

# SENATE BILL 763

Q7, Q3, Q4

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CF HB 1233

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By: **Senators Peters, DeGrange, Kasemeyer, King, and Miller**

Introduced and read first time: February 16, 2015

Assigned to: Rules

Re-referred to: Budget and Taxation, February 19, 2015

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2015

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Tax Amnesty Program**

3 FOR the purpose of requiring the Comptroller to waive certain penalties and interest  
4 imposed for the nonpayment, nonreporting, or underreporting of certain taxes under  
5 certain circumstances; establishing a period during which the Comptroller shall  
6 grant amnesty; authorizing the Comptroller to enter into certain agreements to  
7 provide a certain waiver under certain circumstances with respect to certain taxes  
8 that a taxpayer agrees to pay in accordance with certain terms and a certain  
9 schedule; providing that the amnesty program does not apply to certain taxpayers  
10 under certain circumstances; requiring the Comptroller to submit a certain report  
11 on the tax amnesty program; and generally relating to a tax amnesty program for  
12 certain taxes.

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
14 That:

15 (a) Subject to Section 2 of this Act, the Comptroller shall declare an amnesty  
16 period for delinquent taxpayers from September 1, 2015, to October ~~31~~ 30, 2015, both  
17 inclusive.

18 (b) The amnesty period shall be applicable to the Maryland State and local income  
19 tax, withholding taxes, sales and use taxes, and admissions and amusement taxes.

20 (c) The waiver required under this Act applies to:

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**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 (1) Nonreporting of tax liability;
- 2 (2) Underreporting of tax liability; and
- 3 (3) Nonpayment of tax liability.

4 SECTION 2. AND BE IT FURTHER ENACTED, That:

5 (a) (1) Except as otherwise provided in this section, the Comptroller shall  
6 waive all civil penalties (except previously assessed fraud penalties) and one-half of the  
7 interest imposed against a taxpayer who:

8 (i) On or before December 31, 2014, failed to file a return required  
9 or pay the tax imposed under the Tax – General Article for:

- 10 1. Individual income tax;
- 11 2. Corporate income tax;
- 12 3. Withholding tax;
- 13 4. Sales and use tax; or
- 14 5. Admissions and amusement tax; and

15 (ii) During the amnesty period:

- 16 1. Files a delinquent return and pays the tax, including  
17 one-half of any interest, due under the return;
- 18 2. Pays the tax, plus one-half of any interest, due on a  
19 previously filed return; or
- 20 3. With respect to delinquent tax due under a return filed  
21 during the amnesty period or under a previously filed return, enters into an agreement  
22 with the Comptroller under paragraph (2) of this subsection to pay the tax, including  
23 one-half of any interest, in accordance with the terms and schedule established in the  
24 agreement.

25 (2) (i) The Comptroller may at the Comptroller's discretion enter into  
26 an agreement with a taxpayer to provide a waiver under this section with respect to taxes  
27 that are not paid in full during the amnesty period but that the taxpayer agrees to pay in  
28 accordance with the terms and schedule established under the agreement.

1 (ii) Except as otherwise provided in this paragraph, the required  
2 terms and schedule for payment under an agreement under this paragraph are entirely at  
3 the discretion of the Comptroller.

4 (iii) An agreement under this paragraph shall provide for payment in  
5 full of the delinquent tax plus one-half of the interest due on or before December 31, 2016.

6 (iv) With respect to taxes that are subject to an agreement under this  
7 paragraph:

8 1. The waiver of civil penalties and interest provided under  
9 this section is void if the taxpayer fails to pay the full amount of taxes plus  
10 one-half of any interest strictly in accordance with the terms and schedule established in  
11 the agreement; and

12 2. The waiver provided under this section for one-half of the  
13 interest imposed with respect to delinquent taxes does not apply to interest accruing for  
14 periods after October ~~21~~ 30, 2015, on amounts remaining unpaid after that date.

15 (3) (i) In this paragraph, "corporate group" means an affiliated group  
16 or controlled group of corporations under § 1504 or § 1563 of the Internal Revenue Code.

17 (ii) The amnesty program under this section does not apply to:

18 ~~1. Any taxpayer that as of September 1, 2015, has more than~~  
19 ~~500 employees in the United States or is a member of a corporate group that has more than~~  
20 ~~500 employees in the United States;~~

21 ~~2. 1.~~ Any taxpayer that was granted amnesty under a  
22 Maryland Tax Amnesty Program held between calendar year 1999 and calendar year 2014;  
23 or

24 ~~3. 2.~~ Any taxpayer eligible for the July 1, 2004, through  
25 November 1, 2004, Settlement Period, as provided in Chapter 557 of the Acts of 2004, ~~which~~  
26 ~~was applicable to the Maryland corporation income tax assessed by the Comptroller based~~  
27 ~~on issues that were ruled on by the Maryland Court of Appeals in the decisions in the~~  
28 ~~Comptroller of the Treasury v. SYL, Inc., and the Comptroller of the Treasury v. Crown~~  
29 ~~Cork & Seal Company (Delaware), Inc., 375 Md. 78 (2003), whether or not the taxpayer~~  
30 ~~participated in the Settlement Period for tax periods prior to tax year 2003.~~

31 (b) (1) Except as otherwise provided in this Act, a taxpayer may not be charged  
32 with a criminal tax offense arising out of any return filed and tax paid during the amnesty  
33 period or in accordance with an agreement entered into under subsection (a)(2) of this  
34 section if the taxpayer, in accordance with the provisions of this Act:

35 (i) During the amnesty period:

1                   1.     Files a delinquent return and pays the tax, plus  
2 one-half of any interest, due under the return; or

3                   2.     Pays the tax, plus one-half of any interest, due on a  
4 previously filed return; or

5                   (ii)    With respect to delinquent tax due under a return filed during  
6 the amnesty period or under a previously filed return:

7                   1.     Enters into an agreement with the Comptroller under  
8 subsection (a)(2) of this section; and

9                   2.     Pays the full amount of taxes plus one-half of any interest  
10 strictly in accordance with the terms and schedule established in the agreement.

11                  (2)    The amnesty from criminal charges under paragraph (1) of this  
12 subsection does not apply to:

13                  (i)     Any criminal charges pending in the courts of the State; or

14                  (ii)    Any criminal charges under investigation by an office with the  
15 constitutional authority to prosecute a person for violation of criminal laws.

16                  (3)    For purposes of this subsection, an office with constitutional authority  
17 to prosecute persons for violation of the criminal laws:

18                  (i)     Includes the Office of the Attorney General of Maryland, the  
19 Office of the State Prosecutor, and the Office of the State's Attorney for any of the political  
20 subdivisions of the State; and

21                  (ii)    Does not include the Office of the Comptroller.

22                  (c)     Except as expressly provided in this section, this Act does not authorize the  
23 Comptroller to waive any interest charges or previously assessed fraud penalties.

24                  SECTION 3. AND BE IT FURTHER ENACTED, That, on or before March 15, 2016,  
25 the Comptroller shall report to the Governor and, subject to § 2-1246 of the State  
26 Government Article, the General Assembly, on:

27                  (1)     The State and local revenues raised under the amnesty program; and

28                  (2)     Other matters relating to the amnesty program.

29                  SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2015.