 2)**

- **Personal Income Tax (PIT) check boxes**
 - Eliminates the US Olympic Committee check box from PIT returns,
 - Adds the Beau Biden Foundation for the Protection of Children check box
 - Caps the number of permissible check-offs on the return at 21.
 - **As of tax year 2017 forms there are 21 check boxes on the PIT return.**

WITHHOLDING ON SALE OF REAL ESTATE (SB 175 W/SA 1)

- Provides an exception from withholding for non-resident taxpayers who sell real estate in a foreclosure or a short sale
- The exemption is limited to the original transfer if property is purchased through a sheriff sale

FRAUD & IDENTITY THEFT

- Due to the amount of fraud we have experienced in the past, we are verifying all the W-2 and 1099 forms
- We encourage electronic filings of the W-2 and 1099 Forms.
- If the Annual Reconciliation Form and W-2 or 1099 Forms cannot be filed electronically, we require that a paper Annual Reconciliation Form along with paper copies of the W-2 or 1099 Forms be filed.
- Delaware follows the IRS rules on due dates for the W-3 Form with the W-2 Forms. The due date for the Annual Reconciliation Form for Delaware is January 31, 2019.
- The due dates for the submission of the 1099 Forms remain the same. February 28 for paper and March 31 for electronic submission.

FRAUD & IDENTITY THEFT

- Unfortunately, we may not have all of the W-2 or 1099 Forms at the time that the taxpayer files their return.
- If your client receives correspondence from DOR requesting W-2s, 1099s or any other documents, we ask that you have your clients respond to us in a timely manner to complete the processing of the return.
- To speed up the processing of your client's return, we encourage a PDF attachment of W-2s, 1099s and/or Other State Tax returns if a tax credit is taken.

**FRAUD & IDENTITY THEFT
FRAUDULENT RETURNS FILED WITH THE STATE OF DELAWARE**

If you believe that you or your clients are a victim of a tax related identity theft and/or a fraudulent State of Delaware or federal tax return was filed using your social security number, please contact the following organizations:

- The Delaware Division of Revenue at 1-800-292-7826 or directly at 302-856-5358 to speak with a fraud auditor. Our business hours are Monday through Friday from 8:00 am until 4:30 pm.
- The IRS Identity Theft Department at 1-800-829-8374 or visit their website at irs.gov
- Contact and place a "fraud alert" on your credit records with the three major credits bureaus:
Equifax (800)525-6285
Experian (888)397-3742
TransUnion (800)680-7289

**TAX PREPARER REGULATIONS
(HS 1 FOR HB 426)**

- Requires tax preparers (persons preparing tax returns for taxpayers other than themselves) to include identifying number on returns
- Allows DOR to impose a penalty of \$50 per return for failing to do so
- Allows DOR to bring suit in the Court of Chancery to enjoin the preparer from taking certain actions

**EFFECT OF FEDERAL LEGISLATION
2017 TCJA**

- The Federal Tax Credit and Jobs Act (TCJA) was signed into law on December 22, 2017
- Most provisions do not directly affect Delaware law
 - Personal exemptions repealed at federal level but not at the state level
 - The Federal Standard deduction roughly doubled but will remain the same at the state level
 - Limitations of itemized deductions
 - Increased child tax credit and other household credits
 - Deduction of 20% of income for pass through entities (PTEs)
 - NOL carrybacks repealed; carryforwards limited

**EFFECT OF FEDERAL LEGISLATION
2017 TCJA**

- What flows through to Delaware?
 - Limits on itemized deductions
 - Cap on state & local tax at \$10,000 annually
 - Cap mortgage interest on \$750,000 of mortgage debt
 - Repealed deductions for home equity loans, theft/casualty losses (except disasters), and miscellaneous deductions
 - Repealed Pease limitation to itemizations
 - Moving costs no longer deductible
 - Alimony treatment changed for tax years after 1/1/2019

**2018 BUSINESS
TAX**

FED STATE PRESENTATION



**HSCA TAXES
(HB 451 WITH HA 1)**

- Hazardous Substance Cleanup Act (HSCA) taxes now have an adjustable rate
- DOF must annually determine a new HSCA tax rate during the inflation adjustment process published alongside September Delaware Economic and Financial Advisory Council (DEFAC) forecasts.
- This tax rate should be between .0675% and 1.675% and is calculated as (.9%) *(\$15m/prior Fiscal Year HSCA deposits)
- Provides that 1/3 of HSCA deposits must be directed towards the Brownfields Grant Program.
- Floating tax rate is enacted until the current HSCA tax sunset on December 31st, 2022.

