Article - Tax - General

§1–101.

(a) In this article the following words have the meanings indicated.

(b) "Admissions and amusement tax" means the tax imposed under Title 4 of this article.

(c) "Alcoholic beverage tax" means the tax imposed under Title 5 of this article.

(d) "Boxing and wrestling tax" means the tax imposed under Title 6 of this article.

(e) (1) "Comptroller" means the Comptroller of the State.

(2) "Comptroller", unless expressly provided otherwise, includes:

(i) an employee of the Comptroller acting within the scope of employment; and

(ii) an agent or representative of the Comptroller acting within the scope of the Comptroller's authority.

(f) "County" means a county of the State and, unless expressly provided otherwise, Baltimore City.

(g) "Department" means the State Department of Assessments and Taxation.

(h) "Financial institution franchise tax" means the tax imposed under Title 8, Subtitle 2 of this article.

(i) (1) "Income tax" means the tax imposed under Title 10 of this article.

(2) "Income tax" includes the State income tax and county income tax.

(j) "Inheritance tax" means the tax imposed under Title 7, Subtitle 2 of this article.

(k) "Internal Revenue Code" means Title 26 of the United States Code.

(l) "Maryland estate tax" means the tax imposed under Title 7, Subtitle 3 of this article.

(m) "Maryland generation–skipping transfer tax" means the tax imposed under Title 7, Subtitle 4 of this article.

(n) "Motor carrier tax" means the tax imposed under Title 9, Subtitle 2 of this article.

(o) "Motor fuel tax" means the tax imposed under Title 9, Subtitle 3 of this article.

(p) (1) "Person" means an individual, receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind and any partnership, firm, association, corporation, or other entity.

(2) "Person", unless expressly provided otherwise, does not include a governmental entity or a unit or instrumentality of a governmental entity.

(q) "Property" means real property and personal property.

(r) "Public service company franchise tax" means the tax imposed under Title 8, Subtitle 4 of this article.

(s) (1) "Sales and use tax" means the tax imposed under Title 11 of this article.

(2) "Sales and use tax" includes the tax imposed on the use of certain electricity under § 11-1A-01 of this article.

(3) "Sales and use tax" includes the hotel surcharge imposed under § 11-102(b) of this article.

(t) "Savings and loan association franchise tax" means the tax imposed under Title 8, Subtitle 3 of this article.

(u) "State" means:

(1) a state, possession, territory, or commonwealth of the United States; or

(2) the District of Columbia.

(v) Repealed.

(w) "Tobacco tax" means the tax imposed under Title 12 of this article.

§1–201.

(a) In this section, "legal holiday" means:

(1) the day on which a legal holiday, as defined in § 1–111 of the General Provisions Article, is observed; or

(2) a federal legal holiday.

(b) Notwithstanding any other law, when under State or local law, the last day to pay a tax, file a tax return, or perform any other act that relates to taxes under this article falls on a Saturday, Sunday, or legal holiday, performance of the act is considered

timely if the act is performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

(c) For purposes of this section, the last day to perform an act is the last day of any authorized extension of time.

§1–202.

(a) A unit of the State government or person responsible for administering or collecting a tax shall give each notice required under this article by mailing it, in a postpaid envelope, to the person for whom the notice is intended:

(1) at the address in the most recently filed application, report, or return of the person on record; or

(2) if no application, report, or return has been filed, at any address obtainable for the person.

(b) The mailing of a notice in the manner provided in subsection (a) of this section is presumptive evidence of its receipt by the person to whom the notice is mailed.

§1–203.

(a) A requirement in this article that a document be under oath means that the document shall be supported by a signed statement made under the penalties of perjury that the contents of the document are true to the best of the knowledge, information, and belief of the individual making the statement.

(b) The oath or affirmation shall be made:

(1) before an individual authorized to administer oaths, who shall certify in writing to have administered the oath or taken the affirmation; or

(2) by a signed statement that:

(i) is in the document or attached to and made part of the document; and

(ii) is expressly made under the penalties for perjury.

(c) If the procedures provided in subsection (b)(2) of this section are used, the affidavit subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

(d) A document made under oath shall be signed:

(1) for a corporation, by an officer of the corporation authorized to do so;

(2) for a sole proprietorship, by its owner; or

(3) for a partnership, by a partner authorized to do so.

§1–204.

Before any license may be issued under this article to an employer to engage in an activity in which the employer may employ a covered employee, as defined in § 9-101 of the Labor and Employment Article, the employer shall file with the issuing authority:

(1) a certificate of compliance with the Maryland Workers' Compensation Act; or

(2) the number of a workers' compensation insurance policy or binder.

§1–205.

(a) A license or permit is considered renewed for purposes of this section if the license or permit is issued by a unit of State government to a person for the period immediately following a period for which the person previously possessed the same or a substantially similar license.

(b) Before any license or permit issued by the Comptroller may be renewed, the Comptroller shall verify that the applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection.

§1–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Evaluation" means the process of legislative review of a tax credit for which this subtitle provides.

(c) "Evaluation committee" means a committee that is appointed to carry out an evaluation.

(d) "Evaluation date" means the date on which an evaluation of a tax credit is to be completed.

§1–302.

The purposes of this subtitle are to:

(1) establish a system of legislative review that will determine whether a tax credit is necessary for the public interest; and

(2) ensure that the legislative review takes place by establishing, by statute, dates for review and other legislative action.

§1–303. IN EFFECT

(a) (1) If a tax credit has a termination date provided for by law, an evaluation shall be made of that credit on or before July 1 of the year preceding the calendar year of the termination date.

(2) Except as provided in paragraph (1) of this subsection, an evaluation shall be made of the tax credits on or before the dates specified in subsections (b) through (e) of this section.

(b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

(1) § 10–702 of this article (wages paid in an enterprise zone) and § 9–103 of the Tax – Property Article (qualified property in an enterprise zone); and

(2) Title 6, Subtitle 4 of the Economic Development Article, § 6–119 of the Insurance Article, and § 10–714 of this article (One Maryland economic development).

(c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

(1) § 10–704 of this article (earned income); and

(2) § 10–730 of this article (film production activity).

(d) On or before July 1, 2016, an evaluation shall be made of the tax credits under:

(1) § 5A–303 of the State Finance and Procurement Article, § 6–105.2 of the Insurance Article, and § 10–704.5 of this article (sustainable communities); and

(2) § 10–721 of this article (qualified research and development expenses).

(e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

(1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article, and § 10–704.8 of this article (new job creating businesses);

(2) § 10–725 of this article (biotechnology investment incentive); and

(3) § 10–735 of this article (wineries and vineyards).

1–303. // EFFECTIVE JUNE 30, 2018 PER CHAPTER 659 OF 2013 //

(a) (1) If a tax credit has a termination date provided for by law, an evaluation shall be made of that credit on or before July 1 of the year preceding the calendar year of the termination date.

(2) Except as provided in paragraph (1) of this subsection, an evaluation shall be made of the tax credits on or before the dates specified in subsections (b) through (e) of this section.

(b) On or before July 1, 2014, an evaluation shall be made of the tax credits under:

(1) § 10–702 of this article (wages paid in an enterprise zone) and § 9–103 of the Tax – Property Article (qualified property in an enterprise zone); and

(2) Title 6, Subtitle 4 of the Economic Development Article, § 6–119 of the Insurance Article, and § 10–714 of this article (One Maryland economic development).

(c) On or before July 1, 2015, an evaluation shall be made of the tax credits under:

(1) § 10–704 of this article (earned income); and

(2) § 10–730 of this article (film production activity).

(d) On or before July 1, 2016, an evaluation shall be made of the tax credits under:

(1) § 5A–303 of the State Finance and Procurement Article, § 6–105.2 of the Insurance Article, and § 10–704.5 of this article (sustainable communities); and

(2) § 10–721 of this article (qualified research and development expenses).

(e) On or before July 1, 2017, an evaluation shall be made of the tax credits under:

(1) § 9–230 of the Tax – Property Article, § 6–116 of the Insurance Article, and § 10–704.8 of this article (new job creating businesses); and

(2) § 10–725 of this article (biotechnology investment incentive).

§1–304.

(a) Evaluation of a tax credit shall be completed by an evaluation committee appointed jointly by the President of the Senate and the Speaker of the House.

(b) Each evaluation committee for a tax credit shall be appointed on or before May 31 of the year before the evaluation date of that tax modification or tax exemption.

(c) An evaluation committee shall include at least one member of the Senate Budget and Taxation Committee and at least one member of the House Committee on Ways and Means.

§1–305.

On or before June 30 of the year before the evaluation date of a tax credit, each evaluation committee for that tax credit shall:

(1) consult with:

(i) the Department of Budget and Management;

(ii) the Department of Legislative Services;

(iii) the Comptroller; and

(iv) the department that administers the tax credit under evaluation; and

(2) prepare a plan for the evaluation.

§1–306.

During an evaluation, the Comptroller and the Department of Budget and Management shall:

(1) provide promptly any information that the Department of Legislative Services or an evaluation committee requests; and

(2) otherwise cooperate with the Department of Legislative Services and the evaluation committee.

§1–307.

(a) (1) Subject to § 2–1246 of the State Government Article, on or before October 31 of the year before the evaluation date of a tax credit, the Department of Legislative Services shall submit to the General Assembly an evaluation report on the tax credit.

(2) The Department of Legislative Services shall make copies of the report available to the public.

(b) The report required under subsection (a) of this section shall discuss:

(1) the purpose for which the tax credit was established;

(2) whether the original intent of the tax credit is still appropriate;

(3) whether the tax credit is meeting its objectives;

(4) whether the purposes of the tax credit could be more efficiently and effectively carried out through alternative methods; and

(5) the costs of providing the tax credit, including the administrative cost to the State and lost revenues to the State and local governments.

§1–308.

On or before December 14 of the year before the evaluation date of a tax credit, the evaluation committee shall hold a public hearing to receive, from the Comptroller and the public, testimony regarding the evaluation report.

§1–309.

(a) Subject to § 2–1246 of the State Government Article, on or before the 20th day of the regular session of the General Assembly in the year of the evaluation date of a tax credit, the evaluation committee for the tax credit shall submit a report to the General Assembly.

(b) (1) The report required under subsection (a) of this section shall recommend whether the tax credit should be continued, with or without changes, or terminated.

(2) The report shall be accompanied by any legislation that is needed to accomplish the recommendations in the report.

§1–310.

The continuation of a tax credit designated for evaluation under this subtitle is for a 5–year period and is subject to reevaluation 5 years after the previous evaluation, unless another period is set by law.

§1–311.

This subtitle may be cited as the "Tax Credit Evaluation Act".

§2–101.

(a) In this title the following words have the meanings indicated.

(b) "Quarter" means a calendar quarter.

(c) "Revenue" means revenue from a tax imposed under this article and interest and penalties related to the tax.

§2–102.

In addition to the duties set forth elsewhere in this article and in other articles of the Code, the Comptroller shall administer the laws that relate to:

(1) the admissions and amusement tax;

(2) the alcoholic beverage tax;

(3) the boxing and wrestling tax;

(4) the income tax;

(5) the Maryland estate tax;

(6) the Maryland generation-skipping transfer tax;

(7) the motor carrier tax;

(8) the motor fuel tax;

(9) the sales and use tax;

(10) the savings and loan association franchise tax; and

(11) the tobacco tax.

§2–103.

The Comptroller shall adopt reasonable regulations to administer the provisions of the tax laws listed in § 2-102 of this subtitle.

§2–104.

(a) (1) Subject to the requirements of § 2–110 of this subtitle and subsection (b) of this section, the Comptroller shall design the returns and other forms that, on completion, provide the information required for the administration of the tax laws listed in § 2–102 of this subtitle.

(2) The Comptroller shall include on the income tax forms required under paragraph (1) of this section that are updated on an annual basis a demonstrative representation of how much of each dollar that the General Fund receives is spent on the following categories:

(i) education;

(ii) health;

(iii) public safety; and

(iv) any other category included by the Comptroller.

(3) The demonstrative representation required under paragraph (2) of this subsection may be in the form of a graph or picture or a combination of graph and picture.

(4) (i) Subject to subparagraph (ii) of this paragraph, the Comptroller, in consultation with the Department of Budget and Management and the Department of Legislative Services, shall determine the manner in which the representation required under paragraph (2) of this subsection shall be presented and with which income tax forms the representation is to be included.

(ii) The Comptroller shall post the representation required under paragraph (2) of this subsection on the Comptroller's Web site and shall include it in instructions on the Web site for the same income tax forms that are selected under subparagraph (i) of this paragraph to include the representation.

(b) Except for variations that the differences between the federal and State income tax laws require, the forms that the Comptroller designs to administer the income tax laws shall be similar to the forms used to administer the federal income tax laws.

(c) (1) The Comptroller shall keep an income tax return for 5 years from the date the return is filed. After 5 years, the Comptroller may destroy the return.

(2) The Comptroller shall keep a sales and use tax return for 2 years from the date the return is filed. After 2 years, the Comptroller may destroy the return.

§2–105.

(a) The Comptroller shall design the license form required for:

(1) the motor fuel tax laws; and

(2) the sales and use tax laws.

(b) The Comptroller:

(1) shall determine:

(i) the design of tax stamps and certificates required for the alcoholic beverage tax and for the tobacco tax; and

(ii) the form of any other evidence of tax payment; and

(2) may adopt any other method or device that the Comptroller considers necessary to:

(i) prevent fraud or evasion of the alcoholic beverage tax; or

(ii) comply with any restrictions that the federal government imposes on alcoholic beverages during a war or an emergency.

(c) The Comptroller:

(1) shall provide tax stamps and certificates to indicate that the alcoholic beverage tax or tobacco tax has been paid; and

(2) may adopt reasonable regulations to prevent abuse but ensure the adequate availability of tax stamps and certificates, including regulations that:

(i) limit excessive disbursement of tax stamps and certificates; and

(ii) require proof of need for tax stamps and certificates.

§2–106.

(a) (1) In this section the following words have the meanings indicated.

(2) "Nonresident" has the meaning stated in § 10-101 of this article.

(3) "Resident" has the meaning stated in § 10-101 of this article.

(4) "Wages" has the meaning stated in § 10-905(f) of this article.

(b) (1) The Comptroller shall prepare income tax tables to show the income tax for an individual.

(2) The Comptroller shall prepare tables based on Maryland taxable income that provide for:

(i) income intervals not exceeding $100 for Maryland taxable income; and

(ii) the State income tax due for each income interval.

(3) The State income tax for each interval is the whole dollar amount of tax for the income that is at the midway point of the interval.

(c) (1) The Comptroller shall prepare income tax withholding tables that show the income tax to be withheld from wages. The Comptroller may prepare separate tables for residents and nonresidents.

(2) The withholding tables shall provide for:

(i) wages for each withholding period allowable under § 10-909 of this article; and

(ii) the State income tax required to be withheld for a withholding period, after:

1. an adjustment is made for the exemptions for the period; and

2. if there is a separate table for nonresidents, an adjustment is made to allow the exhaustion of exemptions for a nonresident before any income tax is withheld.

(3) The total amounts required under the tables to be withheld during a taxable year shall approximate the total income tax due on the wages for the year, determined as provided in subsection (f) of this section.

(d) (1) The Comptroller may prepare income tax percentage withholding schedules that show the percent of income tax to be withheld from wages. The Comptroller may prepare separate schedules for residents and nonresidents.

(2) The optional percentage withholding schedules shall provide for:

(i) wages for each withholding period allowable under § 10-909 of this article; and

(ii) the percent of State income tax required to be withheld for the withholding period, after:

1. an adjustment is made for the exemptions for the period; and

2. if there is a separate schedule for nonresidents, an adjustment is made to allow the exhaustion of exemptions for a nonresident before any income tax is withheld.

(3) The total percentages required under the schedules to be withheld during a taxable year shall approximate the income tax due on the wages for the year, determined as provided in subsection (f) of this section.

(e) At the option of the employer, withholdings may be made using either the withholding tables or the percentage withholding schedule.

(f) The total income tax required to be withheld on wages for purposes of the withholding tables and withholding schedules under this section shall be calculated without regard to the marginal State income tax rates less than 4.75% set forth under § 10–105(a)(1)(i) through (iii) and (2)(i) through (iii) of this article.

§2–107.

(a) Authorized employees of the Field Enforcement Bureau of the Comptroller's Office:

(1) shall be individuals who are sworn police officers; and

(2) have all the powers, duties, and responsibilities of a peace officer for the purpose of enforcing the laws pertaining to:

(i) alcoholic beverage tax;

(ii) tobacco tax;

(iii) motor fuel tax;

(iv) motor carrier tax;

(v) motor fuel and lubricants; and

(vi) transient vendors within the meaning of Subtitle 20A of Title 17 of the Business Regulation Article.

(b) (1) The Department of State Police shall help the Field Enforcement Bureau in enforcing the motor carrier tax, motor fuel tax and motor fuel and lubricants laws.

(2) The Comptroller shall pay the salaries and expenses of all Department of State Police staff assigned to the Field Enforcement Bureau.

(c) (1) (i) Except for the Sheriff, constables and bailiffs of Baltimore County, each law enforcement officer shall enforce the alcoholic beverage tax and tobacco tax laws.

(ii) A State's Attorney or other prosecutor may prosecute alleged violations of the alcoholic beverage tax or tobacco tax laws.

(2) The Field Enforcement Bureau:

(i) shall advise a State's Attorney and law enforcement officers about enforcement problems; and

(ii) otherwise may work cooperatively with law enforcement officers and prosecutors to carry out the duties of the unit.

(3) This subsection does not restrict the appropriation of money by a political subdivision of the State to aid in the enforcement of the alcoholic beverage tax and tobacco tax laws.

(d) (1) Each unit of the State government shall cooperate with the Comptroller's Office by making available, on request, any information in the unit's possession as may be of assistance in the administration and enforcement of the motor carrier tax, motor fuel tax, and motor fuel and lubricants laws.

(2) The Field Enforcement Bureau shall cooperate with and help the federal government, other states, and local governments and law enforcement personnel of those jurisdictions to enforce the motor carrier tax, motor fuel tax, and motor fuel and lubricants laws.

§2–108.

If, in good faith and with reasonable grounds, the Comptroller or a peace officer of the State seizes contraband property or a conveyance used to transport contraband property under § 13-835 of this article, the Comptroller or peace officer shall have the immunity from liability described under § 5-523 of the Courts and Judicial Proceedings Article.

§2–109.

(a) The Comptroller shall:

(1) collect the taxes that the Comptroller administers or is otherwise required under this article to collect;

(2) account for the revenue from those taxes and any other tax required to be remitted to the Comptroller; and

(3) distribute the revenue in the manner required under Subtitles 2 through 16 of this title.

(b) The requirement to make a distribution of tax revenue means to segregate, deposit, transfer, credit, disburse by warrant, or otherwise apply the revenue in accordance with the accounting practices and procedures required under the State Finance and Procurement Article and elsewhere in the Code.

(c) Except for a distribution required under § 2-604 of this title, the requirement to distribute to an account means to make a bookkeeping entry in the accounting records of the State.

§2–110.

(a) (1) The Comptroller shall include on the individual income tax return form a checkoff designated as the "State Chesapeake Bay and Endangered Species Fund Contribution".

(2) The checkoff shall state that:

(i) the individual, or each spouse in the case of a joint return, may contribute to the State Chesapeake Bay and Endangered Species Fund the amount designated by the individual; and

(ii) 1. the individual shall deduct the amount of the contribution from any refund to which the individual is entitled; or

2. if the individual is not entitled to a refund, the individual shall add the amount of the contribution to the income tax to be paid with the return.

(3) The Comptroller shall include, with the individual income tax return package, a description of the purposes for which the State Chesapeake Bay and Endangered Species Fund was established and the purposes for which the Fund may be used.

(b) The Comptroller shall:

(1) collect the checkoff contributions and account to the State Treasurer for the money collected;

(2) from the contributions collected, distribute the amount necessary to administer the checkoff system to an administrative cost account; and

(3) after the distribution under item (2) of this subsection, distribute the remainder of the money collected under this subsection to the Chesapeake Bay and Endangered Species Fund established under § 1-702 of the Natural Resources Article.

§2–111.

In the case of an individual described in § 7508 of the Internal Revenue Code, the period of service referred to in that section shall be disregarded in determining the due date for the following:

(1) filing a Maryland income tax return or declaration of estimated income tax under § 10-820 of this article;

(2) filing a refund claim under § 13-1104 of this article; and

(3) filing an appeal to the Maryland Tax Court under § 13-510 of this article, an appeal to the circuit court under § 13-532 of this article, or any further appeal permitted under Maryland law.

§2–112.

(a) (1) The Comptroller shall include on the individual income tax return form a checkoff designated as the "Maryland Cancer Fund Contribution".

(2) The checkoff shall state that:

(i) the individual, or each spouse in the case of a joint return, may contribute to the Maryland Cancer Fund the amount designated by the individual; and

(ii) 1. the individual shall deduct the amount of the contribution from any refund to which the individual is entitled; or

2. if the individual is not entitled to a refund, the individual shall add the amount of the contribution to the income tax to be paid with the return.

(3) The Comptroller shall include, with the individual income tax return

package, a description of the purposes for which the Maryland Cancer Fund was established and the purposes for which the Fund may be used.

(b) The Comptroller shall:

(1) collect the checkoff contributions and account to the State Treasurer for the money collected;

(2) from the contributions collected, distribute the amount necessary to administer the checkoff system to an administrative cost account; and

(3) after the distribution under item (2) of this subsection, distribute the remainder of the money collected under this subsection to the Maryland Cancer Fund established under § 20-117 of the Health - General Article.

§2–113.

(a) (1) The Comptroller shall include on the individual income tax return form a checkoff designated as the "Developmental Disabilities Services and Support Fund Contribution".

(2) The checkoff shall state that:

(i) the individual, or each spouse in the case of a joint return, may contribute to the Waiting List Equity Fund the amount designated by the individual; and

(ii) 1. the individual shall deduct the amount of the contribution from any refund to which the individual is entitled; or

2. if the individual is not entitled to a refund, the individual shall add the amount of the contribution to the income tax to be paid with the return.

(3) The Comptroller shall include, with the individual income tax return package, a description of the purposes for which the Waiting List Equity Fund was established and the purposes for which the Fund may be used.

(b) The Comptroller shall:

(1) collect the checkoff contributions and account to the State Treasurer for the money collected;

(2) from the contributions collected, distribute the amount necessary to administer the checkoff system to an administrative cost account; and

(3) after the distribution under item (2) of this subsection, distribute the remainder of the money collected under this subsection to the Waiting List Equity Fund established under § 7–205 of the Health – General Article to be used to provide

community–based services to individuals who are on the Developmental Disabilities Administration waiting list and are eligible for, but not receiving, services from the Administration.

§2–113.1.

(a) (1) The Comptroller shall include on the individual income tax return form a checkoff designated as the "Fair Campaign Financing Fund Contribution".

(2) The checkoff shall state that:

(i) the individual, or each spouse in the case of a joint return, may contribute to the Fair Campaign Financing Fund the amount designated by the individual if the individual or each spouse is a United States citizen or admitted for permanent legal residence in the United States; and

(ii) 1. the individual shall deduct the amount of the contribution from any refund to which the individual is entitled; or

2. if the individual is not entitled to a refund, the individual shall add the amount of the contribution to the income tax to be paid with the return.

(3) The Comptroller shall include with the individual income tax return package a description of the purposes for which the Fair Campaign Financing Fund was established and the purposes for which the Fund may be used.

(b) The Comptroller shall:

(1) collect the checkoff contributions and account to the State Treasurer for the money collected;

(2) from the contributions collected, distribute the amount necessary to administer the checkoff system to an administrative cost account; and

(3) after the distribution under item (2) of this subsection, distribute the remainder of the money collected under this subsection to the Fair Campaign Financing Fund established under § 15–103 of the Election Law Article.

§2–114.

(a) Notwithstanding the provisions of § 9–602 of the Criminal Law Article and subject to subsections (b), (c), (d), and (e) of this section, the Comptroller may monitor and record incoming telephone calls to employees of the Comptroller's call centers to telephones within the offices of the Comptroller for training, quality control, and employee safety purposes.

(b) Any monitored or recorded telephone call shall contain a notice to the telephone caller that "Your call may be recorded or monitored for training and quality

control purposes".

(c) (1) The Comptroller may record or monitor incoming calls to the automated call distribution system only.

(2) The Comptroller may not record or monitor calls to or from direct individual lines in the Office of the Comptroller.

(d) Notwithstanding any other provision of law, information derived from an incoming telephone call to employees of the Comptroller's call centers may not be used in any criminal or civil proceeding against any Maryland taxpayer unless the caller has made a personal and imminent threat against an employee or property of the State.

(e) Recorded telephone calls may not be retained by the Office of the Comptroller for longer than 60 days, except:

(1) if the call is to be used solely as a positive example to follow in the training of employees using the Comptroller's call centers; or

(2) if the caller has made a personal and imminent threat against an employee or property of the State.

§2–201.

From the admissions and amusement tax revenue, the Comptroller shall distribute each quarter the amount necessary to administer the admissions and amusement tax laws in the previous quarter to an administrative cost account.

§2–202.

(a) After making the distribution required under § 2–201 of this subtitle, within 20 days after the end of each quarter, the Comptroller shall distribute:

(1) except as provided in subsection (b) of this section, from the revenue from the State admissions and amusement tax on electronic bingo and electronic tip jars under § 4–102(e) of this article:

(i) 1. for fiscal years 2016 through 2021, the revenue attributable to a tax rate of 20% to the Maryland E–Nnovation Initiative Fund under § 6–604 of the Economic Development Article;

2. in fiscal year 2022 and in each fiscal year thereafter, the revenue attributable to a tax rate of 20% to the General Fund of the State; and

(ii) the revenue attributable to a tax rate of 5% to the Special Fund for Preservation of Cultural Arts in Maryland, as provided in § 4–801 of the Economic Development Article; and

(2) the remaining admissions and amusement tax revenue:

(i) to the Maryland Stadium Authority, county, or municipal corporation that is the source of the revenue; or

(ii) if the Maryland Stadium Authority and also a county or municipal corporation tax a reduced charge or free admission:

1. 80% of that revenue to the Authority; and

2. 20% to the county or municipal corporation.

(b) From the revenue from the State admissions and amusement tax on electronic bingo and electronic tip jars in Calvert County under § 4–102(e) of this article, the Comptroller shall distribute:

(1) for fiscal years 2014 through 2019, from:

(i) the revenue attributable to a tax rate of 1.5%:

1. $50,000 to the Boys and Girls Club of the Town of North Beach; and

2. the remainder to the Town of North Beach;

(ii) the revenue attributable to a tax rate of 2.5% to the Town of Chesapeake Beach; and

(iii) the revenue attributable to a tax rate of 4% to the Calvert County Youth Recreational Opportunities Fund under Title 5, Subtitle 19 of the Natural Resources Article; and

(2) for fiscal year 2020 and each fiscal year thereafter, from:

(i) the revenue attributable to a tax rate of 1.5%:

1. $50,000 to the Boys and Girls Club of the Town of North Beach; and

2. the remainder to the Town of North Beach;

(ii) the revenue attributable to a tax rate of 2.5% to the Town of Chesapeake Beach; and

(iii) the revenue attributable to a tax rate of 4% to the Calvert County Board of Education for school renovation and renewal projects that may not be used to supplant county funds for public school construction.

§2–203.

The Comptroller shall pay refunds relating to the admissions and amusement tax from undistributed tax revenue attributable to the Maryland Stadium Authority, the county, or municipal corporation that is the source of the tax.

§2–301.

(a) From the alcoholic beverage tax revenue, the Comptroller shall distribute the amount necessary to administer the alcoholic beverage tax laws to an administrative cost account.

(b) After making the distribution required under subsection (a) of this section, the Comptroller shall distribute the remaining alcoholic beverage tax revenue to the General Fund of the State.

§2–302.

The Comptroller shall pay refunds relating to the alcoholic beverage tax from the General Fund.

§2–303.

The Comptroller shall distribute the proceeds from sales of contraband alcoholic beverages and conveyances under § 13-841(a) of this article to the General Fund.

§2–401.

From the boxing and wrestling tax revenue, the Comptroller shall distribute each quarter the amount necessary to administer the boxing and wrestling tax laws in the previous quarter to an administrative cost account.

§2–402.

After making the distribution required under § 2-401 of this subtitle, the Comptroller shall distribute the remaining boxing and wrestling tax revenue to the General Fund of the State.

§2–501.

The Comptroller shall distribute the financial institution franchise tax revenue to the General Fund of the State.

§2–502.

The Comptroller shall pay refunds relating to the financial institutions franchise tax that the Department certifies under § 8-212 of this article from the General Fund of the State.

§2–601.

(a) In this subtitle the following words have the meanings indicated.

(b) "Corporation" has the meaning stated in § 10-101 of this article.

(c) "County income tax" has the meaning stated in § 10-101 of this article.

(d) "Individual" has the meaning stated in § 10-101 of this article.

(e) "State income tax" has the meaning stated in § 10-101 of this article.

§2–604.

From the income tax revenue from individuals, the Comptroller shall distribute the amount necessary to pay refunds relating to income tax from individuals to the income tax refund account.

§2–605.

(a) After making the distribution required under § 2-604 of this subtitle, from the remaining income tax revenue from individuals, the Comptroller shall distribute the cost of administering the income tax laws to an administrative cost account.

(b) The Comptroller shall include within the distribution required under this section the amount necessary for the counties' share of the cost of administering the income tax laws.

(c) The share of administrative costs for each county is the amount equal to the product of multiplying the cost of administering the income tax laws by a fraction:

(1) the numerator of which is the amount of county income tax from individuals collected and attributable to residents of the county; and

(2) the denominator of which is the total amount of income tax collected from individuals and corporations.

§2–606.

(a) After making the distributions required under §§ 2–604 and 2–605 of this subtitle, from the remaining income tax revenue from individuals, the Comptroller shall distribute to an unallocated individual revenue account the income tax revenue:

(1) with respect to which an income tax return is not filed; and

(2) that is attributable to:

(i) income tax withheld from salary, wages, or other compensation for personal services under Title 10 of this article; or

(ii) estimated income tax payments by individuals.

(b) (1) In June of each year, from current collections, the Comptroller shall reserve an amount of unallocated revenue that the Comptroller estimates will be claimed on returns and refunded to taxpayers within 3 years of the date the income tax return was due to be filed, and distribute to each county, municipal corporation, and special taxing district a pro rata share of the balance of the unallocated individual income tax revenue.

(2) The Comptroller shall adjust the amount distributed under paragraph (1) of this subsection to a county, municipal corporation, or special taxing district to allow for the proportionate part of tax claim payments for a prior calendar year made after a distribution is made to the county, municipal corporation, or special taxing district for that year.

(c) (1) To compute the pro rata share for a county, the Comptroller shall:

(i) compute the amount equal to the product of multiplying the unallocated individual income tax revenue by a fraction:

1. the numerator of which is the income tax for the county collected for a calendar year; and

2. the denominator of which is the total income tax from individuals collected for that year; and

(ii) reduce the amount computed under item (i) of this paragraph by the pro rata share computed under paragraph (2) of this subsection for municipal corporations and special taxing districts that are located in the county.

(2) To compute the pro rata share for a municipal corporation or special taxing district, the Comptroller shall compute the amount equal to the product of multiplying the pro rata share for a calendar year for the county where the municipal corporation or district is located by a fraction:

(i) the numerator of which is the amount distributed under § 2–607 of this subtitle to that municipal corporation or special taxing district for that year; and

(ii) the denominator of which is the total income tax for that county collected for that year.

(d) On or before June 30, 2009, the Comptroller shall distribute $366,778,631 from the Local Reserve Account established to comply with this section to the General Fund of the State.

(e) On or before June 30, 2010, the Comptroller shall distribute $350,000,000 from the Local Reserve Account established to comply with this section to the Education Trust Fund established under § 9–1A–30 of the State Government Article.

(f) (1) On or before June 30, 2011, the Comptroller shall distribute $200,000,000 from the Local Reserve Account established to comply with this section to the General Fund of the State for use in funding the Maryland Medicaid Program for fiscal year 2011.

(2) In each of fiscal years 2021 through 2026, the State shall pay to the Local Reserve Account $33,333,333 to repay the $200,000,000 transfer to the General Fund authorized under paragraph (1) of this subsection.

(g) (1) On or before June 30, 2013, the Comptroller shall distribute $15,379,979 from the Local Reserve Account established to comply with this section to a special fund established in the Department of Transportation for the purpose of providing transportation grants to municipalities.

(2) The grants authorized under this subsection shall be allocated to eligible municipalities as provided in § 8–405 of the Transportation Article.

(h) (1) On or before June 30, 2015, the Comptroller shall distribute $100,000,000 from the Local Reserve Account established to comply with this section to the General Fund of the State.

(2) In each of fiscal years 2017 through 2025, in addition to the amounts distributed under subsection (b) of this section, the Comptroller shall distribute $10,000,000 of the remaining income tax revenue from individuals to the Local Reserve Account to repay the $100,000,000 transfer to the General Fund required under paragraph (1) of this subsection.

§2–607.

(a) After making the distributions required under §§ 2-604 through 2-606 of this subtitle, from the remaining income tax revenue from individuals, the Comptroller shall distribute to each special taxing district that received an income tax revenue distribution in fiscal year 1977 and to each municipal corporation an amount that, based on the certification of the Comptroller as to State income tax liability and county income tax liability of the residents of the district or municipal corporation, equals the greater of:

(1) subject to subsection (b) of this section, 17% of the county income tax liability of those residents; or

(2) 0.37% of the Maryland taxable income of those residents.

(b) If the county income tax rate for a county is less than 2.6%, the amount determined under subsection (a)(1) of this section shall be multiplied by a fraction:

(1) the numerator of which is 2.6%; and

(2) the denominator of which is the county income tax rate for the county.

(c) The Comptroller shall adjust the amount distributed under subsection (a) of this section to a municipal corporation or special taxing district to allow for a proportionate part of refund and interest payments for a prior calendar year made after a distribution is made to the municipal corporation or district for that year.

§2–608.

(a) (1) After making the distributions required under §§ 2–604 through 2–607 of this subtitle, if it is determined that a county has not met the local funding requirements for education under § 5–202(d) of the Education Article, the Comptroller shall distribute to the county board of education an amount equal to the amount calculated under § 5–213 or § 5–213.1 of the Education Article.

(2) After making the distributions required under §§ 2–604 through 2–607 of this subtitle and paragraph (1) of this subsection, the Comptroller shall distribute to each county the remaining income tax revenue from individuals attributable to the county income tax for that county.

(b) The Comptroller shall adjust the amount distributed under subsection (a) of this section to a county to allow for a proportionate part of refund and interest payments made for a prior calendar year after a distribution is made to the county for that year.

§2–608.1.

(a) In this section, "municipality" means:

(1) a special taxing district that received an income tax revenue distribution in fiscal year 1977; or

(2) a municipal corporation.

(b) For fiscal year 1990, after making the distributions required under § 2-604 through § 2-608 of this subtitle, the Comptroller shall distribute to each municipality the amount, if any, by which:

(1) a $2 per capita increase over the amount distributed to the municipality under § 2-607 of this subtitle for the 1986 taxable year, based on the most recent census data available from the Department of Planning; exceeds

(2) the amount distributed to the municipality under § 2-607 of this subtitle for the 1988 taxable year.

§2–609.

After making the distributions required under §§ 2-604 through 2-608.1 of this subtitle, the Comptroller shall distribute the remaining income tax revenue from individuals to the General Fund of the State.

§2–610.

(a) The Comptroller shall make the distributions of income tax revenue from individuals attributable to county income tax periodically to a county, municipal corporation, or special taxing district.

(b) The periodic distributions of the estimated amount to which each county, municipal corporation, and special taxing district is entitled from withholdings and estimated income taxes paid shall be made:

(1) for the 1st 3 quarters of the State's fiscal year, as often as practicable but at least each quarter; and

(2) for the 4th quarter of that year:

(i) before the last day of that year, for the months of April and May; and

(ii) before August 31, for the month of June.

(c) Abrogated.

(d) The Comptroller shall make a payment of the additional amounts provided under § 2-608.1 of this subtitle on or about December 31 of the fiscal year for which the payment is made.

§2–613.

From the income tax revenue from corporations, the Comptroller shall distribute the amount necessary to pay refunds relating to income tax from corporations to the income tax refund account.

§2–613.1.

After making the distribution required under § 2–613 of this subtitle, of the remaining income tax revenue from corporations, the Comptroller shall distribute:

(1) 6% to the Higher Education Investment Fund established under § 15–106.6 of the Education Article; and

(2) 9.15% to the General Fund.

§2–614.

(a) (1) Except as provided in paragraph (2) of this subsection, after making the distributions required under §§ 2–613 and 2–613.1 of this subtitle, the Comptroller shall distribute monthly 17.2% of the remaining income tax revenue from corporations to a special fund to be distributed as provided in subsection (b) of this section.

(2) The percent of the remaining income tax revenue from corporations distributed to a special fund to be distributed as provided in subsection (b) of this section shall be:

(i) 24% for the fiscal year beginning July 1, 2011;

(ii) 9.5% for the fiscal year beginning July 1, 2012; and

(iii) 19.5% for each fiscal year beginning on or after July 1, 2013, but before July 1, 2016.

(b) (1) (i) Except as provided in subparagraph (ii) of this paragraph, from the special fund, the Comptroller shall distribute an amount equal to 17.2% of the cost to administer the income tax on corporations to an administrative cost account.

(ii) The percent of the cost to administer the income tax on corporations that is distributed to an administrative cost account shall be:

1. 24% for the fiscal year beginning July 1, 2011;

2. 9.5% for the fiscal year beginning July 1, 2012; and

3. 19.5% for each fiscal year beginning on or after July 1, 2013, but before July 1, 2016.

(2) After making the distribution required under paragraph (1) of this subsection, the Comptroller shall distribute the balance in the special fund to the Gasoline and Motor Vehicle Revenue Account in the Transportation Trust Fund.

§2–615.

After making the distributions required under §§ 2–613, 2–613.1, and 2–614 of this subtitle, the Comptroller shall distribute the remaining income tax revenue from corporations to the General Fund of the State.

§2–701.

The Comptroller shall distribute the inheritance tax revenue to the General Fund of the State.

§2–702.

If, under § 7-233(d) of this article, a register of wills certifies a refund relating to the inheritance tax, the Comptroller:

(1) shall authorize the register to pay the refund from inheritance tax revenue that the register has not paid into the State Treasury; or

(2) if the register does not have enough revenue, shall pay the refund from

the General Fund of the State.

§2–801.

The Comptroller shall distribute the Maryland estate tax revenue to the General Fund of the State.

§2–802.

The Comptroller shall pay refunds relating to the Maryland estate tax from the General Fund of the State.

§2–901.

The Comptroller shall distribute the Maryland generation-skipping transfer tax revenue to the General Fund of the State.

§2–902.

The Comptroller shall pay refunds relating to the Maryland generation-skipping transfer tax from the General Fund of the State.

§2–1001.

The Comptroller shall distribute the motor carrier tax revenue and fees collected under Title 9 of this article to the Gasoline and Motor Vehicle Revenue Account of the Transportation Trust Fund.

§2–1002.

The Comptroller shall pay refunds relating to the motor carrier tax from motor fuel tax revenue.

§2–1101.

From the motor fuel tax revenue the Comptroller shall distribute the amount necessary to pay refunds relating to the motor fuel tax and the motor carrier tax to a refund account.

§2–1102.

After making the distributions required under § 2-1101 of this subtitle, from the remaining motor fuel tax revenue, the Comptroller shall distribute the amount necessary to administer the Motor Fuel Tax Bureau of the Regulatory and Enforcement Division of the Comptroller's Office to an administrative cost account.

§2–1103.

After making the distributions required under §§ 2–1101 and 2–1102 of this

subtitle, the Comptroller shall distribute:

(1) the remaining motor fuel tax revenue from aviation fuel to the Transportation Trust Fund;

(2) all remaining motor fuel tax revenue, equal to the average percentage by which the motor fuel tax rate exceeds 18.5 cents per gallon, not including revenue attributable to an increase in the motor fuel tax rates under § 9–305(b) of this article or revenue attributable to the sales and use tax equivalent rate imposed under § 9–306 of this article, to the Gasoline and Motor Vehicle Revenue Account in the Transportation Trust Fund;

(3) revenue attributable to an increase in the motor fuel tax rates imposed under § 9–305(b) of this article to the Transportation Trust Fund; and

(4) revenue attributable to the sales and use tax equivalent rate imposed under § 9–306 of this article to the Transportation Trust Fund.

§2–1104.

(a) Except as otherwise provided in this section, after making the distributions required under §§ 2–1101 through 2–1103 of this subtitle, from the remaining motor fuel tax revenue, the Comptroller shall distribute:

(1) 2.3% to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund;

(2) 0.5% to the Waterway Improvement Fund; and

(3) any remaining balance to the Gasoline and Motor Vehicle Revenue Account of the Transportation Trust Fund.

(b) For each fiscal year beginning on or before July 1, 2015, instead of the distribution required under subsection (a)(1) of this section, the Comptroller shall distribute 2.3% of the remaining motor fuel tax revenue as follows:

(1) to the General Fund of the State:

(i) $5,000,000 for each fiscal year beginning on or before July 1, 2011;

(ii) $5,000,000 for each of the fiscal years beginning July 1, 2012, July 1, 2013, and July 1, 2014; and

(iii) $4,624,687 for the fiscal year beginning July 1, 2015;

(2) $8,000,000 to the Budget Restoration Fund for the fiscal year beginning July 1, 2012; and

(3) the balance to the Chesapeake and Atlantic Coastal Bays 2010 Trust

Fund.

§2–1201.

The Comptroller shall pay refunds relating to the public service company franchise tax from the General Fund of the State.

§2–1301.

From the sales and use tax revenue, the Comptroller shall distribute the amount necessary to pay refunds relating to the sales and use tax to a refund account.

§2–1302.

After making the distribution required under § 2-1301 of this subtitle, from the remaining sales and use tax revenue, the Comptroller shall distribute the amount necessary to administer the sales and use tax laws to an administrative cost account.

§2–1302.1.

(a) Except as otherwise provided in this section, after making the distributions required under §§ 2–1301 and 2–1302 of this subtitle, of the sales and use tax collected on short–term vehicle rentals under § 11–104(c) of this article the Comptroller shall distribute:

(1) 45% to the Transportation Trust Fund established under § 3–216 of the Transportation Article; and

(2) the remainder to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

(b) For each fiscal year beginning on or before July 1, 2015, after the distribution required under subsection (a)(1) of this section, the Comptroller shall distribute the remainder of the sales and use tax collected on short–term vehicle rentals under § 11–104(c) of this article as follows:

(1) to the General Fund of the State:

(i) $9,249,199 for the fiscal year beginning July 1, 2014; and

(ii) $8,639,632 for the fiscal year beginning July 1, 2015; and

(2) the remainder to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

§2–1303.

After making the distributions required under §§ 2–1301 through 2–1302.1 of this subtitle, the Comptroller shall pay:

(1) revenues from the hotel surcharge into the Dorchester County Economic Development Fund established under § 10–130 of the Economic Development Article; and

(2) the remaining sales and use tax revenue into the General Fund of the State.

§2–1401.

The Comptroller shall distribute the savings and loan association franchise tax revenue to the General Fund of the State.

§2–1402.

The Comptroller shall pay refunds relating to the savings and loan association franchise tax from the General Fund of the State.

§2–1601.

From the tobacco tax revenue, the Comptroller shall distribute the amount necessary to pay refunds relating to the tobacco tax to a refund account.

§2–1602.

After making the distribution required under § 2-1601 of this subtitle, from the remaining tobacco tax revenue the Comptroller shall distribute the amount necessary to administer the tobacco tax laws to an administrative cost account.

§2–1603.

After making the distributions required under §§ 2-1601 and 2-1602 of this subtitle, the Comptroller shall distribute the remaining tobacco tax revenue to the General Fund of the State.

§3–101.

(a) In this title the following words have the meanings indicated.

(b) "Judge" means an individual who serves on the Tax Court.

(c) "Tax Court" means the Maryland Tax Court.

§3–102.

There is a Maryland Tax Court, which is an independent administrative unit of the State government.

§3–103.

(a) The Tax Court has jurisdiction to hear appeals from the final decision, final determination, or final order of a property tax assessment appeal board or any other unit of the State government or of a political subdivision of the State that is authorized to make the final decision or determination or issue the final order about any tax issue, including:

(1) the valuation, assessment, or classification of property;

(2) the imposition of a tax;

(3) the determination of a claim for refund;

(4) the application for an abatement, reduction, or revision of any assessment or tax; or

(5) the application for an exemption from any assessment or tax.

(b) This section does not affect any requirement that a decision, determination, or order be appealed to another unit of the State government or of a political subdivision of the State before an appeal is taken to the Tax Court.

§3–104.

The Tax Court may sit in Baltimore City or in the county seat of any other county.

§3–105.

(a) In addition to the powers and duties set forth elsewhere in this title and in Title 13, Subtitle 5 of this article, the Tax Court:

(1) as to any matter before it, shall pass a written order that is signed by at least 1 of the judges;

(2) shall have a seal for the certification of copies of orders of the Tax Court by the clerk; and

(3) may ask the Department to perform administrative duties for the Tax Court.

(b) Subject to § 3-103 of this title, Title 13 of this article, and § 14-512 of the Tax - Property Article, the Tax Court may adopt reasonable rules of procedure in accordance with the provisions for adopting regulations under Title 10, Subtitle 1, Parts I through III, V, and VI of the State Government Article.

§3–106.

(a) (1) The Tax Court consists of 5 judges appointed by the Governor from the

qualified voters of the State.

(2) Of the 5 judges, the Chief Judge and at least 1 other judge shall be members of the Bar of the State.

(3) Of the 5 judges, at least:

(i) 1 shall be a resident of Baltimore City;

(ii) 1 shall be a resident of the Eastern Shore; and

(iii) 1 shall be a resident of the Western Shore.

(b) The Tax Court may not include more than 3 judges from the same political party.

(c) Before taking office, each appointee to the Tax Court shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) (1) The term of a judge is 6 years and begins on the 1st Monday in June.

(2) The terms of judges are staggered as required by the terms provided for the judges of the Tax Court on January 1, 1989.

(3) At the end of a term, a judge continues to serve until a successor is appointed and qualifies.

(4) A judge who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) The Governor may remove a judge for incompetence or misconduct.

(f) Each judge is entitled to the salary provided in the State budget.

§3–107.

(a) Except as provided in subsection (c) of this section, a majority of the judges then serving on the Tax Court is a quorum to do business.

(b) The concurrence of a majority of the judges who hear an appeal is sufficient to decide the appeal.

(c) A judge who is a member of the Bar of the State may hear and decide an appeal without the participation of any other judge.

§3–108.

(a) From among the judges, the Governor shall appoint a Chief Judge.

(b) An appointment as Chief Judge is effective during the term of the judge who is appointed to the position.

§3–109.

(a) The Tax Court shall appoint a clerk.

(b) The clerk is entitled to the salary provided in the State budget.

(c) (1) The clerk shall have custody of and keep as a public record:

(i) a docket that is a full and accurate record of all proceedings in the Tax Court; and

(ii) a file of all the pleadings and exhibits in all proceedings in the Tax Court.

(2) The clerk shall issue a subpoena as required under §§ 13-520 and 13-521 of this article.

(3) The clerk shall perform other duties that the Tax Court assigns.

(d) The clerk may administer oaths in connection with any proceeding in the Tax Court.

§3–110.

(a) The Tax Court may appoint 1 or more deputy clerks.

(b) Each deputy clerk is entitled to the salary provided in the State budget.

(c) A deputy clerk shall perform the duties that the Tax Court assigns, including, in the absence of the clerk, a duty of the clerk.

(d) A deputy clerk may administer oaths in connection with any proceeding in the Tax Court.

§3–111.

(a) The Tax Court may:

(1) appoint examiners to hear an appeal on the valuation of real property; and

(2) arrange for examiners to hear appeals in the counties where the appeals arise, at times and places that promote accessibility to the examiners by the parties to the appeal.

(b) After a hearing before an examiner, the examiner shall submit to the Tax

Court a written recommended decision that includes the findings of fact and conclusions of law on which the recommendation is based.

§3–112.

The Tax Court may employ staff in accordance with the State budget:

(1) to carry out the provisions of this title and Title 13, Subtitle 5 of this article; and

(2) to exercise the powers and to carry out the duties otherwise conferred by law on the Tax Court.

§3–113.

(a) The principal office of the Tax Court is in Baltimore City, at a location that the Board of Public Works chooses.

(b) The offices of the Tax Court shall be open for business:

(1) during the hours that the Governor designates; and

(2) at any additional time as the Tax Court considers necessary.

§4–101.

(a) In this title the following words have the meanings indicated.

(b) (1) "Admissions and amusement charge", unless expressly provided otherwise, means a charge for:

(i) admission to a place, including any additional separate charge for admission within an enclosure;

(ii) use of a game of entertainment;

(iii) use of a recreational or sports facility;

(iv) use or rental of recreational or sports equipment; and

(v) merchandise, refreshments, or a service sold or served in connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided.

(2) "Admissions and amusement charge" does not include a charge for admission to a political fundraising event.

(c) "Game of entertainment" includes, in Anne Arundel County or Calvert County, the game of instant bingo permitted under a commercial bingo license.

(d) "Person" includes:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

(e) "Stadium Authority" means the Maryland Stadium Authority created under § 10–604 of the Economic Development Article.

§4–102.

(a) In this section, "net proceeds" means the total receipts from the operation of an electronic bingo machine or electronic tip jar machine less the amount of money winnings or prizes paid out to players.

(b) A county may impose, by resolution, a tax on:

(1) the gross receipts derived from any admissions and amusement charge in that county; and

(2) an admission in that county for a reduced charge or at no charge to a place if there is a charge for other admissions to the place.

(c) A municipal corporation may impose, by ordinance or resolution, a tax on:

(1) the gross receipts derived from any admission and amusement charge in that municipal corporation; and

(2) an admission in that municipal corporation for a reduced charge or at no charge to a place if there is a charge for other admissions to the place.

(d) The Stadium Authority may impose a tax on:

(1) the gross receipts derived from any admissions and amusement charge for an admission to a facility owned or leased by the Stadium Authority; and

(2) an admission for a reduced charge or at no charge to a facility owned or leased by the Stadium Authority if there is a charge for other admissions to the facility.

(e) A State tax is imposed on the net proceeds derived from any charge for the operation of an electronic bingo machine permitted under a commercial bingo license or an electronic tip jar machine authorized under Title 13 of the Criminal Law Article that is operated for commercial purposes.

(f) (1) The State and local admissions and amusement taxes applicable to electronic instant bingo shall be determined on a tax–included or separately stated basis.

(2) Notwithstanding any other provision of this section, other State and local admissions and amusement taxes applied under this section may be determined on a tax–included or separately stated basis.

§4–103.

(a) The admissions and amusement tax may not be imposed by:

(1) a county on gross receipts derived from any source within a municipal corporation located in that county, if the municipal corporation imposes an admissions and amusement tax on any gross receipts or specifically exempts any gross receipts from the admissions and amusement tax;

(2) Baltimore County on gross receipts:

(i) of a not for profit community association that is organized and operated to promote the general welfare of the community that the association serves and the net earnings of which do not inure to the benefit of any stockholder or member of the association; or

(ii) derived from any admissions and amusement charge for any activities related to agricultural tourism;

(3) Calvert County on gross receipts that are subject to the sales and use tax;

(4) Washington County on gross receipts from an amusement device that is subject to the license and permit requirements of Title 17, Subtitle 4, Part V of the Business Regulation Article;

(5) Montgomery County on gross receipts derived within an area designated as an enterprise zone under Title 5, Subtitle 7 of the Economic Development Article from a charge for:

(i) admission to a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided; or

(ii) merchandise, refreshment, or a service sold or served in connection with entertainment at a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided; and

(6) Harford County on gross receipts derived from:

(i) any admissions and amusement charge for golf entertainment;

(ii) any admissions and amusement charge in connection with a business that provides drive–in movie entertainment;

(iii) any admissions and amusement charge for any activities related to agricultural tourism; or

(iv) any admissions and amusement charge by a roller skating rink.

(b) The admissions and amusement tax may not be imposed by a county or municipal corporation on gross receipts:

(1) derived from any charge for merchandise, refreshments, or a service sold or served at a place where:

(i) dancing is prohibited; and

(ii) the only entertainment provided is mechanical music, radio, or television;

(2) derived from any charge for admission to:

(i) a live boxing or wrestling match; or

(ii) a concert or theatrical event presented or offered by a not for profit group that:

1. is organized and operated to present or offer an annual series of scheduled musical concerts; or

2. is organized and operated for a cultural purpose and receives a grant directly or indirectly from the Maryland State Arts Council;

(3) derived from any charge for admission to or use of:

(i) a facility or equipment in connection with a bingo game that is operated in accordance with § 13–507 of the Criminal Law Article;

(ii) a bowling alley or lane;

(iii) a charter fishing boat; or

(iv) a nontethered hot air balloon;

(4) derived from any charge for admission or for merchandise, refreshments, or a service, if the gross receipts are used exclusively for:

(i) a charitable, educational, or religious purpose;

(ii) a volunteer fire company or nonprofit rescue squad;

(iii) a fraternal, service, or veterans' organization chartered by a grant of Congress; or

(iv) the improvement, maintenance, or operation of an agricultural fair, if no net earnings inure to the benefit of any stockholder or member of the association that conducts the fair; or

(5) obtained at admission and used for the cost of prizes or as money winnings distributed, as part of its operation, by a commercial bingo game in Anne Arundel County.

§4–104.

(a) A county or a municipal corporation may exempt from the admissions and amusement tax gross receipts from any charge for admission or for merchandise, refreshments, or a service, if the gross receipts are used exclusively for community or civic improvement by a not for profit community association that is organized and operated to promote the general welfare of the community that the association serves and the net earnings of which do not inure to the benefit of any stockholder or member of the association.

(b) A county or a municipal corporation may exempt from the admissions and amusement tax gross receipts from any charge for admission to a concert or theatrical event of a not for profit organization that is organized to present or offer any of the performing arts.

(c) Wicomico County or a municipal corporation in Wicomico County may exempt, by ordinance or resolution, from the admissions and amusement tax gross receipts from any charge for use of tennis courts.

(d) (1) An exemption of a class of activity by a county or municipal corporation does not alter the ability of the Stadium Authority to tax that class.

(2) An exemption of a class of activity by the Stadium Authority does not alter the ability of a county or municipal corporation to tax that class.

(e) (1) In this subsection, "arts and entertainment district", "arts and entertainment enterprise" and "qualifying residing artist" have the meanings stated in § 4–701 of the Economic Development Article.

(2) A county or a municipal corporation may exempt from the admissions and amusement tax gross receipts from any admissions or amusement charge levied by an arts and entertainment enterprise or qualifying residing artist in an arts and entertainment district.

§4–105.

(a) Except as otherwise provided in this section, the admissions and amusement

tax rate is:

(1) the rate that a county or municipal corporation sets, not exceeding 10% of gross receipts subject to the admissions and amusement tax; or

(2) the rate that the Stadium Authority sets, not exceeding 8% of gross receipts subject to the admissions and amusement tax.

(a–1) (1) Except as provided in paragraphs (2) and (3) of this subsection, the rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § 4–102(e) of this subtitle is 30% of the net proceeds subject to the tax.

(2) The rate of the State admissions and amusement tax imposed on electronic bingo or electronic tip jars in Calvert County under § 4–102(e) of this subtitle is 33% of the net proceeds subject to the tax.

(3) If net proceeds subject to the State admissions and amusement tax imposed on electronic bingo or electronic tip jars under § 4–102(e) of this subtitle are also subject to an admissions and amusement tax imposed by a county or a municipal corporation under this subtitle:

(i) the rate of the State tax may not exceed a rate that, when combined with the rate of any county or municipal corporation tax, will exceed 35% of the net proceeds; and

(ii) the rate of any county or municipal corporation admissions and amusement tax that is applicable to net proceeds derived from electronic bingo or electronic tip jars may not exceed the rate of the admissions and amusement tax imposed by the county or municipal corporation as of January 1, 2009.

(b) If gross receipts subject to the admissions and amusement tax are also subject to the sales and use tax, a county or a municipal corporation may not set a rate so that, when combined with the sales and use tax, the total tax rate will exceed 11% of the gross receipts.

(c) If gross receipts subject to the admissions and amusement tax imposed by the Stadium Authority are also subject to an admissions and amusement tax imposed by a county or municipal corporation, the county or municipal corporation may not set a rate or collect the tax at a rate so that, when combined with the rate of the Stadium Authority, the total tax rate will exceed 10% of the gross receipts.

(d) A municipal corporation may set an admissions and amusement tax rate that differs from the rate set by the county where the municipal corporation is located.

(e) For purposes of setting admissions and amusement tax rates, a county, a municipal corporation, or the Stadium Authority may:

(1) establish different classes of admissions and amusement charges; and

(2) set different rates of tax for those classes.

(f) The admissions and amusement tax that a county, a municipal corporation, or the Stadium Authority may impose on a reduced charge or free admission is:

(1) 5 cents, if the charge for any other admission is 50 cents or less;

(2) 10 cents, if the charge for any other admission is more than 50 cents but does not exceed $1; and

(3) 15 cents, if the charge for any other admission is more than $1.

(g) If a county, a municipal corporation, or the Stadium Authority changes an admissions and amusement tax rate or changes a class to which a rate applies, the county, municipal corporation, or Stadium Authority shall give the Comptroller notice of the change at least 60 days before the effective date of the change.

§4–201.

A person shall complete, under oath, and file with the Comptroller the admissions and amusement tax return:

(1) on or before the 10th day of the month that follows the month in which the person has gross receipts subject to the admissions and amusement tax; and

(2) for other periods and on other dates that the Comptroller specifies by regulation, including periods in which the person has no gross receipts subject to the tax.

§4–202.

(a) Each person who has gross receipts subject to the admissions and amusement tax shall keep complete and accurate records in the form and with the information that the Comptroller requires by regulation.

(b) The person who is required under subsection (a) of this section to keep records shall make the records available for inspection and examination by the Comptroller at any time during business hours.

(c) The person shall keep the records required under subsection (a) of this section for 4 years, unless the Comptroller consents in writing to an earlier destruction of the records or requires in writing that the records be kept longer than 4 years.

§4–301.

(a) A person who has gross receipts subject to the admissions and amusement tax shall pay the tax on those gross receipts with the return that covers the period in which those receipts are earned.

(b) If a corporation, other than a nonstock, not for profit corporation, is required to pay the admissions and amusement tax, personal liability for the tax and interest and penalties on the tax extends to any officer of the corporation who exercises direct control over its fiscal management.

(c) If a limited liability company, or limited liability partnership, including a limited partnership registered as a limited liability limited partnership, is required to pay the admissions and amusement tax, personal liability for the tax and interest and penalties on the tax extends to any person who exercises direct control over the fiscal management of the limited liability company or limited liability partnership.

§5–101.

(a) In this title the following words have the meanings indicated.

(b) (1) "Alcoholic beverage" means a spirituous, vinous, malt, or fermented liquor, liquid, or compound that:

(i) is fit for beverage purposes; and

(ii) contains one–half of 1% or more of alcohol by volume.

(2) "Alcoholic beverage" includes:

(i) beer;

(ii) distilled spirits; and

(iii) wine.

(c) "Alcoholic beverage license" means an alcoholic beverage license or permit issued under Article 2B of the Code.

(d) (1) "Beer" means a brewed alcoholic beverage.

(2) "Beer" includes:

(i) ale;

(ii) porter;

(iii) stout;

(iv) hard cider, as defined in Article 2B, § 1–102(a)(9–1) of the Code; and

(v) alcoholic beverages that contain:

1. 6% or less alcohol by volume, derived primarily from the

fermentation of grain, with not more than 49% of the beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol; or

2. more than 6% alcohol by volume, derived primarily from the fermentation of grain, with not more than 1.5% of the beverage's overall alcohol content by volume obtained from flavors and other added nonbeverage ingredients containing alcohol.

(e) "Consumer" means a person who buys, possesses, or transports an alcoholic beverage for a purpose other than selling the alcoholic beverage.

(f) "Direct wine shipper" has the meaning stated in Article 2B, § 7.5–101 of the Code.

(g) (1) "Distilled spirits" means a distilled alcoholic beverage.

(2) "Distilled spirits" includes:

(i) alcohol;

(ii) brandy;

(iii) cordials;

(iv) gin;

(v) liqueur;

(vi) rum;

(vii) vodka;

(viii) whiskey; and

(ix) solutions or mixtures of distilled spirits except fortified wines.

(h) "Manufacturer" means a person who operates within the State a place of business for blending, bottling, brewing, distilling, fermenting, or rectifying an alcoholic beverage.

(i) "Nonresident dealer" means a person who is required to obtain a nonresident dealer's permit under Article 2B, § 2–101(i) of the Code.

(j) "Person" includes:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

(k) "Resident dealer" means a person who is required to obtain a resident dealer's permit under Article 2B, § 2–101(v) of this Code.

(l) (1) "Retail dealer" means a person who buys an alcoholic beverage for sale to a consumer.

