

## ● STATE INCOME TAX LAW

*STATUTORY CITATION:* Del. Code Title 30, §§ 1101–1204

*GENERAL SUMMARY:* Delaware's personal income tax law imposes a tax on the earnings and other forms of taxable income of individuals who reside in the state, or who derive taxable income from sources within the state. The law requires employers who pay any wages subject to federal income tax withholding to deduct and withhold state income taxes from their employees' wages and forward such amounts to the state.

On or before January 31 of the following calendar year — or within 30 days after the last payment of wages, in the case of an employee whose job terminated before the end of the year — the employer is required to provide the employee with a written statement showing the total amount of wages paid to the worker and the amount of state income tax withheld, if any, in the preceding calendar year.

*PROVISIONS APPLICABLE TO AGRICULTURE:* Under the U.S. Internal Revenue Code, agricultural employers who pay at least \$2,500 in wages for agricultural labor during the year are required to deduct and withhold federal income tax from the wages of their agricultural employees. In those cases, farm employers in Delaware must also withhold state income tax from their workers' wages.

Likewise, an employer whose annual agricultural payroll expenditures amount to less than \$2,500, but who pays at least \$150 in cash agricultural wages to a particular worker during the year, is required to withhold federal income tax from that worker's wages, and thus would be obligated to withhold state income tax as well.

### *SPECIAL NOTES OR ADVISORIES*

**TAX RETURNS AND LIABILITY** — Even if exempt from tax withholding, a farmworker may be required to file an annual state income tax return and may be liable for payment of taxes, depending on total net income during the tax year and other circumstances.

### *ADMINISTRATION AND ENFORCEMENT*

**PRIMARY ENFORCEMENT AGENCY** — *Division of Revenue, Delaware Department of Finance, Wilmington, Delaware 19801 (302-577-8779).*

**SECONDARY OR ASSOCIATED ENFORCEMENT AGENCY** — *None.*