

# SENATE BILL 96

Q3

9lr0166

(PRE-FILED)

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By: **Chair, Budget and Taxation Committee (By Request – Departmental – Comptroller)**

Requested: October 22, 2008

Introduced and read first time: January 14, 2009

Assigned to: Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax – Mandatory Income Tax Return Preparer Requirements**

3 FOR the purpose of requiring certain income tax return preparers under certain  
4 circumstances to file certain income tax returns by electronic means as  
5 prescribed by the Comptroller; imposing certain penalties for certain violations;  
6 exempting certain returns and providing for certain waivers under certain  
7 circumstances; defining certain terms; providing for the application of this Act;  
8 and generally relating to mandatory electronic filing of certain income tax  
9 returns by certain income tax return preparers under certain circumstances.

10 BY adding to

11 Article – Tax – General

12 Section 10–824 and 13–717

13 Annotated Code of Maryland

14 (2004 Replacement Volume and 2008 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Tax – General**

18 **10–824.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
20 MEANINGS INDICATED.

21 (2) (I) “INCOME TAX RETURN PREPARER” MEANS A PERSON  
22 WHO FOR COMPENSATION PREPARES A SUBSTANTIAL PORTION OR MORE OF A

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 QUALIFIED RETURN OR EMPLOYS ONE OR MORE PERSONS TO PREPARE FOR  
2 COMPENSATION A SUBSTANTIAL PORTION OR MORE OF A QUALIFIED RETURN.

3 (II) "INCOME TAX RETURN PREPARER" DOES NOT INCLUDE  
4 A PERSON WHO MERELY PERFORMS THOSE ACTS DESCRIBED UNDER §  
5 7701(A)(36)(B) OF THE INTERNAL REVENUE CODE.

6 (3) "QUALIFIED RETURN" MEANS ANY ORIGINAL RETURN OF  
7 INDIVIDUAL INCOME TAX IMPOSED BY THIS TITLE, REGARDLESS OF WHETHER A  
8 TAX IS DUE OR A REFUND IS CLAIMED.

9 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INCOME  
10 TAX RETURN PREPARER SHALL FILE ALL QUALIFIED RETURNS THAT THE  
11 INCOME TAX RETURN PREPARER PREPARES BY ELECTRONIC MEANS AS  
12 PRESCRIBED BY THE COMPTROLLER IF:

13 (1) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,  
14 2008, BUT BEFORE JANUARY 1, 2010, THE INCOME TAX RETURN PREPARER HAS  
15 PREPARED MORE THAN 200 QUALIFIED RETURNS IN THE PRIOR TAXABLE YEAR;  
16 AND

17 (2) FOR ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31,  
18 2009, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN 100  
19 QUALIFIED TAX RETURNS IN THE PRIOR TAXABLE YEAR.

20 (C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A  
21 QUALIFIED RETURN IF:

22 (1) THE TAXPAYER HAS INDICATED ON THE QUALIFIED RETURN  
23 THAT THE TAXPAYER DOES NOT WANT THE RETURN FILED BY ELECTRONIC  
24 MEANS; OR

25 (2) THE INCOME TAX RETURN PREPARER PREPARING THE  
26 QUALIFIED RETURN HAS REQUESTED AND RECEIVED A WAIVER FROM THE  
27 COMPTROLLER.

28 (D) (1) ON WRITTEN REQUEST FOR A WAIVER BY AN INCOME TAX  
29 RETURN PREPARER WHO IS SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE  
30 COMPTROLLER MAY GRANT THE INCOME TAX RETURN PREPARER UP TO A  
31 12-MONTH WAIVER OF THE REQUIREMENTS OF THIS SECTION IF THE INCOME  
32 TAX RETURN PREPARER IS ABLE TO ESTABLISH TO THE SATISFACTION OF THE  
33 COMPTROLLER EITHER REASONABLE CAUSE FOR NOT FILING THE RETURN BY  
34 ELECTRONIC MEANS OR THAT THERE IS NO FEASIBLE MEANS OF FILING THE  
35 RETURN BY ELECTRONIC MEANS WITHOUT UNDUE HARDSHIP.

1           **(2) IF THE COMPTROLLER GRANTS THE WAIVER, THE INCOME**  
2 **TAX RETURN PREPARER MAY FILE SIGNED PAPER RETURNS FOR THE PERIOD**  
3 **ALLOWED UNDER THE WAIVER.**

4 **13-717.**

5           **AN INCOME TAX RETURN PREPARER WHO IS SUBJECT TO § 10-824 OF**  
6 **THIS ARTICLE AND WHO FAILS TO FILE A RETURN AS REQUIRED IN § 10-824 OF**  
7 **THIS ARTICLE SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT IS**  
8 **SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND IS NOT DUE TO**  
9 **WILLFUL NEGLIGENCE.**

10           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
11 **July 1, 2009, and shall be applicable to all taxable years beginning after December 31,**  
12 **2008.**