PUBLIC ACCOMMODATIONS TAXES

- Various bills authorized New Castle County, Newark, Middletown, and Milford to begin collecting lodging taxes of no more than 3% on hotel, motel, and tourist home rooms
 - **County government lodging taxes (HB 377 with HA 1)** – permits counties with over 500,000 residents (New Castle County) to impose and collect a lodging tax of no more than 3% on hotel, motel, and tourist home rooms located in the unincorporated areas of the County, but exempting DNREC rentals.
 - **Newark Lodging Tax (HB 435)** – permits Newark City Council to impose and collect a lodging tax of no more than 3% on hotel, motel, and tourist home rooms located in Newark.
 - **Middletown Lodging Tax (HB 449)** – permits the Town of Middletown to impose and collect a lodging tax of no more than 3% on hotel, motel, and tourist home rooms located in Middletown.
 - **Milford Lodging Tax (SB 264)** – permits the Town of Milford to impose and collect a lodging tax of no more than 3% on hotel, motel, and tourist home rooms located in Milford.

**INTERACTIVE FANTASY SPORTS
(HB 340)**

- Formally assigns the tax administration of Fantasy Sports to the Division of Revenue
- Transfers the registration fees and taxation of Interactive Fantasy Sports to Title 30 to be treated as a license fee and gross receipts tax
- Rate is 15.5% of gross receipts or the highest rate adopted elsewhere
- Interactive Fantasy Sports regulations expires on July 1st, 2019.

**CRAFT ALCOHOLIC LIQUOR COMPANIES
(HB 405)**

- Manufacturers of craft liquors may sell or ship alcoholic beverages manufactured on site to licensed entities under common ownership and control of said manufacturers
- This removes alcohol tax cascading for small manufacturers

**ADMINISTRATIVE
(HB 392)**

- HB 392
- Ends the license affixing obligation for operators of amusement and vending machine

2018 TAX CREDITS

FED STATE PRESENTATION

NEW TAX CREDITS

- **Business Tax Credit for AED placement (SB 26)** – created a one-time, refundable, \$100 credit for placing Automatic External Defibrillators (AED) in service in Delaware. This credit is valid against any business income tax claim.
- **Historic Preservation Tax Credit for Owner Occupied Property (SB 212)** – increases the maximum tax credit available for owner occupied historic property from \$20,000 to \$30,000. No change to the \$5 million annual cap, but...
- In the **Bond Bill Epilogue**, the cap on Historic Preservation Tax Credits awarded from FY 19 to FY 24 is raised to \$8m.
- **Neighborhood Assistance Tax Credit (SB 224 w SA 1)** – increases the aggregate amount of Neighborhood Assistance Tax Credits that can be approved in any 1 fiscal year from \$500,000 to \$1 million.

**ANGEL INVESTMENT TAX CREDIT
(HB 170)**

- Creates a refundable business tax credit equal to 25% of a qualified investment in qualified Delaware small business.
- Credits are capped at \$125,000 for individuals or \$250,000 for spouses filing joint returns.
- No more than \$5 million in tax credits may be approved in any calendar year.
- No more than \$500,000 in credits may be associated with a single small business.
- Investors must:
 - Maintain their investment for 180 days before claiming the tax credit.
 - Maintain their investment for three years in order to retain the tax credit (subject to specific caveats).

**ANGEL INVESTMENT TAX CREDIT
(HB 170)**

- **Businesses may be required to pay back tax credits issue if they fail to:**
 - Have at least 51% of its common law employees employed in this State
 - Pay at least 51% of its total compensation for compensation for work provided in this State
 - Use qualified investments on qualified expenditures as defined in statute
- The Director of Small Business and Development shall notify the Director of Revenue monthly about the issuance of tentative and final tax credits. Final tax credits expire if the credit is not reflected on a timely-filed tax return within three years of final tax credit certification.
- This tax credit program sunsets on December 31st, 2021.

REALTY TRANSFER TAX CREDIT
FED STATE PRESENTATION

**REALTY TRANSFER TAX CREDIT
(HB 380 WITH HA 1)**

- Provides a reduced realty transfer tax (RTT) rate to first-time home buyers
- Allows them to pay RTT at the rate that was in effect prior to the increase that took effect on August 1, 2017.
- The credit is calculated as 0.5% of the first \$400,000 in home value, with a maximum allowable credit of \$2,000.
- This legislation is retroactive for any first-time home buyer who entered into a transaction for the transfer of real estate on or after August 1, 2017, meaning that we will be expecting claims for refund.

EFFECT OF FEDERAL LEGISLATION
FED STATE PRESENTATION

**EFFECT OF FEDERAL LEGISLATION
2017 TCJA**

- **The Federal Tax Credit and Jobs Act (TCJA) was signed into law on December 22, 2017**
- Most provisions do not directly affect Delaware law
 - Disallowance of "excess" PTE losses
 - Deductions in excess of \$500,000/\$250,000 above gross income
 - May be carried forward indefinitely
 - Limitation on net business interest deduction
 - Limited to 30% of taxable income
 - Excess may be carried forward indefinitely
 - Repeal of domestic production activities deduction
 - Expanded bonus depreciation & §179 expensing
 - Variable percentages of depreciation through 2026
 - Expensing limit doubled & phase-out increased & indexed
 - More small businesses may now use cash accounting
