

# TITLE 30

## State Taxes

### Income, Inheritance and Estate Taxes

#### CHAPTER 11. Personal Income Tax

##### Subchapter II. Resident Individuals

###### § 1105. Taxable income.

The entire taxable income of a resident of this State shall be the federal adjusted gross income as defined in the laws of the United States as the same are or shall become effective for any taxable year with the modifications and less the deductions and personal exemptions provided in this subchapter.

30 Del. C. 1953, § 1105; [57 Del. Laws, c. 737, § 1](#); [70 Del. Laws, c. 186, § 1](#); [71 Del. Laws, c. 347, § 8](#);

###### § 1106. Modifications.

(a) *Additions.* — There shall be added to federal adjusted gross income:

(1) a. Interest qualifying under § 103 of the United States Internal Revenue Code of 1986 [26 U.S.C. § 103] or any similar statute, other than interest on obligations and securities of this State and its political subdivisions and authorities; and

b. Dividends paid by a regulated investment company (sometimes referred to as a mutual fund) qualifying under § 852(b)(5) of the United States Internal Revenue Code of 1986 [26 U.S.C. § 852(b)(5)] or any similar statute;

provided, that dividends attributable to interest on obligations and securities of this State and its political subdivisions and authorities may be excluded from such addition if the amount of interest attributable thereto is reported in writing to the holder or owner of the shares or units of the regulated investment company by or on behalf of the manager of the regulated investment company, and such report states the dollar amount or percentage of Delaware and non-Delaware dividends pertaining to the taxpayer;

(2) The amount of any deduction for depletion of oil and gas wells allowed under § 611 of the Federal Internal Revenue Code of 1986 [26 U.S.C. § 611] to the extent such deduction is determined by reference to § 613 of the Federal Internal Revenue Code [26 U.S.C. § 613] (relating to percentage depletion);

(3) Any deduction, to the extent such deduction exceeds \$30,000, for a net operating loss carryback as provided for in § 172 of the Internal Revenue Code or successor provisions.

(b) *Subtractions.* — There shall be subtracted from federal adjusted gross income:

(1) a. Interest on obligations of the United States and its territories and possessions, or of any authority, commission or instrumentality of the United States, to the extent includable in gross income for federal income tax purposes, but exempt from state income taxes under the laws of the United States; and

b. Dividends paid by a regulated investment company (as defined in § 851 of the United States Internal Revenue Code of 1986 [26 U.S.C. § 851], or any similar statute, sometimes referred to as a mutual fund) to the extent such dividends are attributable to interest paid on obligations of the United States and its territories and possessions, or of any authority, commission or instrumentality of the United States, which interest would be subject to subtraction from federal adjusted gross income under paragraph (b)(1)a. of this section if such obligations were owned directly by an individual and the interest on them were paid to such individual. The portion of the dividends of a regulated investment company which represents United States government interest which is exempt from state income taxes under this subparagraph shall be as reported in writing to the holder or owner of the share or units of the regulated investment company by or on behalf of the manager of the regulated investment company, and such report shall state the dollar amount or percentage of exempt and nonexempt dividends pertaining to the taxpayer;

(2) The amount of \$2,000 by any person who has a total and permanent disability or by a person who is over 60 years of age, and (i) whose earned income in the taxable year is less than \$2,500 and (ii) whose adjusted gross income (without reduction by this exclusion) does not exceed \$10,000.

For purposes of this paragraph, in the case of spouses filing a joint return, the amount of the exclusion shall be \$4,000 if (i) both are either over 60 years of age or have total and permanent disabilities or 1 is over 60 years of age and the other has a total and permanent disability and (ii) their total earned income in the taxable year is less than \$5,000 and their adjusted gross income does not exceed \$20,000;

(3) a. For taxable years beginning on or after January 1, 1987, amounts received as pensions by persons age 60 or older from employers, the United States, the State or any subdivision thereof, not to exceed \$3,000;

b. 1. Amounts not to exceed \$2,000 received by persons under age 60 as pensions from employers, the United States, the State or any subdivision, or

2. (A) Amounts not to exceed \$12,500 received by persons age 60 or older as pensions from employers, the United States, the State or any subdivision or as eligible retirement income.