(2) "Retail dealer" includes a county department of liquor control or liquor control board that operates a dispensary.

(m) "Tax stamp" means a device in the design and denomination that the Comptroller authorizes for the purpose of being affixed to a container of distilled spirits as evidence that the alcoholic beverage tax is paid.

(n) (1) "Wholesaler" means a person who buys or imports an alcoholic beverage for sale to another person for resale.

(2) "Wholesaler" includes a county department of liquor control or liquor control board that operates a wholesale dispensary.

(o) (1) "Wine" means a fermented alcoholic beverage.

(2) "Wine" includes:

(i) carbonated, flavored, imitation, sparkling, or still wine;

(ii) champagne;

(iii) cider;

(iv) fortified wine;

(v) perry;

(vi) sake; and

(vii) vermouth.

§5–102.

(a) Except as provided in § 5-104 of this subtitle, a tax is imposed on any alcoholic beverage in the State.

(b) A tax is imposed on each person who sells or consigns an alcoholic beverage

in the State from a jurisdiction outside the State, if the Comptroller finds that, in connection with the solicitation, sale, and distribution of alcoholic beverages, the jurisdiction:

(1) requires a tax, assessment, or charge that is greater for alcoholic beverages consigned from a Maryland licensee or permit holder than the amount required for alcoholic beverages consigned from a licensee or permit holder in another jurisdiction; and

(2) discriminates in fact against the licensee or permit holder of the State.

(c) (1) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose a tax on any alcoholic beverage.

(2) The Comptroller may not impose the tax under subsection (b) of this section on a person who has distillery plants in this and another state.

§5–103.

(a) A rebuttable presumption exists that any alcoholic beverage in the State is subject to the alcoholic beverage tax.

(b) An alcoholic beverage on which the alcoholic beverage tax is not paid is a contraband alcoholic beverage if it is delivered, possessed, sold, or transported in the State in a manner that is not authorized:

(1) under this title; or

(2) under Article 2B of the Code.

(c) The person who possesses an alcoholic beverage has the burden of proving that the alcoholic beverage is not subject to the alcoholic beverage tax.

§5–104.

(a) (1) The alcoholic beverage tax does not apply to an alcoholic beverage that is:

(i) brought into the State by a person in accordance with:

1. an import-export permit under Article 2B, § 2-101(j) of the Code;

2. a nonbeverage permit under Article 2B, § 2-101(c) of the Code; or

3. a nonresident storage permit under Article 2B, § 2-101(p) of the Code;

(ii) sold or delivered by a person who holds a Class E, F, or G alcoholic beverage license, while the licensee is operating an aircraft, vessel, or train outside boundaries of the State, including airspace and waterways;

(iii) beer or wine that is family-produced and is brought into, possessed, or transported in the State by an individual who is a member of that family if:

1. the individual is at least 21 years of age; and

2. the beer or wine is for personal use or for entry in a licensed national family beer and wine exhibition; or

(iv) brought into the State by a person for storage pending shipment outside of the State, if the alcoholic beverage:

1. is not held for sale, consignment, or delivery in the State;

2. is under a customs bond; and

3. is stored in a public bonded warehouse.

(2) The exemption under paragraph (1)(ii) of this subsection does not apply to an alcoholic beverage sold or delivered by a person who holds a Class E, F, or G alcoholic beverage license while the licensee is operating an aircraft, vessel, or train within the boundaries of the State, including airspace and waterways.

(b) (1) The alcoholic beverage tax does not apply to:

(i) an alcoholic beverage bought by a person whom a proper authority of the United States allows to buy alcoholic beverages for sale and use on a federal reservation in the State where the person is assigned;

(ii) wine bought and used for sacramental purposes by a religious organization affiliated with and recognized by a generally acknowledged religious faith; or

(iii) wine or distilled spirits bought and used for medicinal purposes by a bona fide hospital.

(2) A person under paragraph (1) of this subsection who pays the alcoholic beverage tax may obtain the exemption by filing a claim for refund with the Comptroller.

(c) (1) The alcoholic beverage tax does not apply to an alcoholic beverage that a consumer at least 21 years of age brings into the State for personal use:

(i) if the quantity brought from within the continental United States

does not exceed:

1. at any one time, one quart;

2. in 1 calendar month, two quarts; and

3. a total of 1 gallon in the consumer's possession at any one time;

(ii) if the quantity brought from American Samoa, Guam, or the Virgin Islands of the United States does not exceed 1 gallon; or

(iii) if the total quantity brought from any other place outside the continental United States does not exceed 1 gallon, the 1st quart of that gallon.

(2) A consumer under paragraph (1)(iii) of this subsection may obtain the exemption for the 1st quart by:

(i) filing an application with the Comptroller on the form the Comptroller requires; and

(ii) paying the alcoholic beverage tax on the quantity of alcoholic beverages that exceeds 1 quart.

§5–105.

(a) Except as provided in subsection (d) of this section, the alcoholic beverage tax rate for distilled spirits is:

(1) $1.50 for each gallon or 39.63 cents for each liter; and

(2) if distilled spirits contain a percentage of alcohol greater than 100 proof, an additional tax, for each 1 proof over 100 proof, of 1.5 cents for each gallon or 0.3963 cents for each liter.

(b) Except as provided in subsection (d) of this section, the alcoholic beverage tax rate for wine is 40 cents for each gallon or 10.57 cents for each liter.

(c) Except as provided in subsection (d) of this section, the alcoholic beverage tax rate on beer is 9 cents for each gallon or 2.3778 cents for each liter.

(d) The tax imposed under § 5–102(b) of this subtitle shall equal the amount that the discriminating jurisdiction charges a Maryland licensee or permit holder.

(e) The revenue generated from the tax imposed under subsection (b) of this section on wine produced at wineries licensed under Article 2B shall be distributed to the Maryland Wine and Grape Promotion Fund under § 2–1102 of the Agriculture Article.

§5–201.

(a) A person who holds a Class E, F, or G alcoholic beverage license shall complete, under oath, and file with the Comptroller an alcoholic beverage tax return:

(1) on or before the 25th day of the month that follows the month in which the person sells any alcoholic beverage within the boundaries of the State; and

(2) if the Comptroller so specifies, by regulation, on other dates for each month in which the licensee does not sell any alcoholic beverages in the State.

(b) (1) Each manufacturer and each wholesaler shall complete, under oath, and file with the Comptroller an alcoholic beverage tax return:

(i) except as provided in paragraph (2) of this subsection, on or before the 10th day of the month that follows the month in which:

1. the manufacturer or wholesaler sells or delivers any alcoholic beverage in the State;

2. a manufacturer that brews malt beverages, under a Class 6 pub–brewery license, transfers the malt beverages for consumption on the restaurant premises in accordance with federal alcohol tax laws and regulations; or

3. a manufacturer that brews malt beverages, under a Class 7 micro–brewery license, transfers the malt beverages for consumption off the micro–brewery licensed premises in accordance with federal alcohol tax laws and regulations; and

(ii) if the Comptroller so specifies, by regulation, on other dates for each month in which the manufacturer or wholesaler does not sell, deliver, or transfer any alcoholic beverage in the State.

(2) (i) Subject to subparagraph (ii) of this paragraph, the Comptroller may, by regulation, establish dates for filing the alcoholic beverage tax returns required under this subsection.

(ii) Any filing date established under subparagraph (i) of this paragraph shall be at least 5 days later than the day specified for filing a return under paragraph (1)(i) of this subsection.

(c) A nonresident dealer shall complete, under oath, and file with the Comptroller an alcoholic beverage tax return:

(1) on or before the 15th day of the month that follows the month in which the nonresident dealer delivers beer into the State; and

(2) if the Comptroller so specifies, by regulation, on other dates for each

month in which the nonresident dealer does not deliver beer into the State.

(d) A person who is a direct wine shipper shall file with the Office of the Comptroller a quarterly tax return.

(e) A resident dealer shall complete, under oath, and file with the Comptroller an alcoholic beverage tax return:

(1) on or before the 15th day of the month that follows the month in which the resident dealer delivers beer into the State; and

(2) if the Comptroller so specifies, by regulation, on other dates for each month in which the resident dealer does not deliver beer into the State.

§5–301.

(a) A person who, under a Class E, F, or G alcoholic beverage license, sells or delivers any alcoholic beverages within the boundaries of the State shall pay the alcoholic beverage tax on those alcoholic beverages, in the manner that the Comptroller requires, with the return that covers the period in which the person sells or delivers those alcoholic beverages.

(b) (1) A manufacturer that, under an alcoholic beverage license as a winery or limited winery, sells or delivers wine to retail dealers or to consumers in the State shall pay the alcoholic beverage tax on that wine, in the manner that the Comptroller requires, with the return that covers the period in which the manufacturer sells or delivers that wine.

(2) A manufacturer that sells, to wholesalers or retail dealers for consumption in the State, beer on which the alcoholic beverage tax was not paid before the beer was delivered into the State shall pay the alcoholic beverage tax on that beer, in the manner that the Comptroller requires, with the return that covers the period in which the manufacturer sells that beer.

(3) A manufacturer that, under a Class 6 pub–brewery license, brews and transfers malt beverages for consumption on restaurant premises in the State shall pay the alcoholic beverage tax on that malt beverage, in the manner that the Comptroller requires, with the return that covers the period in which the manufacturer transfers that malt beverage.

(4) A manufacturer that, under a Class 7 micro–brewery license, brews and transfers malt beverages for consumption off the micro–brewery licensed premises in the State shall pay the alcoholic beverage tax on that malt beverage, in the manner that the Comptroller requires, with the return that covers the period in which the manufacturer transfers that malt beverage.

(c) A person who holds a nonresident winery permit under Article 2B, § 2–101(u) of the Code that sells or delivers wine to retail dealers in the State shall pay

the alcoholic beverage tax on that wine, in the manner that the Comptroller requires, with the return that covers the period in which the wine manufacturer who holds a nonresident winery permit sells or delivers that wine.

(d) Before a nonresident dealer delivers or ships beer to a wholesaler in the State, the nonresident dealer shall pay the alcoholic beverage tax on that beer, in the manner that the Comptroller requires.

(e) Before a resident dealer delivers or ships beer to a wholesaler in the State, the resident dealer shall pay the alcoholic beverage tax on that beer, in the manner that the Comptroller requires.

(f) (1) A wholesaler that sells or delivers distilled spirits or wine to retail dealers in the State shall pay the alcoholic beverage tax on those distilled spirits and wine, in the manner that the Comptroller requires, with the return that covers the period in which the wholesaler sells or delivers those distilled spirits and wine.

(2) A wholesaler that imports beer directly from a place outside the United States shall pay the alcoholic beverage tax on that beer, in the manner that the Comptroller requires, before the wholesaler receives that beer in the State.

(g) A person who pays the alcoholic beverage tax shall obtain:

(1) tax stamps or certificates if required for distilled spirits under § 5–303 of this subtitle; or

(2) any other evidence of tax payment that the Comptroller requires by regulation.

§5–302.

Unless otherwise authorized in this title or in Article 2B of the Code, a person may not buy, possess, sell, store, transport, or allow another person to buy, store, sell, or transport an alcoholic beverage on which the alcoholic beverage tax is not paid.

§5–303.

(a) For a container of distilled spirits that is one-half pint or larger, the alcoholic beverage tax shall be paid by the purchase of tax stamps from the Comptroller or by an alternate method approved by the Comptroller, in the manner and at the time that the Comptroller requires by regulation.

(b) A manufacturer or a wholesaler shall affix tax stamps to each container of distilled spirits of one-half pint or larger before the container is removed from the manufacturer's or wholesaler's place of business for delivery to a retail dealer in the State.

(c) The Comptroller may allow tax stamps to be bought on a credit basis.

(d) A manufacturer or wholesaler who obtains tax stamps:

(1) is responsible to the Comptroller for the tax stamps; and

(2) is required to pay the value of the tax stamps whether they are used, lost, or, unless proof of destruction is made to the Comptroller, destroyed.

§6–101.

(a) In this title the following words have the meanings indicated.

(b) "Boxing or wrestling contest" means a boxing, kick boxing, sparring, wrestling, or mixed martial arts contest, event, exhibition, or match.

(c) "Telecast" means:

(1) a closed circuit telecast;

(2) a subscription television broadcast; or

(3) a pay–per–view cable or satellite television broadcast.

§6–102.

Except as provided in § 6-103 of this subtitle, a tax is imposed on gross receipts derived from:

(1) a charge for admission to a boxing or wrestling contest in the State; and

(2) a charge, by ticket or per event or occasion basis, to view a telecast of a boxing or wrestling contest in the State regardless of the origin of the telecast.

§6–103.

The boxing and wrestling tax does not apply to:

(1) an intercollegiate, interscholastic, or intramural boxing or wrestling contest held on the campus or under the auspices of a college, high school, or university in the State; or

(2) an amateur boxing or wrestling contest held under the auspices of the United States of America Amateur Boxing Federation or the Young Men's Christian Association.

§6–104.

(a) The boxing and wrestling tax rate is:

(1) except as provided in subsection (b) of this section, for charges to view a telecast of a boxing or wrestling contest, 10% of the gross receipts;

(2) except as provided in item (3) of this subsection, for charges for admission to a boxing or wrestling contest, the greater of:

(i) 10% of the gross receipts; or

(ii) $200; and

(3) for charges for admission to a boxing or wrestling contest, 5% of the gross receipts if the contest is conducted by:

(i) the Maryland National Guard; or

(ii) in Allegany County, a post of the Veterans of Foreign Wars or the American Legion.

(b) For charges to view a telecast of a boxing or wrestling contest, if gross receipts subject to the boxing and wrestling tax are also subject to the sales and use tax, the boxing and wrestling tax rate shall be set so the total tax rate does not exceed 10% of the gross receipts.

§6–201.

A person shall complete, under oath, and file with the Comptroller the boxing and wrestling tax return:

(1) on or before the 10th day of the month that follows the month in which the person has gross receipts subject to the boxing and wrestling tax; and

(2) for other periods and on other dates that the Comptroller specifies by regulation, including periods in which the person has no gross receipts subject to the tax.

§6–202.

(a) Each person who has gross receipts subject to the boxing and wrestling tax shall keep complete and accurate records in the form and with the information that the Comptroller requires by regulation.

(b) The person who is required under subsection (a) of this section to keep records shall make the records available for inspection and examination by the Comptroller at any time during business hours.

(c) The person shall keep the records required under subsection (a) of this section for 4 years, unless the Comptroller consents in writing to an earlier destruction of the records or requires in writing that the records be kept longer than 4 years.

§6–301.

A person who has gross receipts subject to the boxing and wrestling tax shall pay the tax on those gross receipts with the return that covers those receipts.

§7–101.

(a) In this title the following words have the meanings indicated.

(b) "Court" means:

(1) the Orphans' Court of a county; or

(2) a court of the State that exercises the jurisdiction of an Orphans' Court.

(c) "Death taxes" means any estate, inheritance, legacy, succession, or generation-skipping transfer tax imposed by a state.

(d) "Register" means the register of wills of a county.

§7–104.

When a register claims that a decedent was domiciled in this State at the time of death and the taxing authority of another state makes a similar claim on behalf of that state, then, with the approval of the Attorney General of this State, the Comptroller may make a written agreement with the other taxing authority and with the personal representative to submit the controversy to the decision of a board consisting of 1 or any other uneven number of arbitrators. The personal representative may make the agreement. The parties to the agreement shall select the arbitrator or arbitrators.

§7–105.

(a) After reasonable notice to the parties to the agreement, the board of arbitrators chosen under § 7-104 of this subtitle shall hold hearings at the times and places that the board determines.

(b) At the hearings, each party to the agreement may:

(1) present evidence; and

(2) examine witnesses.

§7–106.

The board of arbitrators may administer oaths, take testimony, and subpoena witnesses and books, records, and other documents. A subpoena may be signed by any member of the board. If a person fails to obey a subpoena, on petition of the board, any court of record of this State may pass an order requiring compliance with the subpoena and may punish failure to obey the order as a contempt.

§7–107.

By majority vote, the board of arbitrators shall determine the domicile of the decedent at the time of death. This determination is final for purposes of imposing and collecting death taxes but not for any other purpose.

§7–108.

Except as provided in § 7-106 of this subtitle in respect to issuing subpoenas, any question that arises in the course of the proceeding shall be determined by a majority vote of the board of arbitrators.

§7–109.

The Comptroller, the board of arbitrators, or the personal representative shall file:

(1) the determination of the board as to domicile, the record of the board's proceedings, and the agreement to submit to arbitration, made under § 7-104 of this subtitle, or a duplicate, with the authority that has jurisdiction to determine the death taxes in the state determined to be the domicile; and

(2) copies of each document with the authorities that would have been empowered to determine the death taxes in each of the other states involved.

§7–110.

If the board of arbitrators determines that the decedent died domiciled in this State, interest and penalties, if otherwise imposed by law, for nonpayment of death taxes between the dates of the agreement and of filing of the determination of the board as to domicile, may not exceed a rate determined under § 13-604 of this article.

§7–111.

This Part II of this subtitle does not prevent the parties to the agreement made under § 7-104 of this subtitle from making a written compromise at any time, if not prohibited by other law. A compromise may determine the amounts to be accepted by this and any other state involved in full satisfaction of death taxes.

§7–112.

The compensation and expenses of the members of the board of arbitrators and its employees may be agreed on by the members and the personal representative or, if they cannot agree, shall be determined by the appropriate court of record of the state determined by the board to be the domicile of the decedent. The amounts agreed on or determined shall be deemed an expense of administration and are payable by the personal representative.

§7–113.

This Part II of this subtitle applies only if each state that is involved in a controversy has a law that is identical or substantially similar to this Part II of this subtitle.

§7–114.

This Part II of this subtitle shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states that enact it.

§7–115.

This Part II of this subtitle may be cited as the "Maryland Uniform Act on Interstate Arbitration of Death Taxes".

§7–118.

When a register claims that a decedent was domiciled in this State at the time of death and the taxing authority of another state makes a similar claim on behalf of that state, then, with the approval of the Attorney General of this State, the Comptroller may make a written agreement of compromise with the other taxing authority and the personal representative that a certain sum shall be accepted in full satisfaction of all death taxes imposed by this State, including any interest or penalties to the date of filing the agreement. The agreement also shall determine the amount to be accepted by the other state in full satisfaction of death taxes. The personal representative may make the agreement.

§7–119.

(a) The Comptroller or the personal representative shall file the agreement, or a duplicate, with the authority that would be empowered to determine death taxes for this State if there had been no agreement.

(b) When the agreement is filed, the death taxes shall be deemed conclusively determined as provided in the agreement.

§7–120.

Unless the death taxes are paid within 60 days after the agreement is filed, interest and penalties shall accrue on the amount determined in the agreement, but the time between the decedent's death and the filing may not be included in computing the interest and penalties.

§7–121.

This Part III of this subtitle shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states that enact it.

§7–122.

This Part III of this subtitle may be cited as the "Maryland Uniform Act on Interstate Compromise of Death Taxes".

§7–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Estate" means property that is subject to administration under the Estates and Trusts Article as the estate of a decedent.

(c) (1) "Less than absolute interest" means an interest less than an absolute interest in property, in trust or otherwise.

(2) "Less than absolute interest" includes:

(i) a life estate;

(ii) an interest for a term of years;

(iii) a contingent or vested remainder, or executory or reversionary interest that a person other than the decedent creates; or

(iv) any other interest that is less than absolute.

(d) (1) "Property that passes from a decedent" includes:

(i) property that passes, by will or under the intestate laws of the State, at or after the death of a decedent, in trust or otherwise, to or for the use of another person;

(ii) property in which, at death, a decedent had an interest as a joint tenant; or

(iii) except for a bona fide sale for an adequate and full consideration in money or money's worth, property that passes by an inter vivos transfer by a decedent, in trust or otherwise, if:

1. the transfer is made in contemplation of death;

2. the transfer of a material part of the property of the decedent in the nature of a final disposition or distribution is made by the decedent within 2 years before death and is not shown to not have been made in contemplation of death;

3. the transfer is intended to take effect in possession or enjoyment at or after the death of the decedent; or

4. under the transfer, the decedent retained any dominion over the transferred property during the life of the decedent, including the retention of:

A. a beneficial interest;

B. a power of revocation, absolute or conditional; or

C. a power of appointment by will or otherwise.

(2) Notwithstanding any parol agreement, the written form of the title is controlling for intangible personal property held in joint tenancy.

(e) (1) "Subsequent interest" means a vested or contingent remainder, executory or reversionary interest, or other future interest that is created by a decedent and will or may vest in possession after the death of the decedent.

(2) "Subsequent interest" includes a sole or concurrent subsequent interest.

§7–202.

Except as provided in § 7-203 of this subtitle, a tax is imposed on the privilege of receiving property that passes from a decedent and has a taxable situs in the State.

§7–203.

(a) The inheritance tax does not apply to the receipt of an annuity or other payment under a public or private employees' pension or benefit plan if the annuity or other payment is not taxable for federal estate tax purposes.

(b) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Child" includes a stepchild or former stepchild.

(iii) "Parent" includes a stepparent or former stepparent.

(iv) "Surviving spouse" means a surviving spouse who has not remarried.

(2) The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of:

(i) a grandparent of the decedent;

(ii) a parent of the decedent;

(iii) a spouse of the decedent;

(iv) a child of the decedent or a lineal descendant of a child of the decedent;

(v) a spouse of a child of the decedent or a spouse of a lineal descendant of a child of the decedent;

(vi) a surviving spouse of a deceased child of the decedent or of a deceased lineal descendant of a child of the decedent who was married to the child or lineal descendant of the child at the time of the child's or lineal descendant's death;

(vii) a brother or sister of the decedent; or

(viii) a corporation, partnership, or limited liability company if all of its stockholders, partners, or members consist of individuals specified in items (i) through (vii) of this paragraph.

(c) The inheritance tax does not apply to the receipt of the first $500 of property that passes from a decedent under a will for the perpetual upkeep of graves.

(d) The inheritance tax does not apply to the receipt of the proceeds of a life insurance policy payable to any beneficiary other than the estate of the insured.

(e) The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code or to which transfers are deductible under § 2055 of the Internal Revenue Code if the organization:

(1) is incorporated under the laws of this State;

(2) conducts a substantial part of all its activities in this State or in the District of Columbia; or

(3) has its principal place of business in a jurisdiction whose law:

(i) does not impose death taxes on the receipt of property that passes from a decedent to a beneficiary of this State that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code or to which transfers are deductible under § 2055 of the Internal Revenue Code; or

(ii) contains a reciprocal exemption from death taxes similar to the exemption allowed in this subsection.

(f) (1) Except as provided in paragraph (2) of this subsection, the inheritance tax does not apply to the receipt of personal property that passes from a nonresident decedent if, at the time of death, the decedent is a resident of a state or foreign country whose law, on the date of the decedent's death:

(i) does not impose death taxes on the receipt of similar personal

property of a resident of this State; or

(ii) contains a reciprocal exemption from death taxes similar to the exemption allowed under this subsection.

(2) The exemption under paragraph (1) of this subsection does not include the receipt of tangible personal property that has a taxable situs in this State.

(g) The inheritance tax does not apply to the receipt of property that passes from a decedent to any 1 person if the total value of the property does not exceed $1,000.

(h) The inheritance tax does not apply to the receipt of property that is distributed from an estate that qualifies under § 5-601 of the Estates and Trusts Article for administration as a small estate.

(i) The inheritance tax does not apply to the receipt of property that passes from a decedent to the State, a county, or a municipal corporation of the State.

(j) The inheritance tax does not apply to the receipt of property that is income, including gains and losses, accrued on probate assets after the date of death of the decedent.

(k) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Holocaust victim" means an individual who died or lost property as a result of discriminatory laws, policies, or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation, or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, areas occupied by those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of invasion by Nazi Germany or by any European country allied with or occupied by Nazi Germany.

(iii) "Nazi Germany" means:

1. for the period from 1929 to 1933, the Republic of Germany, commonly referred to as the Weimar Republic; and

2. for the period from 1933 through 1945, Deutsche Reich.

(2) The inheritance tax does not apply to the receipt of property that is:

(i) tangible or intangible property or compensation for tangible or intangible property that was seized, misappropriated, or lost as a result of the actions or policies of Nazi Germany toward a Holocaust victim; or

(ii) amounts received by a decedent as reparations or restitution for the loss of liberty or damage to the health of the decedent because the decedent was:

1. a Holocaust victim; or

2. a spouse or descendant of a Holocaust victim.

(3) The exclusion under paragraph (2) of this subsection includes interest on the proceeds receivable as insurance under policies issued by European insurance companies prior to and during World War II to a Holocaust victim.

(4) The exclusion under paragraph (2) of this subsection does not include:

(i) assets acquired with the assets described in paragraph (2) of this subsection; or

(ii) assets acquired with the proceeds from the sale of the assets described in paragraph (2) of this subsection.

(5) The subtraction under paragraph (2)(i) of this subsection shall only apply if the decedent:

(i) was the first recipient of the assets described in paragraph (2)(i) of this subsection after their recovery; and

(ii) was:

1. a Holocaust victim; or

2. a spouse or descendant of a Holocaust victim.

(l) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Domestic partner" means an individual with whom another individual has established a domestic partnership.

(iii) "Domestic partnership" means a relationship between two individuals that is a domestic partnership within the meaning of § 6–101 of the Health – General Article.

(2) If the domestic partner of a decedent provides evidence of the domestic partnership as described in § 6–101(b) of the Health – General Article, the inheritance tax does not apply to the receipt of an interest in a joint primary residence that:

(i) at the time of death was held in joint tenancy by the decedent and the domestic partner; and

(ii) passes from the decedent to or for the use of the domestic partner.

§7–204.

(a) In this section, "clear value" means fair market value minus expenses.

(b) The inheritance tax rate is 10% of the clear value of the property that passes from a decedent.

(c) If a decedent died on or before May 31, 1975, the rate of the inheritance tax is the rate in effect on the date of the decedent's death.

§7–207.

Except as provided in §§ 7-209 through 7-211 of this subtitle, the value of property that passes from a decedent is, for purposes of the inheritance tax, the appraised value of the property required to be stated in the inventory required to be filed under § 7-225 of this subtitle.

§7–208.

(a) (1) If there is a formal administration of an estate, the court with jurisdiction to administer the estate shall determine, for purposes of the inheritance tax, the value of any concurrent absolute interest or less than absolute interest in property that passes from the decedent, that is listed in an account required under § 7-305 of the Estates and Trusts Article, and that is not valued in the manner required in §§ 7-209 through 7-211 of this subtitle.

(2) If the court approves an account required under § 7-305 of the Estates and Trusts Article, in which a concurrent absolute interest or less than absolute interest is valued:

(i) approval of the account is deemed to be court determination of the value of the concurrent absolute or less than absolute interest, for purposes of the inheritance tax; and

(ii) a separate petition to the court or a separate judicial order is not needed to value the concurrent absolute interest or the less than absolute interest.

(b) If there is no formal administration of the estate, the register in the county where the inventory is filed shall determine, for purposes of the inheritance tax, any concurrent absolute interest or less than absolute interest in property that passes from a decedent.

§7–209.

(a) Except as otherwise provided by an instrument that creates a joint tenancy or by law, if, before death, a decedent had an absolute interest in property as a joint tenant, the value of the interest in the property that passes from the decedent is determined by dividing the value of the entire property by the number of joint tenants,

including the decedent.

(b) Except as otherwise provided by an instrument that creates a joint tenancy or law, if an absolute interest in property passes from a decedent to 2 or more persons as joint tenants, the value of the interest that passes to each joint tenant is determined by dividing the value of the absolute interest in the property by the number of joint tenants to whom the absolute interest in the property passes.

(c) (1) If an absolute interest in property passes from a decedent to 2 or more persons as tenants by the entireties:

(i) the value of the interest that passes to each tenant is determined by dividing the value of the entire value of the absolute interest in the property by the number of tenants to whom the absolute interest in the property passes; and

(ii) the tenants by the entireties are jointly and severally liable for the entire inheritance tax.

(2) When property passes from a decedent to a husband and wife as tenants by the entireties and only 1 spouse is entitled to the exemption under § 7-203(b) of this subtitle, the exemption applies to 50% of the value of the property, and the inheritance tax applies to the other 50%.

(d) (1) A sole interest less than absolute shall be valued in accordance with the applicable regulations of the Internal Revenue Code that relate to the federal estate tax.

(2) If the sole interest less than absolute depends on, or is measured by, the life of an individual whose life expectancy is shown to be less than average for the individual's age because of poor health, the value of the sole interest less than absolute may be adjusted.

(e) If a less than absolute interest in property passes from the decedent to 2 or more persons concurrently, the value of the interest in the property that passes to each person is determined in accordance with the applicable regulations of the Internal Revenue Code that relate to the federal estate tax.

§7–210.

(a) (1) If an application to prepay inheritance tax for a subsequent interest in property is filed under § 7-219 of this subtitle, the value of the subsequent interest is determined by subtracting the value of all preceding and concurrent interests from the value of the whole property.

(2) The total inheritance tax on all interests in the property valued shall equal the inheritance tax that would have been due if an absolute interest in the property passed from the decedent.

(b) (1) If a subsequent interest in property ultimately vests in possession in a person other than the person by or for whom an application to prepay the inheritance tax was filed under § 7-219 of this subtitle and if the inheritance tax determined under the prepayment application was paid:

(i) the subsequent interest shall be revalued when it vests in possession; and

(ii) the inheritance tax due on the subsequent interest shall be redetermined based on the value of the interest when it vests in possession and on the relationship of the original decedent to the person in whom the interest ultimately vests in possession.

(2) A deduction from the inheritance tax calculated under paragraph (1)(ii) of this subsection for prepaid inheritance tax on the interest shall be allowed.

(c) (1) If an application to prepay the inheritance tax for a subsequent interest is not filed in accordance with § 7-219 of this subtitle or if the inheritance tax determined for the subsequent interest under a prepayment application is not paid when due under § 7-217(d) of this subtitle:

(i) the whole property shall be valued when the subsequent interest vests in possession;

(ii) the value of the subsequent interest shall be valued when it vests in possession in the manner stated in subsection (a) of this section; and

(iii) the inheritance tax due on the subsequent interest shall be determined based on the value of the interest when it vests in possession and on the relationship of the original decedent to the person in whom the interest ultimately vests in possession.

(2) A deduction for inheritance tax previously paid on any interest in the property may not be allowed.

(d) (1) If the inheritance tax applies to 1 or more of the persons by or for whom an application to prepay the inheritance tax is filed under § 7-219 of this subtitle and the exemption under § 7-203(b) of this subtitle applies to others, the inheritance tax applies to the subsequent interest.

(2) (i) On application of a party in interest, the inheritance tax due may be apportioned among the persons by or for whom the application to prepay the inheritance tax is filed.

(ii) After the apportionment, each of those persons is responsible only for the amount of the inheritance tax apportioned to that person.

§7–211.

(a) The person responsible for paying the inheritance tax may elect to value real property, for purposes of the inheritance tax:

(1) at its most recent real property assessment plus any inflation allowance if, for the 5 years immediately before the date of the death of the decedent, the real property qualifies under § 8-209 or § 8-211 of the Tax - Property Article as farmland or woodland; or

(2) based on its actual use on the date of the decedent's death if the real property qualifies as National Register property by a listing in the National Register of Historic Places, whether as a separate property or as a part of a listed district.

(b) (1) To elect a valuation under subsection (a) of this section, the person responsible for paying the inheritance tax shall file with the register a statement that:

(i) contains a written election of a valuation under subsection (a) of this section, in the form and manner that the Comptroller requires; and

(ii) describes the qualifying real property in reasonable detail, including its fair market value.

(2) The statement shall be filed:

(i) with the administration account that affects the distribution of the qualifying real property; or

(ii) if the qualifying real property is not subject to formal administration, with the report or inventory required under § 7-224 or § 7-225(c) or (d) of this subtitle.

§7–214.

(a) The register in the county where the court that administers an estate is located shall determine the inheritance tax that is due on any interest in property included in the estate when the personal representative of the decedent accounts for the distribution of the property.

(b) If there is no formal administration of an estate, the register in the county where the inventory required under § 7-225(c), (d), or (e) of this subtitle is to be filed shall:

(1) determine the inheritance tax that is due on any interest in property that passes from a decedent:

(i) when the inventory is filed; or

(ii) if the inventory is not filed, when the appraisal is filed by the appraisers appointed under § 7-231 of this subtitle; and

(2) send a tax bill for the inheritance tax due to each person responsible for paying the tax.

(c) The register of the county where the inventory required under § 7-225 of this subtitle is filed shall determine the inheritance tax due on a subsequent interest in property that passes from a decedent.

§7–215.

The person responsible under § 7-216 of this subtitle for paying the inheritance tax shall pay it to the register who determines the inheritance tax under § 7-214 of this subtitle.

§7–216.

(a) (1) Except as otherwise provided in this section, the inheritance tax on property that passes from a decedent shall be paid, before it is distributed, by the person who distributes the property.

(2) The person who distributes property that passes from a decedent is liable for the inheritance tax on the property distributed until the tax is paid.

(3) Unless a decedent specified a source for paying the inheritance tax and there is sufficient money from that source, the court may order sale of property to pay the inheritance tax on the property.

(b) The inheritance tax on property that passes from a decedent shall be paid by the recipient if:

(1) the person who distributes the property does not pay the tax as required by subsection (a) of this section; or

(2) the property passes from the decedent to the recipient without distribution.

(c) If the property that passes from a decedent is a subsequent interest, the inheritance tax on the property shall be paid:

(1) by the person by or for whom a prepayment application is made under § 7-219 of this subtitle; or

(2) if the inheritance tax is not prepaid on the subsequent interest, by the person in whom the property or subsequent interest ultimately vests.

(d) If property valued or exempt under § 7-211 of this subtitle is disqualified for

the special valuation or exemption under § 7-221 of this subtitle, the person who owns the property when the disqualifying event occurs shall pay any additional inheritance tax determined under § 7-221 of this subtitle.

§7–217.

(a) Except as provided in § 7-218 of this subtitle and subsections (d), (e), and (f) of this section, if an estate is administered subject to the jurisdiction of a court, the person responsible for paying the inheritance tax shall pay the tax when the register determines the amount due, at the time that the representative accounts for the distribution of property of the estate.

(b) Except as provided in § 7-218 of this subtitle and subsections (d), (e), and (f) of this section, if an estate is administered under modified administration, the person responsible for paying the inheritance tax shall pay the tax when the personal representative files the final report under modified administration.

(c) Except as provided in § 7-218 of this subtitle and subsections (d), (e), and (f) of this section, if there is no formal administration subject to the jurisdiction of a court for property that passes from a decedent, the person responsible for paying the inheritance tax shall pay the tax when the register determines the amount due.

(d) Except as provided by subsection (e) of this section, if an interest in property is valued under § 7-209(d) or (e) or § 7-210 of this subtitle, the person responsible for paying the inheritance tax shall pay the tax within 30 days after the determination of the inheritance tax due on the interest.

(e) If the inheritance tax on a subsequent interest in property is not prepaid, the person responsible for paying the tax shall pay the tax when the interest vests in possession.

(f) If additional inheritance tax becomes due under § 7-221 of this subtitle, the person responsible for paying the tax shall pay the tax when the disqualifying event occurs.

§7–218.

(a) In this section, "small business" means a firm that:

(1) is independently owned and operated;

(2) is not a subsidiary of another firm;

(3) is not dominant in its field of operation; and

(4) in its most recently completed fiscal year, did not employ in its operations more than 25 individuals.

(b) On application of a person responsible for paying the inheritance tax and subject to § 13-601 of this article, the Comptroller may allow an alternative payment schedule for the inheritance tax, not exceeding a 5-year period, if payment of the tax on the due date would require the sale of a small business or any interest in a small business that passes from a decedent.

(c) A person may apply for an alternative payment schedule by filing with the Comptroller an application on the form and in the manner that the Comptroller requires.

(d) The payment schedule may be in the form of:

(1) a payment deferral; or

(2) an installment payment plan.

(e) (1) For each alternative payment schedule allowed under subsection (b) of this section, the Comptroller shall specify the procedures and guidelines, including:

(i) conditions of eligibility; and

(ii) 1. amount and duration of any payment deferral; or

2. amount of and scheduled time for any installment payments.

(2) If the Comptroller denies an application for an alternative payment schedule, the Comptroller shall mail a notice of the denial to the applicant.

(f) For each alternative payment schedule allowed under subsection (b) of this section, the Comptroller shall give the appropriate register notice of:

(1) the grant;

(2) the procedures and guidelines specified under subsection (e)(1) of this section; and

(3) the responsibilities of the register for receipt of payments.

(g) If an alternative payment schedule is allowed under subsection (b) of this section, the person responsible for paying the inheritance tax shall pay the tax in accordance with the schedule.

(h) The Comptroller shall adopt procedures to provide notice about the availability of alternative payment schedules under this section.

§7–219.

(a) Within a reasonable time after the valuation of a less than absolute interest

in property that passes from a decedent, an application to prepay the inheritance tax for a subsequent interest in the same property may be filed with the register of the county where the information report was filed under § 7–224 of this subtitle.

(b) (1) An application under subsection (a) of this section may be filed by or for a person or class of persons, whether or not then in being, in whom may vest a subsequent interest in the property valued.

(2) An application under subsection (a) of this section may not be made by or for a person who, under the instrument that created the property interests, has no interest other than the possibility of becoming an appointee by the exercise of a power of appointment.

(3) A person who only has the interest described in paragraph (2) of this subsection is entitled to receive the benefits of prepayment under § 7–210(b) of this subtitle.

§7–220.

(a) Except as provided in subsection (b) of this section, if the total inheritance tax determined on all interests in property is paid when due and equals the inheritance tax that would have been due if an absolute interest in the property passed from the decedent, additional inheritance tax is not due because of a subsequent invasion of the corpus by or for any person under the terms of the instrument that created the property interests.

(b) (1) If the tax rate applicable to the person invading the corpus exceeds the tax rate already paid on the property, additional inheritance tax shall be due on the property withdrawn.

(2) The amount of additional inheritance tax due under paragraph (1) of this subsection is the difference between the inheritance tax that was paid on the property and the inheritance tax that would have been due on the property if determined at the higher rate.

§7–221.

(a) (1) If within 15 years after the date of a decedent's death, property valued under § 7-211 of this subtitle is disqualified for the special valuation, additional inheritance tax is due in the amount of the difference between the inheritance tax paid and the inheritance tax that would have been paid if the election under § 7-211 of this subtitle had not been made.

(2) Property is disqualified for the special valuation under § 7-211 of this subtitle, if:

(i) the property qualified for valuation as National Register property and is removed from the National Register of Historic Places; or

(ii) the property qualified for valuation as farmland or woodland and ceases to qualify for farmland or woodland assessment under § 8-209 or § 8-211 of the Tax - Property Article.

(3) The Department or the Maryland Historical Trust shall report to the Comptroller and the register any event that causes property to be disqualified for special valuation.

(b) (1) The property owner may submit to the appropriate register an application for a certificate that a disqualifying event has not occurred before a date that is stated in the certificate.

(2) The application shall:

(i) be made on the form and in the manner that the Comptroller requires; and

(ii) include appropriate certifications of the property owner.

(c) (1) After receiving the application, the register shall inquire about the property with:

(i) the Department, for farmland or woodland property; or

(ii) the Maryland Historical Trust, for property listed on the National Register of Historic Places.

(2) The Department or Maryland Historical Trust shall report to the register about the property.

(d) If, based on the certifications of the property owner and the report under subsection (c)(2) of this section, the register determines that a disqualifying event has not occurred, the register shall issue a certificate of nondisqualification, on the form and in the manner that the Comptroller determines.

(e) The date stated in a certificate of nondisqualification shall be:

(1) on or after the application date; and

(2) as close as possible to the date on which the certificate is issued.

(f) A grantee of the property and the successors or assigns of the grantee may rely conclusively on the certificate issued under subsection (d) of this section.

§7–224.

(a) Within 3 months after the grant of letters of administration, a personal representative shall prepare and file with the register who issued the letters a written report that:

(1) is made under oath;

(2) lists the property as defined in § 7-201(d)(1)(ii) and (iii) of this subtitle that passes from a decedent; and

(3) if appropriate, states that the personal representative does not have knowledge of any property or transfer of property required by item (2) of this subsection to be reported.

(b) If, after filing the report required by subsection (a) of this section, the personal representative discovers an omission from the report, the personal representative immediately shall report the omitted property to the register.

§7–225.

(a) A person required to file an inventory shall have the property appraised in the manner provided in Title 7, Subtitle 2 of the Estates and Trusts Article.

(b) Each personal representative shall file the inventory required by § 7-201 of the Estates and Trusts Article with the register within 3 months after appointment.

(c) If there is no formal administration of an estate, each person other than a personal representative who distributes property that passes from the decedent shall file the inventory required by § 7-201 of the Estates and Trusts Article, within 3 months after the death of the decedent and before distributing the property:

(1) for personal property, with the register in the county where the decedent resided at the time of death; and

(2) for real property, with the register in the county where the real property is located.

(d) If there is no formal administration of an estate, each person who receives property that passes from a decedent without distribution shall file the inventory required by § 7-201 of the Estates and Trusts Article, within 3 months after the death of the decedent:

(1) for personal property, with the register in the county where the decedent resided at the time of death; and

(2) for real property, with the register in the county where the real property is located.

(e) A foreign personal representative who administers an estate with property that is located in this State and subject to the inheritance tax shall file with the register of the county where the foreign personal representative believes the largest part, in value, of the property is located:

(1) a copy of the appointment as personal representative;

(2) a copy of the will of the decedent, if any, authenticated in accordance with 28 U.S.C. § 1738; and

(3) an inventory of all of the property that the estate owns in this State that:

(i) is made under oath;

(ii) describes each item in reasonable detail; and

(iii) indicates the fair market value of each item and the basis on which the value is determined.

§7–228.

(a) For an estate of a nonresident decedent, if the death taxes and interest and penalties on the death taxes due to a domiciliary state or a political subdivision of a domiciliary state are not paid or secured, the unit responsible for collecting the death taxes in the domiciliary state or subdivision may petition and receive from the court in this State that granted letters of administration for the estate an order for:

(1) an accounting of the property in this State; and

(2) payment of the death taxes and interest and penalties on the death taxes.

(b) The personal representative of an estate of a nonresident decedent is not entitled to approval for a final accounting or discharge until the personal representative files with the court that granted letters of administration for the estate:

(1) proof that all death taxes and the interest and penalties on the death taxes have been paid to or secured for the domiciliary taxing authorities; or

(2) the consent of the domiciliary taxing authorities to the final accounting or discharge.

(c) This section and § 7-231(e) of this subtitle shall be construed liberally to ensure that the domiciliary state of a nonresident decedent receives the death taxes and the interest and penalty on the death taxes due to that state from the estate of the decedent.

§7–231.

(a) In addition to the duties set forth elsewhere in this subtitle and the Estates and Trusts Article, the register has the duties set forth in this section.

(b) If an inventory is not filed as required by § 7-225(c), (d), or (e) of this subtitle,

the register of the county where the inventory should have been filed shall apply to the appropriate court for the appointment of at least 2 appraisers to value the property for which an inventory should have been filed and that comes to the attention of the register.

(c) (1) If an election is made for the special valuation of property under § 7-211 of this subtitle, the register shall:

(i) give the Department notice of the election; and

(ii) cause a notice of inchoate lien to be recorded in the land records of the county where the land is located.

(2) The notice of inchoate lien shall include:

(i) the date of death of the decedent; and

(ii) on the basis of the fair market value of the property, the difference between the inheritance tax on the value elected under § 7-211 of this subtitle and the inheritance tax that would otherwise be payable.

(3) The notice shall be indexed:

(i) in the name of the register as grantee and in the name of the distributee of the qualifying property as the surviving joint tenant or in the name of the person responsible for paying the inheritance tax as grantor; and

(ii) in the block records, if maintained.

(4) When the additional inheritance tax that is due is paid, the register shall record a release of the lien in the land records of the county where the land is located.

(d) (1) The register shall give a receipt to each person who pays inheritance tax.

(2) The receipt discharges the person from liability for the amount of the inheritance tax that is paid.

(e) For an estate of a nonresident decedent, the register shall cooperate with the domiciliary taxing authorities and give them any information requested about the estate.

§7–232.

Each register shall certify to the Comptroller the amount of inheritance tax paid for each decedent for whom a Maryland estate tax return is filed with the register or for whom the register receives a request for the certification from:

(1) the Comptroller;

(2) the personal representative of the decedent's estate; or

(3) any person required to file a Maryland estate tax return with regard to property passing from the decedent.

§7–233.

(a) Each month, each register shall pay into the State Treasury an amount equal to the inheritance tax collected in the preceding month, less the commission allowed in subsection (b) of this section.

(b) A register is allowed a 25% commission on the inheritance tax collected.

(c) Each month, each register shall file with the Comptroller an inheritance tax collection report on the form that the Comptroller requires.

(d) If an inheritance tax claim for refund under § 13-901 of this article is allowed, the register making the determination shall:

(1) certify the amount to the Comptroller for payment; and

(2) if authorized by the Comptroller under § 2-702 of this article, pay the refund from money that the register has collected under this subtitle but not paid into the State Treasury.

§7–234.

(a) If a register fails to account for and remit money as required under § 7-233 of this subtitle, then 30 days after the failure, the Comptroller shall notify the Attorney General to put the register's bond in suit for the use of the State.

(b) In a suit under this section, the State shall recover:

(1) the amount that seems to be due; and

(2) interest, at the rate of 10% a year, from the date that the amount was payable.

(c) (1) A recovery under subsection (b) of this section is evidence of misbehavior.

(2) If a register is convicted of misbehavior for failure to account for and remit money as required under § 7-233 of this subtitle, the register shall be removed from office.

(d) If a register fails to account for or remit money as required under § 7-233 of this subtitle, the register shall forfeit the commission to which the register otherwise

would be entitled.

§7–301.

(a) In this subtitle the following words have the meanings indicated.

(b) "Estate" means the federal gross estate of a decedent, as determined by Subtitle B of the Internal Revenue Code, as increased by any property not otherwise included in the federal gross estate that is deemed to be included pursuant to § 7-309(b)(6) of this subtitle.

(c) "Federal estate tax" means the tax imposed by Chapter 11 of the Internal Revenue Code.

(d) "Maryland estate" means the part of an estate that this State has the power to subject to the Maryland estate tax.

§7–302.

Except as provided in § 7-303 of this subtitle, a tax is imposed on the transfer of the Maryland estate of each decedent who, at the time of death, was:

(1) a resident of this State; or

(2) a nonresident of this State whose estate includes any interest in:

(i) real property permanently located in this State; or

(ii) tangible personal property that has a taxable situs in this State.

§7–303.

(a) Except as provided in subsection (b) of this section, the Maryland estate tax does not apply to the transfer of personal property in an estate of a nonresident decedent, if, at the time of death, the decedent is a resident of a state or foreign country whose law, when the personal property is transferred:

(1) does not impose death taxes on the transfer of similar personal property of a resident of this State; or

(2) contains a reciprocal exemption from death taxes similar to the exemption allowed under this subsection.

(b) The exemption under subsection (a) of this section does not include a transfer of tangible personal property that has a taxable situs in this State.

§7–304.

(a) Subject to § 7-309 of this subtitle, in this section, "federal credit" means the

maximum credit for death taxes paid to any state that is allowable under § 2011 of the Internal Revenue Code against the federal estate tax of a decedent as reduced by the proportion that the amount of the estate not included in the Maryland estate bears to the amount of the entire estate of the decedent.

(b) (1) Except as otherwise provided in this subsection, the Maryland estate tax is the amount, if any, by which the federal credit exceeds the total of death taxes other than the Maryland estate tax that:

(i) are imposed by a state on property included in the Maryland estate;

(ii) are allowable in computing the federal credit; and

(iii) except as provided in § 13-906 of this article, have actually been paid out of the Maryland estate and received by the appropriate unit of this State.

(2) Subject to § 7-309 of this subtitle, the Maryland estate tax may not exceed the amount whose timely payment in accordance with federal law would reduce the amount of the federal estate tax payable out of the Maryland estate had this subtitle not been enacted.

(c) The Maryland estate tax is not affected by a failure to take or preserve the federal credit.

§7–305.

(a) If a federal estate tax return is required to be filed, the person responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the Comptroller 9 months after the date of the death of a decedent.

(b) If a federal estate tax return is not required to be filed but a federal estate tax return would be required to be filed if the applicable exclusion amount under § 2010(c) of the Internal Revenue Code were no greater than the applicable exclusion amount specified under § 7–309(b) of this subtitle, the person who would be responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the Comptroller 9 months after the date of the death of the decedent.

(c) (1) After a person files a Maryland estate tax return, the person shall file an amended Maryland estate tax return with the Comptroller if the Maryland estate tax liability is increased because of:

(i) a change in the federal gross estate, federal taxable estate, federal estate tax, or other change as determined under the Internal Revenue Code;

(ii) after–discovered property;

(iii) a correction to the value of previously reported property;

(iv) a correction to the amount of previously claimed deductions; or

(v) any other correction to a previously filed return.

(2) (i) The amended return shall be filed within 90 days after the later to occur of the date of the event that caused the increase in the Maryland estate tax liability or the date on which the person required to file an amended Maryland estate tax return learned or reasonably should have learned of the increase in the Maryland estate tax liability.

(ii) On request, each register shall certify to the Comptroller the amount of inheritance tax paid for each decedent for whom an amended Maryland estate tax return is filed with the Comptroller.

§7–305.1.

(a) This section does not apply to an amended estate tax return.

(b) (1) Subject to § 13-601 of this article, the Comptroller may extend the time to file an estate tax return up to 6 months, or if the person required to file the estate tax return is out of the United States, up to 1 year.

(2) An estate that is afforded a later due date for filing the federal estate tax return under the Internal Revenue Code shall be afforded the same later due date for filing the Maryland estate tax return.

(3) A request for an extension of time to file the Maryland estate tax return shall be filed on a form prescribed by the Comptroller.

§7–306.

(a) Except as provided in § 7–307 of this subtitle, the person responsible for filing the Maryland estate tax return under § 7–305 of this subtitle shall pay the Maryland estate tax to the Comptroller no later than 9 months after the date of the death of the decedent.

(b) An extension of time to file the Maryland estate tax return granted by the Comptroller under § 7–305.1 of this subtitle does not extend the time for remitting the Maryland estate tax.

(c) If an amended Maryland estate tax return is filed pursuant to § 7–305(c) of this subtitle, the person responsible for filing the amended Maryland estate tax return shall pay the additional Maryland estate tax developed on the amended Maryland estate tax return to the Comptroller when the amended Maryland estate tax return is filed with the Comptroller.

§7–307.

(a) On application of the person responsible for paying the Maryland estate tax and subject to § 13–601 of this article, the Comptroller may allow an alternative payment schedule for the Maryland estate tax, notwithstanding any payment extension under § 6166 of the Internal Revenue Code.

(b) The payment schedule may be in the form of:

(1) a payment deferral; or

(2) an installment payment plan.

(c) (1) For each alternative payment schedule allowed under subsection (a) of this section, the Comptroller shall specify the procedures and guidelines, including:

(i) conditions of eligibility; and

(ii) 1. amount and duration of any payment deferral; or

2. amount of and scheduled time for any installment payments.

(2) If the Comptroller denies an application for an alternative payment schedule, the Comptroller shall mail a notice of the denial to the applicant.

(d) (1) If an alternative payment schedule is allowed under subsection (a) of this section, the person responsible for filing the Maryland estate tax return under § 7–305 of this subtitle shall pay the tax in accordance with the schedule.

(2) If the Maryland estate tax is paid in accordance with an alternative payment schedule allowed under subsection (a) of this section, a penalty for the late payment of the tax may not be assessed under § 13–701 of this article.

§7–308.

(a) (1) In this section the following words have the meanings indicated.

(2) "Fiduciary" means a personal representative or trustee.

(3) "Person" includes any government, political subdivision, or governmental unit.

(4) "Person interested in the estate" means any person who is entitled to receive or has received, from a decedent while alive or by reason of the death of a decedent, any property or interest in property included in the taxable estate of the decedent.

(5) "Tax" means the federal estate tax and the Maryland estate tax and

interest and penalties imposed in addition to the taxes.

(b) (1) The tax shall be apportioned among all persons interested in the estate. Except as otherwise provided in this subsection, the apportionment shall be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax shall be used for that purpose.

(2) (i) If any part of the estate consists of property the value of which is deemed includible in the estate under § 7-309(b)(6) of this subtitle, the amount of Maryland estate tax apportioned to the person or persons receiving that property shall be the amount by which the total tax under this subtitle that has been paid exceeds the total tax under this subtitle that would have been payable if the value of that property had not been deemed includible in the estate.

(ii) Any tax apportioned under this paragraph shall be apportioned among all persons receiving that property in the proportion that the value of the property received by each person bears to the total value of all such property.

(c) (1) The court shall determine the apportionment of the tax. If there are no administration proceedings, the court of the county where the decedent was domiciled at death shall determine the apportionment of the tax on the application of the person required to pay the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties as provided in this section because of special circumstances, the court may direct apportionment in the manner that it finds equitable.

(3) The expenses reasonably incurred by any fiduciary and by any other person interested in the estate in connection with the determination of the amount and apportionment of the tax shall be apportioned as provided in subsection (b) of this section and charged and collected as a part of the tax apportioned. If the court finds that it is inequitable to apportion the expenses as provided in subsection (b) of this section, the court may direct an equitable apportionment.

(4) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

(5) In any suit or judicial proceeding to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this section, the determination of the court is prima facie correct.

(d) (1) The fiduciary or other person required to pay the tax may withhold, from any property of the decedent that is in the possession of the person and is distributable to any person interested in the estate, the amount of tax attributable to that person's interest. If the property in the possession of the fiduciary or other person required to pay the tax and distributable to any person interested in the estate

is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the fiduciary or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the fiduciary or other person required to pay the tax, the person may recover from any person interested in the estate the amount of the tax apportioned to that person in accordance with this section.

(2) If property held by the fiduciary or other person required to pay the tax is distributed before the final apportionment of the tax, the person may require the distributee to provide a bond or other security for the apportionment liability in the form and amount required by the fiduciary or other person, with the approval of the court.

(3) If the fiduciary or other person required to pay the tax transfers any property included in the estate to another person, other than a bona fide purchaser for value, the transferee is jointly and severally liable with the transferor for the amount of tax apportioned to the transferor under this section, less the value, at the time of the transfer, of any consideration given by the transferee for the property.

(e) (1) In making an apportionment, allowances shall be made for any exemptions granted and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or reduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing that relationship or receiving the gift. If an interest is subject to a prior present interest that is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any credit for property previously taxed, any credit for state death taxes, and any credit for gift taxes or death taxes of a foreign country inure to the proportionate benefit of all persons liable to apportionment.

(4) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or bequest is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death taxes imposed on and deductible from the property, the property is not included in the computation for which this section provides and, to that extent, an apportionment may not be made against the property. This paragraph does not apply if the result deprives the estate of a deduction otherwise allowable under § 2053 (d) of the Internal Revenue Code, relating to deduction for state death taxes on transfers for public, charitable or religious uses.

(f) An interest in income, an estate for years, an estate for life, or any other temporary interest in any property or money is not subject to apportionment between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or money subject to the temporary interest and remainder.

(g) The fiduciary or other person required to pay the tax need not institute any suit or proceeding to recover from any person interested in the estate the amount of the tax apportioned to that person until the expiration of the 6 months next following the payment of any tax. If the fiduciary or other person required to pay the tax cannot collect from any person interested in the estate the amount of tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) Subject to this subsection, a fiduciary acting in another state or a person required to pay the tax who is resident in another state may institute an action in a court of this State and may recover a proportionate amount of the federal estate tax or an estate tax payable to another state or of a death duty due by an estate to another state from a person interested in the estate who either is resident in this State or owns property in this State subject to attachment or execution. For the purpose of the action, the determination of apportionment by the court having jurisdiction of the administration of the estate in the other state is prima facie correct. This subsection applies only if the state in which the determination of apportionment was made affords a substantially similar remedy.

(i) The provisions of this section that are uniform with statutes enacted in other states shall be construed to make uniform the laws of those states that enact the uniform provisions.

(j) This section may be cited as the "Maryland Uniform Estate Tax Apportionment Act".

(k) Except as otherwise provided in the will or other controlling instrument, this section applies to the apportionment of, and contribution to, the federal and Maryland estate taxes.

§7–309.

(a) Notwithstanding an Act of Congress that repeals or reduces the federal credit under § 2011 of the Internal Revenue Code, the provisions of this subtitle in effect before the passage of the Act of Congress shall apply with respect to a decedent who dies after the effective date of the Act of Congress so as to continue the Maryland estate tax in force without reduction in the same manner as if the federal credit had not been repealed or reduced.

(b) (1) Except as provided in paragraphs (2) through (8) of this subsection and subsection (c) of this section, after the effective date of an Act of Congress described in subsection (a) of this section, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law, including the applicable

unified credit allowed against the federal estate tax, as in effect on the date of the decedent's death.

(2) Except as provided in paragraphs (3) through (8) of this subsection and subsection (c) of this section, if the federal estate tax is not in effect on the date of the decedent's death, the Maryland estate tax shall be determined using:

(i) the federal credit allowable by § 2011 of the Internal Revenue Code as in effect before the reduction or repeal of the federal credit pursuant to the Act of Congress; and

(ii) other provisions of federal estate tax law, including the applicable unified credit allowed against the federal estate tax, as in effect on the date immediately preceding the effective date of the repeal of the federal estate tax.

(3) (i) Notwithstanding any increase in the unified credit allowed against the federal estate tax for decedents dying after 2003, the unified credit used for determining the Maryland estate tax for a decedent dying before January 1, 2019, may not exceed the applicable credit amount corresponding to an applicable exclusion amount, within the meaning of § 2010(c) of the Internal Revenue Code, of:

1. $1,000,000 for a decedent dying before January 1, 2015;

2. $1,500,000 for a decedent dying on or after January 1, 2015, but before January 1, 2016;

3. $2,000,000 for a decedent dying on or after January 1, 2016, but before January 1, 2017;

4. $3,000,000 for a decedent dying on or after January 1, 2017, but before January 1, 2018; and

5. $4,000,000 for a decedent dying on or after January 1, 2018, but before January 1, 2019.

(ii) The Maryland estate tax shall be determined without regard to any deduction for State death taxes allowed under § 2058 of the Internal Revenue Code.

(iii) Unless the federal credit allowable by § 2011 of the Internal Revenue Code is in effect on the date of the decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate, as defined in § 2051 of the Internal Revenue Code, exceeds:

1. $1,000,000 for a decedent dying before January 1, 2015;

2. $1,500,000 for a decedent dying on or after January 1, 2015, but before January 1, 2016;

3. $2,000,000 for a decedent dying on or after January 1, 2016, but before January 1, 2017;

4. $3,000,000 for a decedent dying on or after January 1, 2017, but before January 1, 2018;

5. $4,000,000 for a decedent dying on or after January 1, 2018, but before January 1, 2019; and

6. the applicable exclusion amount corresponding to the applicable unified credit under paragraph (1) or (2) of this subsection for a decedent dying on or after January 1, 2019.

(4) (i) With regard to an election to value property as provided in § 2032 of the Internal Revenue Code, if a federal estate tax return is not required to be filed:

1. an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2032(d) of the Internal Revenue Code;

2. the provisions of § 2032(c) of the Internal Revenue Code do not apply; and

3. an election may not be made under item 1 of this subparagraph unless that election will decrease:

A. the value of the gross estate; and

B. the Maryland estate tax due with regard to the transfer of a decedent's Maryland estate.

(ii) An election to value property as provided in § 2032 of the Internal Revenue Code for Maryland estate tax purposes must be the same as the election made for federal estate tax purposes.

(5) (i) With regard to an election to treat property as marital deduction qualified terminable interest property in calculating the Maryland estate tax, an irrevocable election made on a timely filed Maryland estate tax return shall be deemed to be an election as required by § 2056(b)(7)(B)(i), (iii), and (v) of the Internal Revenue Code.

(ii) An election under this paragraph made on a timely filed Maryland estate tax return shall be recognized for purposes of calculating the Maryland estate tax even if an inconsistent election is made for the same decedent for federal estate tax purposes.

(6) (i) For purposes of calculating Maryland estate tax, a decedent shall be deemed to have had a qualifying income interest for life under § 2044(a)

of the Internal Revenue Code with regard to any property for which a marital deduction qualified terminable interest property election was made for the decedent's predeceased spouse on a timely filed Maryland estate tax return under paragraph (5) of this subsection.

(ii) For the purpose of apportioning Maryland estate tax under § 7–308 of this subtitle, any property as to which a decedent is deemed to have had a qualifying income interest for life under subparagraph (i) of this paragraph shall be deemed to be included in both the estate and the taxable estate of the decedent.

(7) For purposes of calculating Maryland estate tax, amounts allowable under § 2053 or § 2054 of the Internal Revenue Code as a deduction in computing the taxable estate of a decedent may not be allowed as a deduction or as an offset against the sales price of property in determining gain or loss if the amount has been allowed as a deduction in computing the federal taxable income of the estate or of any other person.

