

SPONSOR: Rep. Longhurst & Rep. Schwartzkopf & Rep. Viola & Sen. Blevins & Sen. McBride & Sen. Henry

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 53

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO GROSS RECEIPTS TAXES.

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 § 2301(d)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(d)(1) In addition to the license fee required by subsections (a) and (b) of this section, every person shall also pay a license fee at the rate of ~~0.384%~~ 0.3983% of the aggregate gross receipts paid to such person attributable to activities licensable under this chapter, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing this fee due.

Section 2. Amend § 2502(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (a) of this section, every contractor shall pay a license fee of ~~0.624%~~ 0.6472% of the aggregate gross receipts paid to such contractor which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

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Section 3. Amend 2702(b)(2), Title 30 of the Delaware Code as effective until January 1, 2014, by making deletions as shown by strike through as follows:

(2) For taxable periods beginning after June 30, 2011, and ending on or before December 31, 2013, in addition to the license fee required by subsection (a) of this section, every clean energy technology device manufacturer shall pay, a license fee of 0.1414% of the aggregate gross receipts of such clean energy technology device manufacturer, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. ~~For taxable periods beginning on or after January 1, 2014, in addition to the license fee required by subsection (a) of this section, every clean energy technology device manufacturer shall pay a license fee of 0.135% of the aggregate gross receipts of such clean energy technology device manufacturer, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month.~~ In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $1,250,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 4. Amend 2702(b), Title 30 of the Delaware Code as effective January 1, 2014, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b)(1) In addition to the license fee required by subsection (a) of this section, every manufacturer, except those subject to paragraph (b)(2) of this section, shall pay a license fee of ~~0.180%~~ 0.126% of the aggregate gross receipts of such manufacturer, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $1,250,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

(2) ~~For taxable periods beginning after June 30, 2011, and ending on or before December 31, 2013, in addition to the license fee required by subsection (a) of this section, every clean energy technology device manufacturer shall pay, a license fee of 0.1458% of the aggregate gross receipts of such clean energy technology device manufacturer, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. For taxable periods beginning on or after January 1, 2014, in~~ In addition to the license fee

required by subsection (a) of this section, every clean energy technology device manufacturer shall pay a license fee of ~~0.135%~~ 0.0945% of the aggregate gross receipts of such clean energy technology device manufacturer, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $1,250,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 5. Amend 2703(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section, every automobile manufacturer shall pay a license fee of ~~0.135%~~ 0.0945% of the aggregate gross receipts of such automobile manufacturer, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $1,250,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 6. Amend § 2902(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section, every wholesaler shall also pay a license fee at the rate of ~~0.384%~~ 0.3983% of the aggregate gross receipts attributable to sales of tangible personal property physically delivered within this State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 7. Amend § 2902(c)(3), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(3) There shall be added to the tax provided in paragraph (c)(1) of this section an additional tax of ~~0.240%~~ 0.2489% on all taxable gross receipts determined under this section which are derived from the sale of petroleum products defined in § 2901(12) of this title.

Section 8. Amend § 2903(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section, every food processor shall also pay a license fee at the rate of ~~0.192%~~ 0.1991% of the aggregate gross receipts attributable to all goods sold by the food processor within this State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 9. Amend § 2904(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section, every commercial feed dealer shall also pay a license fee at the rate of ~~0.096%~~ 0.0996% percent of the aggregate gross receipts attributable to all goods delivered by the commercial dealer within this State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 10. Amend § 2905(b)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b)(1) In addition to the license fee required by subsection (a) of this section, every retailer shall pay a license fee at the rate of ~~0.720%~~ 0.7468% of the aggregate gross receipts attributable to all goods sold or services rendered by the retailer within the State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection, all branches or

entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 11. Amend § 2905(g), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(g) In addition to the license fee required by subsection (f) of this section, every transient retailer shall pay a license fee at the rate of ~~0.720%~~ 0.7468% of the aggregate gross receipts attributable to all goods sold or services rendered by the transient retailer within the State which exceed $3,000. Unless a transient retailer exceeds $3,000 of aggregate gross receipts attributable to all goods sold or services rendered by the transient retailer within the State during any year, said transient retailer shall not be required to file any return or certified statement with the Department of Finance; provided, however, that every transient retailer who exceeds $3,000 of aggregate gross receipts attributable to all goods sold or services rendered by the transient retailer within the State during any year shall file a return accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 12. Amend § 2906(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section every restaurant retailer shall pay a license fee at the rate of ~~0.624%~~ 0.6472% of the aggregate gross receipts attributable to all goods sold within the State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts of the immediately preceding month period. In computing the fee due on the aggregate gross receipts for any month, there shall be allowed a deduction of $100,000. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 13. Amend § 2907(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section, every farm machinery retailer shall also pay a license fee at the rate of ~~0.096%~~ 0.0996% of the aggregate gross receipts attributable to all goods sold by the farm machinery retailer within this State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts for the immediately preceding month. In computing the fee due on such aggregate gross receipts for each month, there shall be allowed a deduction of $100,000. For purposes of this subsection all

branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 monthly deduction from the aggregate gross receipts of the entire enterprise. The monthly returns shall be accompanied by a certified statement on such forms as the Department of Finance shall require in computing the fee due.