(B) For the purposes of this paragraph, "eligible retirement income" shall include distributions received from qualified retirement plans defined in § 4974 of the federal Internal Revenue Code ("IRC") [26 U.S.C. § 4974] or a successor provision, cash or deferred arrangements described in IRC § 401(k) [26 U.S.C. § 401(k)] or a successor provision, government deferred compensation plans described in IRC § 457 [26 U.S.C. § 457] or a successor provision, dividends, capital gains, interest and rental income from real property less deductible rental expenses. For purposes of this paragraph, eligible retirement income received by spouses as joint tenants with right of survivorship or as tenants by the entirety shall be deemed to have been received one-half by each;

(4) Social Security benefits paid by the United States and all payments received under the Railroad Retirement Act of 1974 [45 U.S.C. §§ 231-231[v]] to the extent included in federal adjusted gross income;

(5) An amount equal to the portion of the wages paid or incurred for the taxable year which is disallowed as a deduction for federal tax purposes under § 280C, Internal Revenue Code [26 U.S.C. § 280C], relating to portion of wages for which the new jobs tax credit is claimed;

(6) Benefits received by a resident individual through participation in a travelink program certified by the Delaware Department of Transportation to the extent such benefits are included in the federal adjusted gross income of the taxpayer;

(7) Any deduction, consistent with the operation of § 172 of the Internal Revenue Code [26 U.S.C. § 172] or successor provision, to carry forward losses which were carried back in calculating federal taxable income but which were prevented from being carried back under paragraph (a)(3) of this section;

(8) a. Distributions received from qualified retirement plans as defined in § 4974 of the Internal Revenue Code (I.R.C.) [26 U.S.C. § 4974], cash or deferred arrangements described in § 401(k) of the I.R.C. [26 U.S.C. § 401(k)], and governmental deferred compensation plans described in § 457 of the I.R.C. [26 U.S.C. § 457], to the extent such distributions are applied within the tax year of the distributions for books, tuition or fees at an institution of higher education attended by the person or by any of the person's dependents who have not attained the age of 26, so long as such amounts received have been included in the person's federal adjusted gross income.

b. For the purposes of this section, an institution of higher education is a school which:

1. Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate;

2. Is legally authorized in this or another state to provide a program of education beyond high school; and

3. Provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies or a program of training to prepare students for gainful employment in a recognized occupation.

(9) The amount of any refund of Delaware State income taxes imposed under this chapter, to the extent included in federal adjusted gross income for the tax period.

(10) The amount of any unemployment benefits received in calendar years 2020 and 2021, to the extent included in federal adjusted gross income.

(c) *Fiduciary adjustment.* — There shall be added to, or subtracted from, federal adjusted gross income, as the case may be, the taxpayer's share of the fiduciary adjustment determined under § 1634 of this title.

30 Del. C. 1953, § 1106; [57 Del. Laws, c. 737, § 1](#); [58 Del. Laws, c. 318](#); [58 Del. Laws, c. 342, § 1](#); [58 Del. Laws, c. 551, § 1](#); [59 Del. Laws, c. 151, § 1](#); [60 Del. Laws, c. 18, § 1](#); [60 Del. Laws, c. 269, § 1](#); [60 Del. Laws, c. 270, § 1](#); [60 Del. Laws, c. 639, § 1](#); [61 Del. Laws, c. 202, § 1](#); [61 Del. Laws, c. 298, § 1](#); [62 Del. Laws, c. 353, § 2](#); [64 Del. Laws, c. 224, § 1](#); [64 Del. Laws, c. 470, § 1](#); [65 Del. Laws, c. 203, § 1](#); [67 Del. Laws, c. 160, § 2](#); [67 Del. Laws, c. 263, §§ 3, 4](#); [67 Del. Laws, c. 399, §§ 1, 2](#); [67 Del. Laws, c. 408, § 2](#); [70 Del. Laws, c. 186, § 1](#); [70 Del. Laws, c. 495, § 1](#); [71 Del. Laws, c. 131, § 1](#); [71 Del. Laws, c. 352, §§ 1, 2](#); [72 Del. Laws, 1st Sp. Sess., c. 243, § 1](#); [72 Del. Laws, 1st Sp. Sess., c. 246, § 1](#).

[§ 1](#); [74 Del. Laws, c. 138, § 1](#); [78 Del. Laws, c. 179, §§ 320-322](#); [83 Del. Laws, c. 2, § 4](#); [83 Del. Laws, c. 268, § 1](#); [83 Del. Laws, c. 283, § 47](#);

### § 1107. Deductions.

The deduction of a resident individual shall be the standard deduction, unless the individual elects to itemize deductions as provided in § 1109 of this title.