(8) Notwithstanding any contrary definition of "marriage" and "spouse" under any applicable provision of federal law, for purposes of calculating Maryland estate tax under this subsection, the surviving "spouse" of a decedent shall include any individual to whom, at the time of the decedent's death, the decedent was lawfully married as determined under the laws of the State.

(c) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Farming purposes" has the meaning stated in § 2032A(e)(5) of the Internal Revenue Code.

(iii) "Qualified agricultural property" means real or personal property that is used primarily for farming purposes.

(iv) "Qualified recipient" means an individual who enters into an agreement to use qualified agricultural property for farming purposes after the decedent's death.

(2) The Maryland estate tax shall be determined by excluding from the value of the gross estate up to $5,000,000 of the value of qualified agricultural property that passes from the decedent to or for the use of a qualified recipient.

(3) If the value of qualified agricultural property that passes from the decedent to or for the use of a qualified recipient exceeds $5,000,000, the Maryland estate tax imposed on the Maryland estate of the decedent may not exceed the sum of:

(i) 16% of the amount by which the decedent's taxable estate, excluding the value of all qualified agricultural property that passes from the decedent to or for the use of a qualified recipient, exceeds the applicable exclusion amount specified under subsection (b) of this section; and

(ii) 5% of the amount by which the value of qualified agricultural property that passes from the decedent to or for the use of a qualified recipient exceeds $5,000,000.

(4) (i) The Maryland estate tax shall be recaptured as provided in this paragraph if, within 10 years after the decedent's death, the qualified agricultural property ceases to be used for farming purposes.

(ii) The amount of the estate tax imposed under this paragraph shall be the additional Maryland estate tax that would have been payable at the time of the decedent's death but for the provisions under paragraphs (2) and (3) of this subsection.

(5) The Comptroller shall adopt regulations to implement this subsection.

§7–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Federal credit" means:

(1) the maximum allowable credit for State taxes under § 2604 of the Internal Revenue Code against the federal generation-skipping transfer tax; less

(2) the amount that bears the same ratio to the maximum allowable credit as the value of the generation-skipping transfer taxable by all other states bears to the total value of the generation-skipping transfer.

(c) "Federal generation-skipping transfer tax" means the tax imposed by § 2601 of the Internal Revenue Code.

(d) "Generation-skipping transfer" means a transfer subject to the federal generation-skipping transfer tax.

(e) "Original transferor" means an individual who makes a transfer of property that results in the imposition of the federal generation-skipping transfer tax.

§7–402.

(a) Except as provided in subsection (b) of this section, a tax is imposed on a generation-skipping transfer that occurs at the same time and as a result of the death of an individual, if:

(1) the original transferor was a resident of this State on the date of the original transfer; or

(2) (i) the original transferor was not a resident of this State on the date of the original transfer; and

(ii) the generation-skipping transfer includes property having a situs

in this State.

(b) The Maryland generation-skipping transfer tax does not apply to a direct skip, as defined under § 2612 of the Internal Revenue Code.

§7–403.

The Maryland generation-skipping transfer tax is the amount of the federal credit.

§7–404.

The value of property included in a generation-skipping transfer is the same value as determined under Chapter 13 of the Internal Revenue Code.

§7–405.

(a) The person required to file a federal generation-skipping transfer tax return on which a federal credit is allowable shall complete and file a Maryland generation-skipping transfer tax return with the Comptroller on or before the last day for filing the federal return.

(b) If, after a person files a Maryland generation-skipping transfer tax return, the federal generation-skipping transfer tax is increased, the person shall complete and file an amended return with the Comptroller when the additional federal tax is paid.

§7–406.

The person required to pay the federal generation-skipping transfer tax shall pay the Maryland generation-skipping transfer tax to the Comptroller on or before the last day for filing a Maryland generation-skipping transfer tax return.

§8–101.

(a) In this title the following words have the meanings indicated.

(b) "Company" means an association, corporation, or joint-stock company.

(c) (1) "Financial institution" means:

(i) a credit company;

(ii) except as provided in paragraph (2)(i) of this subsection, a finance company;

(iii) an international banking facility;

(iv) a loan company;

(v) a mortgage company;

(vi) a safe-deposit company; and

(vii) a savings and loan association.

(2) "Financial institution" does not include:

(i) a finance company that makes loans only to farmers for agricultural purposes;

(ii) a company licensed under the federal Small Business Investment Act of 1958;

(iii) a corporation that elects to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code;

(iv) an entity that is a real estate mortgage investment conduit as defined in the Internal Revenue Code;

(v) a limited liability company; or

(vi) a commercial bank, savings bank, trust company, or company that substantially competes with national banks in the State.

(d) "Savings and loan association" means:

(1) a savings and loan association that:

(i) is organized under the laws of this State;

(ii) is organized under the laws of another state and is admitted to do business in this State; or

(iii) is organized under the laws of the United States and has an office in this State; or

(2) a savings bank chartered by the Federal Home Loan Bank Board.

(e) (1) "Savings bank" means a company or other institution that is organized to receive deposits of money and pay interest on the deposits.

(2) "Savings bank" does not include a bank with capital stock.

§8–102.

The franchise taxes under this title are imposed for the privilege of doing business in the State.

§8–201.

(a) In this subtitle the following words have the meanings indicated.

(b) "Approved foreign trade zone" means an area designated as a foreign trade zone under Title 5, Subtitle 8 of the Economic Development Article.

(c) "Taxable net earnings" means the net earnings of a financial institution computed under § 8-204 of this subtitle and modified under §§ 8-205 and 8-206 of this subtitle.

§8–202.

(a) (1) For all taxable years beginning before January 1, 2001, a franchise tax, measured by taxable net earnings, is imposed annually on each financial institution existing or doing business in the State during any part of the fiscal year of the financial institution.

(2) For all taxable years beginning after December 31, 2000, the financial institution franchise tax is terminated, and Maryland taxable income of financial institutions shall be subject to taxation under Title 10 of this article.

(b) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose on a savings bank or savings and loan association any tax other than its regular tax on property.

§8–203.

The financial institution franchise tax rate is 7% of taxable net earnings as determined under §§ 8-204 through 8-206 of this subtitle.

§8–204.

(a) A financial institution shall compute its net earnings:

(1) based on the accounting period used as its fiscal year; and

(2) subject to the modifications required under this section, in the manner that a corporation computes, for purposes of the income tax, the Maryland modified income.

(b) A financial institution shall add to its net earnings computed under subsection (a) of this section the amounts that, even if otherwise allowed to be subtracted under § 10–307(b) and (g)(1) and (4) of this article, equal:

(1) profit realized from the sale or exchange of bonds issued by this State or a political subdivision of this State;

(2) dividends received from foreign corporations and included in federal

gross income under § 78 of the Internal Revenue Code;

(3) interest derived from a United States obligation;

(4) State tax–exempt interest received from a mutual fund and allowed to be subtracted under § 10–307(g)(4) of this article; and

(5) interest excluded from federal gross income under § 103 of the Internal Revenue Code and derived from a bond:

(i) issued by a state or a public corporation, special district, political subdivision of a state or their instrumentalities; or

(ii) under § 150 of the Internal Revenue Code, treated as a bond issued by a state or a public corporation, special district, or political subdivision of a state or their instrumentalities.

(c) A financial institution shall subtract from its net earnings computed under subsection (a) of this section interest expense incurred to purchase or carry a bond as defined in subsection (b)(5) of this section.

§8–205.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Foreign person" means:

1. an individual who is not a resident of the United States;

2. a company, partnership, or trust that is not organized under the laws of the United States or of a state; and

3. a foreign branch of a company organized under the laws of the United States or of a state.

(ii) "Foreign person" includes:

1. a foreign government or any of its units;

2. an international organization or any of its agencies;

3. an international banking facility; or

4. a company or partnership that is not organized under the laws of the United States or of a state and that has an office and activities within an approved foreign trade zone.

(3) "International banking facility" means a financial institution that:

(i) qualifies as an international banking facility under the laws of the United States or under regulations that the Board of Governors of the Federal Reserve System adopts;

(ii) is located in a county where an approved foreign trade zone is located; and

(iii) 1. makes, arranges for, places, or services a loan to a foreign person for use outside the United States or in an approved foreign trade zone in the United States; or

2. derives earnings from a foreign exchange trading or hedging transaction that is related to a loan described in item 1 of this item.

(4) "Liability" means the total liabilities shown in the records of an international banking facility.

(b) In computing taxable net earnings, an international banking facility shall:

(1) deduct the qualifying amount computed under subsection (c) of this section to the extent that the amount is not deductible in computing its federal taxable income; or

(2) add any loss computed under subsection (c) of this section to its taxable net earnings.

(c) (1) To compute the qualifying amount allowed under this section, an international banking facility shall determine its gross earnings derived, directly or indirectly, from any foreign exchange trading or hedging transaction that relates to making, arranging for, placing, or servicing a loan to a foreign person if:

(i) substantially all of the proceeds of that loan are used outside the United States; or

(ii) all of the proceeds are used in an approved foreign trade zone by:

1. a foreign individual;

2. an individual residing in the United States; or

3. a foreign branch of a company that is organized under the laws of the United States or of a state, is not a bank, and has at least 80% ownership or control of the foreign branch.

(2) From the gross earnings computed under paragraph (1) of this subsection, an international banking facility shall subtract all deductions or expenses, directly or indirectly, related to those gross earnings.

(3) From the adjusted gross earnings calculated under paragraph (2) of this subsection, an international banking facility shall subtract the product of multiplying the adjusted gross earnings by a fraction:

(i) the numerator of which is the fiscal year average amount of liability that was neither owed to nor received from a foreign person; and

(ii) the denominator of which is the fiscal year average amount of liability that was owed to or received from any person.

§8–206.

(a) In computing taxable net earnings, a financial institution with net earnings derived outside the State shall allocate its net earnings, in the manner that the Department requires, based on the gross volume of the transactions of the financial institution inside and outside the State.

(b) In computing taxable net earnings, a financial institution shall include only that part of interest derived from the trade or business, in this State, of the subsidiaries of the financial institution, if the financial institution is a holding company because its only activities are to:

(1) maintain and manage intangible investments; and

(2) collect and distribute income from intangible investments.

§8–207.

A financial institution may claim a credit against the financial institution franchise tax equal to the estimated tax paid under § 8-210(b) of this subtitle.

§8–208.

A savings bank or savings and loan association doing business outside this State may claim a credit against the financial institution franchise tax equal to the amount paid to another jurisdiction as:

(1) a tax based on savings accounts or saving share accounts bought in this State;

(2) a tax on gross receipts from business done in this State; or

(3) a tax on income derived from business done in this State.

§8–209.

(a) Each financial institution existing or doing business in the State during any part of the fiscal year of the financial institution shall complete, under oath, and file with the Department a financial institution franchise tax return on or before the 15th

day of the 3rd month after the end of that fiscal year.

(b) (1) Each financial institution that reasonably expects its financial institution franchise tax for a year to exceed $1,000 shall complete, under oath, and file with the Department a declaration of estimated tax, on or before the 15th day of the 4th month of the accounting period used as the fiscal year of the financial institution.

(2) A financial institution required under paragraph (1) of this subsection to file a declaration of estimated tax for a taxable year shall complete and file with the Department a quarterly estimated tax return on or before the 15th day of the 6th, 9th, and 12th months of that year.

(c) To properly identify persons listed in a return or document, a person shall include in a return or document the Social Security or other identifying number that the Department requires.

§8–210.

(a) Except as provided in subsection (b) of this section, a financial institution shall pay the financial institution franchise tax with the return that covers the period for which the tax is due.

(b) Each financial institution required to file quarterly estimated financial institution franchise tax returns shall pay:

(1) at least 25% of the estimated financial institution franchise tax shown on the declaration or amended declaration for a taxable year:

(i) with the declaration or amended declaration that covers the year; and

(ii) with each quarterly return for that year; and

(2) any unpaid financial institution franchise tax for the year shown on the financial institution franchise tax return that covers that year, with the return.

§8–211.

The Department shall:

(1) administer the laws that relate to the financial institution franchise tax, consistent with this subtitle and with Title 10 of this article;

(2) adopt reasonable regulations to administer the provisions of laws that relate to the financial institution franchise tax, including regulations that establish, without regard to the methods required under Title 10 of this article, methods for allocation of net earnings based on gross volume of transactions;

(3) design the returns and other forms that, on completion, provide the information required for the administration of the financial institution franchise tax law;

(4) collect the financial institution franchise tax revenue, including penalties and interest; and

(5) certify that revenue to the Comptroller.

§8–212.

If a financial institution franchise tax refund claim under § 13-901 of this article is allowed, the Department shall certify the amount to the Comptroller for payment.

§8–214.

A financial institution may claim a credit against the financial institution franchise tax for wages paid to qualified employees as provided under Title 6, Subtitle 3 of the Economic Development Article.

§8–215.

A financial institution may claim a credit against the financial institution franchise tax for neighborhood and community assistance contributions as provided under § 6-404 of the Housing and Community Development Article.

§8–216.

A financial institution may claim a credit against the financial institution franchise tax for:

(1) wages paid to a qualified employee with a disability; and

(2) (i) child care provided or paid for by a business entity for the children of a qualified employee with a disability as provided under § 21–309 of the Education Article; or

(ii) transportation provided or paid for by the business entity for a qualified employee with a disability as provided under § 21–309 of the Education Article.

§8–217.

A financial institution may claim a State tax credit against the financial institution franchise tax payable under this subtitle as provided under § 9-230 of the Tax - Property Article.

§8–218.

A financial institution may claim a credit against the financial institution franchise tax for employer-provided long-term care insurance as provided under § 10-710 of this article.

§8–220.

A financial institution may claim a credit against the financial institution franchise tax for One Maryland project costs and start–up costs as provided under Title 6, Subtitle 4 of the Economic Development Article.

§8–221.

A financial institution may claim a credit against the financial institution franchise tax for the cost of providing commuter benefits to the business entity's employees as provided under § 2-901 of the Environment Article.

§8–301.

(a) For all taxable years beginning before January 1, 2001, a franchise tax, measured by deposits held in the State, is imposed, for each calendar year, on each savings and loan association.

(b) For all taxable years beginning after December 31, 2000, the savings and loan association franchise tax is terminated.

§8–302.

The savings and loan association franchise tax rate is 0.013% of the total withdrawal value of the deposits that a savings and loan association holds in the State on December 31st.

§8–303.

A savings and loan association organized under the laws of this State and doing business outside this State may claim a credit against the savings and loan association franchise tax in an amount that equals any tax paid to another jurisdiction as a franchise tax on deposits held in this State.

§8–304.

Each savings and loan association that, on December 31, holds deposits in the State shall complete, under oath, and file with the Comptroller a savings and loan association franchise tax return, on or before April 15 of the next year.

§8–305.

A savings and loan association shall pay the savings and loan association

franchise tax with the return that covers the period for which the tax is due.

§8–401.

(a) In this subtitle the following words have the meanings indicated.

(b) "Delivered for final consumption" means delivered by a public service company in its service area as measured at the customer meter or other point of final delivery.

(c) (1) "Gross receipts" means total operating revenue.

(2) "Gross receipts" includes:

(i) gross or total earnings and total receipts;

(ii) for a telephone company, the full amount of approved and applicable federal and State tariff charges for telephone lifeline service without the discount provided by § 8–201(c) of the Public Utilities Article; and

(iii) for a telecommunications company providing interstate long distance telecommunications service, the gross charges from the sale of long distance telecommunications service that originates or terminates in the State and for which a charge is made to a service address located in the State, regardless of where the amount is billed or paid.

(3) "Gross receipts" does not include:

(i) any revenue that a public service company derives from an activity other than an electric, gas, or telephone business; or

(ii) net uncollectible revenue.

(4) For a public service company engaged in a telephone business in the State, gross receipts does not include:

(i) gross charges from the sale by the public service company to another public service company subject to the tax imposed by this subtitle of a service or product for resale;

(ii) gross charges from the sale by the public service company of Internet access service by which a connection is provided between a computer and the Internet; or

(iii) gross charges from the sale of telecommunications service obtained by using a prepaid telephone calling arrangement, as defined in § 11–101 of this article.

(5) For a public service company engaged in the transmission,

distribution, or delivery of electricity or gas in the State:

(i) "gross receipts" includes:

1. except as provided in item (ii)2 and 3 of this paragraph, gross charges for the transmission, distribution, or delivery of electricity or natural gas or for distribution or delivery–related services; and

2. competitive transition charges, intangible transition charges, and any other surcharge or other cost–recovery mechanism authorized for recovery of transition costs or the costs of demand side management or other energy conservation programs, universal service or other public purpose programs, or consumer education programs; and

(ii) "gross receipts" does not include:

1. gross charges from the sale of electricity or natural gas;

2. gross charges from the transmission, distribution, or delivery of electricity or natural gas to another public service company subject to the tax imposed under § 8–402 of this subtitle if the buyer intends to resell the electricity or natural gas; or

3. gross charges from an interstate transmission network or from the transmission, distribution, or delivery of electricity or natural gas to a customer located in another state.

(d) "Long distance telecommunications service" means telecommunications service for a telecommunication that does not originate and terminate in the same local calling area.

(e) "Production activity" has the meaning stated in § 11-101 of this article.

(f) "Public service company" means a person:

(1) engaged in a telephone business in the State; or

(2) engaged in the transmission, distribution, or delivery of electricity or natural gas in the State.

§8–402.

(a) A franchise tax, measured by gross receipts, is imposed, for each calendar year, on each public service company:

(1) engaged in a telephone business in the State; or

(2) engaged in the transmission, distribution, or delivery of electricity or natural gas in the State.

(b) The tax imposed under subsection (a) of this section does not apply to a public service company that is:

(1) a county;

(2) a municipal corporation; or

(3) a nonprofit electric cooperative.

§8–402.1.

(a) (1) In addition to any tax imposed under § 8-402 of this subtitle, a franchise tax is imposed for each calendar year on each public service company engaged in the transmission, distribution, or delivery of electricity or natural gas in the State.

(2) The tax imposed under this section is measured by kilowatt hours of electricity or therms of natural gas delivered by the public service company for final consumption in the State.

(b) The tax imposed under subsection (a) of this section does not apply to therms of natural gas delivered for final consumption by a public service company that is:

(1) a county; or

(2) a municipal corporation.

§8–403.

(a) The rate of the franchise tax imposed under § 8-402 of this subtitle is 2% of gross receipts derived from business in the State.

(b) The rate of the tax imposed under § 8-402.1 of this subtitle is:

(1) 0.062 cents for each kilowatt hour of electricity delivered by the public service company for final consumption in the State; and

(2) 0.402 cents for each therm of natural gas delivered by the public service company for final consumption in the State.

§8–404.

(a) Each public service company that, in a calendar year, has gross receipts derived from business in the State or delivers electricity or natural gas for final consumption in the State shall complete, under oath, and file with the Department a public service company franchise tax return, on or before March 15th of the next year.

(b) (1) Each public service company that reasonably expects its public service company franchise tax for a year to exceed $1,000 shall complete, under oath, and file

with the Department a declaration of estimated tax, on or before April 15 of that year.

(2) A public service company required under paragraph (1) of this subsection to file a declaration of estimated tax for a taxable year shall complete and file with the Department a quarterly estimated tax return on or before June 15, September 15, and December 15 of that year.

(c) A public service company shall file with the return an attachment that states any information that the Department requires to determine gross receipts derived from business in the State or kilowatt hours or therms of natural gas delivered for final consumption in the State.

§8–405.

(a) Except as provided in subsection (b) of this section, each public service company shall pay the public service company franchise tax with the return that covers the period for which the tax is due.

(b) A public service company required to file estimated public service company franchise tax returns under § 8-404(b) of this subtitle shall pay:

(1) at least 25% of the estimated public service company franchise tax shown on the declaration or amended declaration for a taxable year:

(i) with the declaration or amended declaration that covers the year; and

(ii) with each quarterly return for that year; and

(2) any unpaid public service company franchise tax for the year shown on the public service company franchise tax return that covers that year, with the return.

§8–406.

(a) A public service company may claim a credit against the public service company franchise tax equal to the estimated tax paid under § 8-405(b) of this subtitle.

(b) (1) (i) Subject to the limitations of this subsection, a public service company, including any multijurisdictional public service company, may claim a credit against the public service company franchise tax in the amount of $3 for each ton of Maryland–mined coal that the public service company purchased in the calendar year.

(ii) The credit under this subsection may not be claimed for Maryland–mined coal purchased in a calendar year beginning after December 31, 2020.

(2) (i) This paragraph applies only to credits claimed under this subsection for calendar years beginning on or after January 1, 2007.

(ii) The amount claimed as a credit under this subsection may not exceed the amount approved by the Department under this paragraph.

(iii) By January 15 of the calendar year following the end of the calendar year in which the Maryland–mined coal was purchased, a public service company, or a cogenerator or electricity supplier as defined in § 10–704.1 of this article, shall submit an application to the Department for approval of the credit allowed under this paragraph.

(iv) Subject to subparagraph (vi) of this paragraph, the total amount of credits approved by the Department under this paragraph for any calendar year may not exceed:

1. $4,500,000 for a calendar year beginning after December 31, 2008, but before January 1, 2013;

2. $6,000,000 for a calendar year beginning after December 31, 2012, but before January 1, 2015; or

3. $3,000,000 for a calendar year beginning after December 31, 2014, but before January 1, 2021.

(v) Subject to subparagraph (vi) of this paragraph, if the total amount of credits applied for in any calendar year under this paragraph exceeds the maximum specified under subparagraph (iv) of this paragraph, the Department shall approve a credit under this paragraph for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (iv) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under this paragraph for the calendar year.

(vi) 1. Of the total credits approved for any calendar year beginning after December 31, 2006, but before January 1, 2021, the Department shall reserve $2,250,000 of the credits for purchases of Maryland–mined coal that will be used by a facility in Maryland.

2. If the total amount of credits applied for by all applicants for any calendar year for the purchase of Maryland–mined coal that will be used in Maryland exceeds $2,250,000, the Department shall approve a credit under this paragraph for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

A. the numerator of which is $2,250,000; and

B. the denominator of which is the total of all credits applied

for by all applicants under this paragraph for the calendar year for the purchase of Maryland–mined coal that will be used in Maryland.

(vii) On or before February 15 of the calendar year following the end of the calendar year in which the Maryland–mined coal was purchased, the Department shall certify to each applicant claiming a credit the amount of the tax credits approved by the Department for that applicant under this paragraph.

(c) (1) To prevent actual multiple taxation of the sale of interstate long distance telecommunications service, a long distance telecommunications company, upon proof that it has paid a properly due excise, sales and use, or gross receipts tax in another state on a sale the gross receipts from which are subject to taxation under this subtitle, shall be allowed a credit against the public service company franchise tax for the amount paid.

(2) The credit permitted under this subsection may not exceed the tax imposed under this subtitle.

§8–407.

A telephone company may claim a credit against the public service company franchise tax equal to all approved and applicable federal and State tariff charges for telephone lifeline service not billed to eligible subscribers as provided in § 8–201 of the Public Utilities Article.

§8–408.

The Department shall:

(1) administer the laws that relate to the public service company franchise tax;

(2) adopt reasonable regulations to administer the provisions of laws that relate to the public service company franchise tax;

(3) design the returns and forms that, on completion, provide the information required for the administration of the public service company franchise tax laws;

(4) collect the public service company franchise tax revenue, including penalties and interest;

(5) pay that revenue into the General Fund of the State; and

(6) certify to the Comptroller that revenue.

§8–409.

(a) The public service company franchise tax with respect to gross receipts from telecommunications service shall be added to and disclosed as an element of the public service company's charge to the customer for the service.

(b) A public service company may surcharge its customers for the public service company franchise tax imposed under § 8-402.1 of this subtitle.

§8–411.

A public service company may claim a credit against the public service company franchise tax for wages paid to qualified employees as provided under Title 6, Subtitle 3 of the Economic Development Article.

§8–412.

A public service company may claim a credit against the public service company franchise tax for neighborhood and community assistance as provided under § 6-404 of the Housing and Community Development Article.

§8–413.

A public service company may claim a credit against the public service company franchise tax for:

(1) wages paid to a qualified employee with a disability; and

(2) (i) child care provided or paid for by a business entity for the children of a qualified employee with a disability as provided under § 21–309 of the Education Article; or

(ii) transportation provided or paid for by the business entity for a qualified employee with a disability as provided under § 21–309 of the Education Article.

§8–415.

A public service company may claim a credit against the public service company franchise tax for employer-provided long-term care insurance as provided under § 10-710 of this article.

§8–417.

(a) A public service company may claim a credit against the public service company franchise tax in an amount equal to:

(1) .002 cents for each kilowatt hour of electricity in excess of 500 million up to 1,500 million kilowatt hours during a calendar year delivered for final

consumption to a single industrial customer for use in a production activity at the same location in the State; and

(2) 0.0455 cents for each kilowatt hour of electricity in excess of 1,500 million kilowatt hours during a calendar year delivered for final consumption to a single industrial customer for use in a production activity at the same location in the State.

(b) A public service company may claim a credit against the public service company franchise tax in an amount equal to the tax imposed for each therm of natural gas delivered for final consumption in the State to an industrial customer for use in a production activity in the State.

(c) The Public Service Commission shall require that the credits allowed under this section are passed through to the customers to whom the electricity or natural gas on which the credits are based is delivered.

§9–101.

(a) In this title the following words have the meanings indicated.

(b) "Aviation fuel" means:

(1) aviation gasoline; or

(2) turbine fuel.

(c) "Aviation gasoline" means gasoline that:

(1) meets the aviation gasoline standards of specification D-910 of the American Society for Testing and Materials, as amended from time to time; and

(2) is used to propel gasoline-powered aircraft.

(d) "Clean-burning fuel" means, when used for motor vehicle propulsion:

(1) natural gas;

(2) liquefied natural gas;

(3) liquefied petroleum gas;

(4) hydrogen;

(5) electricity; or

(6) any other fuel at least 85% of which is one or more of the following:

(i) methanol;

(ii) ethanol;

(iii) any other alcohol; or

(iv) ether.

(e) (1) "Gasoline" means a product that:

(i) is used as fuel in a spark ignited, internal combustion engine; or

(ii) is designated as gasoline by the Comptroller.

(2) "Gasoline" includes:

(i) casinghead gasoline;

(ii) absorption gasoline;

(iii) other natural gasoline; and

(iv) aviation gasoline.

(f) "Motor fuel" means:

(1) gasoline; or

(2) special fuel.

(g) "Motor vehicle" means a vehicle that:

(1) is self-propelled;

(2) is designed to be operated on a public highway; and

(3) is not operated only on rails.

(h) (1) "Special fuel" means a product that is usable as fuel in an internal combustion engine.

(2) "Special fuel" includes clean-burning fuel except electricity.

(3) "Special fuel" does not include gasoline.

(i) "Turbine fuel" means Jet A, A-1, or B fuel that is used to propel turbine powered aircraft.

§9–201.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Commercial motor vehicle" means any motor vehicle used or maintained for the transportation of persons or property that:

(i) has 2 axles and an operating or registered gross vehicle weight that exceeds 26,000 pounds;

(ii) has 3 or more axles; or

(iii) is used in combination with another vehicle and has an operating or registered gross combined weight that exceeds 26,000 pounds.

(2) "Commercial motor vehicle" does not include:

(i) a privately owned antique truck that:

1. is registered as a historic motor vehicle under § 13–936 of the Transportation Article; and

2. displays appropriate registration plates that the Motor Vehicle Administration issues;

(ii) a commercial motor vehicle that is operated:

1. by a state or a subdivision of a state;

2. by the United States;

3. by a joint unit of:

A. this State and the United States and other states; or

B. this State and another state;

4. by or for a state, political subdivision of a state, or private school as a school bus;

5. by a volunteer or paid fire department or rescue squad as fire or rescue equipment;

6. by a licensed vehicle dealer during a road test for sale, if the vehicle displays dealer registration plates that the Motor Vehicle Administration issues; or

7. by a person as a privately owned bus used only in the transportation system of a county, municipal corporation, special taxing district, or other political subdivision to transport the public on a regular schedule between fixed termini as those terms are defined in the Transportation Article;

(iii) a multipurpose passenger vehicle as defined in § 11–136.2 of the

Transportation Article;

(iv) a multipurpose passenger vehicle or truck that does not exceed 3/4 ton capacity when towing:

1. a camping trailer as defined in § 11–106 of the Transportation Article; or

2. a travel trailer as defined in § 11–170 of the Transportation Article; or

(v) a farm truck as defined in § 13–921 of the Transportation Article or a farm area motor vehicle as defined in § 13–935 of the Transportation Article that has 2 axles and a registered or operating gross or combination weight of less than 40,001 pounds.

(c) (1) "Motor carrier" means a person who operates or causes the operation of a commercial motor vehicle on a highway in this State.

(2) "Motor carrier" includes:

(i) a lessor of a commercial motor vehicle who provides or buys the motor fuel used to operate the vehicle or pays for it as a part of rental or other costs; and

(ii) a lessee whose lease entitles the lessee to receive a credit or refund for motor fuel that the lessor buys.

§9–202.

(a) A tax is imposed on each motor carrier who operates or causes the operation of a commercial motor vehicle on a highway in this State.

(b) The tax under this section is imposed whether the commercial motor vehicle is:

(1) owned by or leased to the motor carrier;

(2) operated loaded or empty; or

(3) operated for compensation or for no compensation.

§9–203.

The motor carrier tax imposed under § 9-202 of this subtitle does not apply to a commercial motor vehicle that:

(1) is operated by a motor carrier that leases the commercial motor vehicle from another motor carrier who provides or pays for the motor fuel; or

(2) is operated by a motor carrier that has obtained a trip permit under § 9-219(c) of this subtitle.

§9–204.

For each type of motor fuel used in the operation of a commercial motor vehicle on a highway in this State, the motor carrier tax rate is the motor fuel tax rate for that type of motor fuel in effect when the return period begins, for each gallon of motor fuel used.

§9–205.

(a) (1) The Comptroller may enter into reciprocal agreements on behalf of this State, with the duly authorized representatives of any other state, that provide for:

(i) fuel tax registration of vehicles by motor carriers;

(ii) establishment of periodic fuel use reporting and fuel use tax payment requirements by motor carriers; and

(iii) disbursement of money that is collected by the Comptroller and is due to other states based on:

1. mileage travelled and fuel used in those states; and

2. the respective registration fees of those states.

(2) The Comptroller may not enter into any reciprocal agreement that would affect:

(i) this State's motor carrier tax rate; or

(ii) this State's registration fee for motor carriers.

(b) In exercising the authority granted under subsection (a) of this section, the Comptroller is expressly authorized to:

(1) enter into regional or national fuel use tax agreements;

(2) become a member of any regional or national conference, group, compact, or similar organization of motor carrier fuel use tax administrators; and

(3) enforce the provisions set forth in any regional or national fuel use tax agreements.

(c) The agreement provisions shall apply to the fuel use taxation, registration, and reporting requirements of motor carriers subject to the provisions of the agreement without reference to or application of any other statutes of this State.

§9–207.

(a) Except as provided in § 9-208 of this subtitle, each motor carrier shall:

(1) complete, under oath, and file a motor carrier tax return for periods that the Comptroller requires; and

(2) provide other information that the Comptroller considers necessary to enforce this subtitle properly.

(b) To identify properly persons listed in a return, each motor carrier shall include in the return:

(1) the Social Security number or other federal identifying number of the person; and

(2) if the Comptroller requires, United States Department of Transportation (US DOT) identification number.

§9–208.

(a) The Comptroller may exempt a motor carrier from filing a motor carrier tax return if:

(1) the operations of the motor carrier are intrastate only;

(2) the intrastate commercial motor vehicles of the motor carrier are registered (tagged) by the Motor Vehicle Administration to operate within the State; and

(3) the exemption will not affect the enforcement of this subtitle adversely.

(b) A motor carrier is not required to report, on a motor carrier tax return, a commercial motor vehicle operated under a trip permit.

§9–209.

(a) Each motor carrier shall keep, in the form that the Comptroller requires, records of the operations on which the motor carrier tax returns are based, including records that show the number of miles operated for each gallon of motor fuel.

(b) A motor carrier shall make the records required under subsection (a) of this section available for inspection by the Comptroller at any time during business hours.

(c) A motor carrier shall keep the records required under subsection (a) of this section for 4 years unless the records have been audited and, on written request that states the reasons for the request, the Comptroller authorizes early destruction.

§9–212.

To compute the amount of motor fuel that a motor carrier uses to operate commercial motor vehicles on highways in the State, the motor carrier shall:

(1) compute its average fleet miles for each gallon of motor fuel as a fraction:

(i) the numerator of which is the total miles that the motor carrier's entire fleet travels in all states; and

(ii) the denominator of which is the total gallons of motor fuel used;

(2) determine the total miles the motor carrier's fleet travels on highways in this State; and

(3) divide the number computed under item (2) by the fraction computed under item (1) of this section.

§9–213.

A motor carrier shall pay to the Comptroller the motor carrier tax computed by multiplying the tax rate under § 9-204 of this subtitle by the gallons of motor fuel used, as computed under § 9-212 of this subtitle, less any credit allowed under § 9-214 of this subtitle.

§9–214.

(a) A motor carrier may claim a credit against the motor carrier tax to the extent of the motor fuel tax that the motor carrier paid on motor fuel bought in the State.

(b) If the credit allowed under subsection (a) of this section for a return period exceeds the motor carrier tax due in the period, then, in accordance with regulations of the Comptroller, the motor carrier may:

(1) apply the excess credit to the motor carrier tax due within the next 2 years; or

(2) apply for a refund of the excess credit under § 13-901 of this article.

§9–215.

A motor carrier shall pay the motor carrier tax for a period with the return that covers the period, in accordance with regulations of the Comptroller.

§9–216.

(a) The terms of a lease determine the primary liability of a lessor and lessee of a commercial motor vehicle for the motor carrier tax.

(b) If either the lessor or lessee with primary responsibility to pay the motor carrier tax fails to pay it in full, both are jointly and severally liable for:

(1) complying with this subtitle; and

(2) payment of any motor carrier tax due.

§9–219.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, a motor carrier shall obtain from the Comptroller an identification marker for each commercial motor vehicle of the motor carrier.

(2) A motor carrier that operates commercial motor vehicles on the highways of this State may obtain trip permits instead of markers.

(3) A motor carrier that registers (tags) all intrastate commercial motor vehicles with the Motor Vehicle Administration for operation within the State is not required to obtain identification markers for those commercial motor vehicles to operate in the State.

(b) To qualify for an identification marker, a motor carrier shall submit to the Comptroller an application on the form that the Comptroller requires.

(c) (1) By regulation, the Comptroller shall establish procedures to issue trip permits and to provide evidence of compliance with this subtitle.

(2) To qualify for a trip permit for a commercial motor vehicle, a motor carrier shall pay to the Comptroller an amount rounded to the nearest dollar equal to the current motor carrier tax payable on 174 gallons of special fuel for each commercial motor vehicle.

(3) Fees for trip permits are in lieu of the motor carrier tax.

(d) (1) A commercial motor vehicle identification marker is effective on an annual basis from January 1 through December 31 of each year.

(2) A trip permit is valid for the 15 consecutive days shown on the permit and only for the specific commercial motor vehicle shown on the permit.

§9–220.

(a) A motor carrier shall display the identification marker for each commercial motor vehicle as the Comptroller requires by regulation.

(b) An identification marker issued under this subtitle remains the property of the State.

(c) The Comptroller may recall an identification marker for a violation of this

subtitle or a regulation adopted to carry out this subtitle.

(d) The Comptroller shall provide, by regulation, methods for identification of motor carriers to other motor carriers and the public.

§9–221.

The Comptroller may issue a temporary authorization to a motor carrier to operate a commercial motor vehicle in the State if the Comptroller is satisfied that:

(1) the motor carrier does not have an identification marker or trip permit for the commercial motor vehicle;

(2) unforeseen circumstances require operation of the commercial motor vehicle; and

(3) a prohibition of operation would cause undue hardship.

§9–222.

(a) In this Part IV of this subtitle "police officer" means:

(1) any uniformed police officer; or

(2) any civilian employee of the Department of State Police or of the Maryland Transportation Authority Police Force assigned to enforce this Part IV of this subtitle or any rule or regulation adopted under this Part IV of this subtitle, but only while acting under written authorization of the Secretary of State Police.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, any police officer shall have the authority to enforce this Part IV of this subtitle and any rule or regulation adopted under it.

(2) A civilian employee of the Maryland Transportation Authority Police Force shall have the authority stated in paragraph (1) of this subsection only if the individual is:

(i) acting under the immediate direction and control of a uniformed police officer; and

(ii) certified by the Department of State Police to enforce this Part IV of this subtitle and any rule or regulation adopted under it.

§9–223.

(a) (1) In this section the following words have the meanings indicated.

(2) "Falsify" includes alter, counterfeit, duplicate, manufacture, construct, or forge.

(3) "IFTA identification marker" means any license or decal required by law to be possessed by a motor carrier and displayed on a commercial motor vehicle under the interstate agreements authorized by § 9–205 of this subtitle.

(b) A person may not knowingly:

(1) falsify any IFTA identification marker or related document;

(2) use, hold, possess, give away, or sell a falsified IFTA identification marker or related document; or

(3) attempt to falsify or sell any IFTA identification marker or related document.

§9–301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Blend" means to mix together any combination of:

(i) alkylate;

(ii) aromatic;

(iii) cracked gasoline;

(iv) natural gasoline;

(v) polymer gasoline; or

(vi) straight-run gasoline.

(2) "Blend" does not include adding alcohol to gasoline.

(c) (1) "Dealer" means a person who engages in the business of a dealer.

(2) "Dealer" includes:

(i) the State when it engages in the business of a dealer; and

(ii) a political subdivision of the State when the subdivision engages in the business of a dealer.

(d) (1) "Distributor" means a person who engages in the business of a distributor.

(2) "Distributor" does not include:

(i) a licensed dealer;

(ii) a licensed special fuel seller;

(iii) a licensed special fuel user;

(iv) a licensed turbine fuel seller;

(v) a marina; or

(vi) a retail service station dealer.

(e) (1) "Engage in the business of a dealer" means to:

(i) import any gasoline into the State;

(ii) blend, in the State, any gasoline on which the motor fuel tax has not been paid;

(iii) refine, in the State, any gasoline on which the motor fuel tax has not been paid; or

(iv) acquire, in the State, any gasoline on which the motor fuel tax has not been paid, for:

1. export; or

2. wholesale distribution.

(2) "Engage in the business of a dealer" does not include bringing gasoline into the State in the fuel supply tank of an aircraft, motor vehicle, or vessel.

(f) "Engage in the business of a distributor" means to buy for resale motor fuel on which the motor fuel tax has been paid from a licensed dealer, licensed special fuel seller, licensed special fuel user, or licensed turbine fuel seller.

(g) (1) "Engage in the business of a special fuel seller" means, with respect to special fuel other than turbine fuel, to:

(i) import any special fuel into the State;

(ii) sell, in the State, any special fuel on which the motor fuel tax has not been paid; or

(iii) deliver, in the State, any special fuel on which the motor fuel tax has not been paid.

(2) "Engage in the business of a special fuel seller" does not include bringing special fuel into the State in the fuel supply tank of a motor vehicle or vessel.

(h) "Engage in the business of a special fuel user" means to:

(1) buy special fuel on which the motor fuel tax has not been paid; and

(2) use it in a motor vehicle that is:

(i) owned or operated by the special fuel user; and

(ii) registered to operate on a public highway.

(i) (1) "Engage in the business of a turbine fuel seller" means to:

(i) import any turbine fuel into the State;

(ii) sell, in the State, any turbine fuel on which the motor fuel tax has not been paid; or

(iii) deliver, in the State, any turbine fuel on which the motor fuel tax has not been paid.

(2) "Engage in the business of a turbine fuel seller" does not include bringing turbine fuel into the State in the fuel supply tank of an aircraft.

(j) "License" means a license issued by the Comptroller under this subtitle to engage in the business of a dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller.

(k) "Licensed dealer" means a person who is licensed to engage in the business of a dealer.

(l) "Licensed distributor" means a person who is licensed to engage in the business of a distributor.

(m) "Licensed special fuel seller" means a person who is licensed to engage in the business of a special fuel seller.

(n) "Licensed special fuel user" means a person who is licensed to engage in the business of a special fuel user.

(o) "Licensed turbine fuel seller" means a person who is licensed to engage in the business of a turbine fuel seller.

(p) "Marina" means a person who maintains a place of business where motor fuel is sold primarily to vessels.

(q) "Refine" means to make crude oil into gasoline or special fuel by changing the physical or chemical characteristics of the crude oil.

(r) "Retail service station dealer" means a person who operates a retail place of business where motor fuel is sold and delivered into the fuel supply tanks of motor vehicles.

(s) (1) "Special fuel seller" means a person who engages in the business of a special fuel seller.

(2) "Special fuel seller" does not include:

(i) a retail service station dealer who pays the motor fuel tax on special fuel to the supplier of the special fuel; or

(ii) a marina that sells special fuel only to vessels.

(t) (1) "Special fuel user" means a person who engages in the business of a special fuel user.

(2) "Special fuel user" does not include:

(i) a person whose only storage for special fuel is the fuel supply tank of a motor vehicle;

(ii) a volunteer fire or nonprofit volunteer rescue company that is incorporated in the State and buys special fuel from a licensed special fuel seller to operate fire fighting vehicles or equipment; or

(iii) a person who pays the motor fuel tax on all special fuels to the supplier of the special fuels.

(u) "Turbine fuel seller" means a person who engages in the business of a turbine fuel seller.

§9–302.

Except as provided in §§ 9-303 and 9-304 of this subtitle, a tax is imposed on motor fuel.

§9–303.

(a) The motor fuel tax does not apply to motor fuel that is exported or sold for exportation from this State.

(b) The motor fuel tax does not apply to special fuel:

(1) containing dye and sold for uses other than in a licensed motor vehicle;

(2) delivered into a tank used only for heating; or

(3) used for any purpose other than propelling a motor vehicle or turbine-powered aircraft.

(c) The motor fuel tax does not apply to aviation fuel that is bought for use by:

(1) a carrier engaged in the common carriage of individuals or property under Parts 121, 127, and 129 of the Federal Aviation Regulations;

(2) an operator under Part 135 of the Federal Aviation Regulations if at least 70% of the aviation fuel is used in the common carriage of individuals or property;

(3) the State;

(4) a political subdivision of the State;

(5) a unit or instrumentality of the United States government; or

(6) a foreign government.

(d) The motor fuel tax does not apply to motor fuel that is bought by the Department of General Services for use by State agencies.

§9–303.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Diplomatic mission" means a permanent mission to the United Nations and foreign embassies and consulates.

(3) "Diplomatic personnel" means foreign embassy and consular officials, and foreign embassy and consular employees that have been certified by the U.S. Department of State.

(b) The motor fuel tax, pursuant to § 9-305 of this subtitle, does not apply to the retail purchase of motor fuel that is bought for use by:

(1) a diplomatic mission; or

(2) diplomatic personnel.

(c) To receive an exemption from the motor fuel tax, a diplomatic mission or diplomatic personnel must:

(1) establish its exempt status with the U.S. Department of State;

(2) use a credit card that has been issued by an oil company licensed under § 9-321 of this subtitle; and

(3) certify to the United States Department of State that the diplomatic mission or diplomatic personnel has obtained and is covered by security that is in the form of and provides at least the minimum benefits applicable to security required for vehicles registered in this State under Title 17, Subtitle 1 of the Transportation Article.

(d) Under the provisions of the Foreign Mission's Tax Exemption Program, the

U.S. Department of State must:

(1) enter into an agreement with an oil company that wishes to participate in the Program; and

(2) certify to an oil company that a diplomatic mission or diplomatic personnel is exempt.

(e) (1) An oil company that has issued an authorized credit card to a diplomatic mission or diplomatic personnel under agreement with the U.S. Department of State may:

(i) bill a diplomatic mission or diplomatic personnel for any credit card purchases of motor fuel, exclusive of the motor fuel tax; and

(ii) receive a refund or credit of the motor fuel tax.

(2) An oil company may not allow an exemption from the motor fuel tax at the time of the retail sale of the fuel.

(3) The amount of a refund or credit will be equal to the amount of the motor fuel tax that has been reimbursed directly or indirectly to the gasoline retailer or the amount of the motor fuel tax that the oil company has remitted to the Comptroller.

(4) An oil company shall be required to verify the amount of a refund or credit that is based upon a credit card sale to a diplomatic mission or diplomatic personnel.

(f) (1) A tax exemption card issued to a diplomatic mission or diplomatic personnel by the U.S. Department of State may not be used to purchase motor fuel that does not include the motor fuel tax.

(2) Notwithstanding any other provisions of this section, a tax exemption, a refund, a credit or a reimbursement may not be granted if a diplomatic mission or diplomatic personnel purchases motor fuel without using an authorized credit card that has been issued by an oil company.

§9–304.

The Comptroller may allow, by regulation, a licensed dealer, a licensed special fuel seller, or a licensed turbine fuel seller to omit the motor fuel tax on motor fuel sold to the United States or a unit of the United States.

§9–305.

(a) Except as provided in subsection (b) of this section, the motor fuel tax rate is:

(1) 7 cents for each gallon of aviation gasoline;

(2) 23.5 cents for each gallon of gasoline other than aviation gasoline;

(3) 24.25 cents for each gallon of special fuel other than clean–burning fuel or turbine fuel;

(4) 7 cents for each gallon of turbine fuel; and

(5) 23.5 cents for each gasoline–equivalent gallon of clean–burning fuel except electricity.

(b) (1) The motor fuel tax rates specified in subsection (a)(2), (3), and (5) of this section shall be increased on July 1, 2013, and July 1 of each subsequent year in accordance with this subsection.

(2) On or before June 1 of each year, the Comptroller shall determine and announce:

(i) the growth in the Consumer Price Index for all urban consumers as determined by the Comptroller under paragraph (3) of this subsection; and

(ii) the motor fuel tax rates effective for the fiscal year beginning on the following July 1 as determined by the Comptroller under paragraph (4) of this subsection.

(3) (i) In this paragraph, "Consumer Price Index for all urban consumers" means the index published monthly by the Bureau of Labor Statistics of the U.S. Department of Labor that is the U.S. city average of all items in a basket of consumer goods and services.

(ii) The percentage growth in the Consumer Price Index for all urban consumers shall be determined by comparing the average of the index for the 12 months ending on the preceding April 30 to the average of the index for the prior 12 months.

(4) Subject to paragraph (5) of this subsection, on July 1 of each year, each motor fuel tax rate specified in subsection (a)(2), (3), and (5) of this section shall be increased by the amount, rounded to the nearest one–tenth of a cent, that equals the product of multiplying:

(i) the motor fuel tax rate in effect on the date of the Comptroller's announcement under paragraph (2) of this subsection; and

(ii) the percentage growth in the Consumer Price Index for all urban consumers.

(5) (i) If there is a decline or no growth in the Consumer Price Index for all urban consumers, the motor fuel tax rates shall remain unchanged.

(ii) Any increase in the motor fuel tax rates under paragraph (4) of this subsection may not be greater than 8% of the motor fuel tax rate effective in the previous year.

(6) The Comptroller shall require any person possessing tax–paid motor fuel for sale at the start of business on the date of an increase in the motor fuel tax under this subsection to compile and file an inventory of the motor fuel held at the close of business on the immediately preceding date and remit within 30 days any additional motor fuel tax that is due on the motor fuel.

§9–306.

(a) (1) In this section the following words have the meanings indicated.

(2) "Average annual retail price" means the 12–month average retail price per gallon of motor fuel purchased in the State determined in accordance with subsection (d) of this section.

(3) "Sales and use tax equivalent rate" means the per gallon tax rate calculated based on a percentage of the average annual retail price of motor fuel in accordance with subsection (e) of this section.

(b) On or before December 1, 2015, June 1, 2016, and June 1 of each subsequent year, the Comptroller shall determine and announce:

(1) the average annual retail price of motor fuel; and

(2) the sales and use tax equivalent rate effective on the first day of the following month.

(c) (1) The sales and use tax equivalent rate shall be added to the motor fuel tax rates specified in § 9–305(a)(2), (3), and (5) of this subtitle and collected in the same manner as the motor fuel tax.

(2) Except as otherwise expressly provided by law, all references to the motor fuel tax in State law and regulations apply to the sales and use tax equivalent rate imposed under this section.

(d) The Comptroller shall determine the average annual retail price of motor fuel:

(1) using data compiled by the Oil Price Information Service or another generally recognized and reliable source of information; and

(2) based on prices for regular unleaded motor fuel, excluding federal and State taxes, reported during the 12 months ending on the last day of the second immediately preceding month.

(e) The Comptroller shall determine the sales and use tax equivalent rate by:

(1) multiplying the average annual retail price by the percentage rate specified in subsection (f) of this section; and

(2) rounding the product to the nearest tenth of a cent.

(f) The percentage rate used to calculate the sales and use tax equivalent rate shall be:

(1) 4% for the determination made on December 1, 2015; and

(2) 5% for the determination made on June 1, 2016, and June 1 of each subsequent year.

(g) The Comptroller shall require any person possessing tax–paid motor fuel for sale at the start of business on the date of an increase in the sales and use tax equivalent rate under this section to compile and file an inventory of the motor fuel held at the close of business on the immediately preceding date and remit within 30 days any additional tax that is due on the motor fuel under this section.

§9–308.

(a) Except as provided in subsections (b) and (c) of this section, each dealer, special fuel seller, special fuel user, or turbine fuel seller shall complete, under oath, and file with the Comptroller a motor fuel tax return:

(1) for each month in which the dealer, special fuel seller, special fuel user, or turbine fuel seller sells or uses motor fuel in the State:

(i) by delivery, on or before the last day of the next month;

(ii) by mail postmarked at least 2 days before the last day of the next month; or

(iii) if, for cause, the Comptroller grants an extension, by delivery on or before the date that the Comptroller specifies; and

(2) if the Comptroller so requires, by regulation, on other dates for each month in which the dealer, special fuel seller, special fuel user, or turbine fuel seller does not sell or deliver motor fuel.

(b) Each licensed Class B dealer shall complete, under oath, and file with the Comptroller a motor fuel tax return:

(1) for each month in which the dealer receives gasoline in the State:

(i) by delivery, on or before the last day of the next month;

(ii) by mail postmarked at least 2 days before the last day of the next month; or

(iii) if, for cause, the Comptroller grants an extension, by delivery on or before the date that the Comptroller specifies; and

(2) if the Comptroller so requires, by regulation, on other dates for each month in which the dealer does not receive gasoline.

(c) (1) A special fuel user engaged in the business of agriculture shall complete, under oath, and file with the Comptroller a motor fuel tax return for periods and on dates as the Comptroller may specify by regulation.

(2) The Comptroller may not require filings more frequently than monthly.

(d) A return shall state the total gallons of motor fuel received, sold, or used, during the period that the return covers, at each place of business in the State.

(e) (1) The Comptroller by regulation may require each person that is required to file a return under this section to file the return through electronic means.

(2) A regulation adopted under this subsection:

(i) shall include an exemption from electronic filing for persons that do not have access to means of transmitting data electronically; and

(ii) shall include provisions for the periodic affirmation and verification of the information that is submitted electronically.

§9–309.

(a) (1) Each person who engages in the business of a dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller shall keep for 4 years records of motor fuel that the person:

(i) buys in the State;

(ii) receives in the State;

(iii) sells in the State;

(iv) delivers in the State; or

(v) uses in the State.

(2) The records kept under this subsection shall include:

(i) bills of lading;

(ii) invoices; and

(iii) any other pertinent record that the Comptroller requires to administer the laws that relate to the motor fuel tax.

(b) A person required to keep records under subsection (a) of this section shall make the records available for inspection by the Comptroller at any time during business hours.

(c) (1) The Comptroller may charge a person for the reasonable travel and other expenses of inspecting records required to be kept under subsection (a) of this section, if:

(i) the Comptroller decides that the inspection is necessary; and

(ii) the person does not make the records available in this State.

(2) If a person does not pay charges assessed against the person under this subsection within 30 days after receipt of a bill for the charges, the Comptroller may:

(i) sue to collect the charges; or

(ii) cancel the license, if any, of the person in accordance with § 9-330 of this subtitle.

§9–310.

(a) Each dealer, distributor, special fuel seller, or turbine fuel seller who sells motor fuel shall give the buyer an original invoice that includes:

(1) the name under which the Comptroller licenses the seller; and

(2) a statement:

(i) of the amount of motor fuel tax charged; or

(ii) if tax is not charged, that the "Maryland motor fuel tax is not included".

(b) Unless the information required by subsection (a) of this section appears on the invoice for a shipment of motor fuel from a dealer, distributor, special fuel seller, or turbine fuel seller, a person may not accept the shipment, pay for it, or offer it for sale.

(c) (1) A person who sells motor fuel in violation of any provision of subsection (b) of this section shall pay twice the motor fuel tax due.

(2) Any other person who violates any provision of subsection (b) of this section shall pay the motor fuel tax due.

§9–314.

(a) The motor fuel tax on gasoline shall be paid by:

(1) the licensed Class B dealer who first receives gasoline imported into the State;

(2) any other dealer who:

(i) uses the gasoline; or

(ii) first sells the gasoline in this State to a buyer other than a licensed dealer authorized to acquire gasoline, in accordance with § 9–322 of this subtitle, without paying the motor fuel tax; or

(3) any other person who acquires gasoline on which the motor fuel tax has not been paid.

(b) The motor fuel tax on special fuel other than turbine fuel shall be paid by:

(1) a special fuel seller who delivers that special fuel into a tank from which a motor vehicle can be fueled unless the person who uses or resells the special fuel has an exemption certificate that authorizes the person to acquire special fuel, in accordance with § 9–322 of this subtitle, without paying the motor fuel tax;

(2) a special fuel user who uses that special fuel in a motor vehicle that is owned or operated by the special fuel user and registered to operate on a public highway; or

(3) any other person who acquires that special fuel unless:

(i) the motor fuel tax on that special fuel has been paid; or

(ii) the person has an exemption certificate that authorizes the person to acquire special fuel, in accordance with § 9–322 of this subtitle, without paying the motor fuel tax.

(c) The motor fuel tax on turbine fuel shall be paid by:

(1) the turbine fuel seller who delivers the turbine fuel into the fuel supply tank of a turbine–powered aircraft; or

(2) any other person who acquires turbine fuel on which motor fuel tax has not been paid unless the person has an exemption certificate that authorizes the person to acquire turbine fuel, in accordance with § 9–322 of this subtitle, without paying the motor fuel tax.

(d) A person required to pay motor fuel tax under this section shall pay it with the return that covers the period in which the person received, sold, or used the motor

fuel.

(e) If a corporation, other than a nonstock, not for profit corporation, is required to pay motor fuel tax, personal liability for the tax and interest and penalties on the tax extends to any officer of the corporation who exercises direct control over its fiscal management.

(f) If a limited liability company, or limited liability partnership, including a limited partnership registered as a limited liability limited partnership, is required to pay the motor fuel tax and interest and penalties on the tax, personal liability for the tax and interest and penalties on the tax extends to any person who exercises direct control over the fiscal management of the limited liability company or limited liability partnership.

§9–315.

(a) A licensed dealer or licensed special fuel seller shall deduct 0.5% of the 1st 10 cents of the motor fuel tax on each gallon of motor fuel, as a discount:

(1) instead of an allowance for evaporation, shrinkage, and handling; and

(2) to reimburse the licensed dealer or licensed special fuel seller for expenses incurred for the State in:

(i) keeping records;

(ii) collecting and paying the tax; and

(iii) preparing reports.

(b) (1) This subsection does not apply to:

(i) any aviation gasoline; or

(ii) any other motor fuel on which the motor fuel tax has not been paid.

(2) From the discount under subsection (a) of this section:

(i) a licensed dealer who sells gasoline to a retail service station dealer shall deduct on the bill 1/2 of the discount;

(ii) a licensed dealer who sells gasoline to a licensed distributor or licensed special fuel seller shall deduct on the bill 2/3 of the discount;

(iii) a licensed distributor who sells motor fuel to a retail service station dealer shall deduct on the bill 1/3 of the discount;

(iv) a licensed special fuel seller who sells special fuel to a retail

service station dealer shall deduct on the bill 1/2 of the discount;

(v) a licensed special fuel seller who sells special fuel to a licensed distributor shall deduct on the bill 2/3 of the discount; and

(vi) a licensed special fuel seller who sells gasoline to a licensed distributor shall deduct on the bill 1/3 of the discount.

§9–318.

A person shall be licensed by the Comptroller before the person may engage, in the State, in the business of:

(1) a dealer;

(2) a distributor;

(3) a special fuel seller;

(4) a special fuel user; or

(5) a turbine fuel seller.

§9–319.

(a) To qualify for a Class "A" license, an applicant shall be:

(1) an entity that:

(i) blends or refines gasoline;

(ii) owns or controls and dedicates at least 1 million gallons of storage capacity in the State to gasoline, other than aviation gasoline, and to special fuel; and

(iii) keeps in the State an inventory of at least 500,000 gallons of that gasoline and special fuel; or

(2) an entity that is wholly owned by one or more entities that would otherwise qualify as a Class "A" licensee.

(b) To qualify for a Class "B" license, an applicant shall be an entity that is licensed by the state from which the gasoline is to be exported for importation into this State.

(c) To qualify for a Class "C" license, an applicant shall be an entity that:

(1) is based in another state;

(2) is licensed by the state to which that gasoline is to be exported;

(3) has no sales in this State; and

(4) does not own, operate or utilize in this State a facility that can store or dispense motor fuel.

(d) To qualify for a Class "D" license, an applicant shall be an entity that:

(1) is organized under the laws of the State;

(2) does not blend or refine gasoline;

(3) has, in this State, excluding retail service stations, fixed storage tanks for at least 200,000 gallons of motor fuel other than aviation fuel;

(4) keeps an inventory of motor fuel in the State; and

(5) annually sells in the State:

(i) at least 1 million gallons of gasoline to persons who are not licensed dealers; and

(ii) of the total gallons of motor fuel acquired, at least 50% in gasoline.

(e) To qualify for a Class "G-Temporary" license, an applicant shall be an entity that:

(1) is not entitled to any other class of license for dealers;

(2) has a specific federal contract to supply gasoline to the United States or a unit of the United States that is entitled to an exemption under § 9-304 of this subtitle or to a refund under § 13-901(f)(1)(ii)2.A of this article; and

(3) is licensed by the state from which that gasoline is to be exported, if any part is to be imported into this State.

(f) To qualify for a Class "W" license, an applicant shall be an entity that is not entitled to any other class of license.

(g) To qualify for an exemption certificate, an applicant:

(1) shall hold a Class "F", "S", or "U" license;

(2) shall be an entity that is exempt from the motor fuel tax under this subtitle; or

(3) may not own or operate on public highways in this State a vehicle that is propelled by special fuel.

(h) If an applicant is organized under the laws of another state or country, the applicant first shall qualify to do business in this State under the appropriate provisions of the Corporations and Associations Article.

§9–320.

(a) An applicant for a license shall submit to the Comptroller:

(1) a completed application, on the form that the Comptroller requires, that:

(i) is made under oath;

(ii) states the name under which the applicant does or will do business in the State;

(iii) states, for partnerships, the name of each partner;

(iv) states, for firms, the name of each member; and

(v) states, for corporations, the names and addresses of its principal officers, resident agent, and attorney in fact; and

(2) the bond required under Title 13 of this article.

(b) An applicant for an exemption certificate shall submit a completed application, on the form that the Comptroller requires, that:

(1) is made under oath;

(2) states the name under which the applicant does or will do business in the State;

(3) states, for partnerships, the name of each partner;

(4) states, for firms, the name of each member; and

(5) states, for corporations, the names and addresses of its principal officers, resident agent, and attorney in fact.

(c) The Comptroller shall keep and index:

(1) each application filed under this section;

(2) each bond filed under this section; and

(3) a record of:

(i) each licensee; and

(ii) each holder of an exemption certificate.

§9–321.

(a) The Comptroller shall issue a license of the appropriate class to each applicant who meets the requirements of this subtitle.

(b) The Comptroller shall issue an exemption certificate to each applicant who meets the requirements of this subtitle.

§9–322.

(a) A Class "A" license authorizes the licensee to:

(1) import into this State gasoline on which the motor fuel tax has not been paid;

(2) export from this State gasoline on which the motor fuel tax has not been paid; and

(3) acquire in this State from another holder of a Class "A" license gasoline on which the motor fuel tax has not been paid.

(b) (1) A Class "B" license authorizes the licensee to import into this State gasoline on which the motor fuel tax has not been paid, for personal use or for redistribution.

(2) A holder of a Class "B" license may not acquire in this State gasoline on which the motor fuel tax has not been paid.

(c) (1) A Class "C" license authorizes the licensee to:

(i) acquire, in this State, from a supplier whom the Comptroller specifically approves, gasoline on which the motor fuel tax has not been paid; and

(ii) export that gasoline.

(2) A holder of a Class "C" license may not import into this State gasoline on which the motor fuel tax has not been paid.

(d) (1) A Class "D" license authorizes the licensee to acquire, in this State, gasoline on which the motor fuel tax has not been paid from:

(i) a holder of a Class "A" license; or

(ii) another holder of a Class "D" license.

(2) Unless authorized by the Comptroller, a holder of a Class "D" license may not import into this State gasoline on which the motor fuel tax has not been paid.

