

# HOUSE BILL 34

Q7

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HB 967/13 – W&M

(PRE-FILED)

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By: **Delegate McDermott**

Requested: October 1, 2013

Introduced and read first time: January 8, 2014

Assigned to: Ways and Means

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## A BILL ENTITLED

AN ACT concerning

### **Income Tax Return Preparers – False Returns or Claims for Refund – Statute of Limitations**

FOR the purpose of providing that an income tax return preparer who commits a certain violation is subject to a certain statute of limitations and may reserve a point or question for a certain judicial review; providing for the application of this Act; and generally relating to false returns or false claims for refunds by an income tax return preparer.

BY repealing and reenacting, without amendments,  
Article – Courts and Judicial Proceedings  
Section 5–106(b) and (l)  
Annotated Code of Maryland  
(2013 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,  
Article – Tax – General  
Section 13–1004  
Annotated Code of Maryland  
(2010 Replacement Volume and 2013 Supplement)

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

### **Article – Courts and Judicial Proceedings**

5–106.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(b) Notwithstanding § 9–103(a)(3) of the Correctional Services Article or any other provision of the Code, if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary or that a person is subject to this subsection:

(1) The State may institute a prosecution for the misdemeanor at any time; and

(2) For purposes of the Maryland Constitution, the person:

(i) Shall be deemed to have committed a misdemeanor whose punishment is confinement in the penitentiary; and

(ii) May reserve a point or question for in banc review as provided under Article IV, § 22 of the Maryland Constitution.

(l) A prosecution for an offense arising under the Tax – General Article with respect to the sales and use, admissions and amusement, financial institution franchise, income, or motor fuel tax shall be instituted within 3 years after the date on which the offense was committed.

#### **Article – Tax – General**

13–1004.

**(A)** An income tax return preparer who willfully prepares, assists in preparing, or causes the preparation of a false income tax return or claim for refund with fraudulent intent or the intent to evade income tax is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 5 years or both.

**(B) NOTWITHSTANDING § 5–106(L) OF THE COURTS ARTICLE, A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO § 5–106(B) OF THE COURTS ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any income tax return or claim for refund filed or due to be filed before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.