30 Del. C. 1953, § 1107; [57 Del. Laws, c. 737, § 1](#); [58 Del. Laws, c. 342, § 2](#); [66 Del. Laws, c. 86, § 3](#); [70 Del. Laws, c. 186, § 1](#);

### § 1108. Standard deduction.

(a) Except as otherwise provided in subsections (b) and (c) of this section:

(1) For taxable periods ending before January 1, 1999, the standard deduction of a resident individual shall be \$1,300, and the standard deduction of resident spouses shall be \$1,600 if they file a joint return and \$800 each if they file separate returns;

(2) For taxable periods beginning after December 31, 1998, and before January 1, 2000, the standard deduction of a resident individual shall be \$3,250, and the standard deduction of resident spouses shall be \$4,000 if they file a joint return and \$2,000 each if they file separate returns; and

(3) For taxable periods beginning after December 31, 1999, the standard deduction of a resident individual shall be \$3,250, and the standard deduction of resident spouses shall be \$6,500 if they file a joint return and \$3,250 each if they file separate returns.

(b) The sum of \$2,500 shall be added to the standard deduction determined under subsection (a) of this section in each of the following circumstances:

(1) For the taxpayer who has attained the age of 65 before the close of the taxable year;

(2) For the spouse of the taxpayer if a joint return is not made by the taxpayer and the spouse, if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(3) For the taxpayer who is blind at the close of the taxable year; and

(4) For the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For purposes of this paragraph, the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year such determination shall be made as of the time of such death.

(c) For purposes of this section, an individual is blind only if the individual's central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if the individual's visual acuity is greater than 20/200 but is accompanied by a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

30 Del. C. 1953, § 1108; [57 Del. Laws, c. 737, § 1](#); [66 Del. Laws, c. 93, § 1](#); [66 Del. Laws, c. 95, § 1](#); [70 Del. Laws, c. 186, § 1](#); [71 Del. Laws, c. 347, §§ 3, 4](#); [72 Del. Laws, 1st Sp. Sess., c. 241, §§ 1-3](#);

### § 1109. Itemized deductions [For application of this section, see 66 Del. Laws, c. 86, § 8].

(a) *General.* — In determining taxable income under this chapter, in lieu of the standard deduction provided by § 1108 of this title, a resident individual may elect to deduct the sum of the itemized deductions claimed on the federal income tax return as shall be permitted under the laws of the United States as the same are or shall become effective for any taxable year in determining the federal taxable income, or, if the person does not itemize deductions or elects the credit for foreign taxes paid on the federal return, the person may deduct the sum of the itemized deductions to which the person would have been entitled had the person itemized the deductions (including the deduction for foreign taxes paid) on the federal return:

(1) Reduced by:

a. The amount thereof representing income taxes imposed by this State;

b. The amount of any income tax imposed on the person for the taxable year by another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources therein if the person elected to take such amount as a credit in accordance with § 1111(a) of this title; and

(2) Increased by:

- a. An amount equal to the excess of the state employee automobile mileage reimbursement allowance over the standard mileage rate allowed as a charitable deduction for federal income tax purposes for unreimbursed automobile transportation expense incurred by an individual while serving as a volunteer for a charitable organization as defined in § 170(c), Internal Revenue Code [26 U.S.C. § 170(c)]; and
- b. In the case of a self-employed individual, the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, the taxpayer's spouse and dependents, less the amount allowed the taxpayer as a deduction pursuant to § 162(l) (26 U.S.C. § 162(l)) or successor provision of the Internal Revenue Code. For purposes of this subparagraph, "self-employed taxpayer" shall mean a resident individual whose gross income is more than one-half derived from a trade, business or profession and not derived as an employee. Income in the nature of interest, dividends or other investment income shall not constitute self-employment income. No self-employed taxpayer whose total cost of insurance for health care for the taxpayer, spouse and dependents exceeds the gross income from the trade, business or profession shall be entitled to the deduction under this subparagraph;
- c. For taxable years beginning after December 31, 1986, and before January 1, 1988, an amount equal to 12% of itemized deductions determined under this section without regard to this subparagraph.

(b) *Spouses.* — Spouses, both of whom are required to file returns under this chapter, shall be allowed to itemize their deductions only if both elect to do so.