(e) A Class "F" license authorizes the licensee to engage, in this State, in the business of a turbine fuel seller.

(f) (1) A Class "G-Temporary" license authorizes the licensee during the term of the federal contract for which the license is issued to:

(i) acquire, in this State, gasoline on which the motor fuel tax has not been paid, in the amount that the contract specifies and from a supplier whom the Comptroller specifically approves; and

(ii) deliver that amount to the location that the contract specifies.

(2) A Class "G-Temporary" license may be extended if:

(i) the original federal contract is extended; or

(ii) during the term of the license, another contract is awarded to the licensee.

(g) A Class "S" license authorizes a licensee to engage, in this State, in the business of a special fuel seller.

(h) A Class "U" license authorizes a licensee to engage, in this State, in the business of a special fuel user.

(i) A Class "W" license authorizes a licensee to engage, in this State, in the business of a distributor.

(j) A dealer who holds any class of license because the dealer was licensed before July 1, 1985 has the privileges authorized for that class until the dealer is required to apply for a new license, in accordance with regulations of the Comptroller in effect as of July 1, 1985.

(k) As indicated on an exemption certificate, the certificate authorizes the holder to acquire, in bulk and without paying the motor fuel tax:

(1) special fuel other than turbine fuel; or

(2) turbine fuel.

§9–323.

(a) Except as provided in subsection (b) of this section, a license or an exemption certificate expires on the first May 31 after its effective date.

(b) A Class "G-Temporary" license expires on the earlier of:

(1) termination of the contract for which the license was issued; or

(2) the first May 31 after its effective date.

§9–324.

Each licensee and exemption certificate holder shall display the license or certificate conspicuously in each place of business, in this State, of the licensee or holder.

§9–325.

A license or exemption certificate is valid only for the person in whose name the license or certificate is issued and is not assignable.

§9–326.

(a) To obtain proper identification of a person who receives, buys, sells, or uses motor fuel, the Comptroller may:

(1) require information necessary to assign an identification number to the person; and

(2) assign a license or other identification number to the person.

(b) A person required to file a return or other document under this subtitle shall include the identification number of the person filing and of each other person listed in the other document.

(c) A person who is to be listed in any return or other document filed by another person under this subtitle shall give the appropriate identification number to the person who is required to file the document.

§9–327.

(a) To obtain an exemption under § 9-303(a), (b), or (c) of this subtitle, a dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller shall complete and submit any certificates and reports that the Comptroller requires, by regulation.

(b) If the holder of an exemption certificate changes the use of any special fuel obtained under that certificate to a taxable use, the holder shall give the Comptroller written notice of the change within 5 days after the first change.

§9–328.

Subject to the hearing provisions of § 9-329 of this subtitle, the Comptroller may deny a license or exemption certificate to any applicant, if the applicant:

(1) fraudulently or deceptively has obtained or attempts to obtain a license or exemption certificate for the applicant or another person;

(2) previously has had a license or exemption certificate canceled for cause; or

(3) in the judgment of the Comptroller, has not filed an application in good faith.

§9–329.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Comptroller takes any action under § 9-328 of this subtitle, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(b) (1) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(2) The notice shall be sent so that the applicant has at least 5 days' notice before the hearing.

(c) The Comptroller may administer oaths in connection with any proceeding under this section.

§9–330.

Subject to § 9-331 of this subtitle, the Comptroller may cancel a license or exemption certificate if the licensee or certificate holder:

(1) files false information under this subtitle;

(2) fails to file a report required under this subtitle;

(3) fails to give the Comptroller the notice of a change in use required under § 9-327(b) of this subtitle;

(4) fails to pay any motor fuel tax, interest, or penalty due under this subtitle;

(5) violates any requirement for the class of license held;

(6) violates any regulation adopted under this subtitle;

(7) fails to maintain the bond required under Title 13 of this article;

(8) stops engaging for more than 6 consecutive months in the business for which licensed; or

(9) fails to keep records required under this article, Title 10, Subtitle 3 of the Business Regulation Article, or an applicable regulation.

§9–331.

If the Comptroller cancels a license or exemption certificate under § 9-330 of this subtitle, the Comptroller shall notify the licensee or certificate holder in writing sent to the last known address of the licensee or certificate holder. The notice shall be sent by certified mail, return receipt requested, under a postmark of the United States Postal Service.

§9–332.

Any person aggrieved by a cancellation under § 9-330 of this subtitle or by a final decision of the Comptroller in a contested case as defined in § 10-201 of the State Government Article may appeal to the appropriate circuit court. The appeal shall be filed within 30 days after the mailing date of the final decision or notice of cancellation.

§9–333.

A licensee may request in writing that the Comptroller cancel a license held by the licensee. The Comptroller shall notify the licensee in writing of the decision on the request. If the request is granted, the cancellation takes effect on the last day of the month in which the request is received.

§9–334.

The revocation or cancellation of a license under this subtitle does not discharge a person from a duty or liability imposed by law on that person before the revocation or cancellation takes effect.

§9–335.

The Comptroller shall surrender the bond filed by a licensee if:

(1) the license is revoked or canceled; and

(2) the licensee has paid all motor fuel taxes, interest, and penalties that are due.

§9–336.

(a) The Motor Vehicle Administration shall send promptly to the Comptroller the name and address of a person who registers a motor vehicle propelled by special fuel for operation on public highways.

(b) The Comptroller shall notify immediately the Motor Vehicle Administration if:

(1) the Comptroller cancels a license or exemption certificate issued under this subtitle or suspends or revokes an identification marker, a permit, or temporary

authority issued to a motor carrier under Subtitle 2 of this title for failure to comply with the provisions of this subtitle or Subtitle 2 of this title; or

(2) the Comptroller knows that a licensee, exemption certificate holder, or motor carrier has violated the provisions of this subtitle or Subtitle 2 of this title.

(c) On receipt of a notice under subsection (b) of this section, the Motor Vehicle Administration shall suspend or revoke the appropriate registration.

(d) If the Comptroller is satisfied with the corrective action taken by the licensee or certificate holder, the Comptroller may reinstate the license or exemption certificate. If the license or exemption certificate is reinstated, the Comptroller shall give the Motor Vehicle Administration notice of the reinstatement and the Motor Vehicle Administration shall reinstate the registration of the licensee or exemption certificate holder.

§9–337.

(a) A person may not engage in the business of a dealer, a distributor, a special fuel seller, a special fuel user, or a turbine fuel seller without a license issued by the Comptroller under this subtitle.

(b) A dealer, distributor, special fuel seller, special fuel user, or turbine fuel seller may not receive motor fuel without a license issued by the Comptroller under this subtitle.

(c) A person may not transfer motor fuel on which motor fuel tax is due and has not been paid to a person who does not hold a license or exemption certificate issued by the Comptroller under this subtitle.

§10–101.

(a) In this title the following words have the meanings indicated.

(b) "Applicable tax base" means the portion of the income of an investment conduit or a special exempt entity on which a tax is imposed under:

(1) § 11, § 527(b), § 528(b), § 852(b)(1), § 857(b)(1) or (4)(a), or § 860G(c)(1) of the Internal Revenue Code; or

(2) any other section of the Internal Revenue Code that the Comptroller determines by regulation to impose an entity level income tax on an entity that the Comptroller determines to be:

(i) an investment conduit under subsection (h)(2) of this section; or

(ii) a special exempt entity under subsection (m)(2) of this section.

(c) "Corporation" includes an association or joint-stock company.

(d) "County income tax" means the county tax on income authorized in § 10-103 of this subtitle.

(e) "Federal adjusted gross income" means:

(1) for an individual other than a fiduciary, the individual's adjusted gross income as determined under the Internal Revenue Code;

(2) for a fiduciary other than one described in item (3) of this subsection, the fiduciary's taxable income, as determined under the Internal Revenue Code, increased by the amount allowed to the fiduciary as a deduction for a personal exemption under § 642(b) of the Internal Revenue Code; or

(3) for a fiduciary exempt from taxation under § 408(e)(1) or § 501 of the Internal Revenue Code, the fiduciary's unrelated business taxable income as defined under § 512 of the Internal Revenue Code.

(f) (1) "Fiduciary" means a person holding the legal title to property for the use and benefit of another person.

(2) "Fiduciary" does not include:

(i) an agent holding custody or possession of property that the principal of the agent owns; or

(ii) a guardian, as defined in § 13-101 of the Estates and Trusts Article.

(g) "Individual" means, unless expressly provided otherwise, a natural person or a fiduciary.

(h) "Investment conduit" means:

(1) any of the following entities described in the Internal Revenue Code:

(i) a regulated investment company;

(ii) a real estate investment trust; or

(iii) a real estate mortgage investment conduit; or

(2) any other entity that the Comptroller determines by regulation to enjoy a status under the Internal Revenue Code pursuant to which the entity is not generally subject to income tax at the entity level so long as substantially all of its profits are distributed to the holders of equity interests in the entity.

(i) "Maryland taxable income" means:

(1) for an individual, Maryland adjusted gross income, less the exemptions and deductions allowed under this title; and

(2) for a corporation, Maryland modified income as allocated under this title.

(j) "Nonresident" means an individual who is not a resident.

(k) (1) "Resident" means:

(i) an individual, other than a fiduciary, who:

1. is domiciled in this State on the last day of the taxable year; or

2. for more than 6 months of the taxable year, maintained a place of abode in this State, whether domiciled in this State or not;

(ii) a personal representative of an estate if the decedent was domiciled in this State on the date of the decedent's death; or

(iii) a fiduciary, other than a personal representative, of a trust if:

1. the trust was created, or consists of property transferred, by the will of a decedent who was domiciled in the State on the date of the decedent's death;

2. the creator or grantor of the trust is a current resident of the State; or

3. the trust is principally administered in the State.

(2) "Resident" includes, for the part of the taxable year that an individual resides in this State, an individual who:

(i) moves to this State with the intent to be domiciled in this State; or

(ii) is domiciled in this State and moves outside this State before the last day of the taxable year with the bona fide intention to remain permanently outside of this State.

(3) If an individual under paragraph (2)(ii) of this subsection again resides in this State within 6 months after having moved outside this State, there is a rebuttable presumption that the individual did not have a bona fide intention to remain permanently outside this State.

(l) "S corporation" means a corporation that elects to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code.

(m) "Special exempt entity" means:

(1) any of the following entities described in the Internal Revenue Code:

(i) a farmers' cooperative;

(ii) a political organization; or

(iii) a homeowners association; or

(2) any other entity not described in § 10-104(2) of this subtitle that the Comptroller determines by regulation to be exempt from federal income tax on all or some part of its income.

(n) "State income tax" means the State tax on income imposed under this title.

(o) (1) "Taxable year" means:

(i) the period for which Maryland taxable income is computed under this title; and

(ii) the annual accounting period defined in § 441 of the Internal Revenue Code.

(2) "Taxable year" includes:

(i) a calendar year ending on December 31, as defined in § 441 of the Internal Revenue Code;

(ii) a fiscal year ending on the last day of a month other than December, as defined in § 441 of the Internal Revenue Code;

(iii) if a return is made for a period of less than 1 year, the period for which the return is made; or

(iv) if an election is made under § 441(f) of the Internal Revenue Code, the period for which a return is made.

§10–102.

Except as provided in § 10-104 of this subtitle, a tax is imposed on the Maryland taxable income of each individual and of each corporation.

§10–102.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Distributable cash flow" means taxable income reportable by a pass–through entity on its federal income tax return for the taxable year:

(i) adjusted, in the case of an entity using the accrual method of accounting to report federal taxable income, to reflect the amount of taxable income that would have been reported under the cash method of accounting;

(ii) increased by the sum of:

1. cash receipts for the taxable year that are not includable in the gross income of the entity, including capital contributions and loan proceeds;

2. amounts allowable to the entity for the taxable year as deductions for depreciation, amortization, and depletion; and

3. the decrease, if any, in the entity's liability reserve as of the end of the taxable year; and

(iii) decreased by the sum of:

1. cash expenditures for the taxable year that are not deductible in computing the taxable income of the entity, not including distributions to shareholders, partners, or members; and

2. the increase, if any, in the entity's liability reserve as of the end of the taxable year.

(3) "Liability reserve" means accrued unpaid liabilities that are not deductible in computing taxable income.

(4) "Member" means:

(i) a shareholder of an S corporation;

(ii) a general or limited partner of a partnership, limited partnership, or limited liability partnership;

(iii) a member of a limited liability company; or

(iv) a beneficiary of a business trust or statutory trust.

(5) "Nonresident entity" means an entity that is not formed under the laws of the State and is not qualified by or registered with the Department of Assessments and Taxation to do business in the State.

(6) "Nonresident taxable income" means any income described in § 10–210(b)(1) through (4) of this title.

(7) "Pass–through entity" means:

(i) an S corporation;

(ii) a partnership;

(iii) a limited liability company that is not taxed as a corporation under this title; or

(iv) a business trust or statutory trust that is not taxed as a corporation under this title.

(b) In addition to any other tax imposed under this title, a tax is imposed on each pass–through entity that has:

(1) any member who is a nonresident of the State or is a nonresident entity; and

(2) any nonresident taxable income for the taxable year.

(c) (1) The tax imposed under subsection (b) of this section shall be treated as a tax imposed on the nonresident or nonresident entity members that is paid on behalf of the nonresidents or nonresident entities by the pass–through entity.

(2) The Comptroller shall provide by regulation for the treatment of the tax imposed under subsection (b) of this section that is paid on behalf of a nonresident entity member that is itself a pass–through entity.

(d) (1) Except as provided in paragraph (2) of this subsection, the tax imposed under subsection (b) of this section is the sum of:

(i) a rate equal to the sum of the rate of the tax imposed under § 10–106.1 of this subtitle and the top marginal State tax rate for individuals under § 10–105(a) of this subtitle applied to the sum of each nonresident individual member's distributive share or pro–rata share of a pass–through entity's nonresident taxable income; and

(ii) the rate of the tax for a corporation under § 10–105(b) of this subtitle applied to the sum of each nonresident entity member's distributive share or pro–rata share of a pass–through entity's nonresident taxable income.

(2) The tax required to be paid for any taxable year on behalf of nonresident or nonresident entity members by a pass–through entity may not exceed the sum of all of the nonresident and nonresident entity members' shares of the pass–through entity's distributable cash flow.

(e) (1) (i) The tax imposed under subsection (b) of this section does not apply with respect to the distributive share or pro–rata share of a member that is itself a pass–through entity formed under the laws of the State or qualified by or registered with the Department of Assessments and Taxation to do business in the State.

(ii) A member of a pass–through entity that is itself a pass–through

entity as described in subparagraph (i) of this paragraph shall comply with the provisions of this section with respect to any of its members that are nonresidents or nonresident entities.

(2) The tax imposed under subsection (b) of this section does not apply with respect to the direct or indirect distributive share or pro rata share of a member that is a real estate investment trust as defined by § 856 of the Internal Revenue Code.

(f) The Comptroller may provide by regulation for:

(1) the filing of composite returns by a pass–through entity on behalf of its nonresident and nonresident entity members; and

(2) application of or exemption from the tax imposed under subsection (b) of this section for a pass–through entity:

(i) that files a composite return on behalf of nonresident and nonresident entity members; or

(ii) the nonresident or nonresident entity members of which are tax exempt.

(g) (1) Subject to paragraph (2) of this subsection, if a partnership fails to pay the tax when due the tax may be collected from the partners under the law applicable to debts of the partnership, with the partnership and partners having rights of contribution against any nonresident partner on whose behalf the tax is paid.

(2) Unless it is established by the Comptroller that the partner participated in a pattern of distributions to one or more partners with the intention of defeating the partnership liability for the tax imposed under subsection (b) of this section, any partner otherwise liable under paragraph (1) of this subsection shall be liable for the tax imposed on the partnership only to the extent of distributions from the partnership to that partner after the tax was due to be paid by the partnership.

(h) Except as provided in § 10–701.1 of this title, nothing in this section limits or affects in any way the liability of an individual nonresident member or a nonresident entity member for the tax imposed on the individual nonresident or nonresident entity under § 10–102 of this subtitle.

(i) The tax imposed under subsection (b) of this section does not apply to a publicly traded pass–through entity that has agreed to file with the Comptroller an annual information return reporting the name, address, taxpayer identification number, and other information requested by the Comptroller of each nonresident or nonresident entity member whose distributive share or pro–rata share of the pass–through entity's nonresident taxable income for the taxable year exceeds $500.

§10–103.

(a) Each county shall have a county income tax on the Maryland taxable income of:

(1) each resident, other than a fiduciary, who on the last day of the taxable year:

(i) is domiciled in the county; or

(ii) maintains a principal residence or a place of abode in the county;

(2) each personal representative of an estate if the decedent was domiciled in the county on the date of the decedent's death;

(3) each resident fiduciary of:

(i) a trust that is principally administered in the county; or

(ii) a trust that is otherwise principally connected to the county and is not principally administered in the State; and

(4) except as provided in § 10-806(c) of this title, a nonresident who derives income from salary, wages, or other compensation for personal services for employment in the county.

(b) Except for the county income tax, a county, municipal corporation, special taxing district, or other political subdivision may not impose a general local income, earnings, or payroll tax, a general occupational license tax, or a general license or permit tax based on income, earnings, or gross receipts.

§10–104.

The income tax does not apply to the income of:

(1) a common trust fund, as defined in § 3-501(b) of the Financial Institutions Article;

(2) except as provided in §§ 10-101(e)(3) and 10-304(2) of this title, an organization that is exempt from taxation under § 408(e)(1) or § 501 of the Internal Revenue Code;

(3) a financial institution that is subject to the financial institution franchise tax;

(4) a person subject to taxation under Title 6 of the Insurance Article;

(5) except as provided in § 10-102.1 of this subtitle, a partnership, as defined in § 761 of the Internal Revenue Code;

(6) except as provided in § 10-102.1 of this subtitle and § 10-304(3) of this title, an S corporation;

(7) except as provided in § 10-304(4) of this title, an investment conduit or a special exempt entity; or

(8) except as provided in § 10-102.1 of this subtitle, a limited liability company as defined under Title 4A of the Corporations and Associations Article to the extent that the company is taxable as a partnership, as defined in § 761 of the Internal Revenue Code.

§10–105.

(a) (1) For an individual other than an individual described in paragraph (2) of this subsection, the State income tax rate is:

(i) 2% of Maryland taxable income of $1 through $1,000;

(ii) 3% of Maryland taxable income of $1,001 through $2,000;

(iii) 4% of Maryland taxable income of $2,001 through $3,000;

(iv) 4.75% of Maryland taxable income of $3,001 through $100,000;

(v) 5% of Maryland taxable income of $100,001 through $125,000;

(vi) 5.25% of Maryland taxable income of $125,001 through $150,000;

(vii) 5.5% of Maryland taxable income of $150,001 through $250,000; and

(viii) 5.75% of Maryland taxable income in excess of $250,000.

(2) For spouses filing a joint return or for a surviving spouse or head of household as defined in § 2 of the Internal Revenue Code, the State income tax rate is:

(i) 2% of Maryland taxable income of $1 through $1,000;

(ii) 3% of Maryland taxable income of $1,001 through $2,000;

(iii) 4% of Maryland taxable income of $2,001 through $3,000;

(iv) 4.75% of Maryland taxable income of $3,001 through $150,000;

(v) 5% of Maryland taxable income of $150,001 through $175,000;

(vi) 5.25% of Maryland taxable income of $175,001 through $225,000;

(vii) 5.5% of Maryland taxable income of $225,001 through $300,000;

and

(viii) 5.75% of Maryland taxable income in excess of $300,000.

(b) The State income tax rate for a corporation is 8.25% of Maryland taxable income.

(c) For a married couple filing a joint income tax return, the rates specified in subsection (a) of this section apply to the joint Maryland taxable income of the married couple.

(d) For a nonresident:

(1) the rates specified in subsection (a) of this section apply to the nonresident's Maryland taxable income, calculated without regard to the subtractions under § 10–210(b), (e), and (f) of this title; and

(2) the State income tax imposed equals the result obtained under item (1) of this subsection multiplied times a fraction:

(i) the numerator of which is the nonresident's Maryland taxable income, calculated with the subtractions under § 10–210(b), (e), and (f) of this title; and

(ii) the denominator of which is the nonresident's Maryland taxable income, calculated without regard to the subtractions under § 10–210(b), (e), and (f) of this title.

§10–106.

(a) (1) Each county shall set, by ordinance or resolution, a county income tax equal to at least 1% but not more than the percentage of an individual's Maryland taxable income as follows:

(i) 3.05% for a taxable year beginning after December 31, 1998 but before January 1, 2001;

(ii) 3.10% for a taxable year beginning after December 31, 2000 but before January 1, 2002; and

(iii) 3.20% for a taxable year beginning after December 31, 2001.

(2) A county income tax rate continues until the county changes the rate by ordinance or resolution.

(3) (i) A county may not increase its county income tax rate above 2.6% until after the county has held a public hearing on the proposed act, ordinance, or resolution to increase the rate.

(ii) The county shall publish at least once each week for 2 successive

weeks in a newspaper of general circulation in the county:

1. notice of the public hearing; and

2. a fair summary of the proposed act, ordinance, or resolution to increase the county income tax rate above 2.6%.

(4) Notwithstanding paragraph (1) or (2) of this subsection, in Howard County, the county income tax rate may be changed only by ordinance and not by resolution.

(b) If a county changes its county income tax rate, the county shall:

(1) increase or decrease the rate in increments of one one-hundredth of a percentage point, effective on January 1 of the year that the county designates; and

(2) give the Comptroller notice of the rate change and the effective date of the rate change on or before July 1 prior to its effective date.

§10–106.1.

(a) An individual subject to the State income tax under § 10-105(a) of this subtitle, but not subject to the county income tax under § 10-106 of this subtitle, shall be subject to the tax imposed under this section.

(b) The rate of the tax imposed under this section shall be equal to the lowest county income tax rate set by any Maryland county in accordance with § 10-106 of this subtitle.

(c) The tax imposed under this section shall be distributed by the Comptroller in accordance with § 2-609 of this article.

§10–107.

To the extent practicable, the Comptroller shall apply the administrative and judicial interpretations of the federal income tax law to the administration of the income tax laws of this State.

§10–108.

(a) Except as provided in subsection (c) of this section and unless expressly provided otherwise by law, an amendment of the Internal Revenue Code that, for a taxable year that begins in the calendar year in which the amendment is enacted, affects the determination of federal adjusted gross income or federal taxable income, does not affect the determination of Maryland taxable income under this title for any taxable year that begins in the calendar year in which the amendment is enacted.

(b) Within 60 days after an amendment of the Internal Revenue Code is enacted,

the Comptroller shall prepare and submit to the Governor and, subject to § 2-1246 of the State Government Article, the President of the Senate and the Speaker of the House a report that outlines:

(1) the changes in the Internal Revenue Code; and

(2) the impact of those changes on State revenue and on various classes and types of taxpayers.

(c) Subsection (a) of this section does not apply to an amendment of the Internal Revenue Code if the Comptroller determines that the impact of the amendment on State income tax revenue for the fiscal year that begins during the calendar year in which the amendment is enacted will be less than $5,000,000.

§10–109.

(a) The Comptroller may distribute, apportion, or allocate gross income, deductions, credits, or allowances between and among two or more organizations, trades, or businesses, whether or not incorporated, whether or not organized in the United States, and whether or not affiliated, if:

(1) the organizations, trades, or businesses are owned or controlled directly or indirectly by the same interests within the meaning of § 482 of the Internal Revenue Code; and

(2) the Comptroller determines that the distribution, apportionment, or allocation is necessary in order to reflect an arm's length standard within the meaning of § 1.482-1 of the Regulations of the Internal Revenue Service of the U.S. Treasury and to reflect clearly the income of those organizations, trades, or businesses.

(b) The Comptroller shall apply the administrative and judicial interpretations of § 482 of the Internal Revenue Code in administering this section.

§10–110.

(a) There is a Maryland Business Tax Reform Commission.

(b) (1) The Commission shall review and evaluate the State's current business tax structure and make specific recommendations for changes to the State's business tax structure to provide for fair and equitable taxation for all corporations and other business entities doing business in the State.

(2) The Commission's recommendations may include, without limitation, changes such as tax rate changes, tax base broadening measures, measures to address tax avoidance strategies, and elimination of ineffective or inefficient tax policies intended as economic development incentives.

(3) The Commission's study shall include, at a minimum, a review and

evaluation of the following options for business tax reform:

(i) the imposition of combined reporting using the "water's edge method" under the corporate income tax for unitary groups of affiliated corporations;

(ii) the imposition of other types of business taxes, in lieu of or in addition to the current taxes imposed, including gross receipts taxes, value added taxes, and alternative minimum taxes; and

(iii) improved methods for evaluation of the effectiveness and efficiency of tax policies intended as economic development incentives.

(c) The Commission shall be composed of 19 members, as follows:

(1) a chair, appointed by the Governor;

(2) three members of the Senate Budget and Taxation Committee, appointed by the President of the Senate;

(3) three members of the House Committee on Ways and Means, appointed by the Speaker of the House;

(4) the Comptroller of the Treasury, or the Comptroller's designee;

(5) the Secretary of Commerce, or the Secretary's designee;

(6) the Secretary of Budget and Management, or the Secretary's designee;

(7) the Director of the State Department of Assessments and Taxation, or the Director's designee;

(8) a representative of the Maryland Association of Counties;

(9) a representative of the Maryland Municipal League;

(10) a representative of the Maryland Chamber of Commerce;

(11) a representative of the Greater Baltimore Committee;

(12) a representative of an organization that represents Maryland manufacturers, appointed by the Governor; and

(13) three members of the public, each of whom shall be an attorney at law or an accountant knowledgeable about the State's business tax structure, appointed by the Governor.

(d) The Comptroller and the Department of Budget and Management shall provide staff support to the Commission.

(e) A member of the Commission:

(1) may not receive compensation; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) On or before December 15, 2010, the Commission shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, to the General Assembly.

§10–201.

An individual shall calculate Maryland taxable income by subtracting from the individual's Maryland adjusted gross income calculated under Part II of this subtitle an amount that equals:

(1) the exemptions allowed under Part III of this subtitle; and

(2) the deductions allowed under Part IV of this subtitle.

§10–203.

Except as provided in Subtitle 4 of this title, the Maryland adjusted gross income of an individual is the individual's federal adjusted gross income for the taxable year as adjusted under this Part II of this subtitle.

§10–204.

(a) To the extent excluded from federal adjusted gross income, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(b) The addition under subsection (a) of this section includes interest or dividends, less related expenses, attributable to an obligation or security of:

(1) another state; or

(2) a political subdivision or authority of another state.

(c) (1) If exempted by federal law or by treaty from federal but not State tax on income, the addition under subsection (a) of this section includes salary, wages, or other compensation for personal services.

(2) If exempted by federal law or by treaty from federal but not State tax on income, the addition under subsection (a) of this section includes interest or dividends attributable to an obligation of:

(i) the United States or a foreign government; or

(ii) an authority, commission, instrumentality, possession, or territory of the United States or of a foreign government.

(d) (1) In this subsection, "lump-sum distribution", "minimum distribution allowance", and "total taxable amount" have the meanings stated in § 402(e) of the Internal Revenue Code.

(2) The addition under subsection (a) of this section includes the amount by which the total taxable amount of a lump-sum distribution exceeds the sum of:

(i) 60% of the capital gains portion of the total taxable amount; and

(ii) the minimum distribution allowance.

(3) For purposes of this subsection, the capital gains portion of the total taxable amount is determined by multiplying the total taxable amount by a fraction:

(i) the numerator of which is the number of calendar years of active participation by the employee in the plan before January 1, 1974; and

(ii) the denominator of which is the number of calendar years of active participation by the employee in the plan.

(e) The addition under subsection (a) of this section includes the oil percentage depletion allowance claimed under § 613 or § 613A of the Internal Revenue Code.

(f) The addition under subsection (a) of this section includes the amount of pickup contributions of a member of a retirement or pension system:

(1) provided for under § 21-313 of the State Personnel and Pensions Article; and

(2) excluded from federal adjusted gross income under § 414(h)(2) of the Internal Revenue Code.

(g) (1) In this subsection, "remaindermen" includes a person whose remainder interest is vested, contingent, or vested subject to divestment.

(2) The addition under subsection (a) of this section includes any capital loss derived from the sale or other disposition of intangible personal property that is held in trust, if the proceeds thereof are added to the principal of the trust, and if all the remaindermen in being are:

(i) nonresidents during the entire taxable year; or

(ii) corporations not doing business in the State.

(3) The addition required under paragraph (2) of this subsection does not apply if there are no remaindermen of the trust in being.

(h) The addition under subsection (a) of this section includes the amount deducted under § 222 of the Internal Revenue Code for qualified tuition and related expenses paid during the taxable year.

(i) The addition under subsection (a) of this section includes the amount deducted under § 199 of the Internal Revenue Code for the qualified production activities income of the taxpayer for the taxable year.

(j) The addition under subsection (a) of this section includes any amount deducted for costs, as defined under § 10–732 of this title, for security clearance administrative expenses and construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility if an amount is included in the application for a credit under § 10–732 of this title.

(k) For a taxable year beginning after December 31, 2012, the addition under subsection (a) of this section includes the amount of income of an electing small business trust, as defined under § 1361(e)(1) of the Internal Revenue Code, that is subject to the special taxing rules under § 641(c) of the Internal Revenue Code.

(l) The addition under subsection (a) of this section includes any amount deducted as a donation, as defined under § 10–736 of this title, to the extent that the amount of the donation is included in an application for a credit that is certified under § 10–736 of this title.

§10–205. IN EFFECT

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(b) The addition under subsection (a) of this section includes the amount of a credit claimed under:

(1) § 10–702 of this title for wages paid to an employee in an enterprise zone;

(2) § 10–704.3 of this title or § 8–213 of this article for wages paid and qualified child care or transportation expenses incurred with respect to qualified employment opportunity employees; and

(3) § 10–704.7 of this title or § 8–216 of this article for wages paid and qualified child care or transportation expenses incurred with respect to a qualified employee with a disability.

(c) In the year after decertification of land used for commercial forest land under § 5–219 of the Natural Resources Article, the addition under subsection (a) of this section includes the amount allowed in a prior taxable year as a subtraction under § 10–208(i) of this subtitle for reforestation or timber stand improvement.

(d) The addition under subsection (a) of this section includes the amount of a credit that is claimed under § 10–703 of this title and is based on a tax paid by an S corporation to a state that does not recognize the federal tax treatment of an S corporation.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Loss year" means the taxable year in which there occurs a net operating loss that is carried back or carried over in whole or in part to another taxable year.

(iii) "Net addition modification" means, for any taxable year, the amount by which the sum of the addition modifications required under this title exceeds the sum of the subtraction modifications allowed under this title.

(iv) "Net operating loss deduction" means a net operating loss deduction allowed for federal income tax purposes under § 172 of the Internal Revenue Code.

(2) If a net operating loss deduction is allowed for the taxable year, the addition under subsection (a) of this section for the taxable year includes, for each loss year as to which a portion of the net operating loss deduction is attributable, an amount equal to the lesser of:

(i) the amount of the net operating loss deduction attributable to that loss year; or

(ii) the amount by which the total net operating loss in the loss year is less than the sum of:

1. the net addition modification for that loss year; and

2. the cumulative net operating loss deductions attributable to that loss year allowed for the taxable year and all prior taxable years.

(f) The addition under subsection (a) of this section includes 50% of the sum of tax preference items under § 10–222 of this subtitle.

(g) The addition under subsection (a) of this section includes the amount claimed and allowed as a deduction for federal income tax purposes for expenses attributable to:

(1) operating a family child care home in the State without having the registration required by § 5–552 of the Family Law Article; or

(2) operating a child care center in the State without having the license required by § 5–574 of the Family Law Article.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Account holder" means an account holder as defined in § 18–1901, § 18–19A–01, or § 18–19B–01 of the Education Article.

(iii) "Qualified designated beneficiary" means a qualified designated beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iv) "Qualified beneficiary" has the meaning stated in § 18–1901 of the Education Article.

(v) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) The addition under subsection (a) of this section includes the amount of:

(i) any refund received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust; or

(ii) any distribution received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust or under an investment account in accordance with the Maryland College Investment Plan or the Maryland Broker–Dealer College Investment Plan that is not used on behalf of the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

(3) The amount of the addition required under this subsection shall be reduced by any amount included in the individual's federal adjusted gross income as a result of the refund or distribution.

(4) The cumulative amount of the addition under this subsection for the taxable year and all prior taxable years may not exceed the cumulative amount allowed as a subtraction:

(i) under § 10–208(n) of this subtitle for the taxable year and all prior taxable years for the account holder's payments to the prepaid contract under which the refund or distribution is received; or

(ii) under § 10–208(o) of this subtitle for the taxable year and all prior taxable years for contributions made by an account holder to an investment account under which the distribution is received.

(i) The addition under subsection (a) of this section includes the amount of a credit claimed under § 10–721 of this title for Maryland qualified research and development expenses.

(j) The addition under subsection (a) of this section includes the amount of a credit claimed under § 10–726 of this title for research and development expenses for cellulosic ethanol technology.

(k) The addition under subsection (a) of this section includes, if a taxpayer sold or exchanged a property for which a subtraction modification under § 10–207(y) of this subtitle has been claimed, the difference between:

(1) the taxpayer's federal adjusted gross income as reportable under the federal Mortgage Forgiveness Debt Relief Act of 2007, as amended, prior to its expiration on December 31, 2012, and without regard to the date limitation in § 108(a)(1)(e) of the Internal Revenue Code; and

(2) the taxpayer's federal adjusted gross income as claimed in the taxable year.

10–205. // EFFECTIVE JUNE 30, 2021 PER CHAPTER 20 OF 2010 //

(a) In addition to the modification under § 10–204 of this subtitle, the amounts under this section are added to the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(b) The addition under subsection (a) of this section includes the amount of a credit claimed under:

(1) § 10–702 of this title for wages paid to an employee in an enterprise zone;

(2) § 10–704.3 of this title or § 8–213 of this article for wages paid and qualified child care or transportation expenses incurred with respect to qualified employment opportunity employees; and

(3) § 10–704.7 of this title or § 8–216 of this article for wages paid and qualified child care or transportation expenses incurred with respect to a qualified employee with a disability.

(c) In the year after decertification of land used for commercial forest land under § 5–219 of the Natural Resources Article, the addition under subsection (a) of this section includes the amount allowed in a prior taxable year as a subtraction under § 10–208(i) of this subtitle for reforestation or timber stand improvement.

(d) The addition under subsection (a) of this section includes the amount of a credit that is claimed under § 10–703 of this title and is based on a tax paid by an S corporation to a state that does not recognize the federal tax treatment of an S corporation.

(e) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Loss year" means the taxable year in which there occurs a net operating loss that is carried back or carried over in whole or in part to another taxable year.

(iii) "Net addition modification" means, for any taxable year, the amount by which the sum of the addition modifications required under this title exceeds the sum of the subtraction modifications allowed under this title.

(iv) "Net operating loss deduction" means a net operating loss deduction allowed for federal income tax purposes under § 172 of the Internal Revenue Code.

(2) If a net operating loss deduction is allowed for the taxable year, the addition under subsection (a) of this section for the taxable year includes, for each loss year as to which a portion of the net operating loss deduction is attributable, an amount equal to the lesser of:

(i) the amount of the net operating loss deduction attributable to that loss year; or

(ii) the amount by which the total net operating loss in the loss year is less than the sum of:

1. the net addition modification for that loss year; and

2. the cumulative net operating loss deductions attributable to that loss year allowed for the taxable year and all prior taxable years.

(f) The addition under subsection (a) of this section includes 50% of the sum of tax preference items under § 10–222 of this subtitle.

(g) The addition under subsection (a) of this section includes the amount claimed and allowed as a deduction for federal income tax purposes for expenses attributable to:

(1) operating a family child care home in the State without having the registration required by § 5–552 of the Family Law Article; or

(2) operating a child care center in the State without having the license required by § 5–574 of the Family Law Article.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Account holder" means an account holder as defined in § 18–1901, § 18–19A–01, or § 18–19B–01 of the Education Article.

(iii) "Qualified designated beneficiary" means a qualified designated

beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iv) "Qualified beneficiary" has the meaning stated in § 18–1901 of the Education Article.

(v) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) The addition under subsection (a) of this section includes the amount of:

(i) any refund received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust; or

(ii) any distribution received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust or under an investment account in accordance with the Maryland College Investment Plan or the Maryland Broker–Dealer College Investment Plan that is not used on behalf of the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

(3) The amount of the addition required under this subsection shall be reduced by any amount included in the individual's federal adjusted gross income as a result of the refund or distribution.

(4) The cumulative amount of the addition under this subsection for the taxable year and all prior taxable years may not exceed the cumulative amount allowed as a subtraction:

(i) under § 10–208(n) of this subtitle for the taxable year and all prior taxable years for the account holder's payments to the prepaid contract under which the refund or distribution is received; or

(ii) under § 10–208(o) of this subtitle for the taxable year and all prior taxable years for contributions made by an account holder to an investment account under which the distribution is received.

(i) Abrogated.

(j) The addition under subsection (a) of this section includes the amount of a credit claimed under § 10–726 of this title for research and development expenses for cellulosic ethanol technology.

(k) The addition under subsection (a) of this section includes, if a taxpayer sold or exchanged a property for which a subtraction modification under § 10–207(y) of this subtitle has been claimed, the difference between:

(1) the taxpayer's federal adjusted gross income as reportable under

the federal Mortgage Forgiveness Debt Relief Act of 2007, as amended, prior to its expiration on December 31, 2012, and without regard to the date limitation in § 108(a)(1)(e) of the Internal Revenue Code; and

(2) the taxpayer's federal adjusted gross income as claimed in the taxable year.

§10–206.

(a) The amounts under this section are added to the federal adjusted gross income of a nonresident to determine Maryland adjusted gross income.

(b) To the extent attributable to Maryland sources the addition under subsection (a) of this section includes the additions required for a resident under § 10-204 of this subtitle.

(c) The addition under subsection (a) of this section includes the additions required for a resident under § 10-205 of this subtitle.

(d) The addition under subsection (a) of this section includes the amount of any loss or adjustment to income that:

(1) is included in computing federal adjusted gross income; and

(2) is not attributable to Maryland sources.

§10–207. IN EFFECT

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(b) The subtraction under subsection (a) of this section includes a distribution, to a beneficiary, of accumulated income on which a fiduciary has paid the income tax.

(c) The subtraction under subsection (a) of this section includes interest or dividends attributable to an obligation of the United States or an authority, commission, instrumentality, possession, or territory of the United States.

(c–1) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Mutual fund" means a regulated investment company as defined under § 851 of the Internal Revenue Code.

(iii) "United States government obligation" means an obligation of the United States or an authority, commission, instrumentality, possession, or territory of the United States.

(2) The subtraction under subsection (a) of this section includes a distribution or dividend by a mutual fund of interest or dividends attributable to a United States government obligation.

(d) The subtraction under subsection (a) of this section includes income attributable to an employer–provided official vehicle used in accordance with law by a member of a State, county, or local:

(1) police force; or

(2) fire department.

(e) The subtraction under subsection (a) of this section includes a payment from a pension system to an individual for a disability or injury that arose out of and in the course of the individual's employment as a policeman or fire fighter.

(e–1) (1) In this subsection, "law enforcement officer" means a law enforcement officer as defined in § 3–101 of the Public Safety Article or other sworn law enforcement officer of the United States, a state, or a political subdivision of a state.

(2) The subtraction under subsection (a) of this section includes a payment from a pension system to the surviving spouse or other beneficiary of a law enforcement officer or fire fighter whose death arises out of or in the course of employment as a law enforcement officer or fire fighter.

(f) The subtraction under subsection (a) of this section includes income that:

(1) is received by withdrawing money from a retirement account known as a Keogh Plan and established under Subchapter D of the Internal Revenue Code; and

(2) is attributable to:

(i) money contributed by an individual before 1967 for which the individual was not allowed a deduction at the time of contribution to the account; or

(ii) interest or dividends paid on the account on which a State tax on income was paid at the time that the interest or dividends accumulated in the account.

(g) The subtraction under subsection (a) of this section includes a payment received under a fire, rescue, or ambulance personnel length of service award program that is funded by any county or municipal corporation of the State.

(h) Repealed.

(i) The subtraction under subsection (a) of this section includes profit realized from the sale or exchange of a bond issued by the State or a political subdivision of the State.

(j) The subtraction under subsection (a) of this section includes a payment received:

(1) under Title II of the Social Security Act; or

(2) as a benefit under the Railroad Retirement Act.

(k) The subtraction under subsection (a) of this section includes payment for relocation and assistance under Title 12, Subtitle 2 of the Real Property Article.

(l) The subtraction under subsection (a) of this section includes that portion of an annuity received by a retiree of a retirement or pension system:

(1) for which pickup contributions were made under § 21–313 of the State Personnel and Pensions Article; and

(2) that is included in federal adjusted gross income under § 414(h)(2) of the Internal Revenue Code.

(m) The subtraction under subsection (a) of this section includes a refund of tax on income received from a state or a political subdivision of a state.

(n) The subtraction under subsection (a) of this section includes any income that federal law or treaty exempts from a state but not federal tax on income.

(o) (1) In this subsection, "remaindermen" includes a person whose remainder interest is vested, contingent, or vested subject to divestment.

(2) The subtraction under subsection (a) of this section includes:

(i) income derived from intangible personal property that is held in trust for the benefit of a nonresident or a corporation not doing business in the State; and

(ii) to the extent not included under item (i) of this paragraph, capital gain income derived from the sale or other disposition of intangible personal property that is held in trust, if the proceeds thereof are added to the principal of the trust, and if all the remaindermen in being are:

1. nonresidents during the entire taxable year; or

2. corporations not doing business in the State.

(3) The subtraction allowed under paragraph (2)(ii) of this subsection does not apply if there are no remaindermen of the trust in being.

(p) (1) The subtraction under subsection (a) of this section includes the first $15,000 of military pay that is:

(i) received by an individual who is in active service of any branch of the armed forces; and

(ii) attributable to military service of the individual outside the United States.

(2) The amount of the subtraction under paragraph (1) of this subsection:

(i) is reduced dollar for dollar in the amount by which military pay received by the individual exceeds $15,000; and

(ii) is reduced to zero if the amount of military pay received by the individual exceeds $30,000.

(q) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Military service" means:

1. induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

2. membership in a reserve component of the armed forces of the United States;

3. membership in an active component of the armed forces of the United States;

4. membership in the Maryland National Guard; or

5. active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

(iii) "Military retirement income" means retirement income received as a result of military service.

(2) The subtraction under subsection (a) of this section includes:

(i) if, on the last day of the taxable year, the individual is under the age of 65 years, the first $5,000 of military retirement income received by an individual during the taxable year; and

(ii) if, on the last day of the taxable year, the individual is at least 65 years old, the first $10,000 of military retirement income received by an individual during the taxable year.

(r) (1) In this subsection, "modified Maryland adjusted gross income" means

Maryland adjusted gross income determined separately for each spouse on a joint return without regard to the subtraction allowed under this subsection.

(2) For a two–income married couple filing a joint return, the subtraction under subsection (a) of this section includes the lesser of $1,200 or the modified Maryland adjusted gross income of the spouse with the lesser modified Maryland adjusted gross income for the taxable year.

(s) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Qualified beneficiary" has the meaning stated in § 18–1901 of the Education Article.

(iii) "Qualified designated beneficiary" means a qualified designated beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iv) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) Except as provided in paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes any amount included in federal adjusted gross income as a result of a distribution to:

(i) a qualified beneficiary pursuant to a prepaid contract under the Maryland Prepaid College Trust;

(ii) a qualified designated beneficiary from an investment account under the Maryland College Investment Plan; or

(iii) a qualified designated beneficiary from an investment account under the Maryland Broker–Dealer College Investment Plan.

(3) The subtraction under paragraph (2) of this subsection does not apply to:

(i) a refund under the Maryland Prepaid College Trust; or

(ii) a distribution that is not used by the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

(t) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Holocaust victim" means an individual who died or lost property as a result of discriminatory laws, policies, or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation, or national origin, whether or not the individual was actually a member of any of those groups, or because

the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, areas occupied by those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of invasion by Nazi Germany or by any European country allied with or occupied by Nazi Germany.

(iii) "Nazi Germany" means:

1. for the period from 1929 to 1933, the Republic of Germany, commonly referred to as the Weimar Republic; and

2. for the period from 1933 through 1945, Deutsche Reich.

(2) The subtraction under subsection (a) of this section includes:

(i) income of an individual related to tangible or intangible property that was seized, misappropriated, or lost as a result of the actions or policies of Nazi Germany toward a Holocaust victim; and

(ii) amounts received by an individual as reparations or restitution for the loss of liberty or damage to the health of the individual because the individual is:

1. a Holocaust victim; or

2. a spouse or descendant of a Holocaust victim.

(3) The subtraction under paragraph (2) of this subsection includes interest on the proceeds receivable as insurance under policies issued to a Holocaust victim by European insurance companies prior to and during World War II.

(4) The subtraction under paragraph (2) of this subsection does not include:

(i) assets acquired with the assets described in paragraph (2) of this subsection; or

(ii) assets acquired with the proceeds from the sale of the assets described in paragraph (2) of this subsection.

(5) The subtraction under paragraph (2)(i) of this subsection shall only apply if the individual:

(i) is the first recipient of the assets described in paragraph (2)(i) of this subsection after their recovery; and

(ii) is:

1. a Holocaust victim; or

2. a spouse or descendant of a Holocaust victim.

(u) Repealed.

(v) (1) In this subsection, "artistic work", "arts and entertainment district", and "qualifying residing artist" have the meanings stated in § 4–701 of the Economic Development Article.

(2) The subtraction under subsection (a) of this section includes the amount of income derived within an arts and entertainment district by a qualifying residing artist from the publication, production, or sale of an artistic work that the artist created, wrote, composed, or executed in the arts and entertainment district.

(3) For the purpose of determining whether income is derived within an arts and entertainment district for the purpose of this subsection, a qualifying residing artist shall allocate receipts and expenses as the Comptroller may require.

(w) (1) In this subsection:

(i) except as provided in item (ii) of this paragraph, "foreign earned income" means foreign earned income within the meaning of § 911(b)(1) of the Internal Revenue Code, subject to the limitation under § 911(b)(2) of the Internal Revenue Code; and

(ii) "foreign earned income" includes amounts paid by the United States or an agency of the United States to an employee of the United States or of an agency of the United States.

(2) Subject to the limitation under paragraph (3) of this subsection, for each taxable year beginning after December 31, 2006, but before January 1, 2010, the subtraction under subsection (a) of this section includes the foreign earned income of an individual earned as an employee of the United States or of an agency of the United States.

(3) The amount subtracted under this section:

(i) does not include any amount subtracted under any other provisions of this section; and

(ii) may not exceed $3,500 for any taxable year.

(x) The subtraction under subsection (a) of this section includes an amount received as a grant under the Solar Energy Grant Program under § 9–2007 of the State Government Article.

(y) (1) The subtraction under subsection (a) of this section includes the

amount that would have been allowed for indebtedness discharged for qualified principal residence indebtedness under the federal Mortgage Forgiveness Debt Relief Act of 2007, as amended, prior to its expiration on December 31, 2012, and without regard to the date limitation in § 108(a)(1)(e) of the Internal Revenue Code.

(2) The subtraction under paragraph (1) of this subsection applies only to an owner–occupied principal residence.

(3) The subtraction under paragraph (1) of this subsection may not exceed:

(i) $100,000 for an individual; or

(ii) $200,000 for a married couple filing a joint return or an individual described in § 2 of the Internal Revenue Code as a head of household or as a surviving spouse.

(z) (1) In this subsection, "principal residence" has the meaning stated in § 121 of the Internal Revenue Code.

(2) Subject to paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes the amount of a gain resulting from a payment from the Maryland Department of Transportation to an individual for the acquisition of a portion of the individual's property on which the individual's principal residence is located.

(3) The amount subtracted under this subsection may not exceed the amount that may be excluded from income on the condemnation of an individual's principal residence under § 121 of the Internal Revenue Code.

(aa) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Lost pay" means wages, salary, or other compensation attributable to services performed, or that would have been performed but for a claimed violation of law, as an employee, a former employee, or a prospective employee.

(iii) 1. "Noneconomic damages" means amounts received by a claimant in satisfaction of a claim of unlawful discrimination, other than compensation for lost pay or punitive damages.

2. "Noneconomic damages" includes amounts received as a result of a claim of unlawful discrimination:

A. whether by judgment or other order or by settlement; and

B. whether payable in a lump sum or periodic payments.

(iv) "Unlawful discrimination" has the meaning stated in § 62(e) of the Internal Revenue Code.

(2) The subtraction under subsection (a) of this section includes any amount received by a claimant for noneconomic damages as a result of a claim of unlawful discrimination.

(bb) (1) The subtraction under subsection (a) of this section includes the amount of student loan indebtedness discharged due to total and permanent disability or death.

(2) To qualify for the subtraction modification provided under this subsection, an individual must attach to the individual's income tax return or otherwise file with the Comptroller a copy of the notice stating that the loans have been discharged due to total and permanent disability or death.

10–207. // EFFECTIVE JUNE 30, 2016 PER CHAPTERS 528 AND 529 OF 2014 //

(a) To the extent included in federal adjusted gross income, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(b) The subtraction under subsection (a) of this section includes a distribution, to a beneficiary, of accumulated income on which a fiduciary has paid the income tax.

(c) The subtraction under subsection (a) of this section includes interest or dividends attributable to an obligation of the United States or an authority, commission, instrumentality, possession, or territory of the United States.

(c–1) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Mutual fund" means a regulated investment company as defined under § 851 of the Internal Revenue Code.

(iii) "United States government obligation" means an obligation of the United States or an authority, commission, instrumentality, possession, or territory of the United States.

(2) The subtraction under subsection (a) of this section includes a distribution or dividend by a mutual fund of interest or dividends attributable to a United States government obligation.

(d) The subtraction under subsection (a) of this section includes income attributable to an employer–provided official vehicle used in accordance with law by a member of a State, county, or local:

(1) police force; or

(2) fire department.

(e) The subtraction under subsection (a) of this section includes a payment from a pension system to an individual for a disability or injury that arose out of and in the course of the individual's employment as a policeman or fire fighter.

(e–1) (1) In this subsection, "law enforcement officer" means a law enforcement officer as defined in § 3–101 of the Public Safety Article or other sworn law enforcement officer of the United States, a state, or a political subdivision of a state.

(2) The subtraction under subsection (a) of this section includes a payment from a pension system to the surviving spouse or other beneficiary of a law enforcement officer or fire fighter whose death arises out of or in the course of employment as a law enforcement officer or fire fighter.

(f) The subtraction under subsection (a) of this section includes income that:

(1) is received by withdrawing money from a retirement account known as a Keogh Plan and established under Subchapter D of the Internal Revenue Code; and

(2) is attributable to:

(i) money contributed by an individual before 1967 for which the individual was not allowed a deduction at the time of contribution to the account; or

(ii) interest or dividends paid on the account on which a State tax on income was paid at the time that the interest or dividends accumulated in the account.

(g) The subtraction under subsection (a) of this section includes a payment received under a fire, rescue, or ambulance personnel length of service award program that is funded by any county or municipal corporation of the State.

(h) Repealed.

(i) The subtraction under subsection (a) of this section includes profit realized from the sale or exchange of a bond issued by the State or a political subdivision of the State.

(j) The subtraction under subsection (a) of this section includes a payment received:

(1) under Title II of the Social Security Act; or

(2) as a benefit under the Railroad Retirement Act.

(k) The subtraction under subsection (a) of this section includes payment for relocation and assistance under Title 12, Subtitle 2 of the Real Property Article.

(l) The subtraction under subsection (a) of this section includes that portion of

an annuity received by a retiree of a retirement or pension system:

(1) for which pickup contributions were made under § 21–313 of the State Personnel and Pensions Article; and

(2) that is included in federal adjusted gross income under § 414(h)(2) of the Internal Revenue Code.

(m) The subtraction under subsection (a) of this section includes a refund of tax on income received from a state or a political subdivision of a state.

(n) The subtraction under subsection (a) of this section includes any income that federal law or treaty exempts from a state but not federal tax on income.

(o) (1) In this subsection, "remaindermen" includes a person whose remainder interest is vested, contingent, or vested subject to divestment.

(2) The subtraction under subsection (a) of this section includes:

(i) income derived from intangible personal property that is held in trust for the benefit of a nonresident or a corporation not doing business in the State; and

(ii) to the extent not included under item (i) of this paragraph, capital gain income derived from the sale or other disposition of intangible personal property that is held in trust, if the proceeds thereof are added to the principal of the trust, and if all the remaindermen in being are:

1. nonresidents during the entire taxable year; or

2. corporations not doing business in the State.

(3) The subtraction allowed under paragraph (2)(ii) of this subsection does not apply if there are no remaindermen of the trust in being.

(p) (1) The subtraction under subsection (a) of this section includes the first $15,000 of military pay that is:

(i) received by an individual who is in active service of any branch of the armed forces; and

(ii) attributable to military service of the individual outside the United States.

(2) The amount of the subtraction under paragraph (1) of this subsection:

(i) is reduced dollar for dollar in the amount by which military pay received by the individual exceeds $15,000; and

(ii) is reduced to zero if the amount of military pay received by the individual exceeds $30,000.

(q) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Military service" means:

1. induction into the armed forces of the United States for training and service under the Selective Training and Service Act of 1940 or a subsequent act of a similar nature;

2. membership in a reserve component of the armed forces of the United States;

3. membership in an active component of the armed forces of the United States;

4. membership in the Maryland National Guard; or

5. active duty with the commissioned corps of the Public Health Service, the National Oceanic and Atmospheric Administration, or the Coast and Geodetic Survey.

(iii) "Military retirement income" means retirement income received as a result of military service.

(2) The subtraction under subsection (a) of this section includes:

(i) if, on the last day of the taxable year, the individual is under the age of 65 years, the first $5,000 of military retirement income received by an individual during the taxable year; and

(ii) if, on the last day of the taxable year, the individual is at least 65 years old, the first $10,000 of military retirement income received by an individual during the taxable year.

(r) (1) In this subsection, "modified Maryland adjusted gross income" means Maryland adjusted gross income determined separately for each spouse on a joint return without regard to the subtraction allowed under this subsection.

(2) For a two–income married couple filing a joint return, the subtraction under subsection (a) of this section includes the lesser of $1,200 or the modified Maryland adjusted gross income of the spouse with the lesser modified Maryland adjusted gross income for the taxable year.

(s) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Qualified beneficiary" has the meaning stated in § 18–1901 of the Education Article.

(iii) "Qualified designated beneficiary" means a qualified designated beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iv) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) Except as provided in paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes any amount included in federal adjusted gross income as a result of a distribution to:

(i) a qualified beneficiary pursuant to a prepaid contract under the Maryland Prepaid College Trust;

(ii) a qualified designated beneficiary from an investment account under the Maryland College Investment Plan; or

(iii) a qualified designated beneficiary from an investment account under the Maryland Broker–Dealer College Investment Plan.

(3) The subtraction under paragraph (2) of this subsection does not apply to:

(i) a refund under the Maryland Prepaid College Trust; or

(ii) a distribution that is not used by the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

(t) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Holocaust victim" means an individual who died or lost property as a result of discriminatory laws, policies, or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation, or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, areas occupied by those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of invasion by Nazi Germany or by any European country allied with or occupied by Nazi Germany.

(iii) "Nazi Germany" means:

1. for the period from 1929 to 1933, the Republic of Germany, commonly referred to as the Weimar Republic; and

2. for the period from 1933 through 1945, Deutsche Reich.

(2) The subtraction under subsection (a) of this section includes:

(i) income of an individual related to tangible or intangible property that was seized, misappropriated, or lost as a result of the actions or policies of Nazi Germany toward a Holocaust victim; and

(ii) amounts received by an individual as reparations or restitution for the loss of liberty or damage to the health of the individual because the individual is:

1. a Holocaust victim; or

2. a spouse or descendant of a Holocaust victim.

(3) The subtraction under paragraph (2) of this subsection includes interest on the proceeds receivable as insurance under policies issued to a Holocaust victim by European insurance companies prior to and during World War II.

(4) The subtraction under paragraph (2) of this subsection does not include:

(i) assets acquired with the assets described in paragraph (2) of this subsection; or

(ii) assets acquired with the proceeds from the sale of the assets described in paragraph (2) of this subsection.

(5) The subtraction under paragraph (2)(i) of this subsection shall only apply if the individual:

(i) is the first recipient of the assets described in paragraph (2)(i) of this subsection after their recovery; and

(ii) is:

1. a Holocaust victim; or

2. a spouse or descendant of a Holocaust victim.

(u) Repealed.

(v) (1) In this subsection, "artistic work", "arts and entertainment district", and "qualifying residing artist" have the meanings stated in § 4–701 of the Economic Development Article.

(2) The subtraction under subsection (a) of this section includes the amount of income derived within an arts and entertainment district by a qualifying

residing artist from the publication, production, or sale of an artistic work that the artist created, wrote, composed, or executed in the arts and entertainment district.

(3) For the purpose of determining whether income is derived within an arts and entertainment district for the purpose of this subsection, a qualifying residing artist shall allocate receipts and expenses as the Comptroller may require.

(w) (1) In this subsection:

(i) except as provided in item (ii) of this paragraph, "foreign earned income" means foreign earned income within the meaning of § 911(b)(1) of the Internal Revenue Code, subject to the limitation under § 911(b)(2) of the Internal Revenue Code; and

(ii) "foreign earned income" includes amounts paid by the United States or an agency of the United States to an employee of the United States or of an agency of the United States.

(2) Subject to the limitation under paragraph (3) of this subsection, for each taxable year beginning after December 31, 2006, but before January 1, 2010, the subtraction under subsection (a) of this section includes the foreign earned income of an individual earned as an employee of the United States or of an agency of the United States.

(3) The amount subtracted under this section:

(i) does not include any amount subtracted under any other provisions of this section; and

(ii) may not exceed $3,500 for any taxable year.

(x) The subtraction under subsection (a) of this section includes an amount received as a grant under the Solar Energy Grant Program under § 9–2007 of the State Government Article.

(y) (1) In this subsection, "principal residence" has the meaning stated in § 121 of the Internal Revenue Code.

(2) Subject to paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes the amount of a gain resulting from a payment from the Maryland Department of Transportation to an individual for the acquisition of a portion of the individual's property on which the individual's principal residence is located.

(3) The amount subtracted under this subsection may not exceed the amount that may be excluded from income on the condemnation of an individual's principal residence under § 121 of the Internal Revenue Code.

(z) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Lost pay" means wages, salary, or other compensation attributable to services performed, or that would have been performed but for a claimed violation of law, as an employee, a former employee, or a prospective employee.

(iii) 1. "Noneconomic damages" means amounts received by a claimant in satisfaction of a claim of unlawful discrimination, other than compensation for lost pay or punitive damages.

2. "Noneconomic damages" includes amounts received as a result of a claim of unlawful discrimination:

A. whether by judgment or other order or by settlement; and

B. whether payable in a lump sum or periodic payments.

(iv) "Unlawful discrimination" has the meaning stated in § 62(e) of the Internal Revenue Code.

(2) The subtraction under subsection (a) of this section includes any amount received by a claimant for noneconomic damages as a result of a claim of unlawful discrimination.

(aa) (1) The subtraction under subsection (a) of this section includes the amount of student loan indebtedness discharged due to total and permanent disability or death.

(2) To qualify for the subtraction modification provided under this subsection, an individual must attach to the individual's income tax return or otherwise file with the Comptroller a copy of the notice stating that the loans have been discharged due to total and permanent disability or death.

§10–208.

(a) In addition to the modification under § 10–207 of this subtitle, the amounts under this section are subtracted from the federal adjusted gross income of a resident to determine Maryland adjusted gross income.

(b) The subtraction under subsection (a) of this section includes:

(1) if the child is a State resident at the time of adoption, reasonable and necessary adoption fees, court costs, attorney fees, and other expenses not exceeding:

(i) $6,000 that a parent incurs in the adoption of a child who the State determines is a child with a special need, as described in § 473(c)(1) and (2) of the

Social Security Act, if the adoption is made through a private, not for profit, licensed adoption agency or a public child welfare agency; and

(ii) $5,000 that a parent incurs in the adoption of a child without a special need as provided under subitem (i) of this item; and

(2) if the child is not a State resident at the time of adoption, reasonable and necessary adoption fees, court costs, attorney fees, and other expenses not exceeding:

(i) $3,000 that a parent incurs in the adoption of a child who the State determines is a child with a special need, as described in § 473(c)(1) and (2) of the Social Security Act, if the adoption is made through a private, not for profit, licensed adoption agency, or a public child welfare agency; and

(ii) $2,000 that a parent incurs in the adoption of a child without a special need as provided under subitem (i) of this item.

(c) (1) The subtraction under subsection (a) of this section includes expenses that a blind individual or an employer of a blind individual incurs in providing a human or mechanical reader for the individual, if the individual has permanent impairment of both eyes with central visual acuity:

(i) of 20/200 or less in the better eye, with corrective glasses; or

(ii) of more than 20/200 if there is a field defect in which the peripheral field is limited so that the widest diameter of visual field subtends an angular distance no greater than 20 degrees on the better eye.