Section 14. Amend § 2908(c)(1), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(c)(1) In addition to the license fee required by subsection (b) of this section, every grocery store retailer shall pay a license fee at the rate of ~~0.315%~~ 0.3267% of the aggregate gross receipts attributed to all goods sold within the State, which fee shall be payable monthly on or before the twentieth day of each month with respect to the aggregate gross receipts of the immediately preceding month. In computing the fee due on the aggregate gross receipts for any month, there shall be allowed a deduction of $100,000. Solely for purposes of determining the rate of taxation and the monthly exclusion under this subsection, but not for determining the applicability of the definition of "grocery supermarket," all branches or entities comprising an enterprise with common ownership or common direction and control shall be considered as one. The monthly returns shall be accompanied by a certified statement on such forms as the Division of Revenue shall require in computing the fee due.

Section 15. Amend § 4302(a), Title 30 of the Delaware Code as effective until January 1, 2014, by making in deletions as shown by strike through as follows:

(a) There is imposed by this section on every lessee a use tax, for the use within this State, under a lease of tangible personal property (other than motor vehicles, household furniture, household fixtures or household furnishings, hospital equipment and any and all medical and remedial equipment, aids and devices leased by or to elderly, ill, injured or handicapped persons for their own use, including television sets leased to patients in a health care facility, motion picture films leased ~~for~~ by a film society organization that is exempt from federal income tax under the provisions of Section 501(c) of the Internal Revenue Code [26 U.S.C. § 506(c)], and manufacturing equipment under leveraged leases in which rental payments are guaranteed, in whole or in part, by the Economic Development Administration of the United States Department of Commerce pursuant to Public Law 89-136 (42 U.S.C. § 3121 et seq.), as amended) equal to 2.0114% of the rent under such lease.

Section 16. Amend § 4302, Title 30 of the Delaware Code as effective January 1, 2014, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(a) There is imposed by this section on every lessee a use tax, for the use within this State, under a lease of tangible personal property (other than motor vehicles, household furniture, household fixtures or household furnishings, hospital equipment and any and all medical and remedial equipment, aids and devices leased by or to elderly, ill, injured or

handicapped persons for their own use, including television sets leased to patients in a health care facility, motion picture films leased ~~for~~ by a film society organization that is exempt from federal income tax under the provisions of § 501(c) of the Internal Revenue Code [26 U.S.C. § 506(c)], and manufacturing equipment under leveraged leases in which rental payments are guaranteed, in whole or in part, by the Economic Development Administration of the United States Department of Commerce pursuant to Public Law 89-136 (42 U.S.C. § 3121 et seq.), as amended) equal to ~~1.92%~~ 1.9914% of the rent under such lease.

(b) There is imposed by this section on every motor vehicle lessee a use tax, for use within this State under a lease of a motor vehicle, equal to ~~1.92%~~ 1.9914% of the rent under such lease.

(c) This section shall not apply to rents on leases of equipment, machinery, fixtures, buildings and/or nonregistered vehicles used in the business of raising crops or animals in agricultural production reusable pallets and containers for use by food processors. For purposes of this subsection, the term "reusable pallet and container" means any pallet or crate which is under an arrangement for the repeated return of such property to its initial purchaser for long-term reuse.

Section 17. Amend § 4305(b), Title 30 of the Delaware Code, by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b) In addition to the license fee required by subsection (a) of this section, every such lessor shall pay an annual license tax in quarterly installments at the rate of ~~0.288%~~ 0.2987% of the lease rental payments received, except lease rental payments on manufacturing equipment under leveraged leases on which rental payments are guaranteed, in whole or in part, by the Economic Development Administration of the United States Department of Commerce pursuant to Public Law 89-136 [42 U.S.C. § 312 et seq.], as amended. In computing the fee due on such aggregate gross receipts under this subsection for each quarter, there shall be allowed a deduction of $300,000, to be applied first to receipts from leases of tangible property other than motor vehicles and any remainder applied to receipts from leases of motor vehicles. For purposes of this subsection, all branches or entities comprising an enterprise with common ownership or common direction and control shall be allowed only 1 quarterly deduction from the aggregate gross receipts of the entire enterprise. Returns shall be filed quarterly by each lessor on the dates specified in § 4307(b) of this title.

Section 18. Sections 3 and 15 of this Act shall be effective upon enactment. Sections 1 and 2, 4 through 14, and 16 and 17 of this Act shall be effective for taxable periods beginning after December 31, 2013.

SYNOPSIS

This Act establishes for all gross receipts business categories other than manufacturers tax rates in 2014 that are one percent below the rates in effect in 2013. This Act reduces by 30% manufacturers' tax rates in 2014.