(c) For purposes of subsection (a) of this section, the amount of itemized deductions representing income taxes imposed by: (i) this State, or (ii) another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources therein if a resident elected to take such amount as a credit in accordance with § 1111(a) of this title shall be deemed to equal the amount of such taxes reduced by the amount of such taxes multiplied by the percentage determined under § 68(a) of the Internal Revenue Code [26 U.S.C. § 68(a)] or successor provision thereof.

30 Del. C. 1953, § 1109; [57 Del. Laws, c. 737, § 1](#); [59 Del. Laws, c. 19, § 1](#); [63 Del. Laws, c. 122, § 2](#); [64 Del. Laws, c. 410, § 1](#); [65 Del. Laws, c. 403, § 1](#); [65 Del. Laws, c. 461, § 1](#); [66 Del. Laws, c. 86, §§ 4, 8](#); [70 Del. Laws, c. 117, § 4](#); [70 Del. Laws, c. 186, § 1](#); [70 Del. Laws, c. 483, § 1](#); [71 Del. Laws, c. 347, § 9](#); [81 Del. Laws, c. 425, § 23](#);

#### **§ 1110. Personal exemptions and credits.**

(a) For tax years ending before January 1, 1996, a resident shall be allowed an exemption of \$1,250 for each exemption to which that resident is entitled for the taxable year for federal income tax purposes. Resident persons age 60 or over shall be allowed one additional personal exemption.

(b) For tax years beginning after December 31, 1995, resident individuals shall be allowed a personal credit against the individual's tax otherwise due under this chapter in the amount of:

- (1) \$110 for each personal exemption to which such individual is entitled for the taxable year for federal income tax purposes; plus
- (2) An additional \$110 in the case of each resident person age 60 or over.

(c) In no event shall the credit allowed under subsection (b) of this section exceed the tax otherwise due under this chapter.

30 Del. C. 1953, § 1110; [57 Del. Laws, c. 737, § 1](#); [64 Del. Laws, c. 330, § 1](#); [65 Del. Laws, c. 147, § 1](#); [66 Del. Laws, c. 95, § 3](#); [66 Del. Laws, c. 362, § 1](#); [70 Del. Laws, c. 116, § 1](#); [70 Del. Laws, c. 186, § 1](#); [72 Del. Laws, 1st Sp. Sess., c. 247, § 2](#);

#### **§ 1111. Credit for income tax paid to another state.**

(a) *Allowance of credit.* — A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed for the taxable year by another state of the United States, or the District of Columbia, on income derived from sources therein which is also subject to tax under this chapter.

(b) *Limitation on credit.* — The credit allowable under this section, with respect to the income tax imposed upon the taxpayer for the taxable year by each other taxing jurisdiction, shall not exceed the amount computed by multiplying the tax otherwise due under this chapter by a fraction, the numerator of which is the amount of the taxpayer's taxable income derived from sources in the other taxing jurisdiction (applying the rules of § 1122 of this title) and the denominator of which is the entire taxable income.

30 Del. C. 1953, § 1111; [57 Del. Laws, c. 737, § 1](#); [59 Del. Laws, c. 64, § 1](#); [70 Del. Laws, c. 186, § 1](#);

#### **§ 1112. Historic rehabilitation.**

A resident individual shall be allowed a credit against such individual's tax otherwise due under this chapter in accordance with the provisions of the Historic Preservation Tax Credit Act (Chapter 18 of this title), which credits shall be against any taxes imposed under this chapter; provided however, that all claimed credits are accompanied by a Certificate of Completion issued by the Delaware State Historic Preservation Office certifying that such credits have been earned in compliance with that act.

[73 Del. Laws, c. 6, § 6](#);

**§ 1113. Credit for active members of volunteer firefighting, ambulance and rescue service companies and their auxiliaries.**

A resident individual who is an active member, as defined by the rules and bylaws of the company, during the tax year of a Delaware volunteer fire, ambulance, or rescue service company or its auxiliary shall be allowed a nonrefundable credit against the tax imposed by this chapter in the amount of \$500. The Secretary may prescribe such rules and regulations as the Secretary deems necessary to carry out the purpose of this statute.