(2) The total amount of the reading service expenses under paragraph (1) of this subsection may not exceed:

(i) $1,000 of expenses that an employer incurs for a reader used in the course of a blind individual's employment; and

(ii) to the extent that an expense is not allowed as a medical expense under § 213 of the Internal Revenue Code, $5,000 of the expenses that a blind individual incurs for personal use or use in employment.

(d) (1) In this subsection:

(i) "enhanced agricultural management equipment" means:

1. a planter or drill that:

A. is commonly known as a "no–till" planter or drill; and

B. is designed to minimize the disturbance of the soil in

planting crops;

2. liquid manure soil injection equipment that is designed to inject manure into the soil to reduce nutrient runoff;

3. a deep no–till ripper that does not invert the soil profile and is used to address compaction in high residue cropping systems;

4. poultry or livestock manure spreading equipment used by a farm owner or tenant on farmland in accordance with a nutrient management plan prepared by an individual licensed by the Secretary of Agriculture in accordance with Title 8, Subtitle 8 of the Agriculture Article if the manure spreading equipment is used:

A. to spread poultry manure and bedding from normal poultry production with a capability of being calibrated to 1 ton per acre; or

B. to apply solid or liquid livestock waste;

5. vertical tillage equipment used to incorporate livestock manure or poultry litter into the soil;

6. a global positioning system device used for management of agricultural nutrient applications; and

7. an integrated optical sensing and nutrient application system that measures crop status and applies the crop's nitrogen requirements at variable rates based on predicted in–season yield potential for the crop and the predicted responsiveness of the crop to additional nitrogen; and

(ii) "enhanced agricultural management equipment" includes equipment that attaches to or is pulled by equipment listed in item (i) of this paragraph.

(2) Except as provided in paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes 100% of the expenses that a taxpayer incurs to buy and install enhanced agricultural management equipment if:

(i) the equipment has a useful life of at least 4 years;

(ii) the taxpayer:

1. bought the equipment:

A. after December 31, 1985, if the equipment is a planter or drill;

B. after December 31, 1989, if the equipment is liquid manure soil injection equipment;

C. after December 31, 1997, if the equipment is poultry or livestock manure spreading equipment;

D. after December 31, 2001, if the equipment is a deep no–till ripper that does not invert the soil profile; or

E. after December 31, 2012, if the equipment is a global positioning system device used for management of agricultural nutrient applications or an integrated optical sensing and nutrient application system;

2. owns the equipment for at least 3 years after the taxable year in which the subtraction is made; and

3. uses the equipment in agricultural production; and

(iii) for liquid manure soil injection equipment, the equipment is:

1. used on land upon which farm products, as defined under § 10–601 of the Agriculture Article, are raised; and

2. not used to inject sludge into the soil.

(3) The subtraction under subsection (a) of this section includes 50% of the expenses that a taxpayer incurs to buy and install enhanced agricultural management equipment that is vertical tillage equipment used to incorporate livestock manure or poultry litter into the soil if:

(i) the equipment has a useful life of at least 4 years; and

(ii) the taxpayer:

1. bought the equipment after December 31, 2012;

2. owns the equipment for at least 3 years after the taxable year in which the subtraction is made; and

3. uses the equipment in agricultural production.

(4) To qualify for the subtraction under paragraphs (2) and (3) of this subsection, a taxpayer shall file a statement from the Department of Agriculture certifying compliance with the requirements of this section.

(5) If the subtraction allowed under paragraphs (2) and (3) of this subsection exceeds the Maryland taxable income that is computed without the modification allowed under this subsection and the subtraction is not used for the taxable year, the excess may be carried over to succeeding taxable years, not to exceed 5, until the full amount of the subtraction is used.

(e) The subtraction under subsection (a) of this section includes expenses for

household and dependent care services not exceeding the dollar limit allowed under § 21(c) of the Internal Revenue Code and determined without reference to the percentage limitation in § 21(a)(2) of the Internal Revenue Code.

(f) The subtraction under subsection (a) of this section includes the fair market value of any artistic, literary, or musical creation or other artwork donated to and accepted by a museum in the State that is open to the general public if:

(1) the value is not deductible from federal adjusted gross income;

(2) at least 50% of total income for the current or prior taxable year is derived from the sale of artwork that the individual produced;

(3) an independent appraiser verifies the fair market value; and

(4) the adjustment for the artwork is not more than 50% of the individual's gross income in the calendar year of the donation.

(g) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Farm product" means a farm product, as defined in § 10–601 of the Agriculture Article, that:

1. is grown or raised primarily to be sold;

2. A. the farmer donates to a gleaning cooperative; or

B. the farmer allows to be harvested or collected, free of charge, by a gleaning cooperative; and

3. is suitable for human consumption when donated.

(iii) "Gleaning cooperative" means a nonprofit organization that is:

1. tax exempt under § 501 of the Internal Revenue Code; and

2. organized and operated to provide and distribute food free of charge to needy individuals, including unemployed and low income individuals.

(iv) "Wholesale market value" means the value of donated farm products based on the wholesale market price of the farm product in the nearest regional market during the calendar week in which the donation is made, determined without consideration of grade or quality of the product, as if the quantity of the product donated were marketable.

(2) The subtraction under subsection (a) of this section includes the amount by which:

(i) the wholesale market value, determined as of the date of the donation, of farm products donated by an individual during the taxable year to a gleaning cooperative; exceeds

(ii) the amount attributable to the donated farm products that the individual claims as a deduction for a charitable contribution under § 170 of the Internal Revenue Code.

(3) To qualify for the subtraction under paragraph (2) of this subsection, an individual shall file with the individual's income tax return:

(i) a written statement from the gleaning cooperative that receives the farm products that certifies:

1. the quantity of the donated farm products received; and

2. that the donated farm products will be used exclusively to provide free food to needy individuals and will not be transferred in exchange for money, other property, or services; and

(ii) a written statement from the Maryland Department of Agriculture, using such market data as is deemed suitable by the Secretary of that Department, that certifies the wholesale market value of the donated farm products.

(h) Repealed.

(i) (1) The subtraction under subsection (a) of this section includes twice the amount of expenses for reforestation or timber stand improvement activity on 3 to 1,000 acres of commercial forest land, exclusive of federal funds.

(2) Of the amount under paragraph (1) of this subsection:

(i) 50% may be claimed in the taxable year in which the Department of Natural Resources issues an initial certificate of reforestation or timber stand improvement; and

(ii) 50% may be claimed in the taxable year in which the Department of Natural Resources issues a final certificate of reforestation or timber stand improvement.

(i–1) (1) The subtraction under subsection (a) of this section includes an amount equal to the amount specified in paragraph (3) of this subsection if an individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year, as determined under paragraph (2) of this subsection.

(2) An individual is a qualifying volunteer fire, rescue, or emergency medical services member for the taxable year eligible for the subtraction modification under this subsection if the individual:

(i) is an active member of:

1. a bona fide Maryland fire, rescue, or emergency medical services organization;

2. an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization;

3. the United States Coast Guard Auxiliary;

4. the Maryland Defense Force; or

5. the Maryland Civil Air Patrol;

(ii) serves the organization in a volunteer capacity without compensation, except nominal expenses or meals;

(iii) 1. qualifies for active status during the taxable year under:

A. a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program operated by a county or municipal corporation of the State, if the length of service award program requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories; or

B. a point system established by a county or municipal corporation that does not operate a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or by the United States Coast Guard Auxiliary, the Maryland Defense Force, or the Maryland Civil Air Patrol, to identify active members of a volunteer fire, rescue, or emergency medical services organization or auxiliary organization, if the point system requires for active status qualification a minimum of 50 points per year and that points be earned in at least two different categories;

2. has maintained active status for at least 25 years under a volunteer fire, rescue, or emergency medical services personnel or auxiliary length of service award program or a point system established in lieu of a length of service award program;

3. is a member of the National Guard or other reserve component of the United States armed forces who has been ordered into active military service and who serves on active duty in the armed forces of the United States during the taxable year; or

4. is a civilian or a member of the Merchant Marine on assignment in support of the armed forces of the United States during the taxable year in an area designated as a combat zone by executive order of the President; and

(iv) will have been an active member of a bona fide Maryland fire, rescue, or emergency medical services organization, an auxiliary organization of a bona fide Maryland fire, rescue, or emergency medical services organization, or the United States Coast Guard Auxiliary, the Maryland Defense Force, or the Maryland Civil Air Patrol for at least 36 months during the last 10 calendar years by December 31 of the taxable year.

(3) The amount of the subtraction under paragraph (1) of this subsection is equal to:

(i) $3,750 for a taxable year beginning after December 31, 2013, but before January 1, 2015;

(ii) $4,000 for a taxable year beginning after December 31, 2014, but before January 1, 2016;

(iii) $4,250 for a taxable year beginning after December 31, 2015, but before January 1, 2017;

(iv) $4,500 for a taxable year beginning after December 31, 2016, but before January 1, 2018;

(v) $4,750 for a taxable year beginning after December 31, 2017, but before January 1, 2019; and

(vi) $5,000 for a taxable year beginning after December 31, 2018.

(4) (i) Each fire, rescue, or emergency medical services organization or auxiliary organization shall:

1. maintain a record of the points earned by each individual during each calendar year;

2. provide each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provide a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Maryland State Firemen's Association by May 1 of the following year.

(ii) An individual may not qualify for the subtraction under this subsection based on membership in the United States Coast Guard Auxiliary, the Maryland Defense Force, or the Maryland Civil Air Patrol unless the United States Coast Guard Auxiliary, the Maryland Defense Force, or the Maryland Civil Air Patrol:

1. maintains a record of the points earned by each individual during each calendar year;

2. provides each member a report identifying the number of points earned in each category by February 15 of the following year; and

3. provides a report that includes the names, Social Security numbers, and points earned by those members qualifying for the subtraction modification under this subsection to the Comptroller on or before October 1 of each year.

(5) To qualify for the subtraction modification under this subsection, an individual shall attach to the individual's income tax return a copy of the report provided by the organization under paragraph (4) of this subsection.

(6) On or before October 1 of each year, the Maryland State Firemen's Association shall submit to the Department of Public Safety and Correctional Services and the Office of the Comptroller a report stating the participation in the point system by the various local subdivisions with the names and Social Security numbers of individuals who qualified for the subtraction modification under this subsection for the preceding taxable year.

(7) (i) A person may not knowingly make or cause any false statement or report to be made in any application or in any document required under this subsection.

(ii) Any person who violates or attempts to violate any provision of subparagraph (i) of this paragraph shall be subject to a fine of $1,000.

(i–2) (1) Except as provided in paragraph (2) of this subsection, the subtraction under subsection (a) of this section includes the gross income of a child included in a parent's gross income under § 1(g)(7) of the Internal Revenue Code.

(2) The subtraction under paragraph (1) of this subsection does not apply for any child who, under § 10–805(b) of this title:

(i) is required to file an income tax return for the taxable year; or

(ii) would have been required to file an income tax return for the taxable year if the parent had not elected the application of § 1(g)(7) of the Internal Revenue Code.

(j) (1) The subtraction under subsection (a) of this section includes unreimbursed automobile travel expenses for volunteer service:

(i) to a nonprofit volunteer fire company;

(ii) to an organization whose principal purpose is to provide medical, health, or nutritional care and to which a contribution is deductible under § 170 of the Internal Revenue Code; or

(iii) to provide assistance, other than transportation, to a

handicapped individual, as defined under § 190 of the Internal Revenue Code, who is enrolled as a student in a community college of the State.

(2) The amount of the travel expenses under paragraph (1) of this subsection shall be:

(i) computed using the standard mileage rate allowed for unreimbursed automobile travel expenses under § 162 of the Internal Revenue Code; and

(ii) reduced by the amount of unreimbursed automobile travel expenses claimed as an itemized deduction for the same organization on the federal tax return under § 170 of the Internal Revenue Code.

(k) The subtraction under subsection (a) of this section includes the amount of salary or wages paid for which a deduction is not allowed under § 280C(a) of the Internal Revenue Code, not exceeding the credit allowed for targeted jobs under § 51 of the Internal Revenue Code.

(l) (1) The subtraction under subsection (a) of this section includes an amount equal to $3,500 if an individual is a qualifying police auxiliary or reserve volunteer for the taxable year, as determined under paragraph (2) of this subsection.

(2) An individual is a qualifying police auxiliary or reserve volunteer for the taxable year eligible for the subtraction modification under this subsection if the individual:

(i) is an active member of a bona fide Maryland police agency;

(ii) serves the organization in a volunteer capacity without compensation, except nominal expenses or meals;

(iii) 1. qualifies for active status during the taxable year under a police auxiliary or reserve volunteer program approved by the Police Training Commission in conjunction with the Maryland Association of Counties and the Maryland Municipal League, that includes uniform systems for qualification and record keeping, if the program is incorporated into the police agency's rules and regulations;

2. has maintained active status for at least 25 years under the police auxiliary or reserve volunteer program;

3. is a member of the National Guard or other reserve component of the United States armed forces who has been ordered into active military service and who serves on active duty in the armed forces of the United States during the taxable year; or

4. is a civilian or a member of the Merchant Marine on

assignment in support of the armed forces of the United States during the taxable year in an area designated as a combat zone by executive order of the President; and

(iv) will have been an active member of a bona fide police agency for at least 72 months during the last 10 calendar years by December 31 of the taxable year.

(3) Each police agency shall:

(i) maintain a record of the activities of each police auxiliary or reserve volunteer during the calendar year;

(ii) provide each member a report by February 15 of the following year indicating that the member qualified during the preceding calendar year; and

(iii) provide a report that includes the names, Social Security numbers, and a certification that the individual qualified for the subtraction modification under this section.

(4) To qualify for the subtraction modification under this subsection, an individual shall attach to the individual's income tax return a copy of the report provided by the police agency under paragraph (3) of this subsection.

(5) On or before October 1 of each year, the police agency shall submit to the Department of Public Safety and Correctional Services and the Office of the Comptroller a report listing the names and Social Security numbers of individuals who qualified for the subtraction modification under this subsection for the preceding taxable year.

(6) (i) A person may not knowingly make or cause any false statement or report to be made in any application or in any document required under this subsection.

(ii) Any person who violates or attempts to violate any provision of subparagraph (i) of this paragraph shall be subject to a fine of $1,000.

(m) Repealed.

(n) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Account holder" has the meaning stated in § 18–1901 of the Education Article.

(iii) "Qualified higher education expenses" has the meaning stated in § 529 of the Internal Revenue Code.

(2) The subtraction under subsection (a) of this section includes the amount of advance payments of qualified higher education expenses made by an

account holder during the taxable year as provided under a prepaid contract in accordance with the Maryland Prepaid College Trust.

(3) Subject to paragraph (4) of this subsection, for each prepaid contract, the subtraction under paragraph (2) of this subsection may not exceed $2,500 for any taxable year.

(4) The amount disallowed as a subtraction under this subsection for any taxable year as a result of the limitation under paragraph (3) of this subsection shall be treated as having been made in the next succeeding taxable year and, subject to the $2,500 annual limitation for each prepaid contract, may be carried over to succeeding taxable years until the full amount of the advance payments has been allowed as a subtraction.

(o) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Account holder" means an account holder as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iii) "Investment account" means an investment account as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(iv) "Qualified designated beneficiary" means a qualified designated beneficiary as defined in § 18–19A–01 or § 18–19B–01 of the Education Article.

(2) Subject to the limitation under paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes the amount contributed by an account holder during the taxable year to an investment account.

(3) (i) Subject to paragraph (4) of this subsection, for each account holder for all investment accounts maintained in the Maryland College Investment Plan and the Maryland Broker–Dealer College Investment Plan for the same qualified designated beneficiary, the subtraction under paragraph (2) of this subsection may not exceed $2,500 for any taxable year per qualified designated beneficiary.

(ii) For purposes of the limitation under this paragraph, each spouse on a joint return shall be treated separately.

(4) Subject to the $2,500 annual limitation for each account holder for each qualified designated beneficiary, the amount disallowed as a subtraction under this subsection for any taxable year as a result of the limitation under paragraph (3) of this subsection may be carried over until used to the next 10 succeeding taxable years as a subtraction.

(p) (1) In this subsection, "health care facility" has the meaning stated in § 19–114 of the Health – General Article.

(2) The subtraction under subsection (a) of this section includes 100% of the expenses that a taxpayer incurs to buy and install handrails in an existing elevator in a health care facility or other building in which at least 50% of the space is used for medical purposes.

(q) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Nitrogen removal technology" has the meaning stated in § 9–1108 of the Environment Article.

(iii) "On–site sewage disposal system" has the meaning stated in § 9–1108 of the Environment Article.

(2) The subtraction under subsection (a) of this section includes the amount by which the cost difference between a conventional on–site sewage disposal system and a system that utilizes nitrogen removal technology exceeds the amount of assistance the Department of the Environment provides the homeowner under § 9–1108 of the Environment Article.

(r) The subtraction under subsection (a) of this section includes any payment to an individual made as a result of a foreclosure settlement negotiated by the Attorney General.

(s) (1) In this subsection the following words have the meanings indicated.

(2) (i) "Qualified conservation program expenses" means amounts expended by an individual during the taxable year related to an application for the Forest Conservation and Management Program within the Department of Natural Resources.

(ii) "Qualified conservation program expenses" includes the costs associated with hiring a professional land surveyor and the preparation of a land management program for the conserved property.

(3) The subtraction allowed under subsection (a) of this section includes up to $500 of qualified conservation program expenses paid by an individual who applies to enter into a forest conservation and management plan with the Department of Natural Resources, if the application is approved by the Department.

(t) (1) Subject to paragraph (2) of this subsection, the subtraction under subsection (a) of this section includes 100% of the costs of health insurance that a taxpayer incurs on behalf of another individual if the other individual and taxpayer are recognized by the State as lawfully married.

(2) The subtraction under paragraph (1) of this subsection may not exceed the cost of a health insurance premium that:

(i) is paid by the taxpayer or the employer of the taxpayer to provide coverage for the taxpayer's spouse; and

(ii) is subject to federal income tax under the Internal Revenue Code.

(u) (1) (i) In this subsection the following words have the meanings indicated.

(ii) 1. "Foster parent" means an individual approved by a local department to provide 24–hour care for a foster child in the home where the individual resides.

2. "Foster parent" includes a kinship parent.

3. "Foster parent" does not include a treatment foster parent licensed by a child placement agency.

(iii) "Kinship parent" has the meaning stated in § 5–534 of the Family Law Article.

(iv) "Local department" means a department of social services in a county or the Montgomery County Department of Health and Human Services.

(2) Subject to the requirements of this subsection, the subtraction under subsection (a) of this section includes 100% of the unreimbursed expenses that a foster parent incurs on behalf of a foster child.

(3) (i) The subtraction allowed under paragraph (2) of this subsection includes only an expense that the local department approves as necessary.

(ii) The subtraction under paragraph (2) of this subsection may not include an expense for which the foster parent receives an allowance or a reimbursement from any public or private agency.

(4) On or before October 1 of each year, the Department of Human Resources shall submit to the Comptroller a list of approved foster parents.

(5) The subtraction allowed under paragraph (2) of this subsection may not exceed $1,500.

§10–209.

(a) In this section:

(1) "employee retirement system" means a plan:

(i) established and maintained by an employer for the benefit of its employees; and

(ii) qualified under § 401(a), § 403, or § 457(b) of the Internal Revenue Code; and

(2) "employee retirement system" does not include:

(i) an individual retirement account or annuity under § 408 of the Internal Revenue Code;

(ii) a Roth individual retirement account under § 408A of the Internal Revenue Code;

(iii) a rollover individual retirement account;

(iv) a simplified employee pension under Internal Revenue Code § 408(k); or

(v) an ineligible deferred compensation plan under § 457(f) of the Internal Revenue Code.

(b) Subject to subsection (d) of this section, to determine Maryland adjusted gross income, if, on the last day of the taxable year, a resident is at least 65 years old or is totally disabled or the resident's spouse is totally disabled, an amount is subtracted from federal adjusted gross income equal to the lesser of:

(1) the cumulative or total annuity, pension, or endowment income from an employee retirement system included in federal adjusted gross income; or

(2) the maximum annual benefit under the Social Security Act computed under subsection (c) of this section, less any payment received as old age, survivors, or disability benefits under the Social Security Act, the Railroad Retirement Act, or both.

(c) For purposes of subsection (b)(2) of this section, the Comptroller:

(1) shall determine the maximum annual benefit under the Social Security Act allowed for an individual who retired at age 65 for the prior calendar year; and

(2) may allow the subtraction to the nearest $100.

(d) Military retirement income that is included in the subtraction under § 10-207(q) of this subtitle may not be taken into account for purposes of the subtraction under this section.

§10–210.

(a) The amounts under this section are subtracted from the federal adjusted gross income of a nonresident to determine Maryland adjusted gross income.

(b) To the extent included in federal adjusted gross income, the subtraction under subsection (a) of this section includes all income other than:

(1) income derived from real or tangible personal property located in the State, whether the income is derived directly or from a fiduciary;

(2) income derived from:

(i) a business that is wholly carried on in the State and in which the individual is a partner, shareholder of an S corporation, member of a limited liability company as defined under Title 4A of the Corporations and Associations Article, but only to the extent the company is taxable as a partnership under § 761 of the Internal Revenue Code, or proprietor; or

(ii) an occupation, profession, or trade that is wholly carried on in the State;

(3) the part, allocable to the State under § 10-401 of this title, of income derived from:

(i) a business that is carried on both in and out of the State and of which the individual is a partner, shareholder of an S corporation, member of a limited liability company as defined under Title 4A of the Corporations and Associations Article, but only to the extent the company is taxable as a partnership under § 761 of the Internal Revenue Code, or proprietor; or

(ii) an occupation, profession, or trade that is carried on both in and out of the State; and

(4) income from Maryland State Lottery prizes or winnings from any other wagering, as defined in § 10-905(e) of this title, in the State.

(c) To the extent not otherwise included under subsection (b) of this section, the subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for residents under § 10-207 of this subtitle.

(d) Subject to § 10-219 of this subtitle, the subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for residents under § 10-208 of this subtitle.

(e) The subtraction under subsection (a) of this section includes income derived from wages, as defined in § 10-905(f) of this title, that are earned in this State if the Comptroller and the state in which the nonresident resides have agreed in writing to allow a reciprocal exemption from tax and withholding for the wages of residents of each state that are earned in the other state.

(f) The subtraction under subsection (a) of this section includes income derived from wages that are earned in the State by a nonresident rendering police, fire, rescue, or emergency services in an area covered under a state of emergency declared by the Governor under § 14-107 of the Public Safety Article if the wages are paid by:

(1) a nonprofit organization not registered to do business in the State and not otherwise doing business in the State; or

(2) a state, county, or political subdivision of a state, other than the State of Maryland.

§10–210.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Depreciation" includes any deduction allowed under § 179 of the Internal Revenue Code.

(3) "Heavy duty SUV" means a 4-wheeled vehicle that:

(i) is manufactured primarily for use on public streets, roads, and highways;

(ii) is rated at more than 6,000 but not more than 14,000 pounds gross vehicle weight; and

(iii) would be a passenger automobile as defined in § 280F of the Internal Revenue Code if it were rated at 6,000 pounds gross vehicle weight or less.

(b) In addition to the modifications under §§ 10–204 through 10–210 of this subtitle, to determine Maryland adjusted gross income of an individual:

(1) an amount is added to or subtracted from federal adjusted gross income to reflect the determination of the depreciation deduction provided under § 167(a) of the Internal Revenue Code and the adjusted basis of property without regard to the additional allowance under § 168(k) of the Internal Revenue Code;

(2) an amount is added to or subtracted from federal adjusted gross income to determine the net operating loss deduction allowed under § 172 of the Internal Revenue Code without regard to an election under § 172(b)(1)(H) of the Internal Revenue Code for a carryback period of up to 5 years;

(3) an amount is added to or subtracted from federal adjusted gross income to reflect the determination of the maximum aggregate costs that the taxpayer may treat as an expense under § 179 of the Internal Revenue Code for any taxable year without regard to any changes made to that section after December 31, 2002:

(i) increasing above $25,000 the dollar limitation set forth in § 179(b)(1) of the Internal Revenue Code; or

(ii) increasing above $200,000 the phase–out threshold set forth in § 179(b)(2) of the Internal Revenue Code;

(4) an amount is added to or subtracted from federal adjusted gross income to reflect the recognition of income from discharge of indebtedness and the allowance of any deduction with respect to original issue discount without regard to § 108(i) of the Internal Revenue Code; and

(5) an amount is added to or subtracted from federal adjusted gross income to reflect the determination of the depreciation deduction with respect to any heavy duty SUV as if the heavy duty SUV were subject to the limitations of § 280F of the Internal Revenue Code in the same manner as it would be if the vehicle were rated at 6,000 pounds gross vehicle weight or less.

§10–211.

(a) Except as provided in subsection (b) of this section, whether or not a federal return is filed, to determine Maryland taxable income, an individual other than a fiduciary may deduct as an exemption:

(1) $3,200 for each exemption that the individual may deduct in the taxable year to determine federal taxable income under § 151 of the Internal Revenue Code;

(2) an additional $3,200 for each dependent, as defined in § 152 of the Internal Revenue Code, who is at least 65 years old on the last day of the taxable year;

(3) an additional $1,000 if the individual, on the last day of the taxable year, is at least 65 years old; and

(4) an additional $1,000 if the individual, on the last day of the taxable year, is a blind individual, as described in § 10–208(c) of this subtitle.

(b) (1) If an individual other than one described in paragraph (2) of this subsection has federal adjusted gross income for the taxable year greater than $100,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) $1,600 if federal adjusted gross income for the taxable year does not exceed $125,000;

(ii) $800 if federal adjusted gross income for the taxable year is greater than $125,000 but not greater than $150,000; and

(iii) $0 if federal adjusted gross income for the taxable year is greater than $150,000.

(2) If a married couple filing a joint return or an individual described in § 2 of the Internal Revenue Code as a head of household or as a surviving spouse has federal adjusted gross income for the taxable year greater than $150,000, the amount allowed for each exemption under subsection (a)(1) or (2) of this section is limited to:

(i) $1,600 if federal adjusted gross income for the taxable year does not exceed $175,000;

(ii) $800 if federal adjusted gross income for the taxable year is greater than $175,000 but not greater than $200,000; and

(iii) $0 if federal adjusted gross income for the taxable year is greater than $200,000.

§10–212.

(a) To determine Maryland taxable income, a fiduciary other than a personal representative may deduct $200 as an exemption.

(b) To determine Maryland taxable income, a personal representative may deduct $600 as an exemption.

§10–213.

The subtraction modifications for volunteer police, fire, rescue, and emergency medical services personnel under § 10-208(i-1) and (l) of this subtitle shall be known as the Honorable Louis L. Goldstein Volunteer Police, Fire, Rescue, and Emergency Medical Services Personnel Subtraction Modification Program.

§10–217.

(a) (1) (i) Except as otherwise provided in this subsection, an individual may elect to use the standard deduction to compute Maryland taxable income whether or not the individual itemizes deductions on the individual's federal income tax return in determining federal taxable income.

(ii) If an individual elects to use the standard deduction on the federal income tax return, the individual may not take any itemized deduction in § 10-218 of this subtitle.

(2) A fiduciary may not use the standard deduction.

(b) Subject to the limitation in subsection (c) of this section, the standard deduction for an individual is an amount equal to 15% of the individual's Maryland adjusted gross income.

(c) (1) For an individual other than one described in paragraphs (2) and (3) of this subsection, the standard deduction:

(i) may not be less than $1,500; and

(ii) may not exceed $2,000.

(2) For an individual described in § 2 of the Internal Revenue Code as a

head of household or as a surviving spouse, the standard deduction:

(i) may not be less than $3,000; and

(ii) may not exceed $4,000.

(3) For spouses on a joint return, the standard deduction:

(i) may not be less than $3,000; and

(ii) may not exceed $4,000.

§10–218.

(a) Only an individual who itemizes deductions on the individual's federal income tax return may elect to itemize deductions on the individual's income tax return.

(b) An individual who elects to itemize deductions is allowed as a deduction the sum of the individual's federal itemized deductions:

(1) limited and reduced as required under the Internal Revenue Code;

(2) further reduced by any amount deducted under § 170 of the Internal Revenue Code for contributions of a preservation or conservation easement for which a credit is claimed under § 10-723 of this title; and

(3) further reduced by the amount claimed as taxes on income paid to a state or political subdivision of a state, after subtracting a pro rata portion of the reduction to itemized deductions required under § 68 of the Internal Revenue Code.

§10–219.

(a) A nonresident may claim and shall include only the part attributable to Maryland, as determined under this section, of:

(1) the subtractions from federal adjusted gross income under § 10-208 of this subtitle;

(2) the deduction for exemptions under § 10-211 or § 10-212 of this subtitle; and

(3) (i) the standard deduction under § 10-217 of this subtitle; or

(ii) itemized deductions under § 10-218 of this subtitle.

(b) Unless the Comptroller requires or allows another method to compute the items listed in subsection (a) of this section, a nonresident shall prorate the items using a fraction:

(1) the numerator of which is the Maryland adjusted gross income of the nonresident; and

(2) the denominator of which is the federal adjusted gross income of the nonresident.

§10–220.

(a) An individual who is a resident of the State for only a part of the taxable year may claim and shall include only the part attributable to Maryland, as determined under this section, of:

(1) the additions to federal adjusted gross income under § 10-204 of this subtitle;

(2) the subtractions from federal adjusted gross income under §§ 10-207 through 10-209 of this subtitle;

(3) the deduction for exemptions under § 10-211 or § 10-212 of this subtitle; and

(4) (i) the standard deduction under § 10-217 of this subtitle; or

(ii) itemized deductions under § 10-218 of this subtitle.

(b) Unless the Comptroller requires or allows another method to compute the items listed in subsection (a) of this section, an individual who is a resident for only a part of the taxable year shall prorate the items using a fraction:

(1) the numerator of which is the number of months in which the individual was a resident; and

(2) the denominator of which is 12.

(c) An individual who is a resident for a period of more than 15 days in a month is deemed to be a resident for the full month.

§10–222.

(a) In this section, "tax preference items" mean the items that:

(1) total more than $10,000 for an individual return or $20,000 for a joint return;

(2) are defined under § 57 of the Internal Revenue Code;

(3) are modified and apportioned under § 59 of the Internal Revenue Code; and

(4) are further modified by excluding:

(i) the oil percentage depletion allowance claimed under § 613 or § 613A of the Internal Revenue Code; and

(ii) interest described in § 57(a)(5) of the Internal Revenue Code, if the interest is attributable to obligations of:

1. the State of Maryland;

2. a political subdivision or authority of the State; or

3. any other entity authorized under Maryland law to issue obligations the interest on which is excluded from gross income under § 103 of the Internal Revenue Code.

(b) Each shareholder of an S corporation shall report the shareholder's pro rata share of the tax preference items of the corporation.

(c) (1) A nonresident shall include as tax preference items only those items that are based on income taxable in the State.

(2) If the tax preference items are based on income derived both in and out of the State, the nonresident shall include only a fraction:

(i) the numerator of which is the dollar amount of the tax preference items based on income taxable in the State; and

(ii) the denominator of which is the total dollar amount of the tax preference items.

§10–223.

(a) Beginning with individual tax returns for the 1986 tax year, and for all subsequent tax years, the Comptroller shall collect and compile information from income tax returns regarding the various elements of the State income tax and, for the State and for each county and the City of Baltimore, the impact of those various elements on various classes of Maryland taxpayers and on revenues.

(b) The data base shall be comprehensive and shall include the following:

(1) component items of federal adjusted gross income, including loss items and preference income;

(2) components of itemized deductions;

(3) components of Maryland addition and subtraction modifications; and

(4) the number of taxpayers reporting each of the elements contained in

items (1), (2), and (3) of this subsection.

(c) On or before January 1 of the second year after returns are received for a tax year, the Comptroller shall submit to the Governor and, subject to § 2-1246 of the State Government Article, the President of the Senate and the Speaker of the House of Delegates a report providing the information compiled for that tax year.

§10–301.

The Maryland taxable income of a corporation is its Maryland modified income as allocated to the State under Subtitle 4 of this title.

§10–304.

Except as provided in Subtitle 4 of this title, the Maryland modified income of a corporation, including a real estate investment trust or regulated investment company, is:

(1) the corporation's federal taxable income for the taxable year as determined under the Internal Revenue Code and as adjusted under this Part II of this subtitle;

(2) if the corporation is exempt from taxation under § 501 of the Internal Revenue Code, the sum for the taxable year of the corporation's unrelated business taxable income, as defined under § 512 of the Internal Revenue Code, and its income that is subject to tax under § 527(f)(1) of the Internal Revenue Code, as adjusted under this Part II of this subtitle;

(3) if the corporation is an S corporation, its income that is subject to federal income tax, for the taxable year, as adjusted under this Part II of this subtitle; or

(4) if the corporation is an investment conduit or a special exempt entity, the applicable tax base of the corporation as adjusted under this Part II of this subtitle.

§10–305.

(a) To the extent excluded from federal taxable income, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland modified income.

(b) The addition under subsection (a) of this section includes the net capital loss carryback, as defined in § 1212 of the Internal Revenue Code.

(c) The addition under subsection (a) of this section includes any taxes based on net income that are imposed by any state or by a political subdivision of any state.

(d) The addition under subsection (a) of this section includes the additions

required for an individual under:

(1) § 10–204(b) of this title (Dividends and interest from another state or local obligation);

(2) § 10–204(c)(2) of this title (Federal tax–exempt income);

(3) § 10–204(e) of this title (Oil percentage depletion allowance);

(4) § 10–204(i) of this title (Deduction for qualified production activities income);

(5) § 10–204(j) of this title (Deduction for costs for security clearance administrative expenses and construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility); and

(6) § 10–204(l) of this title (Deduction for donations to qualified permanent endowment funds).

§10–306.

(a) In addition to the modification under § 10–305 of this subtitle, the amounts under this section are added to the federal taxable income of a corporation to determine Maryland modified income.

(b) The addition under subsection (a) of this section includes the additions required for an individual under:

(1) § 10–205(b) of this title (Enterprise zone wage credit, employment opportunity credit, disability credit, and qualified ex–felon employee credit);

(2) § 10–205(c) of this title (Reforestation and timber stand modification);

(3) § 10–205(e) of this title (Net operating loss modification);

(4) § 10–205(g) of this title (Unlicensed child care facility operating expenses); and

(5) § 10–205(i) of this title (Maryland research and development tax credit).

(c) Repealed.

(d) Repealed.

(e) Repealed.

(f) The addition under subsection (a) of this section includes the amount of a credit claimed under § 10–726 of this title for research and development expenses for

cellulosic ethanol technology.

§10–306.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Aggregate effective tax rate" means the sum of the effective rates of tax imposed by this State, other states or possessions of the United States, and foreign nations that have entered into comprehensive tax treaties with the United States government, where a related member receiving a payment of interest expense or intangible expense is subject to tax and where the measure of the tax imposed included the payment.

(3) "Bank" means:

(i) a bank holding company as defined in the federal Bank Holding Company Act of 1956, as amended, or a bank, trust company, savings bank, or savings and loan association incorporated or chartered under the laws of this State, another state, or the United States; or

(ii) a subsidiary or affiliate of an entity described in item (i) of this paragraph.

(4) "Effective rate of tax imposed" means, as to any state, possession of the United States, or foreign nation, the maximum statutory tax rate imposed by the state, possession, or foreign nation multiplied by the applicable apportionment rate.

(5) "Intangible expense" means:

(i) an expense, loss, or cost for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property, to the extent the expense, loss, or cost is allowed as a deduction or cost in determining taxable income for the taxable year under the Internal Revenue Code;

(ii) a loss related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;

(iii) a royalty, patent, technical, or copyright fee;

(iv) a licensing fee; or

(v) any other similar expense or cost.

(6) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights, and similar types of intangible assets.

(7) "Interest expense" means an amount directly or indirectly allowed as a

deduction under § 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code.

(8) "Related entity" means a person that, under the attribution rules of § 318 of the Internal Revenue Code, is:

(i) a stockholder who is an individual or a member of the stockholder's family enumerated in § 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock;

(ii) a stockholder or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnership, limited liability company, estate, trust, or corporation own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the taxpayer's outstanding stock; or

(iii) a corporation or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of § 318 of the Internal Revenue Code, if the taxpayer owns directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

(9) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is:

(i) a related entity;

(ii) a component member, as defined in § 1563(b) of the Internal Revenue Code; or

(iii) a person to or from whom there is attribution of stock ownership in accordance with § 1563(e) of the Internal Revenue Code.

(b) (1) Except as otherwise provided in this section, in addition to the modifications under §§ 10-305 and 10-306 of this subtitle, the amounts under paragraph (2) of this subsection are added to the federal taxable income of a corporation to determine Maryland modified income.

(2) The addition under this subsection includes any otherwise deductible interest expense or intangible expense if the interest expense or intangible expense is directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related members.

(c) The addition required under subsection (b) of this section does not apply to any portion of the interest expense or intangible expense to the extent that the corporation establishes, as determined by the Comptroller, that:

(1) the transaction giving rise to the payment of the interest expense or intangible expense between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this title;

(2) the interest expense or intangible expense was paid pursuant to arm's-length contracts at an arm's-length rate of interest or price; and

(3) (i) during the same taxable year, the related member directly or indirectly paid, accrued, or incurred the interest expense or intangible expense to a person who is not a related member;

(ii) 1. the related member was subject to a tax measured by its net income or receipts in this State, another state or possession of the United States, or a foreign nation that has entered into a comprehensive tax treaty with the United States government;

2. a measure of the tax imposed by this State, another state or possession of the United States, or a foreign nation that has entered into a comprehensive tax treaty with the United States government included the interest expense or intangible expense received by the related member from the corporation; and

3. the aggregate effective tax rate imposed on the amounts received by the related member is equal to or greater than 4%; or

(iii) in the case of an interest expense, the corporation and the related member are banks.

(d) (1) Subject to regulations adopted by the Comptroller, the addition required under subsection (b) of this section does not apply if, in lieu of the 4% effective tax rate requirement under subsection (c)(3)(ii)3 of this section, the aggregate effective tax rate imposed on the amounts received by the recipient is greater than or equal to the aggregate effective tax rate that would have been imposed on the additional income of the payor corporation if the interest expense or intangible expense had not been deducted.

(2) For purposes of subsection (c)(3)(ii) of this section, the Comptroller may provide by regulation for an alternative to the effective tax rate requirement of subsection (c)(3)(ii)3 of this section if:

(i) the related member:

1. is subject in another state or in a foreign nation that has entered into a comprehensive tax treaty with the United States government to a tax that is measured by gross receipts or is measured by net capital or net worth; and

2. is not subject in that state or in that foreign nation to a tax measured by net income or receipts; or

(ii) under other circumstances demonstrating to the satisfaction of the Comptroller that avoidance of any portion of the tax due under this title is not a principal purpose of the transaction giving rise to the payment of the interest expense or intangible expense between the corporation and the related member, the Comptroller determines that it is impractical for a related member that is subject to tax in this State, another state, or a foreign nation that has entered into a comprehensive tax treaty with the United States government, where the measure of the tax includes the payment to satisfy the requirements of subsection (c)(3)(ii) of this section.

(e) If the payor and the recipient are both included in a combined or consolidated report filed in a jurisdiction:

(1) for purposes of subsection (c)(3)(ii)2 of this section, the measure of the tax imposed by that jurisdiction shall be deemed to include the interest expense or intangible expense; and

(2) for purposes of determining the effective rate of tax imposed by the jurisdiction, the applicable apportionment rate is the lesser of:

(i) the apportionment rate of the recipient corporation, determined by using only that corporation's factors in the numerators and denominators of the apportionment formula; or

(ii) the apportionment rate of the combined or consolidated group, determined by combining the recipient corporation's factors with the factors of other members of the group included in the combined or consolidated report.

(f) (1) In addition to the modifications under §§ 10-305 and 10-306 of this subtitle, subject to paragraph (2) of this subsection, to determine Maryland taxable income, an amount is subtracted from the federal taxable income of a corporation equal to the amount received as royalties, interest, or similar income from intangibles from a related member to the extent the related member, with respect to the payment, is subject to the addition modification under subsection (b) of this section or a similar addition modification of another state or of a foreign nation that has entered into a comprehensive tax treaty with the United States government for intangible expenses or interest expenses paid to related members.

(2) The subtraction modification under this subsection is not allowed to the extent that:

(i) the transaction giving rise to the payment of the interest expense or intangible expense had as a principal purpose the avoidance of State income taxes;

(ii) the interest expense or intangible expense was not paid pursuant to arm's-length contracts at an arm's-length rate of interest or price; or

(iii) the aggregate effective tax rate imposed on the amounts received by the recipient exceeds the aggregate effective tax rate imposed on the income of the

payor corporation.

(g) This section may not be construed:

(1) to require a corporation to include in or add to its net income more than once any amount of interest expense or intangible expense that the corporation pays, accrues, or incurs to a related member; or

(2) to limit or negate any other authority provided to the Comptroller under this article, including:

(i) the authority to make adjustments under § 10-109 or § 10-402(d) of this title; or

(ii) the authority to enter into agreements and compromises otherwise allowed by law.

(h) The Comptroller shall adopt any regulations that are necessary or appropriate to implement this section.

§10–306.2.

(a) In this section:

(1) "captive REIT" means a corporation, trust, or association:

(i) that is considered a real estate investment trust for the taxable year under § 856 of the Internal Revenue Code;

(ii) that is not regularly traded on an established securities market; and

(iii) more than 50% of the voting power or value of the beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is subject to the provisions of Subchapter C of Chapter 1 of the Internal Revenue Code; and

(2) "captive REIT" does not include:

(i) a corporation, trust, or association more than 50% of the voting power or value of the beneficial interests or shares of which, at any time during which the corporation, trust, or association satisfies item (1)(iii) of this subsection, is owned or controlled, directly or indirectly, by:

1. a real estate investment trust other than a real estate investment trust described in item (1) of this subsection;

2. a person exempt from taxation under § 501 of the Internal Revenue Code; or

3. a listed Australian property trust; or

(ii) subject to regulations that the Comptroller adopts, a real estate investment trust that is intended to become regularly traded on an established securities market and that satisfies the requirements of § 856(a)(5) and (6) of the Internal Revenue Code by reason of § 856(h)(2) of the Internal Revenue Code.

(b) In addition to the modifications under §§ 10–305 through 10–306.1 of this subtitle, an amount equal to the amount of the dividends paid deduction allowed under the Internal Revenue Code for the taxable year is added to federal taxable income to determine the Maryland modified income of a captive REIT.

(c) For purposes of this section, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

§10–307.

(a) To the extent included in federal taxable income, the amounts under this section are subtracted from the federal taxable income of a corporation to determine Maryland modified income.

(b) The subtraction under subsection (a) of this section includes the amount included in the income of a domestic corporation claiming a foreign tax credit as dividends under § 78 of the Internal Revenue Code.

(c) The subtraction under subsection (a) of this section includes the percentage of the dividends received from an affiliated domestic international sales corporation equal to the percentage that would be excluded if the corporation did not qualify under § 992(a) of the Internal Revenue Code.

(d) The subtraction under subsection (a) of this section includes dividends received from a corporation if:

(1) the receiving corporation owns, directly or indirectly, 50% or more of the paying corporation's outstanding shares of capital stock; and

(2) the paying corporation is organized under the laws of a foreign government.

(e) Repealed.

(f) The subtraction under subsection (a) of this section includes interest attributable to an obligation of the United States or an instrumentality of the United States.

(g) The subtraction under subsection (a) of this section includes the amounts

allowed to be subtracted for an individual under:

(1) § 10–207(i) of this title (Profits on sale or exchange of State or local bonds);

(2) § 10–207(k) of this title (Relocation and assistance payments);

(3) § 10–207(m) of this title (State or local income tax refunds); or

(4) § 10–207(c–1) of this title (State tax–exempt interest from mutual funds).

§10–308.

(a) In addition to the modification under § 10-307 of this subtitle, the amounts under this section are subtracted from the federal taxable income of a corporation to determine Maryland modified income.

(b) The subtraction under subsection (a) of this section includes the amounts allowed to be subtracted for an individual under:

(1) § 10–208(d) of this title (Enhanced agricultural management equipment expenses);

(2) § 10–208(i) of this title (Reforestation or timber stand expenses);

(3) § 10–208(k) of this title (Wage expenses for targeted jobs); and

(4) § 10–208(p) of this title (Elevator handrails in health care facilities).

(c) In the case of a regulated investment company, the subtraction under subsection (a) of this section includes an amount equal to the exempt-interest dividends paid by the company that are attributable to amounts received by the company that are included in the addition modification for dividends and interest from state or local obligations of another state under § 10-305(d)(1) of this subtitle.

§10–309.

(a) In addition to the modifications under §§ 10-307 and 10-308 of this subtitle, the amounts under this section are subtracted from federal taxable income to determine Maryland modified income of a public service company engaged in an electric or gas business if the public service company was subject to the public service company franchise tax on December 31, 1999.

(b) The gain or loss realized by a public service company on the sale, retirement, or other taxable disposition or transfer of assets used in its electric or gas business shall be adjusted in an amount equal to the difference between the adjusted basis of the assets as recorded on the books of the public service company and the adjusted basis

of the assets for federal income tax purposes calculated as of January 1, 2000.

(c) If the adjustment determined under subsection (b) of this section results in a subtraction that exceeds Maryland modified income computed without regard to the subtraction under this section, the amount of the excess may be carried forward to succeeding taxable years and used to reduce Maryland modified income in each succeeding taxable year until the excess is fully used.

(d) The modifications under this section shall continue to apply to assets transferred under a reorganization within the meaning of § 368(a) of the Internal Revenue Code or on the organization of a corporation principally in consideration for the issuance of its stock.

§10–310.

In addition to the modifications under §§ 10-305 through 10-309 of this subtitle, to determine Maryland modified income the federal taxable income of a corporation shall be adjusted as provided for an individual under § 10-210.1 of this title.

§10–401.

In computing the adjustments under §§ 10-206 and 10-210 of this title, a nonresident shall allocate to the State income, losses, or adjustments derived in connection with a business that is carried on both in and out of the State and of which the nonresident is a partner, shareholder of an S corporation, or proprietor, or in connection with an occupation, profession, or trade carried on both in and out of the State by:

(1) separate accounting, if the Comptroller allows; or

(2) the method that the Comptroller requires to determine fairly the part of the income derived from or reasonably attributable to the trade, business, profession, or occupation carried on in the State.

§10–402.

(a) In computing Maryland taxable income, a corporation shall allocate Maryland modified income derived from or reasonably attributable to its trade or business in this State in the following manner:

(1) if a corporation carries on its trade or business wholly within the State, the corporation shall allocate to the State all of the Maryland modified income of the corporation; and

(2) if a corporation carries on its trade or business in and out of the State, the corporation shall allocate to the State the part of the corporation's Maryland modified income that is derived from or reasonably attributable to the part of its trade or business carried on in the State, in the manner required in subsection (b), (c), or

(d) of this section.

(b) (1) Except as provided in subsection (c) or (d) of this section, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State may be determined by separate accounting if practicable.

(2) If in any taxable year a corporation is permitted or required to use the separate accounting method in determining all or a portion of its Maryland taxable income, the portion that is separately accounted for to Maryland shall be taxable whether or not the Maryland modified income of the corporation for the taxable year is zero or less.

(c) (1) Except as provided in paragraph (2) of this subsection, if the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a 3–factor apportionment fraction:

(i) the numerator of which is the sum of the property factor, the payroll factor, and twice the sales factor; and

(ii) the denominator of which is 4.

(2) (i) In this paragraph:

1. "manufacturing corporation" means a domestic or foreign corporation which is primarily engaged in activities that, in accordance with the North American Industrial Classification System (NAICS), United States Manual, United States Office of Management and Budget, 1997 Edition, would be included in Sector 11, 31, 32, or 33; and

2. "manufacturing corporation" does not include a refiner, as defined in § 10–101 of the Business Regulation Article.

(ii) If a manufacturing corporation carries on its trade or business in and out of the State and the trade or business is a unitary business, the part of the corporation's Maryland modified income derived from or reasonably attributable to trade or business carried on in the State shall be determined using a single sales factor apportionment formula, by multiplying its Maryland modified income by 100% of the sales factor.

(iii) In filing its tax return for each year, a manufacturing corporation shall certify that the NAICS Code reported on its Maryland return is consistent with that reported to other government agencies.

(iv) If the Comptroller determines that a corporation has submitted information that incorrectly classifies the corporation as a manufacturing corporation under subparagraph (i) of this paragraph, the Comptroller shall reclassify the

corporation in an appropriate manner.

(v) The Comptroller, in consultation with the Department of Economic Competitiveness and Commerce, shall adopt regulations necessary to carry out the provisions of this subsection.

(vi) As part of its tax return for a taxable year beginning after December 31, 2005, but before January 1, 2011, each manufacturing corporation that has more than 25 employees and apportions its income under this paragraph shall submit a report, in the form that the Comptroller requires by regulation, that describes for each taxable year as of the last day of the taxable year the following:

1. the difference in tax owed as a result of using the single sales factor apportionment method under this paragraph as compared to the tax owed using the 3–factor double weighted sales factor apportionment method in effect for the last taxable year beginning on or before December 31, 2000;

2. volume of sales in the State and worldwide;

3. taxable income in the State and worldwide; and

4. book value of plant, land, and equipment in the State and worldwide.

(vii) On or before March 1, 2009, and March 1 of each year thereafter until March 1, 2013, and notwithstanding any confidentiality requirements, the Comptroller shall prepare and submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, a comprehensive report on the use of single sales factor apportionment by manufacturing corporations that provides, at a minimum:

1. the number of corporations filing tax returns for the taxable year that ended during the second preceding calendar year that use single sales factor apportionment and the number of such corporations having a Maryland income tax liability for that taxable year;

2. the number of corporations paying less in Maryland income tax for that taxable year as a result of using single sales factor apportionment and the aggregate amount of Maryland income tax savings for all such corporations for that taxable year as a result of using single sales factor apportionment; and

3. the number of corporations paying more in Maryland income tax for the taxable year as a result of using single sales factor apportionment and the aggregate amount of additional Maryland income tax owed by those corporations for the taxable year as a result of using single sales factor apportionment.

(3) The property factor under paragraph (1) of this subsection shall include:

(i) rented and owned real property; and

(ii) tangible personal property located in the State and used in the trade or business.

(d) To reflect clearly the income allocable to Maryland, the Comptroller may alter, if circumstances warrant, the methods under subsections (b) and (c) of this section, including:

(1) the use of the separate accounting method;

(2) the use of the 3–factor double weighted sales factor formula method or the single sales factor formula method;

(3) the weight of any factor in the 3–factor formula;

(4) the valuation of rented property included in the property factor; and

(5) the determination of the extent to which tangible personal property is located in the State.

§10–403.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Financial institution" means:

1. a credit company;

2. except as provided in subparagraph (ii)1 of this paragraph, a finance company;

3. an international banking facility;

4. a loan company;

5. a mortgage company;

6. a safe-deposit company; and

7. a savings and loan association.

(ii) "Financial institution" does not include:

1. a finance company that makes loans only to farmers for agricultural purposes;

2. a company licensed under the federal Small Business Investment Act of 1958;

3. a corporation that elects to be taxed as a small business corporation under Subchapter S of the Internal Revenue Code;

4. an entity that is a real estate mortgage investment conduit as defined in the Internal Revenue Code;

5. a limited liability company; or

6. a commercial bank, savings bank, trust company, or company that substantially competes with national banks in the State.

(3) "Financial institution holding company" means a financial institution whose only activities are:

(i) the maintenance and management of intangible investments; and

(ii) the collection and distribution of income from intangible investments.

(b) Notwithstanding § 10-402 of this subtitle, interest received by a financial institution holding company from one of its subsidiary corporations that is a financial institution shall be allocated to this State only to the extent that the interest is derived from the trade or business of the subsidiary corporation within this State.

§10–501.

A person who files a federal income tax return shall compute Maryland taxable income for the same annual accounting period and by the same accounting method that is used to compute the income reported on the federal return.

§10–502.

(a) If a person does not file a federal income tax return, the person shall compute Maryland taxable income in accordance with the cash or accrual accounting method that:

(1) the person uses to compute income regularly in keeping the person's books; or

(2) the Comptroller requires to reflect clearly the person's income.

(b) If a person does not file a federal income tax return, the person shall compute Maryland taxable income:

(1) for the calendar year; or

(2) if the person keeps adequate records for an annual fiscal year accounting period, for the fiscal year.

§10–503.

The taxable year of an individual terminates on the date of death.

§10–504.

(a) A person may change the accounting period used to compute Maryland taxable income to any other period that the Comptroller approves.

(b) If a person changes accounting periods, the person shall file a separate return for the period between the close of the previous accounting period and the beginning of the newly adopted accounting period.

§10–601.

Except as provided in § 10–105(d) of this title and except as otherwise provided in this subtitle, a person shall compute the State income tax by applying the tax rates in § 10–105 of this title to Maryland taxable income.

§10–602.

An individual shall compute the tax for a taxable year from the tax tables if the individual has Maryland taxable income equal to or less than the maximum amount provided for in the tax tables.

§10–603.

Unless an act that changes the State income tax rate provides otherwise, if the rate changes on a date other than the 1st day of the taxable year of a person, the person shall compute State income tax using the tax rate that applies to each part of the year.

§10–604.

Except as otherwise provided in this subtitle, an individual shall compute the county income tax by applying the county tax rate in § 10-106 of this title to Maryland taxable income.

§10–701.

An individual may claim a credit against the income tax for a taxable year for income tax withheld and estimated tax payments made for the year under Subtitle 9 of this title.

§10–701.1.

An individual or a corporation may claim a credit against the State income tax for a taxable year in the amount of tax paid by a pass-through entity under § 10-102.1 of this title that is attributable to the individual's or corporation's share of the pass-through entity's nonresident taxable income, as defined in § 10-102.1(a)(6)

of this title.

§10–702.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Business entity" means:

1. a person conducting or operating a trade or business; or

2. an organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code.

(ii) "Business entity" does not include a person owning, operating, developing, constructing, or rehabilitating property intended for use primarily as single or multifamily residential property located within the enterprise zone.

(3) (i) "Enterprise zone" has the meaning stated in § 5–701 of the Economic Development Article.

(ii) "Enterprise zone" includes a Regional Institution Strategic Enterprise zone established under Title 5, Subtitle 14 of the Economic Development Article.

(4) "Economically disadvantaged individual" means an individual who is certified by provisions that the Department of Labor, Licensing, and Regulation adopts as an individual who, before becoming employed by a business entity in an enterprise zone:

(i) was both unemployed for at least 30 consecutive days and qualified to participate in training activities for the economically disadvantaged under the federal Workforce Investment Act or its successor; or

(ii) in the absence of an applicable federal act, met the criteria for an economically disadvantaged individual that the Secretary of Labor, Licensing, and Regulation sets.

(5) "Focus area" has the meaning stated in § 5–701 of the Economic Development Article.

(6) "Focus area employee" means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 12 months before or during the taxable year for which the entity claims a credit;

(iii) spends at least 50 percent of the hours under item (ii) of this

paragraph either in the focus area or on activities of the business entity resulting directly from its location in the focus area;

(iv) is hired by the business entity after the later of:

1. the date on which the focus area is designated; or‘ 2. The date on which the business entity located in the focus area; and

(v) earns at least 150 percent of the federal minimum wage.

(7) “Qualified employee” means an individual who:

(i) is a new employee or an employee rehired after being laid off for more than 1 year by a business entity;

(ii) is employed by a business entity at least 35 hours each week for at least 6 months before or during the taxable year for which the entity claims a credit;

(iii) spends at least 50% of the hours under item (ii) of this paragraph, either in the enterprise zone or on activities of the business entity resulting directly from its location in the enterprise zone;

(iv) earns at least 150% of the federal minimum wage; and

(v) is hired by the business entity after the later of:

1. the date on which the enterprise zone is designated; or

2. the date on which the business entity locates in the enterprise zone.

(b) (1) Any business entity that is located in an enterprise zone and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsections (c) and (d) of this section that are paid in the taxable year for which the entity claims the credit.

(2) A business entity that is located in a focus area and satisfies the requirements of § 5–707 of the Economic Development Article may claim a credit only against the State income tax for the wages specified in subsection (e) of this section that are paid to a focus area employee in the taxable year for which the entity claims the credit.

(3) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section as a credit against income tax due on unrelated business taxable income as provided under §§ 10–304 and 10–812 of this title.

(c) If a business entity does not claim an enhanced tax credit under subsection

(e) of this section for a focus area employee, for the taxable year in which a business entity satisfies the requirements of § 5–707 or § 5–1406 of the Economic Development Article, a credit is allowed that equals:

(1) up to $3,000 of the wages paid to each qualified employee who:

(i) is an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years; and

(2) up to $1,000 of the wages paid to each qualified employee who:

(i) is not an economically disadvantaged individual; and

(ii) is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years.

(d) (1) If a business entity does not claim an enhanced tax credit under subsection (e) of this section for a focus area employee, for each taxable year after the taxable year described in subsection (c) of this section, while the area is designated an enterprise zone, a credit is allowed that equals:

(i) up to $3,000 of the wages paid to each qualified employee who:

1. is an economically disadvantaged individual;

2. became a qualified employee during the taxable year to which the credit applies; and

3. is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years;

(ii) up to $2,000 of the wages paid to each qualified employee who is an economically disadvantaged individual, if the business entity received a credit under subsection (c)(1) of this section for the qualified employee in the immediately preceding taxable year; and

(iii) up to $1,000 of the wages paid to each qualified employee who is not hired to replace an individual whom the business entity employed in that or any of the 3 preceding taxable years if the qualified employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under subsection (c)(1) of this section or item (i) of this paragraph and a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years; or

2. is not an economically disadvantaged individual but became

a qualified employee during the taxable year to which the credit applies.

(2) A business entity that hires a qualified employee to replace another qualified employee for whom the business entity received a credit under subsection (c)(1) of this section and paragraph (1)(ii) of this subsection in the immediately preceding taxable year may treat the new qualified employee as the replacement for the other qualified employee to determine any credit that may be available to the business entity under paragraph (1)(ii) or (iii) of this subsection.

(e) (1) For the taxable year in which a business entity satisfies the requirements of §§ 5–706 and 5–707 or § 5–1406 of the Economic Development Article, a credit is allowed that equals:

(i) up to $4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual; and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years; and

(ii) up to $1,500 of the wages paid to each focus area employee who:

1. is not an economically disadvantaged individual; and

2. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years.

(2) For each taxable year after the taxable year described in paragraph (1) of this subsection, while the area is designated a focus area, a credit is allowed that equals:

(i) up to $4,500 of the wages paid to each focus area employee who:

1. is an economically disadvantaged individual;

2. became a focus area employee during the taxable year to which the credit applies; and

3. is not hired to replace an individual whom the business entity employed in that year or any of the 3 preceding taxable years;

(ii) up to $3,000 of the wages paid to each focus area employee who is an economically disadvantaged individual, if the business entity received a credit under paragraph (1)(i) of this subsection for the focus area employee in the immediately preceding taxable year; and

(iii) up to $1,500 of the wages paid to each focus area employee who is not hired to replace an individual whom the business entity employed in that year

or any of the 3 preceding taxable years if the focus area employee:

1. is an economically disadvantaged individual for whom the business entity received a credit under item (ii) of this paragraph in the 2 immediately preceding taxable years and under:

A. paragraph (1)(i) of this subsection; or

B. item (i) of this paragraph; or

2. is not an economically disadvantaged individual but became a focus area employee during the taxable year to which the credit applies.

(3) A business entity that hires a focus area employee to replace another focus area employee for whom the business entity received a credit under paragraph (1)(i) of this subsection and paragraph (2)(ii) of this subsection in the immediately preceding taxable year may treat the focus area employee as the replacement for the other focus area employee to determine any credit that may be available to the business entity under paragraph (2)(ii) or (iii) of this subsection.

(f) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, a business entity may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 5th taxable year from the date on which the business entity hired the qualified employee to whom the credit first applies.

(g) If a credit is claimed under this section, the claimant must make the addition required in § 10–205, § 10–206, or § 10–306 of this title.

§10–703.

(a) Except as provided in subsection (b) of this section, a resident may claim a credit against the income tax for a taxable year in the amount determined under subsection (c) of this section for State tax on income paid to another state for the year.

(b) A credit under subsection (a) of this section is not allowed to:

(1) a resident other than a fiduciary, if the laws of the other state allow the resident a credit for State income tax paid to this State;

(2) a resident fiduciary, if the fiduciary claims, and the other state allows, a credit for State income tax paid to this State;

(3) a resident for less than the full taxable year for tax on income that is paid to another state during residency in that state; or

(4) a nonresident.

(c) (1) Except as provided in paragraph (2) of this subsection and subject to subsection (d) of this section, the credit allowed a resident under subsection (a) of this section is the lesser of:

(i) the amount of allowable tax on income that the resident paid to another state; or

(ii) an amount that does not reduce the income tax to an amount less than would be payable if the income subjected to tax in the other state were disregarded.

