

SENATE BILL 96

Q3

9lr0166

(PRE-FILED)

By: **Chair, Budget and Taxation Committee (By Request - Departmental - Comptroller) and Senator Jones (Chair, Joint Committee on the Management of Public Funds)**

Requested: October 22, 2008

Introduced and read first time: January 14, 2009

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2009

CHAPTER _____

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.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

3 (2) (I) "INCOME TAX RETURN PREPARER" MEANS A PERSON
4 WHO FOR COMPENSATION PREPARES A SUBSTANTIAL PORTION OR MORE OF A
5 QUALIFIED RETURN OR EMPLOYS ONE OR MORE PERSONS TO PREPARE FOR
6 COMPENSATION A SUBSTANTIAL PORTION OR MORE OF A QUALIFIED RETURN.

7 (II) "INCOME TAX RETURN PREPARER" DOES NOT INCLUDE
8 A PERSON WHO MERELY PERFORMS THOSE ACTS DESCRIBED UNDER §
9 7701(A)(36)(B) OF THE INTERNAL REVENUE CODE.

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

13 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INCOME
14 TAX RETURN PREPARER SHALL FILE ALL QUALIFIED RETURNS THAT THE
15 INCOME TAX RETURN PREPARER PREPARES BY ELECTRONIC MEANS AS
16 PRESCRIBED BY THE COMPTROLLER IF:

17 (1) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
18 2008, BUT BEFORE JANUARY 1, 2010, THE INCOME TAX RETURN PREPARER HAS
19 PREPARED MORE THAN ~~200~~ 300 QUALIFIED RETURNS IN THE PRIOR TAXABLE
20 YEAR; ~~AND~~

21 (2) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31,
22 2009, BUT BEFORE JANUARY 1, 2011, THE INCOME TAX RETURN PREPARER HAS
23 PREPARED MORE THAN 200 QUALIFIED RETURNS IN THE PRIOR TAXABLE YEAR;
24 AND

25 ~~(2)~~ (3) FOR ANY TAXABLE YEAR BEGINNING AFTER DECEMBER
26 31, ~~2009~~ 2010, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE
27 THAN 100 QUALIFIED TAX RETURNS IN THE PRIOR TAXABLE YEAR.

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

30 (1) THE TAXPAYER HAS INDICATED ON THE QUALIFIED RETURN
31 THAT THE TAXPAYER DOES NOT WANT THE RETURN FILED BY ELECTRONIC
32 MEANS; OR

1 (2) THE INCOME TAX RETURN PREPARER PREPARING THE
2 QUALIFIED RETURN HAS REQUESTED AND RECEIVED A WAIVER FROM THE
3 COMPTROLLER.

4 (D) ~~(1)~~ ON WRITTEN REQUEST FOR A WAIVER BY AN INCOME TAX
5 RETURN PREPARER WHO IS SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE
6 COMPTROLLER MAY GRANT THE INCOME TAX RETURN PREPARER ~~UP TO A~~
7 ~~12-MONTH~~ WAIVER OF THE REQUIREMENTS OF THIS SECTION IF THE INCOME
8 TAX RETURN PREPARER IS ABLE TO ESTABLISH TO THE SATISFACTION OF THE
9 COMPTROLLER EITHER REASONABLE CAUSE FOR NOT FILING THE RETURN BY
10 ELECTRONIC MEANS OR THAT THERE IS NO FEASIBLE MEANS OF FILING THE
11 RETURN BY ELECTRONIC MEANS WITHOUT UNDUE HARDSHIP.

12 ~~(2) IF THE COMPTROLLER GRANTS THE WAIVER, THE INCOME~~
13 ~~TAX RETURN PREPARER MAY FILE SIGNED PAPER RETURNS FOR THE PERIOD~~
14 ~~ALLOWED UNDER THE WAIVER.~~

15 13-717.

16 (A) AN INCOME TAX RETURN PREPARER WHO IS SUBJECT TO § 10-824
17 OF THIS ARTICLE AND WHO FAILS TO FILE A RETURN AS REQUIRED IN § 10-824
18 OF THIS ARTICLE SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT
19 IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND IS NOT DUE
20 TO WILLFUL NEGLECT.

21 (B) THE TOTAL AMOUNT OF THE PENALTIES ASSESSED UNDER
22 SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED \$500 FOR ALL RETURNS
23 FILED BY AN INCOME TAX RETURN PREPARER FOR ANY TAXABLE YEAR.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 2009, and shall be applicable to all taxable years beginning after December 31,
26 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.