[62 Del. Laws, c. 353, § 1](#); [64 Del. Laws, c. 406, § 1](#); [65 Del. Laws, c. 397, §§ 1, 2](#); [65 Del. Laws, c. 518, §§ 1, 2](#); [69 Del. Laws, c. 388, § 1](#); [70 Del. Laws, c. 186, § 1](#); [72 Del. Laws, 1st Sp. Sess., c. 244, § 1](#); [74 Del. Laws, c. 338, § 1](#); [75 Del. Laws, c. 79, § 1](#); [82 Del. Laws, c. 289, § 1](#);

**§ 1114. Child care and dependent care expense credit.**

(a) A resident individual shall be entitled to a credit against that individual's tax otherwise due under this chapter in the amount of 50 percent of the child and dependent care expense credit allowable for federal income tax purposes for the same tax year. In no event shall the allowable credit under this subsection exceed the tax otherwise due under this chapter.

(b) In the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed pursuant to this subsection may only be applied against the tax imposed on the spouse with the lower taxable income, computed without regard to such credit, and shall not exceed such tax.

[65 Del. Laws, c. 202, § 1](#); [66 Del. Laws, c. 411, § 1](#); [70 Del. Laws, c. 186, § 1](#);

**§ 1115. Subchapter S — Business tax credits [Repealed].**

Repealed by 72 Del. Laws, c. 467, § 7, effective July 18, 2000.

**§ 1116. Delaware investment credit [For application of this section, see 81 Del. Laws, c. 244, §§ 4, 5].**

A resident and nonresident individual shall be allowed a credit against that individual's tax otherwise due under this chapter in an amount equal to 15% of the individual's investment that is qualified under subchapter X of Chapter 87A of Title 29 ("Delaware Investment Tax Credit Program") [repealed] and certified as such by the Director of the Division of Small Business to the Director of Revenue. Notwithstanding § 329 of this title to the contrary, determinations by the Delaware Economic Development Authority as to the qualification of any investment under the Delaware Investment Tax Credit Program [repealed] shall not be appealable to the Tax Appeal Board. In no event shall the credit allowable under this section exceed the tax otherwise due under this chapter. Unused credits under this section may be carried forward 4 years from the tax year in which they are certified under the Delaware Investment Tax Credit Program [repealed].

[68 Del. Laws, c. 203, § 1](#); [69 Del. Laws, c. 458, § 1](#); [81 Del. Laws, c. 49, § 19](#); [81 Del. Laws, c. 244, §§ 2, 5, 5](#); [81 Del. Laws, c. 374, § 49](#);

**§ 1117. Earned income tax credit [Effective until fulfillment of 83 Del. Laws, c. 118, § 2].**

(a) An individual who is a resident of this State shall be entitled to a nonrefundable credit against the individual's tax otherwise due under this chapter in the amount of 20% of the corresponding federal earned income credit allowed pursuant to § 32 or successor provision of the Internal Revenue Code [26 U.S.C. § 32].

(b) In the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed under subsection (a) of this section may only be used by the spouse with the greater tax otherwise due, computed without regard to this credit.

(c) In no event shall the credit allowed under subsection (a) of this section exceed the tax otherwise due under this chapter.

[75 Del. Laws, c. 221, § 1](#);

**§ 1117. Earned income tax credit [Effective upon fulfillment of 83 Del. Laws, c. 118, § 2].**

(a) (1) For any tax year beginning before January 1, [of the year in which the contingency under 83 Del. Laws, c. 118, § 2, is fulfilled] an individual who is a resident of this State may receive a nonrefundable credit against the individual's tax otherwise due under this chapter in the amount of 20% of the corresponding federal earned income credit allowed under § 32 or successor provision of the Internal Revenue Code (26 U.S.C. § 32).

(2) For any tax year beginning on or after January 1, [of the year in which the contingency under 83 Del. Laws, c. 118, § 2, is fulfilled], an individual who is a resident of this State may receive a credit against the individual's tax under this chapter in an amount based on a percentage of the corresponding federal earned income credit allowed under § 32 or successor provision of the Internal Revenue Code (26 U.S.C. § 32). The individual may claim either of the following amounts:

a. 20% of the corresponding federal earned income tax credit, not to exceed the tax otherwise due under this chapter.

b. 4.5% of the corresponding federal earned income tax credit, of which the amount that exceeds the tax otherwise due under this chapter is refundable.

(b) In the case of spouses who file a joint federal return but who elect to determine their Delaware taxes separately, the credit allowed under subsection (a) of this section may only be used by the spouse with the greater tax otherwise due, computed without regard to this credit.

(c) The credit allowed under paragraph (a)(1) of this section may not exceed the tax otherwise due under this chapter.

[75 Del. Laws, c. 221, § 1](#); [83 Del. Laws, c. 118, § 1](#);