(2) If the credit allowed a resident under subsection (a) of this section is based on tax that an S corporation pays to another state, the credit allowable to a shareholder:

(i) may not exceed that shareholder's pro rata share of the tax; and

(ii) will be allowed for another state's income taxes or taxes based on income.

(d) (1) The amount of the credit allowed under subsection (a) of this section to be applied against the State income tax is equal to the amount that would be calculated under subsection (c) of this section using the State income tax rate as the only applicable rate.

(2) The amount of the credit allowed under subsection (a) of this section to be applied against the county income tax is equal to the amount calculated under subsection (c) of this section less the amount calculated under paragraph (1) of this subsection.

§10–703.2.

(a) In this section, "installment sale" has the meaning stated in § 453(b) of the Internal Revenue Code.

(b) A credit against the State income tax in the amount determined under subsection (c) of this section may be claimed by a resident who recognizes income for the current taxable year for federal income tax purposes from an installment sale of property located in a state other than Maryland if:

(1) the disposition of the property occurred in an earlier taxable year; and

(2) the taxpayer paid state tax on income for the earlier taxable year to the state where the property was located on the income that for federal income tax purposes is recognized in the current taxable year.

(c) The amount of the credit allowed under this section is equal to the income

recognized for federal income tax purposes for the current year on which state income tax was paid to another state in an earlier year, as described in subsection (b)(2) of this section, multiplied by the lesser of:

(1) the rate of tax imposed by the other state on the income described in subsection (b)(2) of this section; or

(2) the maximum rate of Maryland State income tax.

§10–704.

(a) (1) A resident may claim a credit against the State income tax for a taxable year in the amount determined under subsection (b) of this section for earned income.

(2) A resident may claim a credit against the county income tax for a taxable year in the amount determined under subsection (c) of this section for earned income.

(b) (1) Except as provided in paragraph (2) of this subsection and subject to subsection (d) of this section, the credit allowed against the State income tax under subsection (a)(1) of this section is the lesser of:

(i) 50% of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code; or

(ii) the State income tax for the taxable year.

(2) (i) Subject to subsection (d) of this section, a resident may claim a refund in the amount, if any, by which the applicable percentage specified in subparagraph (ii) of this paragraph of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code exceeds the State income tax for the taxable year.

(ii) The applicable percentage of the earned income credit allowable under § 32 of the Internal Revenue Code to be used for purposes of determining the refund provided under this paragraph is:

1. 25% for a taxable year beginning after December 31, 2013, but before January 1, 2015;

2. 25.5% for a taxable year beginning after December 31, 2014, but before January 1, 2016;

3. 26% for a taxable year beginning after December 31, 2015, but before January 1, 2017;

4. 27% for a taxable year beginning after December 31, 2016, but before January 1, 2018; and

5. 28% for a taxable year beginning after December 31, 2017.

(c) (1) Except as provided in paragraph (2) of this subsection and subject to subsection (d) of this section, the credit allowed against the county income tax under subsection (a)(2) of this section is the lesser of:

(i) the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code multiplied by 10 times the county income tax rate for the taxable year; or

(ii) the county income tax for the taxable year.

(2) (i) A county may provide, by law, for a refundable county earned income credit as provided in this paragraph.

(ii) If a county provides for a refundable county earned income credit under this paragraph, on or before July 1 prior to the beginning of the first taxable year for which it is applicable, the county shall give the Comptroller notice of the refundable county earned income credit.

(iii) If a county provides for a refundable county earned income credit under this paragraph, a resident may claim a refund of the amount, if any, by which the product of multiplying the credit allowable for the taxable year under § 32 of the Internal Revenue Code by 5 times the county income tax rate for the taxable year exceeds the county income tax for the taxable year.

(iv) The amount of any refunds payable under a refundable county earned income credit operates to reduce the income tax revenue from individuals attributable to the county income tax for that county.

(d) For an individual who is a resident of the State for only a part of the year, the amount of the credit or refund allowed under this section shall be determined based on the part of the earned income credit allowable for the taxable year under § 32 of the Internal Revenue Code that is attributable to Maryland, determined by multiplying the federal earned income credit by a fraction:

(1) the numerator of which is the Maryland adjusted gross income of the individual; and

(2) the denominator of which is the federal adjusted gross income of the individual.

§10–704.1.

(a) (1) In this section the following words have the meanings indicated.

(2) "Cogenerator" means a qualifying cogenerator or qualifying small power producer as determined by the Federal Energy Regulatory Commission under

the Public Utility Regulatory Policies Act of 1978.

(3) "Electricity supplier" has the meaning stated in § 1–101 of the Public Utilities Article.

(b) This section does not apply to:

(1) a cogenerator or electricity supplier that is subject to the public service company franchise tax; or

(2) an electricity supplier that, before July 1, 1999, was not an electric company as defined in § 1–101 of the Public Utilities Article as in effect on June 30, 1999, unless the electricity supplier is an affiliate of such an electric company.

(c) Subject to the limitations in § 8–406(b)(2) of this article, a cogenerator or electricity supplier may claim a credit against the State income tax in the amount of $3 for each ton of Maryland–mined coal that the cogenerator or electricity supplier purchased in the taxable year.

(d) (1) A cogenerator or electricity supplier may only apply the credit against the State income tax for the taxable year in which the credit was earned.

(2) The amount of the credit may not exceed the State income tax for that taxable year.

(3) The total amount of credits approved under this section shall be subject to the limitations in § 8–406(b)(2)(iv), (v), and (vi) of this article.

(e) A cogenerator or electricity supplier shall submit an application in accordance with § 8–406(b)(2)(iii) of this article in order to claim the credit available under this section.

§10–704.4.

An individual or a corporation may claim a credit against the income tax for wages paid to qualified employees as provided under Title 6, Subtitle 3 of the Economic Development Article.

§10–704.5.

(a) An individual or corporation may claim a credit against the State income tax for a certified rehabilitation as provided under § 5A-303 of the State Finance and Procurement Article.

(b) An individual or corporation that is not otherwise required to file an income tax return, including a corporation exempt from income tax under § 501(c)(3) of the Internal Revenue Code:

(1) may file a return to claim a refund of the credit under this section; and

(2) shall file a return if the individual or corporation is subject to the recapture of the credit under this section as provided under § 5A-303 of the State Finance and Procurement Article.

§10–704.6.

An individual or a corporation may claim a credit against the State income tax for neighborhood and community assistance contributions as provided under § 6-404 of the Housing and Community Development Article.

§10–704.7.

(a) An individual or a corporation may claim a credit against the income tax for:

(1) wages paid to a qualified employee with a disability; and

(2) (i) child care provided or paid for by a business entity for the children of a qualified employee with a disability as provided under § 21–309 of the Education Article; or

(ii) transportation provided or paid for by the business entity for a qualified employee with a disability as provided under § 21–309 of the Education Article.

(b) (1) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section:

(i) as a credit against income tax due on unrelated business taxable income as provided under §§ 10–304 and 10–812 of this title; or

(ii) as a credit for the payment to the Comptroller of taxes that the organization:

1. is required to withhold from the wages of employees under § 10–908 of this title; and

2. is required to pay to the Comptroller under § 10–906(a) of this title.

(2) If the credit allowed under this subsection in any taxable year exceeds the sum of the State income tax otherwise payable by the organization for that taxable year and the taxes that the organization has withheld from the wages of employees and is required to pay to the Comptroller under § 10–906(a) of this title for the taxable year, the organization may apply the excess as a credit under paragraph (1)(i) or (ii) of this subsection in succeeding taxable years for the carryforward period provided in § 21–309 of the Education Article.

(3) The Comptroller shall adopt regulations to provide procedures for claiming and applying credits authorized under paragraph (1)(ii) of this subsection.

§10–704.8.

An individual or a corporation may claim a State tax credit against the income tax as provided under § 9-230 of the Tax - Property Article.

§10–705.

To be allowed a credit under this subtitle, a person shall submit to the Comptroller satisfactory evidence that the person is entitled to the credit.

§10–706.

(a) Except as otherwise provided in this section, a credit allowed under this subtitle is allowed against the State income tax only.

(b) A credit under § 10-701 of this subtitle is allowed against the total county and State income taxes.

(c) (1) A credit allowed under § 10-704(a)(1) or § 10-709(b)(1) of this subtitle is allowed against the State income tax only.

(2) A credit allowed under § 10-704(a)(2) or § 10-709(b)(2) of this subtitle is allowed against the county income tax only.

§10–707.

(a) An individual may claim a credit against the State income tax for a taxable year in the amount specified in subsection (b) of this section for property tax paid in that taxable year for owner-occupied, residential real property that is granted a property tax credit under § 9-317(e), § 9-318(d), or § 9-326 of the Tax - Property Article.

(b) The credit shall equal the amount of the property tax credit granted for property tax paid under § 9-317(e), § 9-318(d), or § 9-326 of the Tax - Property Article.

(c) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, calculated before application of the credits under this section and §§ 10-701 and 10-701.1 of this subtitle, but after application of the other credits allowable under this subtitle, the excess of the credit shall be refunded.

§10–709.

(a) (1) In this section the following words have the meanings indicated.

(2) "Applicable poverty income level" means the amount specified in the poverty income standard that corresponds to the number of exemptions which the individual is allowed and claims under § 10–211(a)(1) of this title.

(3) "Eligible low income taxpayer" means an individual, or an individual and the individual's spouse if they file a joint income tax return:

(i) whose federal adjusted gross income as modified under §§ 10–204 through 10–206 of this title does not exceed the applicable poverty income level;

(ii) whose earned income as defined under § 32(c)(2) of the Internal Revenue Code does not exceed the applicable poverty income level;

(iii) who is not claimed as an exemption on another individual's tax return under § 10–211 of this title; and

(iv) for whom the credit allowed under § 10–704(a)(1) of this subtitle is less than the State income tax.

(4) "Poverty income standard" means the most recent poverty income guideline published by the United States Department of Health and Human Services, available as of July 1 of the taxable year.

(b) (1) An eligible low income taxpayer may claim a credit against the State income tax for a taxable year in the amount determined under subsection (c) of this section.

(2) An eligible low income taxpayer may claim a credit against the county income tax for a taxable year in the amount determined under subsection (d) of this section.

(c) Except as provided in subsection (e) of this section, the credit allowed against the State income tax under subsection (b)(1) of this section equals the lesser of:

(1) the State income tax determined after subtracting the credit allowed under § 10–704(b)(1) of this subtitle; or

(2) an amount equal to 5% of the eligible low income taxpayer's earned income, as defined under § 32(c)(2) of the Internal Revenue Code.

(d) Except as provided in subsection (e) of this section, the credit allowed against the county income tax under subsection (b)(2) of this section equals the lesser of:

(1) the county income tax determined after subtracting the credit allowed under § 10–704(c) of this subtitle; or

(2) an amount equal to the county income tax rate multiplied times the eligible low income taxpayer's earned income, as defined under § 32(c)(2) of the Internal Revenue Code.

(e) Of the amount determined under subsection (c) or subsection (d) of this section, an individual who is a nonresident or is a resident of the State for only a part

of the year is allowed only a fraction:

(1) the numerator of which is the individual's Maryland adjusted gross income; and

(2) the denominator of which is the individual's federal adjusted gross income.

§10–710.

(a) In this section, "long-term care insurance" has the meaning stated in § 18-101 of the Insurance Article.

(b) (1) Subject to the limitation under paragraph (2) of this subsection, an employer may claim a tax credit in an amount equal to 5% of the costs incurred by the employer during the taxable year to provide long-term care insurance as part of an employee benefit package.

(2) The credit allowed under this section may not exceed the lesser of:

(i) $5,000; or

(ii) $100 for each employee in the State covered by long-term care insurance provided under the employee benefit package.

(c) (1) An individual or corporation may apply the credit under subsection (b) of this section against the State income tax.

(2) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section against State income tax due on unrelated business taxable income as provided under §§ 10-304 and 10-812 of this title.

(d) (1) If the employer is subject to more than one tax against which the credit allowed under this section may be applied, the same credit may not be applied more than once against different taxes.

(2) If the credit allowed under this subsection in any taxable year exceeds the total tax otherwise payable by the employer for that taxable year, the employer may apply the excess as a credit for succeeding taxable years until the earlier of:

(i) the full amount of the excess is used; or

(ii) the expiration of the 5th taxable year after the taxable year in which the costs to provide long-term care insurance as part of an employee benefit package were incurred.

§10–714.

An individual or corporation may claim a credit against the State income tax for One Maryland project costs and start–up costs as provided under Title 6, Subtitle 4 of the Economic Development Article.

§10–715.

(a) An individual or corporation may claim a credit against the State income tax for the cost of providing commuter benefits to the business entity's employees as provided under § 2-901 of the Environment Article.

(b) An organization that is exempt from taxation under § 501(c)(3) or (4) of the Internal Revenue Code may apply the credit under this section as a credit for the payment to the Comptroller of taxes that the organization:

(1) is required to withhold from the wages of employees under § 10-908 of this title; and

(2) is required to pay to the Comptroller under § 10-906(a) of this title.

§10–716.

(a) (1) In this section the following words have the meanings indicated.

(2) "Federal child and dependent care credit" means the child and dependent care credit properly claimed by an individual for the taxable year under § 21 of the Internal Revenue Code.

(3) "Qualifying individual" means a qualifying individual within the meaning of § 21(b) of the Internal Revenue Code.

(b) An individual whose federal adjusted gross income for the taxable year does not exceed $50,000, or $25,000 in the case of a married individual filing a separate return, may claim a credit against the State income tax as provided in this section for expenses paid by the individual during the taxable year for the care of a qualifying individual.

(c) Subject to subsection (d) of this section, the credit allowed under this section equals the lesser of:

(1) 32.5% of the federal child and dependent care credit; or

(2) the State income tax for the taxable year.

(d) (1) If an individual's federal adjusted gross income for the taxable year exceeds $41,000, the credit otherwise allowed under this section shall be reduced by 10% for each $1,000 or fraction of $1,000 by which the individual's federal adjusted

gross income exceeds $41,000.

(2) In the case of a married individual filing a separate return, if the individual's federal adjusted gross income for the taxable year exceeds $20,500, the credit otherwise allowed under this section shall be reduced by 10% for each $500 or fraction of $500 by which the individual's federal adjusted gross income exceeds $20,500.

(e) The credit allowed under this section does not affect the treatment under this title of any deduction or exclusion allowed under this title or allowed for federal income tax purposes for expenses paid by the individual for the care of a qualifying individual.

§10–717.

(a) An individual who is a classroom teacher or a teacher at a State or local correctional facility or a juvenile facility listed in § 9–226 of the Human Services Article and who holds a standard professional certificate or an advanced professional certificate may claim a credit against the State income tax for up to $1,500 of tuition paid by the individual during the taxable year for graduate level courses required to maintain certification if the individual:

(1) successfully completes the courses with a grade of B or better;

(2) is employed by a county board of education, a State or local correctional facility, or a juvenile facility listed in § 9–226 of the Human Services Article;

(3) teaches in a public school, a State or local correctional facility, or a juvenile facility listed in § 9–226 of the Human Services Article and receives a satisfactory performance evaluation for that teaching; and

(4) has not been reimbursed by the State or a county for the tuition paid.

(b) (1) If a county, the State or local correctional facility, or a juvenile facility listed in § 9–226 of the Human Services Article partially reimburses an individual for tuition paid, the individual may claim a tax credit allowed under this section for the balance of the tuition not paid by the county or the State.

(2) The credit allowed under this section may not exceed the State income tax for that taxable year, calculated before the application of the credits allowed under this section and §§ 10–701 and 10–701.1 of this subtitle but after the application of the other credits allowable under this subtitle.

(3) The unused amount of the credit for any taxable year may not be carried over to any other taxable year.

§10–718.

(a) In this section, "eligible long-term care premiums" means eligible long-term care premiums within the meaning of § 213(d)(10) of the Internal Revenue Code for a long-term care insurance contract covering an individual who is a Maryland resident.

(b) An individual may claim a credit against the State income tax in an amount equal to 100% of the eligible long-term care premiums paid by the individual during the taxable year for long-term care insurance covering the individual or the individual's spouse, parent, stepparent, child, or stepchild.

(c) The credit allowed under this section:

(1) may not exceed $500 for each insured covered by long-term care insurance for which the individual pays the premiums;

(2) may not be claimed by more than one taxpayer with respect to the same insured individual; and

(3) may not be claimed with respect to an insured individual if:

(i) the insured individual was covered by long-term care insurance at any time before July 1, 2000; or

(ii) the credit has been claimed with respect to that insured individual by any taxpayer for any prior taxable year.

(d) (1) The total amount of the credit allowed under this section for any taxable year may not exceed the State income tax for that taxable year, calculated before application of the credits under this section and §§ 10-701 and 10-701.1 of this subtitle, but after application of the other credits allowable under this subtitle.

(2) The unused amount of the credit for any taxable year may not be carried over to any other taxable year.

(e) The credit allowed under this section does not affect the treatment under this title of any deduction or exclusion allowed for federal income tax purposes for the eligible long-term care premiums paid by the individual.

(f) On or before December 1, 2005 and each December 1 thereafter, the Comptroller shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, regarding the credit allowed under this section, including:

(1) the number of individuals who have claimed the credit, the amount allowed as credits, and the additional number of individuals covered by long-term care insurance as a result of the credit; and

(2) the savings under the State's Medical Assistance Program as a result of additional individuals being covered by long-term care insurance as a result of the credit.

§10–720.

(a) (1) In this section the following words have the meanings indicated.

(2) "Administration" means the Maryland Energy Administration.

(3) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, "qualified energy resources" has the meaning stated in § 45(c)(1) of the Internal Revenue Code.

(ii) "Qualified energy resources" includes any nonhazardous waste material that is segregated from other waste materials and is derived from:

1. any of the following forest–related resources, not including old–growth timber:

A. mill residues, except sawdust and wood shavings;

B. forest thinnings;

C. slash; or

D. brush;

2. waste pallets, crates, and dunnage and landscape or right–of–way trimmings; or

3. agricultural sources, including, but not limited to, orchard tree crops, vineyard, grain, legumes, sugar, and other crop by–products or residues.

(iii) "Qualified energy resources" includes methane gas or other combustible gases resulting from the decomposition of organic materials from an agricultural operation, or from a landfill or wastewater treatment plant using one or a combination of the following processes:

1. anaerobic decomposition; or

2. thermal decomposition.

(4) "Qualified Maryland facility" means a facility located in the State that:

(i) primarily uses qualified energy resources to produce electricity and is originally placed in service on or after January 1, 2006, but before January 1, 2016; or

(ii) produces electricity from a qualified energy resource that is co–fired with coal and initially begins co–firing a qualified energy resource on or after January 1, 2006, but before January 1, 2016, regardless of when the original facility was placed in service.

(b) (1) Except as provided in paragraphs (2) and (3) of this subsection, an individual or corporation that receives an initial credit certificate from the Administration may claim a credit against the State income tax for a taxable year in an amount equal to 0.85 cents for each kilowatt hour of electricity:

(i) produced by the individual or corporation from qualified energy resources at a qualified Maryland facility during the 5–year period specified in the initial credit certificate; and

(ii) sold by the individual or corporation to a person other than a related person, within the meaning of § 45 of the Internal Revenue Code, during the taxable year.

(2) If the electricity is produced from a qualified energy resource that is co–fired at a facility that produces electricity from coal, the credit is 0.5 cents for each kilowatt hour of electricity produced from the qualified energy resource instead of 0.85 cents.

(3) The annual tax credit under this subsection may not exceed one–fifth of the maximum amount of credit stated in the initial credit certificate.

(c) (1) Subject to the provisions of this subsection, on application by a taxpayer, the Administration shall issue an initial credit certificate if the taxpayer has demonstrated that the taxpayer will within the next 12 months produce electricity from qualified energy resources at a qualified Maryland facility.

(2) The initial credit certificate issued under this subsection shall:

(i) state the maximum amount of credit that may be claimed by the taxpayer for electricity produced over a 5–year period;

(ii) state the earliest tax year for which the credit may be claimed; and

(iii) state the 5–year period during which electricity produced from qualified energy resources at the qualified Maryland facility qualifies for the credit.

(3) The maximum amount of credit stated in the initial credit certificate shall, for an energy producer, be in an amount equal to the lesser of:

(i) the product of multiplying 5 times the taxpayer's estimated annual tax credit, based on estimated annual energy production, as certified by the Administration; or

(ii) $2,500,000.

(4) The Administration may not issue initial credit certificates for maximum credit amounts in the aggregate totaling more than $25,000,000.

(5) The Administration shall approve all applications that qualify for an initial credit certificate under this subsection on a first–come, first–served basis.

(6) If a taxpayer over a 3–year period does not claim on average at least 10% of the maximum credit amount stated in the initial credit certificate, the Administration at its discretion may cancel an amount of the taxpayer's initial credit certificate equal to the product of multiplying:

(i) the amount of the credit on average that was not claimed over the 3–year period; and

(ii) the remaining number of tax years that the taxpayer is eligible to take the credit.

(7) An applicant for an initial credit certificate or a taxpayer whose credits have been canceled under paragraph (6) of this subsection, may appeal a decision by the Administration to the Office of Administrative Hearings in accordance with Title 10, Subtitle 2 of the State Government Article.

(8) The Administration may not issue an initial credit certificate after December 31, 2015.

(9) The Administration may not issue initial credit certificates for credit amounts less than $1,000.

(d) If the credit allowed under this section in any taxable year exceeds the State income tax otherwise payable by the corporation or individual for that taxable year, the corporation or the individual may claim a refund in the amount of the excess.

(e) (1) On January 1, 2007, and each year thereafter, the Administration shall provide to the Comptroller a list of all taxpayers in the prior tax year that have been issued an initial credit certificate and shall specify for each taxpayer the earliest tax year for which the credit may be claimed and the maximum amount of credit allowed.

(2) (i) On or before October 1, 2007, and each year thereafter, the Comptroller and the Administration jointly shall submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly a written report regarding:

1. the number of certifications and taxpayers claiming the credit under this section;

2. the name and physical location of each taxpayer issued an

initial credit certificate;

3. the maximum credit amount approved for each taxpayer;

4. the geographical distribution of the credits claimed; and

5. any other available information the Administration determines to be meaningful and appropriate.

(ii) The Comptroller shall ensure that the information is presented and classified in a manner consistent with the confidentiality of tax return information.

§10–721. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2021 PER CHAPTER 20 OF 2010 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Economic Competitiveness and Commerce.

(3) "Maryland base amount" means the base amount as defined in § 41(c) of the Internal Revenue Code that is attributable to Maryland, determined by:

(i) substituting "Maryland qualified research and development expense" for "qualified research expense";

(ii) substituting "Maryland qualified research and development" for "qualified research"; and

(iii) using, instead of the "fixed base percentage":

1. the percentage that the Maryland qualified research and development expense for the 4 taxable years immediately preceding the taxable year in which the expense is incurred is of the gross receipts for those years; or

2. for a taxpayer who has fewer than 4 but at least 1 prior taxable year, the percentage as determined under item 1 of this item, determined using the number of immediately preceding taxable years that the taxpayer has.

(4) "Maryland gross receipts" means gross receipts that are reasonably attributable to the conduct of a trade or business in this State, determined under methods prescribed by the Comptroller based on standards similar to the standards under § 10–402 of this title.

(5) "Maryland qualified research and development" means qualified research as defined in § 41(d) of the Internal Revenue Code that is conducted in this State.

(6) "Maryland qualified research and development expenses" means qualified research expenses as defined in § 41(b) of the Internal Revenue Code incurred for Maryland qualified research and development.

(7) "Small business" means a for–profit corporation, limited liability company, partnership, or sole proprietorship with net book value assets totaling, at the beginning or the end of the taxable year for which Maryland qualified research and development expenses are incurred, as reported on the balance sheet, less than $5,000,000.

(b) Subject to the limitations of this section, an individual or a corporation may claim credits against the State income tax in an amount equal to:

(1) 3% of the Maryland qualified research and development expenses, not exceeding the Maryland base amount for the individual or corporation, paid or incurred by the individual or corporation during the taxable year; and

(2) 10% of the amount by which the Maryland qualified research and development expenses paid or incurred by the individual or corporation during the taxable year exceed the Maryland base amount for the individual or corporation.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, an individual or corporation shall submit an application to the Department for the credits allowed under subsection (b)(1) and (2) of this section.

(2) (i) Except as provided under paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(1) of this section may not exceed $4,500,000 for any calendar year.

(ii) Subject to paragraph (4) of this subsection, if the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(1) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(1) of this section in the calendar year.

(3) (i) Except as provided in paragraph (4) of this subsection, the total amount of credits approved by the Department under subsection (b)(2) of this section may not exceed $4,500,000 for any calendar year.

(ii) Subject to paragraph (4) of this subsection, if the total amount

of credits applied for by all individuals and corporations under subsection (b)(2) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b)(2) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b)(2) of this section in the calendar year.

(4) (i) For any calendar year, if the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section, the maximum specified under paragraph (3)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (2)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(1) of this section.

(ii) For any calendar year, if the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section, the maximum specified under paragraph (2)(i) of this subsection shall be increased for that calendar year by an amount equal to the amount by which the maximum specified under paragraph (3)(i) of this subsection exceeds the total amount of credits applied for by all individuals and corporations under subsection (b)(2) of this section.

(5) By December 15 of the calendar year following the end of the taxable year in which the Maryland qualified research and development expenses were incurred, the Department shall certify to the individual or corporation the amount of the research and development tax credits approved by the Department for the individual or corporation under subsection (b)(1) and (2) of this section.

(6) To claim the approved credits allowed under this section, an individual or corporation shall:

(i) file an amended income tax return for the taxable year in which the Maryland qualified research and development expense was incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) (1) Except as provided in paragraph (2) of this subsection, if the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(i) the full amount of the excess is used; or

(ii) the expiration of the 7th taxable year after the taxable year in which the Maryland qualified research and development expense was incurred.

(2) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, a small business may claim a refund in the amount of the excess.

(e) (1) In determining the amount of the credit under this section:

(i) all members of the same controlled group of corporations, as defined under § 41(f) of the Internal Revenue Code, shall be treated as a single taxpayer; and

(ii) the credit allowable by this section to each member shall be its proportionate shares of the qualified research expenses giving rise to the credit.

(2) The Comptroller shall adopt regulations providing for:

(i) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(ii) pass–through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(iii) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(iv) determination of the credit in the case of short taxable years.

(3) The regulations adopted under paragraph (2) of this subsection shall be based on principles similar to the principles applicable under § 41 of the Internal Revenue Code and regulations adopted thereunder.

(f) (1) The Department of Economic Competitiveness and Commerce and the Comptroller jointly shall adopt regulations to prescribe standards for determining when research or development is considered conducted in the State for purposes of determining the credit under this section.

(2) In adopting regulations under this subsection, the Department and the Comptroller may consider:

(i) the location where services are performed;

(ii) the residence or business location of the person or persons performing services;

(iii) the location where supplies used in research and development are consumed; and

(iv) any other factors that the Department determines are relevant for the determination.

(g) (1) In accordance with § 2.5–109 of the Economic Development Article, the Department shall report on the credits approved under this section.

(2) The report required under paragraph (1) of this subsection shall include for each individual or corporation approved to receive a credit under subsection (b)(1) and (2) of this section in the prior calendar year:

(i) the individual's or corporation's name and address; and

(ii) the amount of the credit approved.

(3) The report required under paragraph (1) of this subsection shall include the name of the individual or corporation and the aggregate amount of credits approved in all calendar years for each individual or corporation under subsection (b)(1) and (2) of this section.

(4) The report required under paragraph (1) of this subsection shall summarize for the credits approved under subsection (b)(1) of this section and for the credits approved under subsection (b)(2) of this section:

(i) the total number of applicants for credits under this section in each calendar year;

(ii) the number of applications for which a tax credit was approved in each calendar year; and

(iii) the total credits authorized under this section for all calendar years under this section.

(h) If the provisions of § 41 of the Internal Revenue Code governing the federal research and development tax credit are repealed or terminate, the provisions of this section continue to operate as if the provisions of § 41 of the Internal Revenue Code remain in effect, and the Maryland research and development tax credit under this section shall continue to be available.

§10–722.

(a) (1) In this section the following words have the meanings indicated.

(2) "Administration" means the Maryland Energy Administration.

(3) (i) "Allowable costs" means amounts properly chargeable to capital

account, other than for land, that are paid or incurred on or after July 1, 2001, for:

1. construction or rehabilitation;

2. commissioning costs;

3. interest paid or incurred during the construction or rehabilitation period;

4. architectural, engineering, and other professional fees allocable to construction or rehabilitation;

5. closing costs for construction, rehabilitation, or mortgage loans;

6. recording taxes and filing fees incurred with respect to construction or rehabilitation; and

7. finishes and furnishings consistent with the regulations adopted by the Administration under this section, lighting, plumbing, electrical wiring, and ventilation.

(ii) "Allowable costs" does not include:

1. the cost of telephone systems and computers, other than electrical wiring costs;

2. legal fees allocable to construction or rehabilitation;

3. site costs, including temporary electric wiring, scaffolding, demolition costs, and fencing and security facilities;

4. finishes or furnishings that are not consistent with the regulations adopted by the Administration under this section; or

5. the cost of purchasing or installing fuel cells, wind turbines, or photovoltaic modules.

(4) "Applicable energy efficiency standards" means ASHRAE/IESNA Standard 90.1–1999, Energy Standard for Buildings Except Low–Rise Residential Buildings, published by the American Society of Heating, Refrigerating and Air–Conditioning Engineers.

(5) "Base building" means all areas of a building not intended for occupancy by a tenant or owner, including the structural components of the building, exterior walls, floors, windows, roofs, foundations, chimneys and stacks, parking areas, mechanical rooms and mechanical systems, and owner–controlled or operated service spaces, sidewalks, main lobby, shafts and vertical transportation mechanisms,

stairways, and corridors.

(6) "Commissioning" means:

(i) the testing and fine–tuning of heat, ventilating, and air–conditioning systems and other systems to assure proper functioning and adherence to design criteria; and

(ii) the preparation of system operation manuals and instruction of maintenance personnel.

(7) "Credit allowance year" means the later of:

(i) the taxable year during which:

1. the property, construction, completion, or rehabilitation on which the credit allowed under this section is based is originally placed in service; or

2. a fuel cell, wind turbine, or photovoltaic module constitutes a qualifying alternate energy source and is fully operational; or

(ii) the earliest taxable year for which the credit may be claimed under the initial credit certificate issued under subsection (k) of this section.

(8) "Eligible building" means a building located in the State that:

(i) 1. is a building used primarily for nonresidential purposes if the building contains at least 20,000 square feet of interior space;

2. is a residential multifamily building with at least 12 dwelling units that contains at least 20,000 square feet of interior space; or

3. is any combination of buildings described in item 1 or 2 of this item;

(ii) in the case of a newly constructed building for which a certificate of occupancy was not issued before July 1, 2001:

1. is located on a qualified brownfields site, as defined under § 5–301 of the Economic Development Article; or

2. A. is located in a priority funding area under § 5–7B–02 of the State Finance and Procurement Article; and

B. is not located on wetlands, the alteration of which requires a permit under § 404 of the federal Clean Water Act, 33 U.S.C. § 1344; and

(iii) in the case of a rehabilitation of a building:

1. is located in a priority funding area under § 5–7B–02 of the State Finance and Procurement Article or on a qualified brownfields site as defined under § 5–301 of the Economic Development Article; or

2. is not an increase of more than 25% in the square footage of the building.

(9) "Fuel cell" means a device that produces electricity directly from hydrogen or hydrocarbon fuel through a noncombustive electrochemical process.

(10) "Green base building" means a base building that is part of an eligible building and meets the requirements set out in subsection (i) of this section.

(11) "Green whole building" means a building for which the base building is a green base building and all tenant space is green tenant space.

(12) "Green tenant space" means tenant space in a building if the building is an eligible building and the tenant space meets the requirements of subsection (j) of this section.

(13) "Incremental cost of building–integrated photovoltaic modules" means:

(i) the cost of building–integrated photovoltaic modules and any associated inverter, additional wiring or other electrical equipment for the photovoltaic modules, or additional mounting or structural materials, less the cost of spandrel glass or other building material that would have been used if building–integrated photovoltaic modules were not installed;

(ii) incremental labor costs properly allocable to on–site preparation, assembly, and original installation of photovoltaic modules; and

(iii) incremental costs of architectural and engineering services and designs and plans directly related to the construction or installation of photovoltaic modules.

(14) "Qualifying alternate energy sources" means building–integrated and nonbuilding–integrated photovoltaic modules, wind turbines, and fuel cells installed to serve the base building or tenant space that:

(i) have the capability to monitor their actual power output;

(ii) are fully commissioned upon installation, and annually thereafter, to ensure that the systems meet their design specifications; and

(iii) in the case of wind turbines, meet any applicable noise ordinances.

(15) "Tenant improvements" means improvements that are necessary or

appropriate to support or conduct the business of a tenant or occupying owner.

(16) "Tenant space" means the portion of a building intended for occupancy by a tenant or occupying owner.

(b) (1) An individual or a corporation may claim a credit against the State income tax as provided under this section for green buildings and green building components.

(2) If the credit allowed under this section exceeds the State income tax, any unused credit may be carried forward and applied for succeeding taxable years until the earlier of:

(i) the full amount of the credit is used; or

(ii) the expiration of the 10th year after the taxable year for which the credit was allowed.

(3) For each of the credits under subsections (c) through (h) of this section, the credit may not be allowed for any taxable year unless:

(i) the taxpayer has obtained and filed an initial credit certificate and an eligibility certificate issued under subsection (k) of this section;

(ii) a certificate of occupancy for the building has been issued; and

(iii) the property with respect to which the credit is claimed is in service during the taxable year.

(4) The total amount allowed in the aggregate for all credits under this section may not exceed the maximum set forth in the initial credit certificate obtained under subsection (k) of this section.

(5) In determining the amount of the credits under this section, a cost paid or incurred may not be the basis for more than one credit.

(c) (1) For the taxable year that is the credit allowance year, an owner or tenant may claim a credit in an amount equal to 8% of the allowable costs paid or incurred by the owner or tenant for the construction of a green whole building or the rehabilitation of a building that is not a green whole building to be a green whole building.

(2) The allowable costs used to determine the credit amount allowed under this subsection for a green whole building may not exceed in the aggregate:

(i) $120 per square foot for that portion of the building that comprises the base building; and

(ii) $60 per square foot for that portion of the building that comprises the tenant space.

(d) (1) For the taxable year that is the credit allowance year, an owner may claim a credit in an amount equal to 6% of the allowable costs paid or incurred by the owner for the construction of a green base building or the rehabilitation of a building that is not a green base building to be a green base building.

(2) The allowable costs used to determine the credit amount allowed under this subsection for a green base building may not exceed, in the aggregate, $120 per square foot.

(e) (1) For the taxable year that is the credit allowance year, an owner or tenant may claim a credit in an amount equal to 6% of the allowable costs for tenant improvements paid or incurred by the owner or tenant in the construction or completion of green tenant space or the rehabilitation of tenant space that is not green tenant space to be green tenant space.

(2) (i) The allowable costs used to determine the credit amount allowed under this subsection for green tenant space may not exceed, in the aggregate, $60 per square foot.

(ii) If an owner and tenant both incur allowable costs for tenant improvements under this subsection and the costs exceed $60 per square foot in the aggregate, the owner has priority as to costs constituting the basis for the green tenant space credit under this subsection.

(3) The credit under this subsection for green tenant space may not be claimed by an owner of a building that occupies fewer than 10,000 square feet of the building.

(4) The credit under this subsection for green tenant space may not be claimed by a tenant that occupies fewer than 5,000 square feet.

(f) (1) For the taxable year that is the credit allowance year, an owner or tenant may claim a credit in the amount determined under this subsection for the installation of a fuel cell that is a qualifying alternate energy source and is installed to serve a green whole building, green base building, or green tenant space.

(2) The amount of the credit allowed under this subsection is 30% of the sum of the capitalized costs paid or incurred by an owner or tenant with respect to each fuel cell installed, including the cost of the foundation or platform and the labor costs associated with installation.

(3) The costs used to determine the credit amount allowed under this subsection for installation of a fuel cell:

(i) may not exceed $1,000 per kilowatt of installed DC rated capacity

of the fuel cell; and

(ii) shall be reduced by the amount of any federal, State, or local grant:

1. received by the taxpayer and used for the purchase or installation of the fuel cell; and

2. not included in the federal gross income of the taxpayer.

(g) (1) For the taxable year that is the credit allowance year, an owner or tenant may claim a credit in the amount determined under this subsection for the installation of photovoltaic modules that constitute a qualifying alternate energy source and are installed to serve a green whole building, green base building, or green tenant space.

(2) The amount of the credit allowed under this subsection is:

(i) 20% of the incremental cost paid or incurred by an owner or tenant for building–integrated photovoltaic modules; and

(ii) 25% of the cost of nonbuilding–integrated photovoltaic modules, including the cost of the foundation or platform and the labor costs associated with installation.

(3) The costs used to determine the credit amount allowed under this subsection for installation of photovoltaic modules:

(i) may not exceed the product obtained by multiplying $3 times the number of watts included in the DC rated capacity of the photovoltaic modules; and

(ii) shall be reduced by the amount of any federal, State, or local grant:

1. received by the taxpayer and used for the purchase or installation of the photovoltaic equipment; and

2. not included in the federal gross income of the taxpayer.

(h) (1) For the taxable year that is the credit allowance year, an owner or tenant may claim a credit in the amount determined under paragraph (2) of this subsection for the installation of a wind turbine that is a qualifying alternate energy source and is installed to serve a green whole building, green base building, or green tenant space.

(2) The amount of the credit allowed under this subsection is 25% of the sum of the capitalized costs paid or incurred by an owner or tenant with respect to each wind turbine installed, including the cost of the foundation or platform and the labor

costs associated with installation.

(i) (1) By regulation, the Administration shall adopt standards for a building to qualify as a green base building eligible for the tax credits under this section that are consistent with the criteria for green base buildings set forth by the United States Green Building Council or other similar criteria.

(2) The regulations adopted under this subsection shall provide that the energy use shall be no more than 65% for new construction of a base building, or 75% in the case of rehabilitation of a base building, of the energy use attributable to a reference building that meets the requirements of applicable energy efficiency standards.

(j) (1) By regulation, the Administration shall adopt standards for tenant space to qualify as green tenant space eligible for the tax credits under this section that are consistent with the criteria for green tenant space set forth by the United States Green Building Council or other similar criteria.

(2) The regulations adopted under this subsection shall provide that the energy use shall be no more than 65% for new construction, or 75% in the case of rehabilitation, of the energy use attributable to a reference building that meets the requirements of applicable energy efficiency standards.

(k) (1) (i) On application by a taxpayer, the Administration shall issue an initial credit certificate if the taxpayer has made a showing that the taxpayer is likely within a reasonable time to place in service property for which a credit under this section would be allowed.

(ii) The initial credit certificate issued under this paragraph:

1. shall state the earliest taxable year for which the credit may be claimed and an expiration date; and

2. shall apply only to property placed in service on or before the expiration date.

(iii) To avoid unwarranted hardship, the Administration at its discretion may extend the expiration date stated under an initial credit certificate.

(iv) The initial credit certificate shall state the maximum amount of credit allowable in the aggregate for all credits allowed under this section.

(v) The Administration may not issue initial credit certificates, in the aggregate, for more than $25,000,000 worth of credits.

(vi) Except as provided in subparagraph (vii) of this paragraph, initial credit certificates shall be limited in their applicability, as follows:

Credits in the aggregate may not be allowed for more than:	With respect to taxable years beginning:
$1 million	2003
$2 million	2004
$3 million	2005
$4 million	2006
$5 million	2007
$4 million	2008
$3 million	2009
$2 million	2010
$1 million	2011

(vii) As of the end of a calendar year, if certificates for credit amounts totaling less than the amount permitted with respect to taxable years beginning in that calendar year have been issued, the maximum amount that may be allowed for taxable years beginning in the subsequent calendar year shall be increased by the amount of the preceding year's shortfall.

(viii) The Administration may not issue an initial credit certificate after December 31, 2011.

(ix) On January 1, 2004, and each year thereafter, the Administration shall provide to the Comptroller a list of all taxpayers in the prior taxable year that have been issued an initial credit certificate and shall specify for each taxpayer the earliest taxable year for which the credit may be claimed and the maximum amount of the credit allowable in the aggregate for all credits allowed under this section.

(2) (i) For each taxable year for which a taxpayer claims a credit under this section with respect to a green whole building, green base building, green tenant space, fuel cell, photovoltaic module, or wind turbine, the taxpayer shall obtain an eligibility certificate from an architect or professional engineer licensed to practice in this State.

(ii) An eligibility certificate issued under this paragraph shall consist of a certification, under the seal of the architect or engineer, that the property that is the basis for the credit that is claimed is in service and that:

1. the building, base building, or tenant space with respect to which the credit is claimed is a green whole building, green base building, or green tenant space; and

2. any fuel cell, photovoltaic module, or wind turbine with respect to which the credit is claimed constitutes a qualifying alternate energy source and is fully operational.

(iii) The certification under subparagraph (ii) of this paragraph:

1. shall be made in accordance with the regulations adopted by the Administration under this section specifying the standards and guidelines for each credit under this section; and

2. shall set forth the specific findings on which the certification was based.

(iv) The taxpayer shall file the eligibility certificate and the associated initial credit certificate with the taxpayer's income tax return and shall file duplicate copies of the eligibility certificate with the Administration.

(v) The eligibility certificate shall include:

1. sufficient information to identify each building or space; and

2. any other information that the Administration or the Comptroller requires by regulation.

(3) If the Administration has reason to believe that an architect or professional engineer, in making any certification under this subsection, engaged in professional misconduct, the Administration shall inform the appropriate professional board of the suspected misconduct.

(4) (i) The Comptroller and the Administration may adopt regulations necessary to carry out the provisions of this section.

(ii) Regulations adopted under this section shall construe the provisions of this section in such a manner as to encourage the development of green whole buildings, green base buildings, and green tenant space and to maintain high, but commercially reasonable, standards for obtaining tax credits under this section.

(5) On or before April 1, 2005, the Comptroller and the Administration, jointly and in consultation with the Department of the Environment, shall submit to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, a written report regarding:

(i) the number of certifications and taxpayers claiming the credit under this section;

(ii) the amount of the credits claimed;

(iii) the geographical distribution of the credits claimed; and

(iv) any other available information the Administration determines to be meaningful and appropriate.

(6) The Comptroller shall ensure that the information is presented and classified in a manner consistent with the confidentiality of tax return information.

(l) On or before July 1, 2002, the Administration, in consultation with the Department of the Environment and the Department of Natural Resources, shall adopt regulations with respect to the certification of green whole buildings, green base buildings, and green tenant space that are consistent with criteria set forth by the State's Green Buildings Council or other similar criteria for:

(1) energy use;

(2) appliance and heating, cooling, and hot water equipment standards;

(3) air conditioning equipment, including chillers;

(4) building materials, finishes, and furnishings;

(5) stormwater runoff for new construction;

(6) water conservation and efficiency; and

(7) indoor air quality, in consultation with the Department of Health and Mental Hygiene.

§10–723.

(a) (1) An individual may claim a credit against the State income tax as provided in this section for an easement conveyed to the Maryland Environmental Trust or the Maryland Agricultural Land Preservation Foundation for the purpose of preserving open space, natural resources, agriculture, forest land, watersheds, significant ecosystems, viewsheds, or historic properties, if:

(i) the easement is perpetual; and

(ii) the easement is accepted and approved by the Board of Public Works.

(2) Subject to subsection (c)(2) of this section, the credit under this section shall be allowed for the taxable year in which the donation is approved by the Board of Public Works.

(b) (1) Except as otherwise provided in this section, the amount of the credit allowed under this section is the amount by which the fair market value of the property before the conveyance of the easement exceeds the fair market value of the property after the conveyance of the easement.

(2) The fair market value of the property before and after the conveyance of the easement shall be substantiated by an appraisal prepared by a certified real estate appraiser, as defined under § 16-101 of the Business Occupations and Professions Article.

(3) The amount of the credit shall be reduced by the amount of any payment received for the easement.

(c) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:

(i) the State income tax for that taxable year; or

(ii) $5,000.

(2) If the credit otherwise allowable under subsection (b) of this section exceeds the limit under paragraph (1) of this subsection, an individual may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(i) the full amount of the excess is used; or

(ii) the expiration of the 15th taxable year after the taxable year in which the donation was approved by the Board of Public Works.

(3) For each taxable year, the amount carried forward to the taxable year under paragraph (2) of this subsection may not exceed the limit under paragraph (1) of this subsection.

(d) The credit under this section may not be claimed for a required dedication of open space for the purpose of fulfilling density requirements to obtain a subdivision or building permit.

§10–724.

(a) In this section, "aquaculture oyster float" means a device that is:

(1) purchased new;

(2) specifically designed for the purpose of growing oysters at or under an individual homeowner's pier; and

(3) constructed to be fully buoyant and facilitate the growth of oysters for the width of the pier.

(b) Subject to the limitations of this section, an individual may claim a credit against the State income tax in an amount equal to 100% of the purchase price of aquaculture oyster floats purchased during the taxable year.

(c) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:

(i) $500; or

(ii) the State income tax imposed for the taxable year calculated before the application of the credits allowed under this section and under §§ 10-701 and 10-701.1 of this subtitle but after the application of any other credit allowed under this subtitle.

(2) The unused amount of the credit may not be carried over to any other taxable year.

§10–724.1. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2018 PER CHAPTERS 278 AND 279 OF 2013 //

(a) (1) Subject to the limitations of this section, an individual or a corporation may claim a credit against the State income tax in an amount equal to $5 for each bushel of oyster shells recycled during the taxable year.

(2) An individual or a corporation that claims the credit under this section shall provide verification of the amount of oyster shells recycled during the taxable year with the individual or corporation tax return.

(b) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:

(i) $750; or

(ii) the State income tax calculated before application of the credit allowed under this section and §§ 10–701 and 10–701.1 of this subtitle.

(2) The unused amount of the credit may not be carried over to any other taxable year.

(c) (1) The Department of Natural Resources and the Comptroller jointly shall adopt regulations to carry out the provisions of this section.

(2) The regulations shall establish eligibility criteria and provide for the certification of businesses, landfills, and nonprofit organizations to verify the amount of oyster shells recycled by each individual or corporation.

§10–725.

(a) (1) In this section the following words have the meanings indicated.

(2) "Biotechnology company" means a company organized for profit that is primarily engaged in the research, development, or commercialization of innovative

and proprietary technology that comprises, interacts with, or analyzes biological material including biomolecules (DNA, RNA, or protein), cells, tissues, or organs.

(3) (i) "Company" means any entity of any form duly organized and existing under the laws of any jurisdiction for the purpose of conducting business for profit.

(ii) "Company" does not include a sole proprietorship.

(4) "Department" means the Department of Economic Competitiveness and Commerce.

(5) (i) "Investment" means the contribution of money in cash or cash equivalents expressed in United States dollars, at a risk of loss, to a qualified Maryland biotechnology company in exchange for stock, a partnership or membership interest, or other ownership interest in the equity of the qualified Maryland biotechnology company, title to which ownership interest shall vest in the qualified investor.

(ii) "Investment" does not include debt.

(iii) For purposes of this section, an investment is at risk of loss when its repayment entirely depends upon the success of the business operations of the qualified company.

(6) (i) "Qualified investor" means any individual or entity that invests at least $25,000 in a qualified Maryland biotechnology company and that is required to file an income tax return in any jurisdiction.

(ii) "Qualified investor" does not include a qualified pension plan, individual retirement account, or other qualified retirement plan under the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under such plans, or similar tax–favored plans or entities under the laws of other countries.

(7) (i) "Qualified Maryland biotechnology company" means a biotechnology company that:

1. has its headquarters and base of operations in this State;

2. has fewer than 50 full–time employees;

3. except as provided in subparagraph (ii) of this paragraph, has been in active business no longer than 10 years;

4. does not have its securities publicly traded on any exchange; and

5. has been certified as a biotechnology company by the Department.

(ii) "Qualified Maryland biotechnology company" includes:

1. a company that has been in active business for up to 12 years if the Department determines that the company requires additional time to complete the process of regulatory approval;

2. for fiscal years 2012 and 2013 only, a company that has been in active business for up to 15 years; or

3. a company that has been in active business no longer than 10 years from the date the company first received a qualified investment under this section.

(8) "Secretary" means the Secretary of Commerce.

(b) (1) Subject to paragraphs (2) and (3) of this subsection and subsections (d) and (e) of this section, for the taxable year in which an investment in a qualified Maryland biotechnology company is made, a qualified investor may claim a credit against the State income tax in an amount equal to the amount of tax credit stated in the final credit certificate approved by the Secretary for the investment as provided under this section.

(2) To be eligible for the tax credit described in paragraph (1) of this subsection, the qualified investor shall be:

(i) for a company, duly organized and in good standing in the jurisdiction under the laws under which it is organized;

(ii) for a company, in good standing and authorized or registered to do business in the State;

(iii) current in the payment of all tax obligations to the State or any unit or subdivision of the State; and

(iv) not in default under the terms of any contract with, indebtedness to, or grant from the State or any unit or subdivision of the State.

(3) To be eligible for the tax credit described in paragraph (1) of this subsection, the qualified investor may not, after making the proposed investment, own or control more than 25% of the equity interests in the qualified Maryland biotechnology company in which the investment is to be made.

(c) (1) At least 30 days prior to making an investment in a qualified Maryland biotechnology company for which a qualified investor would be eligible for an initial tax credit certificate under subsection (b) of this section, the qualified investor shall submit an application to the Department.

(2) The application shall evidence that the qualified Maryland

biotechnology company is:

(i) in good standing;

(ii) current in the payment of all tax obligations to the State or any unit or subdivision of the State; and

(iii) not in default under the terms of any contract with, indebtedness to, or grant from the State or any unit or subdivision of the State.

(3) The Department shall:

(i) approve all applications that qualify for credits under this section on a first–come, first–served basis; and

(ii) within 30 days of receipt of an application, certify the amount of any approved tax credits to a qualified investor.

(4) (i) After the date on which the Department issues an initial tax credit certificate under this section, a qualified investor shall have 30 calendar days to make an investment in a qualified Maryland biotechnology company under this section.

(ii) Within 10 calendar days after the date on which a qualified investor makes the investment, the qualified investor shall provide to the Department notice and proof of the making of the investment, including:

1. the date of the investment;

2. the amount invested;

3. proof of the receipt of the invested funds by the qualified Maryland biotechnology company;

4. a complete description of the nature of the ownership interest in the equity of the qualified Maryland biotechnology company acquired in consideration of the investment; and

5. any reasonable supporting documentation the Department may require.

(iii) If a qualified investor does not provide the notice and proof of the making of the investment required in subparagraph (ii) of this paragraph within 40 calendar days after the date on which the Department issues an initial tax credit certificate under this section:

1. the Department shall rescind the initial tax credit certificate; and

2. the credit amount allocated to the rescinded certificate shall revert to the Maryland Biotechnology Investment Tax Credit Reserve Fund and shall be available in the applicable fiscal year for allocation by the Department to other initial tax credit certificates in accordance with the provisions of this section.

(d) (1) The tax credit allowed in an initial tax credit certificate issued under this section is 50% of the investment in a qualified Maryland biotechnology company, not to exceed $250,000.

(2) During any fiscal year, the Secretary may not certify eligibility for tax credits for investments in a single qualified Maryland biotechnology company that in the aggregate exceed 15% of the total appropriations to the Maryland Biotechnology Investment Tax Credit Reserve Fund for that fiscal year.

(3) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified investor for that taxable year, the qualified investor may claim a refund in the amount of the excess.

(e) (1) In this subsection, "Reserve Fund" means the Maryland Biotechnology Investment Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Biotechnology Investment Tax Credit Reserve Fund which is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The money in the Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the provisions of this subsection, the Secretary shall issue an initial tax credit certificate for each approved investment in a qualified Maryland biotechnology company eligible for a tax credit.

(ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the qualified investor is eligible.

(iii) 1. Except as otherwise provided in this subparagraph, for any fiscal year, the Secretary may not issue initial tax credit certificates for credit amounts in the aggregate totaling more than the amount appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly.

2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial tax credit certificates for the next fiscal year.

3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph

(4) of this subsection, the maximum credit amounts in the aggregate for which the Secretary may issue initial tax credit certificates shall be reduced by the amount transferred.

(iv) For each fiscal year, the Governor shall include in the budget bill an appropriation to the Reserve Fund.

(v) Notwithstanding the provisions of § 7–213 of the State Finance and Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) Based on the actual amount of an investment made by a qualified investor, the Secretary shall issue a final tax credit certificate to the qualified investor.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Department shall notify the Comptroller as to each final credit certificate issued during the quarter:

A. the maximum credit amount stated in the initial tax credit certificate for the investment; and

B. the final certified credit amount for the investment.

2. On notification that an investment has been certified, the Comptroller shall transfer an amount equal to the credit amount stated in the initial tax credit certificate for the investment from the Reserve Fund to the General Fund.

(f) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2) of this subsection if within 2 years from the close of the taxable year for which the credit is claimed:

(i) the qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland biotechnology company that gave rise to the credit; or

(ii) the qualified Maryland biotechnology company that gave rise to the credit ceases operating as an active business with its headquarters and base of operations in the State.

(2) The amount required to be recaptured under this subsection is the product of multiplying:

(i) the total amount of the credit claimed or, in the case of an event described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the ownership interest disposed of; and

(ii) 1. 100%, if the event requiring recapture of the credit occurs during the taxable year for which the tax credit is claimed;

2. 67%, if the event requiring recapture of the credit occurs during the first year after the close of the taxable year for which the tax credit is claimed; or

3. 33%, if the event requiring recapture of the credit occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is claimed.

(3) The qualified investor that claimed the credit shall pay the amount to be recaptured as determined under paragraph (2) of this subsection as taxes payable to the State for the taxable year in which the event requiring recapture of the credit occurs.

(g) (1) The Department may revoke its initial or final certification of an approved credit under this section if any representation in connection with the application for the certification is determined by the Department to have been false when made.

(2) The revocation may be in full or in part as the Department may determine and, subject to paragraph (3) of this subsection, shall be communicated to the qualified investor and the Comptroller.

(3) The qualified investor shall have an opportunity to appeal any revocation to the Department prior to notification of the Comptroller.

(4) The Comptroller may make an assessment against the qualified investor to recapture any amount of tax credit that the qualified investor has already claimed.

(h) (1) In accordance with § 2.5–109 of the Economic Development Article, the Department shall report on the initial tax credit certificates awarded under this section for the calendar year.

(2) The report required under paragraph (1) of this subsection shall include for each initial tax credit certificate awarded:

(i) the name of the qualified investor and the amount of credit awarded or allocated to each investor;

(ii) the name and address of the qualified Maryland biotechnology company that received the investment giving rise to the credit under this section and the county where the qualified Maryland biotechnology company is located; and

(iii) the dates of receipt and approval by the Department of all applications for initial tax credit certificates.

(3) The report required under paragraph (1) of this subsection shall summarize for the category of qualified investors:

(i) the total number of applicants for initial tax credit certificates under this section in each calendar year;

(ii) the number of applications for which initial tax credit certificates were issued in each calendar year; and

(iii) the total initial tax credit certificates authorized under this section for all calendar years under this section.

(i) The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for application for, approval of, and monitoring continuing eligibility for the tax credit under this section.

§10–726.

(a) (1) In this section the following words have the meanings indicated.

(2) "Cellulosic ethanol technology" means technology that is used to develop cellulosic biomass for conversion to ethanol fuel.

(3) "Department" means the Department of Economic Competitiveness and Commerce.

(4) "Qualified research and development expenses" means expenses paid or incurred for cellulosic ethanol technology research and development that is conducted in the State.

(b) Subject to the limitations of this section, an individual or corporation may claim a credit against the State income tax in an amount equal to 10% of the qualified research and development expenses paid or incurred by the individual or corporation during the taxable year.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the qualified research and development expenses were paid or incurred, an individual or corporation shall submit an application to the Department for the credit allowed under this section.

(2) (i) The total amount of credits approved by the Department under this section may not exceed $250,000 for any calendar year.

(ii) If the total amount of credits applied for by all individuals and corporations under this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under this section for each applicant in an amount equal to the product of multiplying the credit applied for by the

applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants in the calendar year.

(3) By December 15 of the calendar year following the end of the taxable year in which the qualified research and development expenses were paid or incurred, the Department shall certify to the individual or corporation the amount of the research and development tax credit approved by the Department for the individual or corporation under this section.

(4) To claim the approved credit allowed under this section, an individual or corporation shall:

(i) file an amended income tax return for the taxable year in which the qualified research and development expenses were paid or incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the earlier of:

(1) the full amount of the excess is used; or

(2) the expiration of the 15th taxable year after the taxable year in which the qualified research and development expenses were paid or incurred.

(e) (1) In determining the amount of the credit under this section:

(i) all members of the same controlled group of corporations, as defined under § 41(f) of the Internal Revenue Code, shall be treated as a single taxpayer; and

(ii) the credit allowable by this section to each member shall be its proportionate share of the qualified research and development expenses giving rise to the credit.

(2) The Comptroller shall adopt regulations providing for:

(i) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(ii) pass–through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(iii) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(iv) determination of the credit in the case of short taxable years.

(f) (1) The Department and the Comptroller jointly shall adopt regulations to prescribe standards for determining when research or development is considered conducted in the State for purposes of determining the credit under this section.

(2) In adopting regulations under this subsection, the Department and the Comptroller may consider:

(i) the location where services are performed;

(ii) the residence or business location of the person or persons performing services;

(iii) the location where supplies used in research and development are consumed; and

(iv) any other factors that the Department determines are relevant for the determination.

(g) The credit under this section does not apply to any qualified research and development expenses paid or incurred after December 31, 2016.

§10–727. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2018 PER CHAPTER 566 OF 2011 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Administration" means the Maryland Energy Administration.

(3) "Bio–heating oil" means a heating oil with a blend of at least 5% biodiesel:

(i) derived from the U.S. Environmental Protection Agency–approved feedstocks; or

(ii) accepted under 42 U.S.C. 7545(o) as per the U.S. EPA Renewable Fuel Standard 2 (RFS2) and the accompanying regulations under 40 C.F.R. Part 80 for diesel fuel replacement.

(b) An individual or corporation that receives an initial credit certificate under subsection (d) of this section from the Administration may claim a credit against the

State income tax for a taxable year in an amount equal to 3 cents for each gallon of bio–heating oil purchased for space or water heating.

(c) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:

(i) $500; or

(ii) the State income tax for that taxable year.

(2) The unused amount of the credit for any taxable year may not be carried over to any other taxable year.

(d) (1) On application by a taxpayer, the Maryland Energy Administration shall issue an initial credit certificate for the number of gallons of bio–heating oil purchased by the taxpayer for space or water heating.

(2) The initial credit certificate issued under this subsection shall state the maximum amount of credit that may be claimed by the taxpayer.

(3) On January 1, 2009, and each year thereafter, the Administration shall provide to the Comptroller a list of all taxpayers in the prior tax year that have been issued an initial credit certificate and shall specify for each taxpayer the maximum amount of credit allowed.

(4) The Maryland Energy Administration shall adopt regulations to administer the initial credit certificate required under this subsection.

§10–730.

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Economic Competitiveness and Commerce.

(3) (i) "Film production activity" means the production of a film or video project that is intended for nationwide commercial distribution.

(ii) "Film production activity" includes the production of:

1. a feature film;

2. a television project;

3. a commercial;

4. a corporate film;

5. an infomercial;

6. a music video;

7. a digital project;

8. an animation project; or

9. a multimedia project.

(iii) "Film production activity" does not include production of:

1. a student film;

2. a noncommercial personal video;

3. a sports broadcast;

4. a broadcast of a live event;

5. a talk show;

6. a video, computer, or social networking game; or

7. pornography.

(4) "Pornography" means any production for which records are required to be maintained under § 2257 of Title 18, U.S.C., with respect to any performer in such production engaging in sexually explicit conduct.

(5) "Qualified film production entity" means an entity that:

(i) is carrying out a film production activity; and

(ii) the Secretary determines to be eligible for the tax credit under this section in accordance with subsection (c) of this section.

(6) "Secretary" means the Secretary of Commerce.

(7) "Television series" means a group of program episodes intended for television broadcast or transmission with a common series title, with or without a predetermined number of episodes, and shall include a miniseries and a pilot episode produced for an intended television series.

(8) (i) "Total direct costs", with respect to a film production activity, means the total costs incurred in the State that are necessary to carry out the film production activity.

(ii) "Total direct costs" includes costs incurred for:

1. employee wages and benefits;

2. fees for services;

3. acquiring or leasing property; and

4. any other expense necessary to carry out a film production activity, including costs associated with:

A. set construction and operation;

B. wardrobe, makeup, and related services;

C. photography and sound synchronization, lighting, and related services and materials;

D. editing and related services, including film processing, transfers of film to tape or digital format, sound mixing, computer graphic services, special effects services, and animation services;

E. salary, wages, and other compensation including related benefits, for work performed in the State, paid to persons employed in the production, writers, directors, and producers;

F. rental of facilities in the State and equipment used in the State;

G. leasing of vehicles;

H. food and lodging;

I. music, if performed, composed, or recorded by a Maryland musician or published by a person or company domiciled in Maryland;

J. travel expenses incurred to bring persons employed, either directly or indirectly, in the production of the project to Maryland, but not including expenses of these persons departing from Maryland; and

K. legal and accounting services performed by attorneys or accountants licensed in Maryland.

(iii) "Total direct costs" does not include any salary, wages, or other compensation for personal services of an individual who receives more than $500,000 in salary, wages, or other compensation for personal services in connection with any film production activity.

(b) (1) A qualified film production entity may claim a credit against the State income tax for film production activities in the State in an amount equal to the amount stated in the final tax credit certificate approved by the Secretary for film production activities.

(2) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the qualified film production entity for that taxable year, the qualified film production entity may claim a refund in the amount of the excess.

(c) (1) Before beginning a film production activity, a film production entity shall submit to the Department an application to qualify as a film production entity.

(2) The application shall describe the anticipated film production activity, including:

(i) the projected total budget;

(ii) the estimated number of employees and total wages to be paid; and

(iii) the anticipated dates for carrying out the major elements of the film production activity.

(3) To qualify as a film production entity, the estimated total direct costs incurred in the State must exceed $500,000.

(4) The application shall include any other information required by the Secretary.

(5) The Secretary may require the information provided in an application to be verified by an independent auditor selected and paid for by the film production entity seeking certification.

(6) The Secretary shall:

(i) determine if the film production entity qualifies for the credit under this section; and

(ii) notify the Comptroller of the estimated amount of total direct costs and the taxable year the credit will be claimed.

(d) (1) After completion of the film production activity, a qualified film production entity shall apply to the Department for a tax credit certificate.

(2) The application shall be on a form required by the Secretary and shall include:

(i) proof of the total direct costs that qualify for the tax credit; and

(ii) the number of employees hired and wages paid.

(3) Subject to subsections (f) and (g) of this section, the Secretary shall determine the total direct costs that qualify for the tax credit and issue a tax credit

certificate for:

(i) except as provided in item (ii) of this paragraph, 25% of the total direct costs that qualify for the tax credit; and

(ii) for a television series, 27% of the total direct costs that qualify for the tax credit.

(e) (1) In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report that includes:

(i) the number of film production entities submitting applications under subsection (c) of this section;

(ii) the number and amount of tax credit certificates issued under subsection (d) of this section;

(iii) the number of local technicians, actors, and extras hired for film production activity during the reporting period;

(iv) a list of companies doing business in the State, including hotels, that directly provided goods or services for film production activity during the reporting period;

(v) a list of companies doing business in the State that directly provided goods or services for film production activity during the reporting period that qualified during the reporting period as minority business enterprises under § 14–301(f) of the State Finance and Procurement Article;

(vi) a list of companies doing business in the State that directly provided goods or services for film production activity during the reporting period that, as determined by the Department, are considered small businesses; and

(vii) any other information that indicates the economic benefits to the State resulting from film production activity during the reporting period.

(2) On or before July 1 of each year, the Department shall report to the Governor and, subject to § 2–1246 of the State Government Article, the General Assembly on:

(i) the amount of tax credits necessary to maintain the current level of film production activity in the State; and

(ii) the amount of tax credits necessary to attract new film production activity to the State.

(f) (1) Except as provided in paragraph (2) of this subsection, the Secretary may not issue tax credit certificates for credit amounts in the aggregate totaling more

than:

(i) for fiscal year 2014, $25,000,000;

(ii) for fiscal year 2015, $7,500,000; and

(iii) for fiscal year 2016, $7,500,000.

(2) If the aggregate credit amounts under the tax credit certificates issued by the Secretary total less than the maximum provided under paragraph (1) of this subsection in any fiscal year, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.

(g) (1) In this subsection, "Reserve Fund" means the Maryland Film Production Activity Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Maryland Film Production Activity Tax Credit Reserve Fund that is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The money in the Reserve Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the provisions of this subsection, the Secretary shall issue an initial tax credit certificate for the total direct costs incurred by a film production entity that qualifies for a tax credit.

(ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the film production entity is eligible.

(iii) 1. Except as otherwise provided in this subparagraph, for any fiscal year, the Secretary may not issue initial tax credit certificates for credit amounts in the aggregate totaling more than the amount appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly.

2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial tax credit certificates for the next fiscal year.

3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Secretary may issue initial tax credit certificates shall be reduced by the amount transferred.

(iv) For fiscal year 2017 and each fiscal year thereafter, it is the intent

of the General Assembly that the Governor include in the budget bill an appropriation to the Reserve Fund in an amount equal to the amount the Department reports as necessary under subsection (e)(2) of this section to:

1. maintain the current level of film production activity in the State; and

2. attract new film production activity to the State.

(v) Notwithstanding the provisions of § 7–213 of the State Finance and Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) Based on the actual amount of total direct costs incurred by a film production entity, the Secretary shall issue a final tax credit certificate to the film production entity.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Department shall notify the Comptroller as to each final credit certificate issued during the quarter:

A. the maximum credit amount stated in the initial tax credit certificate for the film production entity; and

B. the final certified credit amount for the film production entity.

2. On notification that a final credit amount has been certified, the Comptroller shall transfer an amount equal to the credit amount stated in the initial tax credit certificate for the film production entity from the Reserve Fund to the General Fund.

(h) (1) Except as provided in paragraph (2) of this subsection, a qualified film production entity that receives a tax credit certificate under this section for a film production activity shall include:

(i) for a feature film project, a 5–second long static or animated logo that promotes the State in the end credits before the below–the–line crew crawl for the life of the project and a link to the State's Web site on the project's Web site;

(ii) for a television series project, an embedded 5–second long static or animated logo that promotes the State during each broadcast worldwide for the life of the project and a link to the State's Web site on the project's Web site; or

(iii) for any other project, the State logo at the end of each project and

in online promotions.

(2) In lieu of including a State logo as required under paragraph (1) of this subsection, the qualified film production entity may offer alternative marketing opportunities to be evaluated by the Department to ensure that those opportunities offer equal or greater promotional value to the State.

(i) The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for the application for, approval of, and monitoring of continuing eligibility for the tax credit under this section.

§10–731. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2017 PER CHAPTER 417 OF 2014 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Health and Mental Hygiene.

(3) "Fund" means the Health Enterprise Zone Reserve Fund established under § 20–1406 of the Health – General Article.

(4) "Health Enterprise Zone" has the meaning stated in § 20–1401 of the Health – General Article.

(5) "Health Enterprise Zone employer" means a Health Enterprise Zone practitioner, a for–profit entity, or a nonprofit entity that employs qualified employees and provides health care services in a Health Enterprise Zone.

(6) "Health Enterprise Zone practitioner" has the meaning stated in § 20–1401 of the Health – General Article.

(7) "Qualified employee" means a Health Enterprise Zone practitioner, community health worker, or interpreter who:

(i) provides direct support to a Health Enterprise Zone practitioner; and

(ii) expands access to services in a Health Enterprise Zone.

(8) (i) "Qualified position" means a qualified employee position that:

1. pays at least 150% of the federal minimum wage;

2. is full time and of indefinite duration;

3. is located in a Health Enterprise Zone;

4. is newly created as a result of the establishment of, or expansion of services in, a Health Enterprise Zone; and

5. is filled.

(ii) "Qualified position" does not include a position that is filled for a period of less than 12 months.

(b) A Health Enterprise Zone practitioner who practices health care in a Health Enterprise Zone may be eligible for a tax credit against the State income tax in accordance with a proposal approved by the Secretary of Health and Mental Hygiene, if the individual:

(1) demonstrates competency in cultural, linguistic, and health literacy in a manner determined by the Department;

(2) accepts and provides care for patients enrolled in the Maryland Medical Assistance Program and for uninsured patients; and

(3) meets any other criteria established by the Department.

(c) (1) A nonprofit community–based organization or a local government agency that submits a proposal to the Department and the Community Health Resources Commission under Title 20, Subtitle 14 of the Health – General Article may also submit to the Department a request for certification of eligibility for certain income tax credits on behalf of a Health Enterprise Zone practitioner practicing or seeking to practice in a Health Enterprise Zone.

(2) The proposal shall meet the requirements specified under Title 20, Subtitle 14 of the Health – General Article.

(d) (1) If the Department approves a request for certification submitted under this section, a Health Enterprise Zone practitioner may claim a credit against the State income tax in an amount equal to 100% of the amount of the State income tax expected to be due from the Health Enterprise Zone practitioner from income to be derived from practice in the Health Enterprise Zone, as certified by the Department for the taxable year.

(2) (i) A Health Enterprise Zone employer may claim a refundable credit of $10,000 against the State income tax for hiring for a qualified position in the Health Enterprise Zone, as certified by the Department for the taxable year.

(ii) To be eligible for the credit provided under this paragraph, a Health Enterprise Zone employer may create one or more qualified positions during any 24–month period.

(iii) The credit earned under this paragraph shall be taken over a 24–month period, with one–half for the credit amount allowed each year beginning

with the first taxable year in which the credit is certified.

(iv) If the qualified position is filled for a period of less than 24 months, the tax credit shall be recaptured as follows:

1. the tax credit shall be recomputed and reduced on a prorated basis, based on the period of time the position was filled, as determined by the Department and reported to the Comptroller; and

2. the Health Enterprise Zone employer who received the tax credit shall repay any amount of the credit that may have already been refunded to the employer that exceeds the amount recomputed by the Department in accordance with item 1 of this subparagraph.

(3) (i) To be certified as eligible for the credits provided under this section, a Health Enterprise Zone practitioner or employer may apply for certification through the nonprofit community–based organization or local government that submits an approved proposal under Title 20, Subtitle 14 of the Health – General Article.

(ii) 1. Eligibility for the certification for the credits provided under this section is limited by availability of budgeted funds for that purpose, as determined by the Department.

2. Certificates of eligibility shall be subject to approval by the Department on a first–come, first–served basis, as determined by the Department in its sole discretion.

(e) (1) The Department shall certify to the Comptroller the applicability of the credit provided under subsection (d)(1) of this section for each Health Enterprise Zone practitioner and the amount of each credit assigned to a Health Enterprise Zone practitioner, for each taxable year.

(2) The Department shall certify to the Comptroller the applicability of the credit provided under subsection (d)(2) of this section for each Health Enterprise Zone employer and the amount of each credit assigned to a Health Enterprise Zone employer, for each taxable year.

(f) When certifying applications for tax credits provided under subsection (d)(2) of this section, the Department, in consultation with the Commission, shall give special consideration to applicants that are community–based and serve the overall goals of the Health Enterprise Zone that the applicant is seeking to serve.

(g) The credits allowed under this section for a fiscal year may not exceed the amount provided for in the State budget for that fiscal year.

(h) The Department, in consultation with the Comptroller, shall adopt regulations to implement the tax credit under this section.

§10–732.

(a) (1) In this section the following words have the meanings indicated.

(2) "Costs" means the costs to an individual or corporation for:

(i) security clearance administrative expenses incurred with regard to an employee in the State including, but not limited to:

1. processing application requests for clearances for employees in the State;

2. maintaining, upgrading, or installing computer systems in the State required to obtain federal security clearances; and

3. training employees in the State to administer the application process; and

(ii) construction and equipment costs incurred to construct or renovate a sensitive compartmented information facility ("SCIF") located in the State as required by the federal government.

(3) "Department" means the Department of Economic Competitiveness and Commerce.

(4) "Secretary" means the Secretary of Commerce.

(5) "Small business" has the meaning stated in § 7–218 of this article.

(b) Subject to the limitations of this section, for a taxable year beginning after December 31, 2012, but before January 1, 2017, an individual or a corporation may claim credits against the State income tax for:

(1) security clearance administrative expenses, not to exceed $200,000;

(2) expenses incurred for rental payments owed during the first year of a rental agreement for spaces leased in the State if the individual or corporation is a small business that performs security–based contracting, not to exceed $200,000; and

(3) (i) Subject to subparagraph (ii) of this paragraph, construction and equipment costs incurred to construct or renovate a single SCIF in an amount equal to the lesser of 50% of the costs or $200,000.

(ii) The total amount of construction and equipment costs incurred to construct or renovate multiple SCIFs for which an individual or a corporation is eligible to claim as a credit against the State income tax is $500,000.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the costs were incurred, an individual or a corporation shall submit

an application to the Department for the credits allowed under subsection (b) of this section.

(2) (i) The total amount of credits approved by the Department under subsection (b) of this section may not exceed $2,000,000 for any calendar year.

(ii) If the total amount of credits applied for by all individuals and corporations under subsection (b) of this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under subsection (b) of this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants under subsection (b) of this section in the calendar year.

(3) By December 15 of the calendar year following the end of the taxable year in which the costs were incurred, the Department shall certify to the individual or corporation the amount of tax credits approved by the Department for the individual or corporation under this section.

(4) To claim the approved credits allowed under this section, an individual or a corporation shall:

(i) file an amended income tax return for the taxable year in which the costs were incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) If the credit allowed for any taxable year under this section exceeds the total tax otherwise due, an individual or corporation may apply the excess as a credit against the State income tax for succeeding taxable years until the full amount of the excess is used.

(e) The Department, in consultation with the Comptroller, shall adopt regulations to carry out the provisions of this section.

(f) In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report on the number of credits certified in the previous calendar year.

§10–733. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2019 PER CHAPTER 390 OF 2013 //

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Company" means any entity of any form duly organized and existing under the laws of any jurisdiction for the purpose of conducting business for profit.

(ii) "Company" does not include a sole proprietorship.

(3) "Cybersecurity company" means a company organized for profit that is engaged primarily in the development of innovative and proprietary cybersecurity technology.

(4) "Cybersecurity technology" means products or goods intended to detect or prevent activity intended to result in unauthorized access to, exfiltration of, manipulation of, or impairment to the integrity, confidentiality, or availability of an information system or information stored on or transiting an information system.

(5) "Department" means the Department of Economic Competitiveness and Commerce.

(6) (i) "Investment" means the contribution of money in cash or cash equivalents expressed in United States dollars, at a risk of loss, to a qualified Maryland cybersecurity company in exchange for stock, a partnership or membership interest, or any other ownership interest in the equity of the qualified Maryland cybersecurity company, title to which ownership interest shall vest in the qualified investor.

(ii) "Investment" does not include debt.

(iii) For purposes of this section, an investment is at risk of loss when repayment entirely depends on the success of the business operations of the qualified company.

(7) "Panel" means the panel that the Department may establish under subsection (e) of this section composed of experts in the area of cybersecurity technology.

(8) (i) "Qualified investor" means any individual or entity that invests at least $25,000 in a qualified Maryland cybersecurity company and that is required to file an income tax return in any jurisdiction.

(ii) "Qualified investor" does not include a qualified pension plan, an individual retirement account, or any other qualified retirement plan under the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under such plans, or similar tax–favored plans or entities under the laws of other countries.

(9) "Qualified Maryland cybersecurity company" means a cybersecurity company that has met the criteria set forth in subsection (c)(2) of this section and been determined under subsection (c)(3)(ii)2 of this section to qualify for the tax credit under

this section.

(10) "Secretary" means the Secretary of Commerce.

(b) (1) Subject to paragraph (2) of this subsection and subsections (d) and (f) of this section, for the taxable year in which an investment in a qualified Maryland cybersecurity company is made, a qualified Maryland cybersecurity company may claim a credit against the State income tax in an amount equal to the amount of tax credit stated in the final credit certificate approved by the Secretary for the investment as provided under this section.

(2) For purposes of the tax credit described in paragraph (1) of this subsection, the qualified investor:

(i) may not, after making the proposed investment, own or control more than 25% of the equity interests in the qualified Maryland cybersecurity company in which the investment is made; and

(ii) shall submit an application to the Department containing the following:

1. evidence that the investor is:

A. if a company, duly organized and in good standing in the jurisdiction under the laws under which it is organized;

B. current in the payment of all tax obligations to a state or any unit or subdivision of a state; and

C. not in default under the terms of any contract with, indebtedness to, or grant from a state or any unit or subdivision of a state; and

2. any other information the Department may require.

(c) (1) At least 30 days prior to receiving an investment in a qualified Maryland cybersecurity company for which a qualified Maryland cybersecurity company would be eligible for an initial tax credit certificate, the qualified Maryland cybersecurity company shall submit an application to the Department.

(2) The application shall evidence that the qualified Maryland cybersecurity company has satisfied the following minimum requirements for consideration as a qualified Maryland cybersecurity company:

(i) has its headquarters and base of operations in this State;

(ii) has not participated in the tax credit program under this section for more than 1 prior fiscal year;

(iii) has been in active business no longer than 5 years;

(iv) has an aggregate capitalization of at least $100,000;

(v) owns or has properly licensed any proprietary technology;

(vi) has fewer than 50 full–time employees;

(vii) does not have its securities publicly traded on any exchange;

(viii) is in good standing;

(ix) is current in the payment of all tax obligations to the State or any unit or subdivision of the State;

(x) is not in default under the terms of any contract with, indebtedness to, or grant from the State or any unit or subdivision of the State; and

(xi) meets any other reasonable requirements of the Department evidencing that the company is a going concern primarily engaged in the development of innovative and proprietary cybersecurity technology.

(3) The Department shall:

(i) approve all applications that qualify for credits under this section on a first–come, first–served basis; and

(ii) within 30 calendar days of receipt of an application:

1. certify the amount of any approved tax credits to a qualified Maryland cybersecurity company; and

2. determine whether a cybersecurity company qualifies for investments that are eligible for the tax credit under this section.

(4) (i) After the date on which the Department issues an initial tax credit certificate under this section, a qualified investor shall have 30 calendar days to make an investment in a qualified Maryland cybersecurity company under this section.

(ii) Within 10 calendar days after the date on which a qualified investor makes the investment, the qualified Maryland cybersecurity company shall provide to the Department notice and proof of the making of the investment, including:

1. the date of the investment;

2. the amount invested;

3. proof of the receipt of the invested funds by the qualified

Maryland cybersecurity company;

4. a complete description of the nature of the ownership interest in the equity of the qualified Maryland cybersecurity company acquired in consideration of the investment; and

5. any reasonable supporting documentation the Department may require.

(iii) If a qualified Maryland cybersecurity company does not provide the notice and proof of the making of the investment required in subparagraph (ii) of this paragraph within 40 calendar days after the date on which the Department issues an initial tax credit certificate under this section:

1. the Department shall rescind the initial tax credit certificate; and

2. the credit amount allocated to the rescinded certificate shall revert to the Maryland Cybersecurity Investment Tax Credit Reserve Fund and shall be available in the applicable fiscal year for allocation by the Department to other initial tax credit certificates in accordance with the provisions of this section.

(d) (1) The tax credit allowed in an initial tax credit certificate issued under this section is 33% of the investment in a qualified Maryland cybersecurity company, not to exceed $250,000.

(2) During any fiscal year, the Secretary may not certify eligibility for tax credits for investments in a single qualified Maryland cybersecurity company that in the aggregate exceed 15% of the total appropriations to the Maryland Cybersecurity Investment Tax Credit Reserve Fund for that fiscal year.

(3) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, an individual or a corporation may claim a refund in the amount of the excess.

(e) (1) The Department may establish a panel composed of experts in the area of cybersecurity technology.

(2) The Department may establish the panel under service contracts with independent reviewers.

(3) The panel shall assist the Department in its determination as to whether a company is a qualified Maryland cybersecurity company.

(4) A member of the panel is not eligible to receive any benefit, direct or indirect, from the tax credit under this section.

(5) (i) Except as provided in subparagraph (ii) of this paragraph,

Division II of the State Finance and Procurement Article does not apply to a service that the Department obtains under this section.

(ii) The Department is subject to Title 12, Subtitle 4 of the State Finance and Procurement Article for services the Department obtains under this section.

(f) (1) In this subsection, "Reserve Fund" means the Maryland Cybersecurity Investment Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Maryland Cybersecurity Investment Tax Credit Reserve Fund which is a special continuing, nonlapsing fund that is not subject to § 7–302 of the State Finance and Procurement Article.

(ii) The money in the Reserve Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(iii) The money in the Reserve Fund may be used by the Department to pay the costs of administering the tax credit program under this section.

(3) (i) Subject to the provisions of this subsection, the Secretary shall issue an initial tax credit certificate to a qualified Maryland cybersecurity company for each approved investment in a qualified Maryland cybersecurity company eligible for a tax credit.

(ii) An initial tax credit certificate issued under this subsection shall state the maximum amount of tax credit for which the qualified Maryland cybersecurity company is eligible.

(iii) 1. Except as otherwise provided in this subparagraph, for any fiscal year, the Secretary may not issue initial tax credit certificates for credit amounts in the aggregate totaling more than the amount appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly, as reduced by the amount needed to pay the costs of administering the tax credit program under this section.

2. If the aggregate credit amounts under initial tax credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial tax credit certificates for the next fiscal year.

3. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than under paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Secretary may issue initial tax credit certificates shall be reduced by the amount transferred.

(iv) 1. Except as provided in subsubparagraph 2 of this subparagraph, for each fiscal year, the Governor shall include in the budget bill an appropriation of at least $2,000,000 to the Reserve Fund.

2. In fiscal year 2016, the Governor shall include in the budget bill an appropriation of at least $1,500,000 to the Reserve Fund.

(v) Notwithstanding the provisions of § 7–213 of the State Finance and Procurement Article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) Based on the actual amount of an investment made by a qualified investor, the Secretary shall issue a final tax credit certificate to the qualified Maryland cybersecurity company.

(4) (i) Except as otherwise provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Reserve Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Department shall notify the Comptroller as to each final credit certificate issued during the quarter:

A. the maximum credit amount stated in the initial tax credit certificate for the investment in the qualified Maryland cybersecurity company; and

B. the final certified credit amount for the investment in the qualified Maryland cybersecurity company.

2. On notification that an investment has been certified, the Comptroller shall transfer an amount equal to the credit amount stated in the initial tax credit certificate for the investment from the Reserve Fund to the General Fund.

(iii) 1. Periodically, but not more frequently than quarterly, the Department may submit invoices for costs that have been incurred or are anticipated to be incurred in administering the tax credit program under this section.

2. The Comptroller shall transfer money from the Reserve Fund to the Department to pay for costs that have been incurred or are anticipated to be incurred in administering the tax credit program under this section.

(g) (1) The credit claimed under this section shall be recaptured as provided in paragraph (2) of this subsection if within 2 years from the close of the taxable year for which the credit is claimed:

(i) the qualified investor sells, transfers, or otherwise disposes of the ownership interest in the qualified Maryland cybersecurity company that gave rise to the credit; or

(ii) the qualified Maryland cybersecurity company that received the credit:

1. ceases operating as an active business with its headquarters and base of operations in the State; or

2. pays out as dividends or otherwise distributes the equity investment.

(2) The amount required to be recaptured under this subsection is the product of multiplying:

(i) the total amount of the credit claimed or, in the case of an event described in paragraph (1)(i) of this subsection, the portion of the credit attributable to the ownership interest disposed of; and

(ii) 1. 100%, if the event requiring recapture of the credit occurs during the taxable year for which the tax credit is claimed;

2. 67%, if the event requiring recapture of the credit occurs during the first year after the close of the taxable year for which the tax credit is claimed; or

3. 33%, if the event requiring recapture of the credit occurs more than 1 year but not more than 2 years after the close of the taxable year for which the tax credit is claimed.

(3) The qualified Maryland cybersecurity company that claimed the credit shall pay the amount to be recaptured as determined under paragraph (2) of this subsection as taxes payable to the State for the taxable year in which the event requiring recapture of the credit occurs.

(h) (1) The Department may revoke its initial or final certification of an approved credit under this section if any representation made in connection with the application for the certification is determined by the Department to have been false.

(2) The revocation may be in full or in part as the Department may determine and, subject to paragraph (3) of this subsection, shall be communicated to the qualified investor, the qualified Maryland cybersecurity company, and the Comptroller.

(3) The qualified Maryland cybersecurity company shall have an opportunity to appeal any revocation to the Department prior to notification of the Comptroller.

(4) The Comptroller may make an assessment against the qualified Maryland cybersecurity company to recapture any amount of tax credit that the qualified Maryland cybersecurity company has already claimed.

(i) (1) In accordance with § 2.5–109 of the Economic Development Article, the Department shall submit a report on the initial tax credit certificates awarded under this section for the calendar year.

(2) The report required under paragraph (1) of this subsection shall include for each initial tax credit certificate awarded:

(i) the name of the qualified investor and the amount of credit awarded or allocated to each qualified Maryland cybersecurity company;

(ii) the name and address of the qualified Maryland cybersecurity company that received the credit under this section and the county where the qualified Maryland cybersecurity company is located; and

(iii) the dates of receipt and approval by the Department of all applications for initial tax credit certificates.

(3) The report required under paragraph (1) of this subsection shall summarize for the categories of qualified investors and qualified Maryland cybersecurity companies:

(i) the total number of applicants for initial tax credit certificates under this section in each calendar year;

(ii) the number of applications for which initial tax credit certificates were issued in each calendar year; and

(iii) the total initial tax credit certificates authorized under this section for all calendar years under this section.

(j) The Department and the Comptroller jointly shall adopt regulations to carry out the provisions of this section and to specify criteria and procedures for application for, approval of, and monitoring continuing eligibility for the tax credit under this section.

§10–734.

(a) In this section, "qualified vehicle" means a Class F (tractor) vehicle described under § 13–923 of the Transportation Article that is titled and registered in the State.

(b) Subject to the limitations of this section, an individual or a corporation may claim a credit against the State income tax for the expense of registering a qualified vehicle in the State.

(c) (1) For any taxable year, the credit allowed under this section may not exceed the lesser of:

(i) $400 for each qualified vehicle; or

(ii) the State income tax for that taxable year.

(2) The unused amount of the credit may not be carried over to any other taxable year.

§10–735. IN EFFECT

// EFFECTIVE UNTIL JUNE 30, 2018 PER CHAPTER 659 OF 2013 //

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Economic Competitiveness and Commerce.

(3) "Qualified capital expenses" means all expenditures made by the taxpayer for the purchase and installation of equipment or agricultural materials for use in the production of agricultural products at a vineyard, or in a winery, including:

(i) barrels;

(ii) bins;

(iii) bottling equipment;

(iv) canopy management machines;

(v) capsuling equipment;

(vi) chemicals;

(vii) corkers;

(viii) crushers;

(ix) destemmers;

(x) fermenters or other recognized fermentation devices;

(xi) fertilizer and soil amendments;

(xii) filters;

(xiii) fruit harvesters;

(xiv) fruit plants;

(xv) hoses;

(xvi) irrigation equipment;

(xvii) labeling equipment;

(xviii) lugs;

(xix) mowers;

(xx) poles;

(xxi) posts;

(xxii) presses;

(xxiii) pruning equipment;

(xxiv) pumps;

(xxv) refractometers;

(xxvi) refrigeration equipment;

(xxvii) seeders;

(xxviii) soil;

(xxix) small tools;

(xxx) tanks;

(xxxi) tractors;

(xxxii) vats;

(xxxiii) weeding and spraying equipment;

(xxxiv) wine tanks;

(xxxv) wire; and

(xxxvi) any other items as approved by the Department.

(4) "Vineyard" means agricultural lands located in the State consisting of at least 1 contiguous acre dedicated to the growing of grapes that are used or are intended to be used in the production of wine by a winery as well as any plants or other improvements located thereon.

(5) "Winery" means an establishment licensed by the Comptroller as either a Class 3 or Class 4 winery under Article 2B, §§ 2–204 and 2–205 of the Code.

(b) Subject to the limitations of this section, an individual or a corporation may

claim a credit against the State income tax in an amount equal to 25% of the qualified capital expenses made in connection with:

(1) the establishment of new wineries or vineyards; or

(2) the capital improvements made to existing wineries or vineyards.

(c) (1) By September 15 of the calendar year following the end of the taxable year in which the qualified capital expenses were paid or incurred, an individual or a corporation shall submit an application to the Department for the credit allowed under this section.

(2) (i) The total amount of credits approved by the Department under this section for a taxable year may not exceed $500,000.

(ii) If the total amount of credits applied for by all individuals and corporations under this section exceeds the maximum specified under subparagraph (i) of this paragraph, the Department shall approve a credit under this section for each applicant in an amount equal to the product of multiplying the credit applied for by the applicant times a fraction:

1. the numerator of which is the maximum specified under subparagraph (i) of this paragraph; and

2. the denominator of which is the total of all credits applied for by all applicants in the calendar year.

(iii) By December 15 of the calendar year following the end of the taxable year in which the qualified capital expenses were paid or incurred, the Department shall certify to the individual or corporation the amount of the tax credit approved by the Department for the individual or corporation under this section.

(3) To claim the approved credit allowed under this section, an individual or a corporation shall:

(i) file an amended income tax return for the taxable year in which the qualified capital expenses were paid or incurred; and

(ii) attach a copy of the Department's certification of the approved credit amount to the amended income tax return.

(d) If the credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the individual or corporation for that taxable year, the individual or corporation may apply the excess as a credit for succeeding taxable years until:

(1) the full amount of the excess is used; or

(2) the expiration of the 15th taxable year after the taxable year in which the qualified capital expenses were paid or incurred.

(e) The Department and the Comptroller jointly shall adopt regulations to:

(1) implement the provisions of this section; and

(2) specify criteria and procedures for application for, approval of, and monitoring continuing eligibility for the tax credit under this section.

(f) The Comptroller shall adopt regulations providing for:

(1) determination of the amount of the credit under this section in the case of trades or businesses, whether or not incorporated, that are under common control;

(2) pass–through and allocation of the credit in the case of estates and trusts, partnerships, unincorporated trades or businesses, and S corporations;

(3) adjustments in the case of acquisitions and dispositions described in § 41(f)(3) of the Internal Revenue Code; and

(4) determination of the credit in the case of short taxable years.

§10–736.

(a) (1) In this section the following words have the meanings indicated.

(2) "Department" means the Department of Housing and Community Development.

(3) "Donation" means an irrevocable gift worth $500 or more of:

(i) cash; or

(ii) publicly traded securities.

(4) "Eligible community foundation" means an organization that:

(i) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code;

(ii) is commonly known as a community trust, fund, endowment, or foundation or by another similar name that conveys the concept of a capital or endowment fund to support charitable activities in the community or area that it serves;

(iii) satisfies the public support test of § 170(b)(1)(A)(vi) of the Internal Revenue Code and regulations adopted under that section; and

(iv) is in compliance with national standards for United States community foundations established by the Community Foundations National Standards Board within the Council on Foundations.

(5) "Qualified permanent endowment fund" means a fund that:

(i) is held in perpetuity by an eligible community foundation;

(ii) is used for the benefit of charitable causes in the State; and

(iii) has an annual spending rate of 5% or less calculated using a 12–quarter trailing average of the total amount of the fund.

(b) (1) Subject to the limitations of this section, for the taxable year in which a taxpayer makes a donation to a qualified permanent endowment fund at an eligible community foundation, the taxpayer may claim a credit against the State income tax in the amount stated on the tax credit certificate issued under subsection (c) of this section.

(2) If the credit allowed under this section in any taxable year exceeds the State income tax for that taxable year, any unused credit may be carried forward and applied for succeeding taxable years until the earlier of:

(i) the full amount of the credit is used; or

(ii) the expiration of the fifth year after the taxable year for which the credit was allowed.

(c) (1) On application by a taxpayer, the Department shall issue a credit certificate in the amount of 25% of a proposed donation to a qualified permanent endowment fund at an eligible community foundation that meets the requirements of this section.

(2) The application shall contain:

(i) the names of the taxpayer, the eligible community foundation, and the qualified permanent endowment fund to which the donation will be made;

(ii) the taxable year in which the donation will be made;

(iii) the amount of the donation; and

(iv) any other information that the Department requires.

(3) For any taxable year, the maximum amount of tax credit stated in the tax credit certificate may not exceed $50,000.

(4) The Department shall:

(i) reserve for each taxable year at least 10% of the available credits for donations of $30,000 or less; and

(ii) approve all applications that qualify for a tax credit certificate under this subsection:

1. on a first–come, first–served basis; and

2. in a timely manner.

(5) (i) For each taxable year, the total amount of tax credit certificates certified by the Department under this section may not exceed $250,000.

(ii) If the aggregate amount of tax credit certificates authorized under this section during a taxable year total less than the amount authorized under this paragraph, any excess amount may be authorized under tax credit certificates for the next taxable year.

(d) On or before January 31 of each taxable year, the Department shall report to the State Department of Assessments and Taxation and the Comptroller the donations that the Department has approved for tax credit certificates under this section during the prior taxable year.

(e) The Department shall adopt regulations to carry out the provisions of this section, including the criteria and procedures for application for, approval of, and monitoring eligibility for the tax credit authorized under this section.

§10–804.

(a) Each person required under this subtitle to file an income tax return or estimated income tax declaration or return shall file a return or declaration with the Comptroller, whether or not:

(1) the person owes income tax; or

(2) the Comptroller sends the person a form or otherwise requests that the return or declaration be filed.

(b) (1) Each income tax return and estimated income tax declaration and return shall be:

(i) signed in the same manner required for the signing of a federal return under §§ 6061 through 6064 of the Internal Revenue Code; and

(ii) made under oath.

(2) (i) An individual who is an income tax return preparer with respect to a return or claim for refund of tax shall sign the return or claim for refund after it is

completed and before it is presented to the taxpayer or nontaxable entity for signature.

(ii) If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The preparer shall sign the return in the manner prescribed by the Comptroller in forms, instructions, or other appropriate guidance.

(3) If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual preparer who has the primary responsibility as between or among the preparers for the overall substantive accuracy of the preparation of the return or claim for refund shall be considered to be the income tax return preparer for purposes of paragraph (2) of this subsection.

(c) (1) To properly identify persons listed in a return or other document, a person shall include in the document the Social Security or other identifying number that the Comptroller requires:

(i) of the person required to file the return or document; and

(ii) of the person on whose behalf the return or document is filed.

(2) If a return or document is filed on behalf of a person, that person shall provide the identifying number required in a return or document to the person who files the return or document.

(3) Any return or claim for refund prepared by an income tax return preparer shall bear the identifying number for securing proper identification of the preparer, the preparer's employer, or both, as prescribed under § 6109(a)(4) of the Internal Revenue Code.

(d) Each resident shall include on the income tax return of the resident:

(1) for an individual other than a fiduciary, the name of the county and municipal corporation, if any, where the resident resides; and

(2) for a personal representative, the name of the county where the decedent was domiciled on the date of the decedent's death; or

(3) for a fiduciary other than a personal representative, the name of:

(i) the county where the trust is principally administered; or

(ii) if the trust is not principally administered in the State, the county to which the trust is otherwise principally connected.

(e) Each person required under this subtitle to file an income tax return or estimated income tax declaration or return shall:

(1) comply with the regulations of the Comptroller;

(2) keep the records that the Comptroller requires; and

(3) attach to an income tax return or otherwise file with the Comptroller any records or statements that the Comptroller requires, including:

(i) for an individual who has income tax withheld from salary, wages, or other compensation for personal services, or other payments, a copy of the statement from the person who withholds the tax that states:

1. the amount of salary, wages, or other compensation for personal services paid and the income tax withheld; or

2. the amount of payments made and the income tax withheld;

(ii) a copy of the federal income tax return:

1. for a corporation; and

2. if the Comptroller requests, for an individual;

(iii) for a corporation, the statements required under § 10–804.1 of this subtitle; and

(iv) if the Comptroller requests, for a corporation that is a member of an affiliated group or controlled group under § 1504 or § 1563 of the Internal Revenue Code, a statement of all intermember costs or expenses and all intermember sales, exchanges, or other transactions involving tangible or intangible property for the taxable year.

(f) An individual may designate a contribution to the State Chesapeake Bay and Endangered Species Fund, established under §§ 1-701 through 1-706 of the Natural Resources Article, by the checkoff system on the return.

(g) The Comptroller shall provide that an income tax return may be completed using whole dollar amounts instead of expressing amounts in exact dollars and cents by:

(1) disregarding a fractional part of a dollar less than 50 cents; and

(2) increasing to 1 dollar a fractional part of a dollar of at least 50 cents.

(h) An individual may designate a contribution to the Maryland Cancer Fund, established under § 20-117 of the Health - General Article, by the checkoff system on the return.

(i) An individual may designate a contribution to the Waiting List Equity Fund, established under § 7–205 of the Health – General Article, by the checkoff system on

the return.

(j) (1) A taxpayer claiming any of the following tax credits shall submit a claim for the credit by electronic means as required by the Comptroller by regulation:

(i) the Job Creation Tax Credit, as provided under Title 6, Subtitle 2 of the Economic Development Article;

(ii) the One Maryland Tax Credit, as provided under Title 6, Subtitle 4 of the Economic Development Article;

(iii) the Biotechnology Investment Incentive Tax Credit, as provided under § 10–725 of this title;

(iv) the Enterprise Zone Income Tax Credit, as provided under § 10–702 of this title; and

(v) any other tax credit specified by the Comptroller through regulation.

(2) Before adding any tax credit not listed in paragraph (1)(i) through (iv) of this subsection to the requirement of this subsection, the Comptroller shall determine whether the addition of the tax credit will have a material adverse impact or undue administrative burden on the Comptroller.

(k) (1) An individual who files an income tax return electronically may elect to use all or a portion of the individual's income tax refund to purchase U.S. Series I Savings Bonds.

(2) If an individual elects to purchase U.S. Series I Savings Bonds under paragraph (1) of this subsection:

(i) the individual shall make the designation in $50 increments; and

(ii) the Comptroller shall send any remaining portion of the individual's refund to the individual.

(3) The Comptroller shall adopt regulations to implement the provisions of this subsection.

§10–804.1.

(a) In this section:

(1) "corporate group" means:

(i) an affiliated group or controlled group under § 1504 or § 1563 of the Internal Revenue Code; or

(ii) an affiliated group of corporations:

1. that is engaged in a unitary business; and

2. more than 50% of the voting stock of each member of which is directly or indirectly owned by a common owner or common owners, either corporate or noncorporate, or by one or more members of the group; and

(2) "corporate group" does not include:

(i) any corporation that, for any reason, is not subject to United States federal income tax;

(ii) an insurer as defined in § 1–101 of the Insurance Article; or

(iii) a regulated investment company, as defined in § 851(a) of the Internal Revenue Code.

(b) Each corporation that is required to file an income tax return under this title and is a member of a corporate group shall file with the Comptroller:

(1) a pro forma "water's edge" combined corporate income tax return filed in accordance with regulations adopted by the Comptroller; and

(2) in a format specified by the Comptroller:

(i) the sales factor that would be calculated for this State and the difference in Maryland income tax that would be owed if the corporation were required to include in the numerator of the sales factor for purposes of apportioning income to the State all sales of property shipped from an office, store, warehouse, factory, or other place of storage in this State where:

1. the purchaser is the federal government; or

2. the property is shipped or delivered to a customer in a state in which the selling corporation is not subject to a state corporate income tax or state franchise tax measured by net income and could not be subjected to such a tax if the state were to impose it; and

(ii) for any income that the taxpayer has identified, on the income tax return filed under this title or on an income tax return filed in any state, as income that is nonoperational and therefore not apportionable:

1. the amount and source of that nonoperational income; and

2. if the commercial domicile of the corporation is in this State, the difference in tax that would be owed if the corporation were required to allocate 100% of the nonoperational income to Maryland to the fullest extent allowed under the

United States Constitution.

(c) (1) The statements required under subsection (b) of this section:

(i) shall be filed annually, for all taxable years beginning after December 31, 2005, but before January 1, 2011, on or before dates specified by the Comptroller in an electronic format as specified by the Comptroller;

(ii) shall be:

1. made under oath and signed in the same manner as required for income tax returns under § 10–804 of this subtitle; and

2. subject to audit by the Comptroller in the course of and under the normal procedures applicable to corporate income tax return audits; and

(iii) notwithstanding any other provision of law, shall be treated as confidential taxpayer information subject to Title 13, Subtitle 2 of this article.

(2) The Comptroller shall develop and implement an oversight and penalty system to ensure that corporations provide the required disclosure statements in a timely and accurate manner.

(3) The Comptroller shall publish the name of, and penalty imposed on, any corporation failing to file a statement required under this section or filing an inaccurate statement.

(d) (1) A corporation submitting a statement required under this section may submit supplemental information that, in its sole judgment and discretion, could facilitate proper interpretation of the information included in the statement.

(2) A corporation shall file a supplemental statement under this section within 60 days after:

(i) the corporation files an amended tax return under this title; or

(ii) the corporation's tax liability for a tax year is changed as the result of an audit adjustment or final determination of liability by the Comptroller or by a court of law.

(e) (1) The Comptroller shall:

(i) collect, compile, and analyze the information submitted under this section;

(ii) use the information submitted under this section to provide analyses as requested by the Governor or the General Assembly relating to the corporate income tax or proposals for changes to the corporate income tax; and

(iii) on or before March 1 of each year, based on information provided in income tax returns and the data submitted under this subsection, submit a report to the Governor and, subject to § 2–1246 of the State Government Article, to the General Assembly, concerning the corporate income tax.

(2) The report required under this subsection shall:

(i) summarize the information submitted under this section; and

(ii) provide detailed analyses of the characteristics of corporate taxpayers, including:

1. historical series of data and detailed reports for the reported year; and

2. the distribution of Maryland taxable income, income tax liability, and other elements of the corporate income tax such as tax credits, modifications to income, and net operating loss carryovers.

(3) The information provided in the report shall be provided by various categories, including:

(i) business category; and

(ii) various measures of size, such as taxable income, in–State and worldwide payroll, and in–State and worldwide gross receipts.

(f) The Comptroller shall adopt appropriate regulations to implement the provisions of this section.

§10–805.

(a) Except as provided in subsection (b) of this section and except for a fiduciary, each resident shall file an income tax return if, after exclusion of Social Security and railroad retirement benefits that are included in federal gross income, the resident:

(1) would be required to file a federal income tax return under § 6012(a) of the Internal Revenue Code; or

(2) would have federal gross income that exceeds the amount specified in § 6012(a) of the Internal Revenue Code after the federal gross income is increased by the modifications in §§ 10-204 and 10-205 of this title.

(b) A resident dependent shall file an income tax return if the dependent:

(1) would have federal gross income that exceeds the amount specified in § 6012(a)(1)(A)(i) of the Internal Revenue Code after the federal gross income is modified under Subtitle 2, Part II of this title; and

(2) otherwise would be described in § 6012(a)(1)(A)(i) of the Internal Revenue Code.

(c) If an individual whose status changes, during a taxable year, from resident to nonresident or nonresident to resident is required to file an income tax return under subsection (a) or subsection (b) of this section or § 10-806 of this subtitle, the individual shall report on the return the Maryland taxable income:

(1) received during the part of the taxable year that the individual was a resident; and

(2) derived as a nonresident.

§10–806.

(a) Except as provided in subsection (b) of this section, each nonresident who has Maryland taxable income and is required to file a federal income tax return shall file an income tax return.

(b) A nonresident dependent who has Maryland taxable income shall file an income tax return if the dependent meets the requirements under § 10-805(b) of this subtitle.

(c) For county income tax purposes, a nonresident who derives income from salary, wages, or other compensation for personal services for employment in a county shall file an income tax return, unless the Comptroller determines that each locality in which the nonresident resides:

(1) imposes no tax on the income of a Maryland resident derived from wages for employment in that locality;

(2) exempts that income from its tax on income; or

(3) allows a credit for that income and exempts that income from the withholding requirements for its tax on income.

(d) (1) Notwithstanding the provisions of subsection (a) of this section, except as provided in paragraph (2) of this subsection, a nonresident individual who is not otherwise required to file a return shall file a return if the individual:

(i) is not a dependent;

(ii) is required to file a federal income tax return; and

(iii) has income or losses derived from a business, occupation, profession, or trade carried on in this State.

(2) A nonresident individual is not required to file a return if:

(i) the individual's only income in this State is wages, as defined in § 10-905(f) of this title, that are earned in this State; and

(ii) the Comptroller and the state in which the nonresident resides have agreed in writing to allow a reciprocal exemption from tax and withholding for the wages of residents of each state that are earned in the other state.

§10–807.

(a) Except as provided in subsection (b) of this section, a married couple who files a joint federal income tax return shall file a joint Maryland income tax return.

(b) A married couple who files a joint federal income tax return may file separate State income tax returns if:

(1) one spouse is a resident and the other spouse is a nonresident;

(2) the spouses are domiciled, or maintain principal places of abode, in different counties on the last day of the taxable year;

(3) the spouses have different taxable periods; or

(4) the Comptroller determines circumstances warrant.

§10–808.

(a) Except as otherwise provided in this section, if an individual required to file an income tax return is unable to do so, an authorized agent of the individual shall file the return.

(b) (1) If an individual required to file an income tax return is a minor, the individual's parent or guardian shall file the return.

(2) If an individual required to file an income tax return is a disabled person as defined in § 13-101 of the Estates and Trusts Article, the individual's guardian shall file the return.

(c) If an individual required to file an income tax return dies, the final income tax return of the individual shall be filed:

(1) by the personal representative of the individual's estate;

(2) if there is no personal representative, by the individual's surviving spouse;

(3) jointly by the individual's surviving spouse and the personal representative of the individual's estate; or

(4) jointly by the personal representative of the individual's estate and the

personal representative of the deceased spouse's estate.

§10–809.

If an individual is not required to file an income tax return under § 10-805, § 10-806 or § 10-813 of this subtitle, the individual:

(1) is not liable for income tax; and

(2) may file an income tax return to claim a refund of the income tax withheld or estimated income tax paid or a refund under § 10-704, § 10-707, or § 10-714 of this title.

§10–810.

(a) A corporation that, during a taxable year, has Maryland taxable income shall file an income tax return.

(b) Notwithstanding the provisions of subsection (a) of this section, a corporation which is not otherwise required to file a return shall file a return if the corporation:

(1) is not tax exempt under § 10-104 of this title;

(2) is required to file a federal income tax return;

(3) carries on business within this State; and

(4) has income or losses attributable to sources within this State.

§10–811.

Each member of an affiliated group of corporations shall file a separate income tax return.

§10–812.

(a) A corporation exempt from income tax under § 10-104 of this title shall file an income tax return if the corporation:

(1) has unrelated business taxable income, as defined under § 512 of the Internal Revenue Code;

(2) is exempt from taxation under § 501(c)(2) of the Internal Revenue Code; or

(3) is an S corporation that is incorporated or does business in the State.

(b) An organization that is exempt from taxation under § 501(c)(3) or (4) of the

Internal Revenue Code may file an income tax return to claim a refund under § 10-714 of this title.

§10–813.

Each fiduciary who has Maryland taxable income and is required to file a federal income tax return shall file an income tax return.

§10–814.

Each partnership, as defined in § 761 of the Internal Revenue Code, shall file an income tax return.

§10–815.

(a) Except as provided in subsections (b) and (c) of this section, each individual who reasonably expects estimated income tax for a taxable year on income not subject to withholding under Subtitle 9 of this title to exceed one-half the amount specified in § 6654(e)(1) of the Internal Revenue Code shall file a declaration of estimated income tax.

(b) Unless withholding is required under § 10-906 of this title, each individual who receives income of $500 or more in cash or property from wagering, including the operation of a gambling machine or device and participation in an amusement, educational, or advertising program, contest, lottery, or raffle, shall file a declaration of estimated income tax.

(c) For any taxable year ending before the date 2 years after the date of the decedent's death, subsection (a) of this section does not apply to:

(1) the personal representative of the estate of the decedent; or

(2) the fiduciary of a trust:

(i) all of which was treated as owned by the decedent under §§ 671 through 679 of the Internal Revenue Code; and

(ii) 1. to which the residue of the decedent's estate will pass under the decedent's will; or

2. if a will is not admitted to probate, which is the trust primarily responsible for paying debts, taxes, and expenses of administration of the decedent's estate.

§10–816.

Each corporation and each partnership that reasonably expects estimated income tax for a taxable year to exceed $1,000 shall file a declaration of estimated income tax.

§10–817.

A person required to withhold income tax under § 10-906 of this title shall file an income tax withholding return.

§10–818.

(a) Each organization that is exempt from taxation under § 10-104 of this title and is required to make its federal annual returns available for public inspection under § 6104(e) of the Internal Revenue Code shall also make available for public inspection any annual return required to be filed under this subtitle.

(b) A return required to be made available for public inspection under subsection (a) of this section shall be made available:

(1) at any office at which the organization's federal returns are required to be made available; and

(2) for 3 years from the date the return was required to be filed.

§10–819.

(a) Each limited liability company as defined under Title 4A of the Corporations and Associations Article shall file an income tax return unless it has only one member and it is disregarded as an entity separate from its member for federal income tax purposes.

(b) (1) If the limited liability company is classified as a partnership, as defined in § 761 of the Internal Revenue Code, it shall file a partnership tax return.

(2) If the limited liability company is classified as a corporation under Chapter 1, Subchapter C or Subchapter S of the Internal Revenue Code, it shall file the appropriate corporate tax return.

(c) If the limited liability company has only one member and it is disregarded as an entity separate from its member for federal income tax purposes, the profit or loss of the limited liability company shall be reflected on the income tax return filed by the member of the limited liability company.

§10–820.

(a) (1) Except as provided in paragraph (3) of this subsection, an individual or partnership required under Part II of this subtitle to file a return for a taxable year shall complete and file with the Comptroller an income tax return:

(i) on or before April 15th of the next taxable year; or

(ii) if the income tax is computed for a fiscal year, on or before the

15th day of the 4th month after the end of that year.

(2) Within 60 days after the date on which a partnership is dissolved or liquidated or withdraws voluntarily or involuntarily from the State, the partnership shall complete and file with the Comptroller an income tax return.

(3) If the due date for a federal income tax return filed electronically is later than April 15th of the next taxable year, the due date for an individual to complete and file a Maryland income tax return shall be the due date for filing the individual's federal income tax return, if the individual:

(i) files the Maryland income tax return electronically; and

(ii) electronically pays any balance due with the return.

(b) (1) Except as provided in subsections (c) and (d) of this section, an individual required under § 10-815 of this subtitle to file a declaration of estimated income tax for a taxable year shall complete and file with the Comptroller:

(i) an initial declaration on or before April 15 of that year; and

(ii) a quarterly estimated income tax return on or before June 15, September 15, and January 15 after the filing of the initial declaration.

(2) An individual shall file a declaration that was not filed on April 15 or an amended declaration, on any date allowed in paragraph (1)(ii) of this subsection for filing a quarterly estimated income tax return.

(3) If an individual elects to pay the income tax in full on or before January 31, instead of filing the quarterly estimated income tax return required on January 15, the individual shall file a final income tax return on or before January 31.

(c) If an individual required to file a declaration of estimated income tax has estimated gross income from fishing or farming, including oyster farming, that is at least 2/3 of the total estimated income for a taxable year, the individual may complete and file with the Comptroller:

(1) a declaration of estimated income tax for that taxable year on or before January 15 of the next taxable year; or

(2) an income tax return for that taxable year on or before March 1 of the next taxable year.

(d) An individual required to file a declaration of estimated income tax under § 10-815(b) of this subtitle shall complete and file with the Comptroller, within 60 days after the individual receives income from wagering:

(1) a declaration of estimated income tax; or

(2) if the individual has filed a declaration during that taxable year, an amended declaration.

§10–821.

(a) (1) A corporation required under Part II of this subtitle to file a return for a taxable year shall complete and file with the Comptroller an income tax return:

(i) on or before the March 15 that follows that taxable year; or

(ii) if income tax is computed for a fiscal year, on or before the 15th day of the 3rd month after the end of that year.

(2) Within 60 days after a corporation loses or surrenders its charter in the State, is dissolved or liquidated, or voluntarily or involuntarily withdraws from the State, the corporation shall complete and file with the Comptroller an income tax return.

(b) A corporation required under § 10-816 of this subtitle to file a declaration of estimated income tax for a taxable year shall complete and file with the Comptroller a quarterly estimated tax return on or before the 15th day of the 4th, 6th, 9th, and 12th months of that year.

§10–822.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, each person required under § 10-906 of this title to withhold income tax shall complete and file with the Comptroller a quarterly income tax withholding return, on or before the 15th day of the month that follows the calendar quarter in which that income tax was withheld.

(2) Subject to subsection (b) of this section, if the person reasonably expects the total amount of income tax required to be withheld in a quarterly period to be $700 or more, instead of a quarterly income tax withholding return the person shall complete and file with the Comptroller a monthly income tax withholding return:

(i) for the month of January, on or before February 15;

(ii) for the month of February, on or before March 15;

(iii) for the month of March, on or before April 15;

(iv) for the month of April, on or before May 15;

(v) for the month of May, on or before June 15;

(vi) for the month of June, on or before July 15;

(vii) for the month of July, on or before August 15;

(viii) for the month of August, on or before September 15;

(ix) for the month of September, on or before October 15;

(x) for the month of October, on or before November 15;

(xi) for the month of November, on or before December 15; and

(xii) for the month of December, on or before January 15.

(3) If the person reasonably expects the total amount of income tax required to be withheld in a calendar year to be less than $250 instead of a quarterly income tax withholding return the person shall complete and file with the Comptroller an annual income tax withholding return on or before January 31 that follows that calendar year.

(b) (1) Subject to paragraph (2) of this subsection, if a person was required to withhold $15,000 or more for the preceding calendar year, the person shall complete and file an income tax withholding return with the Comptroller within 3 business days following each payroll that causes the total accumulated tax withheld to equal or exceed $700.

(2) (i) If a person is allowed to file federal withholding tax returns on a monthly basis, the person may apply to the Comptroller for a waiver from the requirements of paragraph (1) of this subsection.

(ii) A waiver provided under this paragraph shall allow a person to file State withholding tax returns on a monthly basis for the remainder of the calendar year.

(iii) A person may apply for renewal of a waiver provided under this subsection if the person remains eligible to file federal withholding tax returns on a monthly basis.

(iv) The Comptroller may establish regulations to implement the provisions of this subsection.

(c) (1) A person required to file a quarterly or monthly income tax withholding return shall continue to file returns, whether or not the person is withholding any income tax, until the person gives the Comptroller written notice that the person no longer has employees or no longer is liable to file the return.

(2) A person required to file returns under subsection (b) of this section shall file a return at least once every month until the person gives the Comptroller written notice that the person no longer has employees or no longer is liable to file the return.

(d) Each person required to file a return under this section shall file returns for

other periods and on other dates as the Comptroller specifies by regulation, including periods in which the person does not pay wages subject to withholding.

§10–823.

If the Comptroller finds that good cause exists and subject to § 13-601 of this article, the Comptroller may extend the time to file an income tax return:

(1) up to 6 months for an individual or, if an individual is out of the United States, up to 1 year; and

(2) up to 7 months for a corporation.

§10–824.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Income tax return preparer" means a person who for compensation prepares a substantial portion or more of a qualified return or employs one or more persons to prepare for compensation a substantial portion or more of a qualified return.

(ii) "Income tax return preparer" does not include a person who merely performs those acts described under § 7701(a)(36)(B) of the Internal Revenue Code.

(3) "Qualified return" means any original return of individual income tax imposed by this title, regardless of whether a tax is due or a refund is claimed.

(b) Except as otherwise provided in this section, an income tax return preparer shall file all qualified returns that the income tax return preparer prepares by electronic means as prescribed by the Comptroller if:

(1) for a taxable year beginning after December 31, 2008, but before January 1, 2010, the income tax return preparer has prepared more than 300 qualified returns in the prior taxable year;

(2) for a taxable year beginning after December 31, 2009, but before January 1, 2011, the income tax return preparer has prepared more than 200 qualified returns in the prior taxable year; and

(3) for any taxable year beginning after December 31, 2010, the income tax return preparer has prepared more than 100 qualified tax returns in the prior taxable year.

(c) Subsection (b) of this section does not apply to a qualified return if:

(1) the taxpayer has indicated on the qualified return that the taxpayer

does not want the return filed by electronic means; or

(2) the income tax return preparer preparing the qualified return has requested and received a waiver from the Comptroller.

(d) On written request for a waiver by an income tax return preparer who is subject to subsection (b) of this section, the Comptroller may grant the income tax return preparer a waiver of the requirements of this section if the income tax return preparer is able to establish to the satisfaction of the Comptroller either reasonable cause for not filing the return by electronic means or that there is no feasible means of filing the return by electronic means without undue hardship.

§10–827.

Each person making payments not reported on a federal information return shall complete and file with the Comptroller an information return that reports annuities, dividends, interest, premiums, rent, or other income, including salary, wages, or other compensation for personal services that are not subject to the withholding tax under Subtitle 9 of this title.

§10–828.

Notwithstanding § 1-302 of the Financial Institutions Article, if the Comptroller requests, a person, including a financial institution, who files a federal information return shall verify or report the items reported in a federal information return.

§10–829.

A person who pays salary, wages, or other compensation for personal services for which income tax is not withheld shall give the payee 2 copies of the information return required by § 10-827 of this subtitle.

§10–830.

Any real estate reporting person who is required to file a return under § 6045 of the Internal Revenue Code shall file a copy of that return with the Comptroller if:

(1) the vendor is a nonresident; and

(2) the real property sold is located in this State.

§10–901.

(a) Except as otherwise provided in this subtitle, an individual, a partnership, or a corporation that has Maryland taxable income in a taxable year shall pay the income tax on that income with the return that covers that year.

(b) Except as provided in § 10-820(a)(3) of this title, if an individual files a

Maryland income tax return electronically no later than April 15 of the next taxable year, the income tax due with the return may be paid on or before April 30 of the next taxable year if the income tax is paid electronically.

§10–902.

(a) Except as otherwise provided in this section, each individual, partnership, or corporation required to file quarterly estimated income tax returns shall pay:

(1) at least 25% of the estimated income tax shown on the declaration or amended declaration for a taxable year:

(i) with the declaration or amended declaration that covers that year; and

(ii) with each quarterly return for that year; and

(2) any unpaid income tax for the year shown on the income tax return that covers that year, with the return.

(b) If an individual under subsection (a) of this section files a final income tax return on or before January 31 of a taxable year, as allowed under § 10-820(b)(3) of this title instead of paying 25% of the estimated income tax shown on the declaration or amended declaration for that year with the estimated tax return on January 15, the individual shall pay in full the unpaid income tax for that year with the final return.

(c) If an individual with estimated income from fishing or farming files the declaration or the return on the dates allowed under § 10-820(c) of this title, the individual shall pay in full the income tax shown on the return for that taxable year on or before March 1 of the next year.

(d) An individual who receives income from wagering not subject to withholding under § 10-906 of this subtitle shall pay in full the income tax on that income with the estimated tax return that covers the period in which the individual receives that income.

(e) (1) Subject to paragraph (2) of this subsection, a fiduciary may use the annualization method as allowed for federal income tax purposes under § 6654(d)(2)(B) of the Internal Revenue Code to determine the amount of estimated tax required to be paid.

(2) For purposes of this subsection, § 6654(d)(2)(B)(i) of the Internal Revenue Code shall be applied by in each instance substituting "ending before the date one month before the due date for the installment" for "ending before the due date for the installment".

§10–905.

(a) In this Part II of this subtitle the following words have the meanings indicated.

(a–1) "Annuity, sick pay, or retirement distribution" means:

(1) an annuity or sick pay payment described in § 3402(o) of the Internal Revenue Code; or

(2) a designated distribution as defined in § 3405(e) of the Internal Revenue Code other than an eligible rollover distribution within the meaning of § 3405(c) of the Internal Revenue Code.

(b) (1) "Employer" has the meaning stated in § 3401 of the Internal Revenue Code.

(2) "Employer" includes:

(i) the federal government;

(ii) the State;

(iii) a county, municipal corporation, political subdivision, or instrumentality of the State;

(iv) another state to the extent that functions of its government are carried on or performed in this State; and

(v) if the employer is a corporation:

1. any officer of the corporation who exercises direct control over its fiscal management; and

2. any agent of the corporation who has a duty to withhold income tax from wages.

(c) "Payment subject to withholding" means:

(1) an annuity, sick pay, or retirement distribution;

(2) income that is subject to the income tax and is distributed by a fiduciary to a nonresident alien;

(3) a payment of winnings derived from wagering in the State if the payment is subject to withholding under § 3402 of the Internal Revenue Code; and

(4) a payment of a death benefit by the Board of Trustees of the State Retirement and Pension System.

(d) (1) "Payor" means a person responsible to make a payment subject to withholding.

(2) "Payor" includes:

(i) the federal government;

(ii) the State;

(iii) a county, municipal corporation, political subdivision, or instrumentality of the State;

(iv) another state to the extent that functions of its government are carried on or performed in this State; and

(v) if the payor is a corporation:

1. any officer of the corporation who exercises direct control over its fiscal management; and

2. any agent of the corporation who has a duty to withhold income tax from payments subject to withholding.

(e) "Wagering" includes:

(1) any lottery, including the State lottery; and

(2) any pari–mutuel wagering, including any pari–mutuel wagering conducted under Title 11 of the Business Regulation Article.

(f) (1) Except as provided in paragraph (2) of this subsection, "wages" means salary, wages, or compensation for personal services of any kind as defined in §§ 3401 and 3402(o)(2)(A) of the Internal Revenue Code.

(2) "Wages" includes remuneration paid for services described in § 3401(a)(5) and (6) of the Internal Revenue Code.

(g) "Withhold" includes deducting income tax.

§10–906.

(a) Except as provided in § 10-907 of this subtitle, each employer or payor shall:

(1) withhold the income tax required to be withheld under § 10-908 of this subtitle; and

(2) pay to the Comptroller the income tax withheld for a period with the withholding return that covers the period.

(b) Any income tax withheld is deemed to be held in trust for the State by the employer or payor who withholds the tax.

(c) An employer or payor who withholds income tax shall keep a separate ledger account for withholdings that indicates clearly:

(1) the amount of income tax withheld; and

(2) that the income tax withheld is the property of the State.

(d) If an employer or payor negligently fails to withhold or to pay income tax in accordance with subsection (a) of this section, personal liability for that income tax extends:

(1) to the employer or payor;

(2) if the employer or payor is a corporation, to:

(i) any officer of the corporation who exercises direct control over its fiscal management; or

(ii) any agent of the corporation who is required to withhold and pay the income tax; and

(3) if the employer or payor is a limited liability company as defined under Title 4A of the Corporations and Associations Article or a limited liability partnership as defined under Title 9A of the Corporations and Associations Article, including a limited partnership registered as a limited liability limited partnership, to:

(i) any person who exercises direct control over its fiscal management; and

(ii) any agent of the limited liability company or limited liability partnership who is required to withhold and pay the income tax.

§10–907.

(a) Income tax is not required to be withheld at the time wages are paid to a nonresident:

(1) for State income tax withholding purposes, if the Comptroller and the state in which the nonresident resides have agreed in writing to allow a reciprocal exemption from tax and withholding for the wages of residents of each state that are earned in the other state;

(2) for county income tax withholding purposes, if:

(i) the nonresident derives wages from employment in a county; and

(ii) the Comptroller determines that each locality in which the nonresident resides:

1. imposes no tax on the income of a Maryland resident from wages from employment in that locality;

2. exempts that income from its tax on income; or

3. allows a credit for that income and exempts that income from the withholding requirement for its tax on income;

(3) for tips, to the extent that the amount required to be withheld on the tips causes the total withholdings for the period to exceed the available net wages other than tips after deductions are made for:

(i) the federal income and Social Security taxes and income tax required to be withheld on wages other than tips; and

(ii) the federal income and Social Security taxes required to be withheld on the tips; or

(4) if the wages are paid to an individual rendering police, fire, rescue, or emergency services in an area covered under a state of emergency declared by the Governor under § 14–107 of the Public Safety Article by:

(i) a nonprofit organization not registered to do business in the State and not otherwise doing business in the State; or

(ii) a state, county, or political subdivision of a state, other than the State of Maryland.

(b) Unless the payee specifically asks that income tax be withheld from an annuity, sick pay, or retirement distribution, income tax is not required to be withheld from that payment.

(c) Income tax is not required to be withheld on that portion of a death benefit to be excluded from federal adjusted gross income, including amounts to be transferred by the beneficiary or the Board of Trustees of the State Retirement and Pension System to an eligible retirement plan as defined in § 402(c)(8)(B) of the Internal Revenue Code in a nontaxable rollover. The State Retirement Agency is authorized to obtain such representation as it deems necessary to determine if the beneficiary will make a nontaxable rollover.

§10–908.

(a) An employer shall withhold from the wages of an individual the amount indicated in the income tax withholding tables or income tax percentage withholding schedules that the Comptroller prepares.

(b) A payor that is a fiduciary shall withhold from each distribution the amount indicated in the income tax withholding tables or income tax percentage withholding schedules that the Comptroller prepares.

(c) A payor shall withhold the amount from an annuity, sick pay, or retirement distribution that the payee requests.

(d) A payor shall withhold from a payment subject to withholding of winnings derived from wagering:

(1) if the payee is a resident, a rate equal to the sum of 3.0% and the top marginal State income tax rate for individuals under § 10-105(a) of this title, applied to the payment; and

(2) if the payee is a nonresident, a rate equal to the sum of the rate of the tax imposed under § 10-106.1 of this title and the top marginal State income tax rate for individuals under § 10-105(a) of this title, applied to the payment.

(e) The Board of Trustees of the State Retirement and Pension System shall withhold from a payment of a death benefit to a resident payee the sum of:

(1) 4.75% of the payment; and

(2) the county income tax rate applied to the payment.

(f) If a payment to a resident payee is a designated distribution that is an eligible rollover distribution within the meaning of § 3405(c) of the Internal Revenue Code and the payment is subject to mandatory withholding of federal income tax, the payor shall withhold from the payment an amount equal to 7.75% of the payment.

§10–909.

The income tax required to be withheld under § 10–908 of this subtitle shall be withheld:

(1) by a payor other than a fiduciary or S corporation and by an employer:

(i) on the basis of each weekly, 2–week, semimonthly, or monthly regular period of payment; or

(ii) if there is no regular period of payment as specified in item (i) of this item, on a daily basis; and

(2) by a payor who is a fiduciary, on a quarterly basis.

§10–910.

(a) At the time of employment, an employee shall sign and file with the employer an exemption certificate that states the number of exemptions to which the employee

is entitled under this title.

(b) (1) Except as provided in paragraph (2) of this subsection, an employer shall base withholding for an employee:

(i) on the number of exemptions stated in the exemption certificate that the employee files; or

(ii) if the employee fails to file an exemption certificate or files an invalid certificate under subsection (c) of this section, on 1 exemption.

(2) If the Comptroller notifies an employer that an employee has an unpaid tax liability, that the employee failed to file a required Maryland income tax return, or that an employee is subject to a tax refund interception request, the employer shall base withholding for the employee:

(i) on a number of exemptions not exceeding the actual number of exemptions allowed on the employee's prior year's income tax return, as specified by the Comptroller; or

(ii) if the employee failed to file a required Maryland income tax return, on 1 exemption.

(c) (1) An exemption certificate is invalid if it:

(i) does not contain the information required; or

(ii) contains false or fraudulent information.

(2) An exemption certificate is not invalid if it states:

(i) a number of exemptions that is less than the number of exemptions to which the individual is entitled under § 10–211 of this title; or

(ii) a number of additional exemptions less than or equal to the fraction, rounded down to the nearest whole number:

1. the numerator of which equals the excess of the total of estimated itemized deductions, alimony payments, allowable child care expenses, qualified retirement contributions, business losses, and employer business expenses over the standard deduction allowance; and

2. the denominator of which equals the amount allowed for each exemption under § 10–211(a)(1) of this title for the applicable taxable year.

(d) A person who is entitled to receive a payment subject to withholding of winnings derived from wagering shall complete, under oath, and give to the payor a withholding certificate that contains the name, address, state of residence, and

taxpayer identification number of:

(1) the person who is to receive the payment; and

(2) each person entitled to any portion of the payment.

§10–911.

(a) Each employer or payor required under § 10–906 of this subtitle to withhold income tax for an employee or a person who receives a payment subject to withholding shall prepare a statement that shows for the previous calendar year:

(1) the name of the employer or payor;

(2) the name of the employee or person who receives the payment subject to withholding;

(3) the total amount that the employer paid to the employee as wages or the total amount that the payor has paid to the person;

(4) the total amount of tips that the employee reported;

(5) the total amount of income tax that has been withheld under this subtitle;

(6) any amount by which income tax required to be withheld on tips exceeds the other net wages paid to the employee; and

(7) any other information that the Comptroller requires by regulation.

(b) An employer or payor of a payment subject to withholding shall:

(1) provide 2 copies of the statement required under subsection (a) of this section to the employee or person who receives a payment subject to withholding on or before January 31 of each year; and

(2) submit 1 copy of the statement to the Comptroller on or before February 28 of each year.

(c) (1) Except as provided in paragraph (2) of this subsection, an employer or payor shall submit statements required under subsection (a) of this section on magnetic media or in other machine–readable or electronic format that the Comptroller requires by regulation, if:

(i) the total number of statements of that statement type that the employer or payor is required to submit equals or exceeds 25; or

(ii) a lower threshold applies for federal income tax purposes.

(2) The Comptroller:

(i) shall adopt regulations to provide a process for an employer or payor that is required to submit statements on magnetic media or in other machine–readable or electronic format under paragraph (1) of this subsection to request a waiver from the requirement; and

(ii) may waive the requirement that an employer or payor submit statements on magnetic media or in other machine–readable or electronic format under paragraph (1) of this subsection if the Comptroller determines that the requirement will result in undue hardship to the employer or payor.

§10–912.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, "net proceeds" means the total sales price paid to the transferor less:

1. debts of the transferor secured by a mortgage or other lien on the property being transferred that are being paid upon the sale or exchange of the property; and

2. other expenses of the transferor arising out of the sale or exchange of the property and disclosed on a settlement statement prepared in connection with the sale or exchange of the property, not including adjustments in favor of the transferee.

(ii) "Net proceeds" does not include adjustments in favor of the transferor that are disclosed on a settlement statement prepared in connection with the sale or exchange of the property.

(3) "Nonresident entity" means an entity that:

(i) is not formed under the laws of the State; and

(ii) is not qualified by or registered with the Department of Assessments and Taxation to do business in the State.

(4) "Resident entity" means an entity that:

(i) is formed under the laws of the State; or

(ii) is formed under the laws of another state and is qualified by or registered with the Department of Assessments and Taxation to do business in the State.

(5) "Total payment" means the net proceeds of a sale actually paid to a

transferor, including the fair market value of any property transferred to the transferor.

(6) "Transfer pursuant to a deed in lieu of foreclosure" includes:

(i) a transfer by the owner of the property to:

1. with respect to a deed in lieu of foreclosure of a mortgage, the mortgagee, the assignee of the mortgage, or any designee or nominee of the mortgagee or assignee of the mortgage;

2. with respect to a deed in lieu of foreclosure of a deed of trust, the holder of the debt or other obligation secured by the deed of trust or any designee, nominee, or assignee of the holder of the debt or other obligation secured by the deed of trust;

3. with respect to a deed in lieu of foreclosure of any other lien instrument, the holder of the debt or other obligation secured by the lien instrument or any designee, nominee, or assignee of the holder of the debt secured by the lien instrument; and

(ii) a transfer by any of the persons described in item (i) of this paragraph to a subsequent purchaser for value.

(7) "Transfer pursuant to a foreclosure of a mortgage, deed of trust, or other lien instrument" includes:

(i) with respect to the foreclosure of a mortgage:

1. a transfer by the mortgagee, the assignee of the mortgage, the attorney named in the mortgage, or the attorney or trustee conducting a foreclosure sale pursuant to the mortgage to:

A. the mortgagee or the assignee of the mortgage;

B. any designee, nominee, or assignee of the mortgagee or assignee of the mortgage; or

C. any purchaser, substituted purchaser, or assignee of any purchaser or substituted purchaser of the foreclosed property; and

2. a transfer by any of the persons described in item 1 of this item to a subsequent purchaser for value;

(ii) with respect to the foreclosure of a deed of trust:

1. a transfer by the trustees, successor trustees, substituted trustees under the deed of trust, or trustees conducting a foreclosure sale pursuant to the deed of trust to:

A. the holder of the debt or other obligation secured by the deed of trust;

B. any designee, nominee, or assignee of the holder of the debt secured by the deed of trust; or

C. any purchaser, substituted purchaser, or assignee of any purchaser or substituted purchaser of the foreclosed property; and

2. a transfer by any of the persons described in item 1 of this item to a subsequent purchaser for value; and

(iii) with respect to the foreclosure of any other lien instrument:

1. a transfer by the party authorized to make the sale to:

A. the holder of the debt or other obligation secured by the lien instrument;

B. any designee, nominee, or assignee of the holder of the debt secured by the lien instrument; or

C. any purchaser, substituted purchaser, or assignee of any purchaser or substituted purchaser of the foreclosed property; and

2. a transfer by any of the persons described in item 1 of this item to a subsequent purchaser for value.

(b) (1) For every deed or other instrument of writing that effects a change of ownership on the assessment books under the Tax – Property Article and for which a payment is required under subsection (c) of this section, the total payment shall be described on the form that the Comptroller specifies by regulation.

(2) The form required under paragraph (1) of this subsection shall be signed under oath by:

(i) the transferor of the property;

(ii) an agent of the transferor; or

(iii) the real property reporting person, as defined under § 6045 of the Internal Revenue Code.

(c) Except as otherwise provided in this section, in a sale or exchange of real property and associated tangible personal property owned by a nonresident or nonresident entity, the deed or other instrument of writing that effects a change of ownership on the assessment books under the Tax – Property Article may not be recorded with the clerk of the circuit court for a county or filed with the Department

of Assessments and Taxation unless payment is made to the clerk of the circuit court for a county or the Department of Assessments and Taxation in an amount equal to:

(1) the sum of the rate of the tax imposed under § 10–106.1 of this title and the top marginal State income tax rate for individuals under § 10–105(a) of this title, applied to the total payment to a nonresident; or

(2) the rate of the tax for a corporation under § 10–105(b) of this title of the total payment to a nonresident entity.

(d) Subsection (c) of this section does not apply when:

(1) a certification under penalties of perjury that the transferor is a resident of the State or is a resident entity is provided by each transferor in:

(i) the recitals or the acknowledgment of the deed or other instrument of writing transferring the property to the transferee; or

(ii) an affidavit signed by the transferor or by an agent of the transferor that accompanies and is recorded with the deed or other instrument of writing transferring the property;

(2) the transferor presents to the clerk of the circuit court for a county or the Department of Assessments and Taxation a certificate issued by the Comptroller stating that:

(i) no tax is due from that transferor in connection with that sale or exchange of property;

(ii) a reduced amount of tax is due from that transferor in connection with that sale or exchange of property and stating the reduced amount that should be collected by the clerk of the circuit court for a county or the Department of Assessments and Taxation before recordation or filing; or

(iii) the transferor has satisfied the transferor's tax liability described in subsection (c) of this section or has provided adequate security to cover such liability;

(3) the property transfer is:

(i) a transfer pursuant to a foreclosure of a mortgage, deed of trust, or other lien instrument; or

(ii) a transfer pursuant to a deed in lieu of foreclosure;

(4) the property is transferred by the United States, the State, or a unit or political subdivision of the State;

(5) a certification under penalties of perjury that the property being

transferred is the transferor's principal residence is provided by each transferor in:

(i) the recitals or the acknowledgment of the deed or other instrument of writing transferring the property to the transferee; or

(ii) an affidavit signed by the transferor or by an agent of the transferor that accompanies and is recorded with the deed or other instrument of writing transferring the property; or

(6) the property is transferred pursuant to a deed or other instrument of writing that includes a statement of consideration required by § 12–104 of the Tax – Property Article indicating that the consideration payable is zero.

(e) (1) Except as provided in this section, the amounts described in subsection (c) of this section shall be collected by the clerk of the circuit court for a county or the Department of Assessments and Taxation when the deed or other instrument of writing is presented for recordation or filing.

(2) Within 30 business days after the date the amount payable under subsection (c) of this section is paid, the clerk of the circuit court for the county or the Department of Assessments and Taxation shall pay over to the Comptroller the amount collected under subsection (c) of this section as prescribed by the Comptroller.

(f) (1) Amounts collected under subsection (c) of this section and paid over to the Comptroller under subsection (e) of this section shall be deemed to have been paid to the Comptroller on behalf of the transferor from whom the amounts were withheld.

(2) The transferor shall be credited with having paid the amounts for the taxable year in which the transaction that is the subject of the tax occurred.

(g) The transferee, title insurance producer, title insurer, settlement agent, closing attorney, lending institution, and real estate agent or broker in any transaction subject to this section are not liable for any amounts required to be collected and paid over to the Comptroller under this section.

(h) This section does not:

(1) impose any tax on a transferor or affect any liability of the transferor for any tax; or

(2) prohibit the Comptroller from collecting any taxes due from a transferor in any other manner authorized by law.

(i) (1) The Comptroller shall adopt regulations to administer this section.

(2) The Comptroller's regulations shall establish procedures for the issuance of the certificate referred to in subsection (d)(2) of this section.

(3) The Comptroller's regulations shall establish a procedure by which a transferor may apply for an early refund of the tax collected under this section if the transferor establishes that no tax will be owed or less tax than collected will be owed.

§10–913.

(a) (1) On or before January 1 of each calendar year, the Comptroller shall publish the maximum income eligibility for the earned income tax credit under § 10–704 of this title for the calendar year.

(2) The Comptroller shall prepare a notice that meets the requirements of subsection (b) of this section and mail the notice to all employers in the State.

(b) (1) On or before December 31 of each calendar year, an employer shall provide electronic or written notice to an employee who may be eligible for the earned income tax credit under § 10–704 of this title that:

(i) the employee may be eligible for the federal earned income tax credit under § 32 of the Internal Revenue Code; and

(ii) the employee may be eligible for the earned income tax credit under § 10–704 of this title.

(2) An employer may provide the notice required under this subsection to:

(i) all employees; or

(ii) employees with wages that are less than or equal to the maximum income eligibility published under subsection (a) of this section.

(c) An employee may not pursue a private cause of action against an employer for the employer's failure to provide the notice required under subsection (b) of this section.

§11–101.

(a) In this title the following words have the meanings indicated.

(b) "Buyer" means a person who:

(1) acquires tangible personal property in a sale; or

(2) obtains a taxable service in a sale.

(c) "Cleaning of a commercial or industrial building" means the following services performed to a commercial or industrial building:

(1) floor, carpet, wall, window, ceiling, and exterior cleaning; and

(2) janitorial services.

(d) "Person" includes:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

(e) "Prepaid telephone calling arrangement" means the right to use telecommunications services, paid for in advance, that enables the origination of calls using an access number or authorization code, whether manually or electronically dialed.

(f) (1) "Production activity" means:

(i) except for processing food or a beverage by a retail food vendor, assembling, manufacturing, processing, or refining tangible personal property for resale;

(ii) generating electricity for sale or for use in another production activity;

(iii) 1. laundering, maintaining, or preparing textile products for rental; or

2. laundering, maintaining, or preparing textile products in providing the taxable service of commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

(iv) producing or repairing production machinery or equipment;

(v) establishing or maintaining clean rooms or clean zones as required by applicable provisions of the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Virus–Serum–Toxin Act, and the regulations adopted thereunder, pertaining to the manufacture of drugs, medical devices, or biologics;

(vi) providing for the safety of employees; or

(vii) providing for quality control.

(2) "Production activity" does not include:

(i) servicing or repairing tangible personal property, except for servicing or repairing production machinery or equipment;

(ii) maintaining tangible personal property other than textile products for rental and production machinery and equipment, except for maintaining tangible personal property in providing the taxable service of commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

(iii) providing for the comfort or health of employees; or

(iv) storing the finished product.

(g) "Production machinery or equipment" means machinery or equipment used in a production activity.

(h) (1) "Retail sale" means the sale of:

(i) tangible personal property; or

(ii) a taxable service.

(2) "Retail sale" includes:

(i) a sale of tangible personal property for use or resale in the form of real estate by a builder, contractor, or landowner; and

(ii) except as provided in paragraph (3)(i) of this subsection, use of tangible personal property as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, even if the buyer intends to transfer title to the property before or after that use.

(3) "Retail sale" does not include:

(i) a transfer of title to tangible personal property after its use as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, if:

1. at the time of purchase, the buyer is obligated, under the terms of a written contract, to make the transfer; and

2. the transfer is made for the same or greater consideration to the person for whom the buyer manufactures goods or performs work;

(ii) a sale of tangible personal property if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be produced for sale; or

3. transfer the tangible personal property as a part of a taxable service transaction; or

(iii) a sale of a taxable service if the buyer intends to resell the taxable service in the form that the buyer receives or is to receive the service.

(i) (1) "Sale" means a transaction for a consideration whereby:

(i) title or possession of property is transferred or is to be transferred absolutely or conditionally by any means, including by lease, rental, royalty agreement, or grant of a license for use; or

(ii) a person performs a service for another person.

(2) "Sale" does not include a transaction whereby an employee performs a service for the employee's employer.

(j) "Sale for use" means a sale in which tangible personal property or a taxable service that is consumed, possessed, stored, or used in the State is acquired.

(k) (1) "Tangible personal property" means:

(i) corporeal personal property of any nature; or

(ii) a right to occupy a room or lodgings as a transient guest.

(2) "Tangible personal property" includes:

(i) farm equipment;

(ii) wall–to–wall carpeting that is installed into real estate, regardless of the purpose, method, or permanency of its installation; and

(iii) coal, electricity, oil, nuclear fuel assemblies, steam, and artificial or natural gas.

(l) (1) "Taxable price" means the value, in money, of the consideration of any kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the consummation and complete performance of a sale without deduction for any expense or cost, including the cost of:

(i) any labor or service rendered;

(ii) any material used; or

(iii) any property sold.

(2) "Taxable price" includes, for tangible personal property acquired by a sale for use in the State by the person who assembles, fabricates, or manufactures the property, only the price of the raw materials and component parts contained in the property.

(3) "Taxable price" does not include:

(i) a charge that is made in connection with a sale and is stated as a separate item of the consideration for:

1. a delivery, freight, or other transportation service for delivery directly to the buyer by the vendor or by another person acting for the vendor, unless the transportation service is a taxable service;

2. a finance charge, interest, or similar charge for credit extended to the buyer;

3. a labor or service for application or installation;

4. a mandatory gratuity or service charge in the nature of a tip for serving food or beverage to a group of 10 or fewer individuals for consumption on the premises of the vendor;

5. a professional service;

6. a tax:

A. imposed by a county on the sale of coal, electricity, oil, nuclear fuel assemblies, steam, or artificial or natural gas;

B. imposed under § 3–302(a) of the Natural Resources Article, as a surcharge on electricity, and added to an electric bill;

C. imposed under §§ 6–201 through 6–203 of the Tax – Property Article, on tangible personal property subject to a lease that is for an initial period that exceeds 1 year and is noncancellable except for cause; or

D. imposed under § 4–102 of this article on the gross receipts derived from an admissions and amusement charge;

7. any service for the operation of equipment used for the production of audio, video, or film recordings; or

8. reimbursement of incidental expenses paid to a third party and incurred in connection with providing a taxable detective service;

(ii) the value of a used component or part (core value) received from

a purchaser of the following remanufactured truck parts:

1. an air brake system;

2. an engine;

3. a rear axle carrier; or

4. a transmission; or

(iii) a charge for a nontaxable service that is made in connection with a sale of a taxable communication service, even if the nontaxable charges are aggregated with and not separately stated from the taxable charges for communications services, if the vendor can reasonably identify charges not subject to tax from its books and records that are kept in the regular course of business.

(4) "Taxable price" includes, for a short–term vehicle rental as defined under § 11–104(c) of this subtitle, all sales and charges made in connection with the short–term vehicle rental, including insurance, freight handling, equipment and supplies, delivery and pickup, cellular telephone, and other accessories, but not including sales of motor fuel subject to the motor fuel tax.

(m) "Taxable service" means:

(1) fabrication, printing, or production of tangible personal property by special order;

(2) commercial cleaning or laundering of textiles for a buyer who is engaged in a business that requires the recurring service of commercial cleaning or laundering of the textiles;

(3) cleaning of a commercial or industrial building;

(4) cellular telephone or other mobile telecommunications service;

(5) "900", "976", "915", and other "900"–type telecommunications service;

(6) custom calling service provided in connection with basic telephone service;

(7) a telephone answering service;

(8) pay per view television service;

(9) credit reporting;

(10) a security service, including:

(i) a detective, guard, or armored car service; and

(ii) a security systems service;

(11) a transportation service for transmission, distribution, or delivery of electricity or natural gas, if the sale or use of the electricity or natural gas is subject to the sales and use tax;

(12) a prepaid telephone calling arrangement; or

(13) the privilege given to an individual under Article 2B, § 12–107(b)(10) of the Code to consume wine that is not purchased from or provided by a restaurant, club, or hotel.

(n) (1) "Use" means an exercise of a right or power to use, consume, possess, or store that is acquired by a sale for use of:

(i) tangible personal property; or

(ii) a taxable service.

(2) "Use" includes an exercise of a right or power to use, consume, possess, or store that is acquired by a sale for use of tangible personal property:

(i) for use or resale in the form of real estate by a builder, contractor, or landowner; or

(ii) except as provided in paragraph (3)(i) of this subsection, as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, even if the buyer intends to transfer title to the property before or after that use.

(3) "Use" does not include:

(i) a transfer of title to tangible personal property after its use as facilities, tools, tooling, machinery, or equipment, including dies, molds, and patterns, if:

1. at the time of purchase, the buyer is obligated, under the terms of a written contract, to make the transfer; and

2. the transfer is made for the same or greater consideration to the person for whom the buyer manufactures goods or performs work;

(ii) an exercise of a right or power over tangible personal property acquired by a sale for use if the buyer intends to:

1. resell the tangible personal property in the form that the buyer receives or is to receive the property;

2. use or incorporate the tangible personal property in a production activity as a material or part of other tangible personal property to be

produced for sale; or

3. transfer the tangible personal property as part of a taxable service transaction; or

(iii) an exercise of a right or power over a taxable service acquired by a sale for use if the buyer intends to resell the taxable service in the form that the buyer receives or is to receive the service.

(o) (1) "Vendor" means a person who:

(i) engages in the business of an out–of–state vendor, as defined in § 11–701 of this title;

(ii) engages in the business of a retail vendor, as defined in § 11–701 of this title; or

(iii) holds a special license issued under § 11–707 of this title.

(2) "Vendor" includes, for an out–of–state vendor, a salesman, representative, peddler, or canvasser whom the Comptroller, for the efficient administration of this title, elects to treat as an agent jointly responsible with the dealer, distributor, employer, or supervisor:

(i) under whom the agent operates; or

(ii) from whom the agent obtains the tangible personal property or taxable service for sale.

§11–102.

(a) Except as otherwise provided in this title, a tax is imposed on:

(1) a retail sale in the State; and

(2) a use, in the State, of tangible personal property or a taxable service.

(b) (1) Subject to paragraph (2) of this subsection, in addition to the tax imposed under subsection (a) of this section, a hotel surcharge is imposed in Dorchester County on the sale of a right to occupy a room or lodgings as a transient guest in an establishment that offers at least 380 rooms.

(2) The hotel surcharge imposed under paragraph (1) of this subsection may not be imposed if the Maryland Economic Development Corporation certifies to the Comptroller that the bonds issued by the Maryland Economic Development Corporation secured by the Dorchester County Economic Development Fund established under § 10–130 of the Economic Development Article have been paid in full.

(c) (1) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose any retail sales or use tax except:

(i) a sales tax or use tax that was in effect on January 1, 1971;

(ii) a tax on the sale or use of:

1. fuels;

2. utilities;

3. space rentals; or

4. any controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, unless the sale is made by a person who registers under and complies with Title 5, Subtitle 3 of the Criminal Law Article; or

(iii) a tax imposed by a code county on the sale or use of food and beverages authorized under § 20–602 of the Local Government Article.

(2) Paragraph (1) of this subsection may not be construed as conferring authority to impose a sales and use tax.

§11–103.

(a) A rebuttable presumption exists that any sale in the State is subject to the sales and use tax imposed under § 11-102(a)(1) of this subtitle.

(b) The person required to pay the sales and use tax has the burden of proving that a sale in the State is not subject to the sales and use tax.

§11–104.

(a) Except as otherwise provided in this section, the sales and use tax rate is:

(1) for a taxable price of less than $1:

(i) 1 cent if the taxable price is 20 cents;

(ii) 2 cents if the taxable price is at least 21 cents but less than 34 cents;

(iii) 3 cents if the taxable price is at least 34 cents but less than 51 cents;

(iv) 4 cents if the taxable price is at least 51 cents but less than 67 cents;

(v) 5 cents if the taxable price is at least 67 cents but less than 84

cents; and

(vi) 6 cents if the taxable price is at least 84 cents; and

(2) for a taxable price of $1 or more:

(i) 6 cents for each exact dollar; and

(ii) for that part of a dollar in excess of an exact dollar:

1. 1 cent if the excess over an exact dollar is at least 1 cent but less than 17 cents;

2. 2 cents if the excess over an exact dollar is at least 17 cents but less than 34 cents;

3. 3 cents if the excess over an exact dollar is at least 34 cents but less than 51 cents;

4. 4 cents if the excess over an exact dollar is at least 51 cents but less than 67 cents;

5. 5 cents if the excess over an exact dollar is at least 67 cents but less than 84 cents; and

6. 6 cents if the excess over an exact dollar is at least 84 cents.

(b) If a retail sale of tangible personal property or a taxable service is made through a vending or other self–service machine, the sales and use tax rate is 6%, applied to 94.5% of the gross receipts from the vending machine sales.

(c) (1) In this subsection:

(i) "short–term vehicle rental" means a rental of a passenger car, as defined in § 11–144.1 of the Transportation Article, or a vehicle that may be registered as a Class D, E, F, G, or M vehicle under Title 13, Subtitle 9 of the Transportation Article, for a period of 180 days or less under the following terms:

1. the vendor does not provide a driver for the vehicle as a part of the rental; and

2. if the vehicle is a passenger car, as defined in § 11–144.1 of the Transportation Article, a multipurpose passenger vehicle, or a motorcycle, the vehicle is not to be used to transport individuals or property for hire; and

(ii) "short–term vehicle rental" does not include a rental of:

1. a dump truck, as described in § 13–919 of the Transportation Article;

2. a tow truck, as described in § 13–920 of the Transportation Article; or

3. a farm vehicle exempt from the sales and use tax under § 11–201(a) of this title.

(2) The sales and use tax rate for a short–term vehicle rental for a taxable price of $2 or more is:

(i) if the vehicle is a passenger car, a multipurpose passenger vehicle, or a motorcycle:

1. 23 cents for each exact multiple of $2; and

2. for that part of $2 in excess of an exact multiple of $2:

A. 1 cent if the excess over an exact multiple of $2 is at least 1 cent but less than 9 cents;

B. 2 cents if the excess over an exact multiple of $2 is at least 9 cents but less than 18 cents;

C. 3 cents if the excess over an exact multiple of $2 is at least 18 cents but less than 27 cents;

D. 4 cents if the excess over an exact multiple of $2 is at least 27 cents but less than 35 cents;

E. 5 cents if the excess over an exact multiple of $2 is at least 35 cents but less than 44 cents;

F. 6 cents if the excess over an exact multiple of $2 is at least 44 cents but less than 53 cents;

G. 7 cents if the excess over an exact multiple of $2 is at least 53 cents but less than 61 cents;

H. 8 cents if the excess over an exact multiple of $2 is at least 61 cents but less than 70 cents;

I. 9 cents if the excess over an exact multiple of $2 is at least 70 cents but less than 79 cents;

J. 10 cents if the excess over an exact multiple of $2 is at least 79 cents but less than 87 cents;

K. 11 cents if the excess over an exact multiple of $2 is at least 87 cents but less than 96 cents;

L. 12 cents if the excess over an exact multiple of $2 is at least 96 cents but less than $1.05;

M. 13 cents if the excess over an exact multiple of $2 is at least $1.05 but less than $1.14;

N. 14 cents if the excess over an exact multiple of $2 is at least $1.14 but less than $1.22;

O. 15 cents if the excess over an exact multiple of $2 is at least $1.22 but less than $1.31;

P. 16 cents if the excess over an exact multiple of $2 is at least $1.31 but less than $1.40;

Q. 17 cents if the excess over an exact multiple of $2 is at least $1.40 but less than $1.48;

R. 18 cents if the excess over an exact multiple of $2 is at least $1.48 but less than $1.57;

S. 19 cents if the excess over an exact multiple of $2 is at least $1.57 but less than $1.66;

T. 20 cents if the excess over an exact multiple of $2 is at least $1.66 but less than $1.74;

U. 21 cents if the excess over an exact multiple of $2 is at least $1.74 but less than $1.83;

V. 22 cents if the excess over an exact multiple of $2 is at least $1.83 but less than $1.92; and

W. 23 cents if the excess over an exact multiple of $2 is at least $1.92 but less than $2.00; or

(ii) if the vehicle is a vehicle that may be registered as a Class E, F, or G vehicle under Title 13, Subtitle 9 of the Transportation Article:

1. 8 cents for each exact dollar; and

2. 2 cents for each 25 cents or part of 25 cents in excess of an exact dollar.

(d) The sales and use tax rate for the first retail sale of a manufactured home, as defined in § 12-301(g) of the Public Safety Article, is the rate imposed under subsection (a) of this section applied to 60% of the taxable price.

(e) The rate of the hotel surcharge imposed under § 11-102(b) of this subtitle is

2.5% of the taxable price.

(f) (1) In this subsection, "modular building" includes single-family or multifamily houses, apartment units, or commercial buildings, and permanent additions to single-family or multifamily houses, apartment units, or commercial buildings, comprised of one or more sections that are:

(i) intended to become real property;

(ii) primarily constructed at a location other than the permanent site at which they are to be assembled;

(iii) built to comply with the standards for industrialized buildings under Title 12, Subtitle 3 of the Public Safety Article; and

(iv) shipped with most permanent components in place.

(2) The sales and use tax rate for the sale of a modular building is the rate imposed under subsection (a) of this section applied to 60% of the taxable price.

(g) The sales and use tax rate for the sale of an alcoholic beverage, as defined in § 5–101 of this article, is:

(1) 9% of the charge for the alcoholic beverage; and

(2) 6% of a charge that is made in connection with the sale of an alcoholic beverage and is stated as a separate item of the consideration and made known to the buyer at the time of sale for:

(i) any labor or service rendered;

(ii) any material used; or

(iii) any property sold.

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) "Dyed diesel fuel" means diesel fuel that is dyed under U.S. Environmental Protection Agency rules for high sulfur diesel fuel or is dyed under Internal Revenue Service rules for nontaxable use.

(iii) "Marina" means a person who maintains a place of business where motor fuel is sold primarily to vessels.

(2) If a retail sale of dyed diesel fuel is made by a marina, the sales and use tax rate is 6%, applied to 94.5% of the gross receipts from the dyed diesel fuel sales.

(i) The sales and use tax rate for a mandatory gratuity or service charge in

the nature of a tip for serving food or any type of beverage to a group of more than 10 individuals is 6%.

§11–105.

(a) (1) Except as provided in subsections (b) and (c) of this section, a vendor who timely files a sales and use tax return is allowed, for the expense of collecting and paying the tax, a credit equal to 0.9% of the gross amount of sales and use tax that the vendor is to pay to the Comptroller.

(2) The credit allowed under this section does not apply to any sales and use tax that a vendor is required to pay to the Comptroller for any purchase or use that the vendor makes that is subject to the tax.

(b) (1) Subject to paragraph (2) of this subsection, the credit allowed under this section is 1.2% of the first $6,000 of the gross amount of sales and use tax that the vendor is to pay with each return.

(2) For a vendor who files or is eligible to file a consolidated return under § 11–502 of this title, the credit allowed under paragraph (1) of this subsection is 1.2% of the first $6,000 of the gross amount of sales and use tax that the vendor is or would be required to pay with the consolidated return.

(c) (1) The credit allowed under subsection (a) of this section may not exceed $500 for each return.

(2) For a vendor who files or is eligible to file a consolidated return under § 11–502 of this title, the total maximum credit that the vendor is allowed under this section for all returns filed for any period is $500.

§11–106.

(a) In this section, "Agreement" means the Streamlined Sales and Use Tax Agreement as adopted by the member states of the Streamlined Sales and Use Tax Project on November 12, 2002.

(b) (1) Subject to the provisions of this subsection, the State of Maryland hereby adopts the Streamlined Sales and Use Tax Agreement as adopted by the member states of the Streamlined Sales and Use Tax Project on November 12, 2002.

(2) The adoption of the Agreement by the State of Maryland as provided in this section is contingent on the enactment of legislation by the U.S. Congress consenting to the Agreement and authorizing states that are parties to the Agreement to require remote sellers to collect and remit the sales and use taxes of those states.

(3) Within 90 days after the enactment of legislation by the U.S. Congress consenting to the Agreement and authorizing states that are parties to the Agreement to require remote sellers to collect and remit the sales and use taxes of those states, the

Comptroller shall prepare and submit to the Governor and, subject to § 2-1246 of the State Government Article, the Senate Budget and Taxation Committee and the House Committee on Ways and Means proposed regulations and draft legislation that:

(i) identify and implement:

1. any changes to State statutes, regulations, or policies that need to be made in order to bring the State into compliance with the Agreement; and

2. any other changes to State laws that would not be required but that the Comptroller recommends should reasonably be made in connection with implementing the Agreement; and

(ii) for each change identified under item (i) of this paragraph:

1. estimates the impact of that change on State sales and use tax revenue; and

2. identifies and explains any fiscal or policy issues that would be associated with the change.

(c) Notwithstanding the adoption of the Agreement under this section, unless and until further legislation is enacted by the General Assembly to implement necessary changes to bring the State in compliance with the Agreement:

(1) no provision of the Agreement in whole or in part invalidates or amends any provision of the law of this State;

(2) adoption of the Agreement does not amend or modify any other provision of this title or other law of this State; and

(3) implementation of any condition of the Agreement in this State, whether adopted before, at, or after adoption of the Agreement by this State, must be by the action of this State.

(d) (1) (i) The Agreement adopted by this section binds and inures only to the benefit of this State and the other member states.

(ii) No person, other than a member state, is an intended beneficiary of the Agreement.

(iii) Any benefit to a person other than a state must be established by the law of this State and the other member states and not by the terms of the Agreement.

(2) (i) No person shall have any cause of action or defense under the Agreement or by virtue of the State's adoption of the Agreement.

(ii) No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this State, or any political subdivision of this State, on the ground that the action or inaction is inconsistent with the Agreement.

(3) No law of this State, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement.

§11–108.

The sale or recharge of a prepaid telephone calling arrangement is taxable in the State if:

(1) the sale or recharge takes place at the vendor's place of business located in the State;

(2) the buyer's shipping address is in the State; or

(3) there is no item shipped, but the buyer's billing address or the location associated with the buyer's mobile telephone number is in the State.

§11–1A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "On-site generated electricity" means electricity that is generated at a facility:

(i) the owner of which is an electric consumer that, together with any tenants of the owner, consumes at least 80% of the electricity generated by the facility each year; and

(ii) that is operated by the owner or a designee of the owner.

(2) "On-site generated electricity" does not include electricity generated at a facility that is owned by more than one person or governmental entity unless the ownership of the facility and the ownership of the building or machinery and equipment that consumes the electricity is substantially the same, as determined under regulations that the Comptroller adopts.

(c) "Owner" means the person or governmental entity that has a capital investment in a facility and that for federal income tax purposes is entitled to deduct depreciation on the facility or would be entitled to the deduction if subject to the federal income tax.

(d) "Public service company" has the meaning stated in § 8-401 of this article.

(e) "Special use tax on electricity" means the tax imposed under this subtitle.

§11–1A–02.

(a) In addition to any tax imposed under § 11-102 of this title, except as provided in subsection (b) of this section, a tax is imposed on the use, in the State, of electricity that is not delivered by a public service company.

(b) The special use tax on electricity does not apply to the use of:

(1) electricity that is:

(i) used for residential purposes; or

(ii) used exclusively for emergency back-up generation; or

(2) on-site generated electricity.

§11–1A–03.

The rate of the special use tax on electricity is 0.062 cents for each kilowatt hour of electricity that is subject to the tax.

§11–1A–04.

The exemptions provided under Subtitle 2 of this title do not apply to the special use tax on electricity.

§11–1A–05.

In addition to any information required under Subtitle 5 of this title:

(1) the return of a vendor who makes a sale for use of electricity that is subject to the special use tax on electricity shall state for the period that the return covers:

(i) the kilowatt hours of electricity the use of which became subject to the special use tax on electricity; and

(ii) the special use tax on electricity that is due; and

(2) the return of a person who uses electricity that is subject to the special use tax on electricity and fails to pay the tax to the vendor shall state for the period that the return covers:

(i) the kilowatt hours of electricity that is subject to the special use tax on electricity; and

(ii) the special use tax on electricity that is due.

§11–1A–06.

The Comptroller shall adopt regulations to carry out the provisions of this subtitle.

§11–201.

(a) The sales and use tax does not apply to a sale of the following items for an agricultural purpose:

(1) livestock;

(2) feed or bedding for livestock;

(3) seed, fertilizer, fungicide, herbicide, or insecticide;

(4) baler twine or wire;

(5) fuel for use in farm equipment or a farm tractor, as defined in §§ 11–120 and 11–121 of the Transportation Article; and

(6) if bought by a farmer:

(i) a container to transport farm products that the farmer raises to market;

(ii) a farm vehicle, as defined in § 13–911(c) of the Transportation Article, when used in farming;

(iii) a milking machine, when used in farming;

(iv) fabrication, processing, or service, by a sawmill, of wood products for farm use in which the farmer retains title; and

(v) farm equipment when used to:

1. raise livestock;

2. prepare, irrigate, or tend the soil; or

3. plant, service, harvest, store, clean, dry, or transport seeds or crops.

(b) Except for flowers, sod, decorative trees and shrubs, and any other product that usually is sold by a nursery or horticulturist, the sales and use tax does not apply to a sale of an agricultural product by a farmer.

§11–201.1.

(a) In this section, "bulk vending machine" means a vending machine that:

(1) contains unsorted merchandise; and

(2) on insertion of a coin, dispenses the unsorted merchandise in approximately equal portions at random and without selection by the customer.

(b) The sales and use tax does not apply to a sale of tangible personal property through a bulk vending machine for a taxable price of 75 cents or less.

§11–204.

(a) The sales and use tax does not apply to:

(1) a sale to a cemetery company, as described in § 501(c)(13) of the Internal Revenue Code in effect on July 1, 1987;

(2) a sale to a credit union organized under the laws of the State or of the United States;

(3) a sale to a nonprofit organization made to carry on its work, if the organization:

(i) 1. is located in the State;

2. is located in an adjacent jurisdiction and provides its services within the State on a routine and regular basis; or

3. is located in an adjacent jurisdiction whose law:

A. does not impose a sales or use tax on a sale to a nonprofit organization made to carry on its work; or

B. contains a reciprocal exemption from sales and use tax for sales to nonprofit organizations located in adjacent jurisdictions similar to the exemption allowed under this subsection;

(ii) is a charitable, educational, or religious organization;

(iii) is not the United States; and

(iv) except for the American National Red Cross, is not a unit or instrumentality of the United States;

(4) a sale, not exceeding $500, to a nonprofit incorporated senior citizens' organization made to carry on its work, if the organization:

(i) is located in the State; and

(ii) receives funding from the State or a political subdivision of the State;

(5) a sale to a volunteer fire company or department or volunteer ambulance company or rescue squad located in the State made to carry on the work of the company, department, or squad;

(6) a sale of tangible personal property to a nonprofit parent–teacher association located in the State if the association makes the purchase to contribute the property to a school to which a sale is exempt under item (3) of this subsection or § 11–220 of this subtitle;

(7) a sale to a nonprofit organization made to carry on its work, if the organization:

(i) is qualified as tax exempt under § 501(c)(4) of the Internal Revenue Code; and

(ii) is engaged primarily in providing a program to render its best efforts to contain, clean up, and otherwise mitigate spills of oil or other substances occurring in United States coastal and tidal waters; or

(8) a sale to a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or an auxiliary of the organization or one of its units, if the organization is qualified as tax exempt under § 501(c)(4) or § 501(c)(19) of the Internal Revenue Code.

(b) The sales and use tax does not apply to a sale by:

(1) a bona fide church or religious organization, if the sale is made for the general purposes of the church or organization;

(2) a gift shop at a mental hospital that the Department of Health and Mental Hygiene operates;

(3) a hospital thrift shop that:

(i) is operated by all volunteer staff;

(ii) sells only donated articles;

(iii) contributes the profits from sales to the hospital with which the shop is associated; and

(iv) is not operated in conjunction with a gift shop or another retail establishment;

(4) a vending facility operated under the Maryland Vending Program for the Blind if:

(i) the facility is located on property held or acquired by or for the

use of the United States for any military or naval purpose; and

(ii) a post exchange or other tax–exempt concession is located and operated on the same property;

(5) an elementary or secondary school in the State or a nonprofit parent–teacher organization or other nonprofit organization within an elementary or secondary school in the State for the sale of magazine subscriptions in a fund–raising campaign, if the net proceeds are used solely for the educational benefit of the school or its students, including a sale resulting from an agreement or contract with an organization to participate in a fund–raising campaign for a percentage of the gross receipts under which students act as agents or salespersons for the organization by selling or taking orders for the sale;

(6) a parent–teacher organization or other organization within an elementary or secondary school in the State or within a school system in the State; or

(7) subject to subsection (e) of this section, a bona fide church, religious organization, or other nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code if:

(i) the sale is made at an auction sale; and

(ii) the proceeds of the sale are used to carry on the exempt purposes of the church or organization.

(c) To qualify as an organization to which a sale is exempt under subsection (a)(3) or (5) of this section, the organization shall file an application for an exemption certificate with the Comptroller.

(d) The Comptroller may treat the possession of an effective determination letter of status under § 501(c)(3) or (13) of the Internal Revenue Code from the Internal Revenue Service as evidence that an organization qualifies under subsection (a)(3) or (5) or (1) of this section, respectively.

(e) For a sale described under subsection (b)(7) of this section that is not otherwise exempt under this section, only that part of the sale price that qualifies for a deduction under the federal income tax as a charitable contribution under the regulations and guidelines of the Internal Revenue Service is exempt from the sales and use tax under this section.

§11–205.

The sales and use tax does not apply to a sale of:

(1) a Maryland State flag;

(2) a United States flag; or

(3) a prisoner of war flag or missing in action flag honoring and remembering military personnel who have served in the armed forces of the United States.

§11–206.

(a) (1) In this section the following words have the meanings indicated.

(2) "Facility for food consumption" does not include parking spaces for vehicles as the sole accommodation.

(3) (i) "Food" means food for human consumption.

(ii) "Food" includes the following foods and their products:

1. beverages, including coffee, coffee substitutes, cocoa, fruit juices, and tea;

2. condiments;

3. eggs;

4. fish, meat, and poultry;

5. fruit, grain, and vegetables;

6. milk, including ice cream; and

7. sugar.

(iii) "Food" does not include:

1. an alcoholic beverage as defined in § 5–101 of this article;

2. a soft drink or carbonated beverage; or

3. candy or confectionery.

(4) "Food for immediate consumption" means:

(i) food obtained from a salad, soup, or dessert bar;

(ii) party platters;

(iii) heated food;

(iv) sandwiches suitable for immediate consumption; or

(v) ice cream, frozen yogurt, and other frozen desserts, sold in

containers of less than 1 pint.

(5) "Premises" includes any building, grounds, parking lot, or other area that:

(i) a food vendor owns or controls; or

(ii) another person makes available primarily for the use of the patrons of 1 or more food vendors.

(6) "Substantial grocery or market business" means a business at which at least 10% of all sales of food are sales of grocery or market food items, not including food normally consumed on the premises even though it is packaged to carry out.

(b) The sales and use tax does not apply to a sale of food stamp eligible food, as defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7 U.S.C. § 2016.

(c) (1) Except as provided in paragraph (2) of this subsection, the sales and use tax does not apply to a sale of food for consumption off the premises by a food vendor who operates a substantial grocery or market business at the same location where the food is sold.

(2) The exemption under paragraph (1) of this subsection does not apply to:

(i) food that the vendor serves for consumption on the premises of the buyer or of a third party; or

(ii) food for immediate consumption.

(d) The sales and use tax does not apply to:

(1) a sale of food:

(i) to patients in a hospital when the food charge is included in the regular room rate;

(ii) by a church or religious organization;

(iii) by a school other than an institution of postsecondary education, including sales at a school by a food concessionaire that is under contract with the school or with its designated contract agent, but not including sales at events that are not sponsored by the school or are not educationally related;

(iv) to students at an institution of postsecondary education if the food charge is for a meal plan or is included in the regular charge for room and board; or

(v) by a nonprofit food vendor if there are no facilities for food consumption on the premises, unless the food is sold within an enclosure for which a charge is made for admission;

(2) if the proceeds of the sale are used to support a bona fide nationally organized and recognized organization of veterans of the armed forces of the United States or auxiliary of the organization or 1 of its units, a sale of food or meals for consumption only on the premises, served by the organization or auxiliary;

(3) if the proceeds of the sale are used to support a volunteer fire company or department or its auxiliary or a volunteer ambulance company or rescue squad or its auxiliary, a sale of food served by the company, department, squad, or auxiliary; or

(4) a sale of food, bottled water, soft drink or carbonated beverage, or candy or confectionery by a nonprofit food vendor at a youth sporting event or 4–H youth event for individuals under the age of 18 years if there are no facilities for food consumption on the premises, unless the sale is within an enclosure for which a charge is made for admission.

(e) The sales and use tax does not apply to a sale of food or any beverage in a vehicle that is being operated in the State while in the course of interstate commerce.

(f) The sales and use tax does not apply to a sale for consumption off the premises of:

(1) crabs; or

(2) seafood that is not prepared for immediate consumption.

(g) (1) In this subsection, "snack food" means:

(i) potato chips and sticks;

(ii) corn chips;

(iii) pretzels;

(iv) cheese puffs and curls;

(v) pork rinds;

(vi) extruded pretzels and chips;

(vii) popped popcorn;

(viii) nuts and edible seeds; or

(ix) snack mixtures that contain any one or more of the foods listed in items (i) through (viii) of this paragraph.

(2) The sales and use tax does not apply to the sale of snack food through a vending machine.

(h) The sales and use tax does not apply to the sale through a vending machine of milk, fresh fruit, fresh vegetables, or yogurt.

§11–207.

(a) The sales and use tax does not apply to:

(1) a sale of electricity, steam, or artificial or natural gas for use in residential condominiums;

(2) a sale of electricity, steam, or artificial or natural gas that is delivered under a residential or domestic rate schedule on file with the Public Service Commission;

(3) a sale of coal, firewood, heating oil, or propane gas or similar liquefied gas for use in residential property that contains not more than 4 units, cooperative housing, condominiums, or other similar residential living arrangements;

(4) a sale of electricity through 3 or more bulk meters for use in a nonprofit planned retirement community of more than 2,000 housing cooperative or condominium units if:

(i) ownership of units is restricted by age;

(ii) any unit is served by an individual meter; and

(iii) on or before July 1, 1979, at least 3 bulk meters served the community; or

(5) a sale of electricity generated by solar energy equipment or residential wind energy equipment, as defined under § 11–230 of this subtitle, for use in residential property owned by an eligible customer–generator under § 7–306 of the Public Utilities Article.

(b) The sales and use tax does not apply to a sale of wood, wood bark or residue, or refuse-derived fuel used for heating purposes.

§11–208.

(a) The sales and use tax does not apply to:

(1) a sale of equipment or machinery that is used only to load, unload, and handle cargo of ocean going vessels within an international marine terminal; or

(2) a rental of equipment or machinery that:

(i) is owned by the Maryland Port Administration; and

(ii) is used only to load and unload ocean going vessels.

(b) The sales and use tax does not apply to a sale of film or video tape for use only in television broadcasting by a television station that the Federal Communications Commission licenses specifically to broadcast to a city or town outside the State.

(c) The sales and use tax does not apply:

(1) to a sale of an aircraft, motor vehicle, railroad rolling stock, or vessel that is used principally to cross State lines in interstate or foreign commerce;

(2) to a sale of a replacement part or other tangible personal property to be used physically in, on, or by a conveyance described in item (1) of this subsection; or

(3) except for a rental, to a sale of a motor vehicle, other than a house or office trailer, that will be titled or registered in another state.

§11–209.

(a) The sales and use tax does not apply to a casual and isolated sale by a person who regularly does not sell tangible personal property or a taxable service if:

(1) the sale price is less than $1,000; and

(2) the sale is not made through an auctioneer or a dealer.

(b) The sales and use tax does not apply to a distribution of tangible personal property by:

(1) a corporation or joint-stock company to its stockholders as a liquidating distribution;

(2) a partnership to a partner; or

(3) a limited liability company to a member.

(c) (1) The sales and use tax does not apply to a transfer of tangible personal property:

(i) under a reorganization within the meaning of § 368(a) of the Internal Revenue Code;

(ii) on organization of a corporation or joint-stock company, to the corporation or company principally in consideration for the issuance of its stock;

(iii) to a partnership only as a contribution to its capital or in consideration for a partnership interest in the partnership; or

(iv) to a limited liability company only as a capital contribution or in consideration for an interest in the limited liability company.

(2) For a transfer that would qualify as a casual and isolated sale under subsection (a) of this section if the sale price limitation were disregarded, the amount of liability transferred to or assumed by a corporation, joint-stock company, partnership, or limited liability company shall be excluded from the consideration transferred by the corporation, joint-stock company, partnership, or limited liability company in exchange for the tangible personal property to determine whether the transfer is made:

(i) principally in consideration for the issuance of stock of a corporation or joint-stock company;

(ii) only as a contribution to the capital of a partnership or in consideration for a partnership interest; or

(iii) only as a capital contribution to a limited liability company or in consideration for an interest in a limited liability company.

§11–210.

(a) The sales and use tax does not apply to a sale of:

(1) machinery or equipment used to produce bituminous concrete; or

(2) electricity, fuel, and other utilities used to operate that machinery or equipment.

(b) The sales and use tax does not apply to a sale of:

(1) tangible personal property used directly and predominantly in a production activity at any stage of operation on the production activity site from the handling of raw material or components to the movement of the finished product, if the tangible personal property is not installed so that it becomes real property;

(2) a melting, smelting, heating, or annealing coke oven, aluminum furnace, anode bake oven, electrolytic pot, cathode, refractory, or other material used in relining and rebuilding a furnace or oven; or

(3) a foundation to support other machinery or equipment or an item required to conform to an air or water pollution law and normally considered part of real property.

(c) The sales and use tax does not apply to a sale of equipment that is used by a retail food vendor to manufacture or process bread or bakery goods for resale if:

(1) the taxable price of each piece of equipment is at least $2,000; and

(2) the retail food vendor operates a substantial grocery or market business, as defined in § 11-206(a) of this subtitle, at the same location where the food is sold.

(d) The sales and use tax does not apply to the sale, on or after January 1, 2000 but before January 1, 2008, of machinery or equipment:

(1) that enables a television or radio station to originate and broadcast or to receive and broadcast digital signals; and

(2) that was or is purchased to comply with or to facilitate compliance with the Telecommunications Act of 1996, Pub. L. 104-104, 110 Stat. 56.

(e) The sales and use tax does not apply to the sale of:

(1) machinery or equipment used directly and predominantly to produce Energy Star windows or Energy Star entry doors for residential real property; or

(2) electricity, fuel, and other utilities used to operate that machinery or equipment.

§11–211.

(a) The sales and use tax does not apply to:

(1) a sale, to or by a physician or hospital, of drugs or medical supplies;

(2) a sale of medicine;

(3) a sale of disposable medical supplies; or

(4) a sale of a patient's medical records to the patient or the patient's representative.

(b) The sales and use tax does not apply to a sale of:

(1) a hemodialysis drug or device, by a licensed pharmacist or by a person who holds a permit under § 12-603 of the Health Occupations Article, directly to a hemodialysis patient requiring regular home treatment;

(2) tangible personal property that is manufactured or adapted specifically to compensate for blindness, including braille slates and paper, items with braille markings, preset insulin syringes, and raised line drawing kits;

(3) a decoder for captioned television programs for use by a hearing-impaired individual;

(4) a telecommunications device that is adapted specifically for hearing-impaired individuals and is:

(i) a device that changes digital codes into tones for transmission through telephone lines;

(ii) a flashing signal device; or

(iii) a telebraille machine;

(5) an artificial eye, hearing device, or limb;

(6) a colostomy or ileostomy appliance;

(7) corrective eyeglasses;

(8) an orthopedic or surgical appliance prescribed by a physician and designed to be worn on the person of the user;

(9) a battery for an artificial hearing device or larynx, transcutaneous nerve stimulator, or electrically powered wheelchair;

(10) a replacement cord for an artificial hearing device;

(11) crutches;

(12) a wheelchair;

(13) a hospital bed;

(14) an oxygen tent;

(15) any other sickroom equipment that the Comptroller defines by regulations or medical equipment that:

(i) can withstand repeated use;

(ii) is used exclusively to serve a medical purpose;

(iii) is not useful to a person in the absence of illness or injury; and

(iv) is for use in the home or on the individual's person;

(16) tangible personal property for installation in a motor vehicle:

(i) to provide access to the motor vehicle by an individual with a disability; or

(ii) to permit an individual with a disability to operate the motor vehicle;

(17) a wig or hairpiece needed as a result of documented medical or surgical

treatment;

(18) nicotine patches, nicotine gum, or any other product intended for use as an aid in tobacco use cessation and approved by the United States Food and Drug Administration for that purpose; or

(19) tangible personal property that is manufactured for the purpose of initiating, supporting, or sustaining breast-feeding, including breast pumps, breast pump kits, nipple enhancers, breast shields, breast shells, supplemental nursing systems, softcup feeders, feeding tubes, breast milk storage bags, periodontal syringes, finger feeders, haberman feeders, and purified lanolin.

(c) The sales and use tax does not apply to a sale of:

(1) baby oil or baby powder; or

(2) sanitary napkins or tampons.

§11–212.

The sales and use tax does not apply to a sale of:

(1) fabrication, processing, or service, by a sawmill, of wood products for mine use in which the miner retains title; or

(2) diesel fuel for use in reclamation of land that has been mined for coal by strip or open-pit mining.

§11–213.

Except for the first retail sale of the manufactured home, the sales and use tax does not apply to a sale of a manufactured home, as defined in § 12-301(g) of the Public Safety Article.

§11–214.

The sales and use tax does not apply to use of tangible personal property or a taxable service that:

(1) a nonresident:

(i) acquires before the property or service enters the State; and

(ii) uses:

1. for personal enjoyment or use or for a use that the Comptroller specifies by regulation, other than for a business purpose; or

2. in a presentation or in conjunction with a presentation of

an exhibit, show, sporting event, or other public performance or display; and

(2) does not remain in the State for more than 30 days.

§11–214.1.

(a) In this section:

(1) "precious metal bullion or coins" means:

(i) any precious metal that has gone through a refining process and is in a state or condition such that its value depends on its precious metal content and not on its form; or

(ii) except as provided in paragraph (2) of this subsection, monetized bullion, coins, or other forms of money that:

1. are manufactured from precious metals; and

2. are or have in the past been used as a medium of exchange under the laws of the State, the United States, or a foreign nation; and

(2) "precious metal bullion or coins" does not include jewelry or a work of art made of precious metal bullion or coins.

(b) The sales and use tax does not apply to a sale of precious metal bullion or coins if the sale price is greater than $1,000.

§11–215.

(a) The sales and use tax does not apply to a sale of photographic material for use in the production of an item that is used in:

(1) composition or printing; or

(2) production of another item used in printing.

(b) (1) The sales and use tax does not apply to a sale of art works, electros, electrotypes, hand or machine compositions, lithographic plates or negatives, mats, photoengravings, stereotypes, or typographies:

(i) to a person engaged in the printing of tangible personal property for sale; and

(ii) for direct use by the person to produce that property for sale.

(2) A vendor who sells any item under paragraph (1) of this subsection is not entitled to any exclusion under § 11-101(h)(3)(ii) or (n)(3)(ii) of this title for material that the vendor buys to produce that item.

(c) (1) The sales and use tax does not apply to the printing and sale of newspapers that are distributed by the publisher at no charge.

(2) A publication is not a newspaper unless it is published and distributed at least once per month and it meets other criteria as defined by the Comptroller.

(d) The sales and use tax does not apply to:

(1) a sale of direct mail advertising literature and mail order catalogues that will be distributed outside the State, and a sale of computerized mailing lists to the extent used for the purpose of providing addresses to which direct mail advertising literature and mail order catalogues will be distributed outside the State; or

(2) a sale of government documents, publications, records, or copies by the federal or State or a local government or an instrumentality of the federal or State or a local government.

§11–216.

(a) The sales and use tax does not apply to:

(1) a sale for use of tangible personal property that:

(i) is bought outside this State;

(ii) is intended solely for use in another state; and

(iii) is stored in this State pending shipment to another state;

(2) a sale of tangible personal property to a person obligated under a contract to incorporate that property into real property located in another state where the purchase or use of that property would not be subject to a sales tax, use tax, or similar tax; or

(3) except for that portion of the purchase price allocable to intended viewing in this State, a sale of a series of images stored on video tape or in other optical or digital forms or electronic signals generated from these images to a cable or other nonbroadcast television network, if the images are intended for viewing by television viewers located outside the State.

(b) The sales and use tax shall be paid:

(1) on a sale under subsection (a)(1) of this section, when the tangible personal property is imported or stored in the State; and

(2) on a sale under subsection (a)(2) of this section, when the sale is made.

(c) A person who pays the sales and use tax under subsection (b) of this section may obtain the exemption by:

(1) filing a claim for refund with the Comptroller when the property is removed from the State; and

(2) providing the Comptroller with the evidence that the Comptroller requires by regulation, including:

(i) evidence of use or removal of the property from the State; and

(ii) satisfactory proof of entitlement to exemption in another state.

§11–217.

(a) (1) In this section, "research and development" means:

(i) basic and applied research in the sciences and engineering; and

(ii) the design, development, and governmentally required pre-market testing of prototypes, products, and processes.

(2) "Research and development" does not include:

(i) market research;

(ii) research in the social sciences or psychology and other nontechnical activities;

(iii) routine product testing;

(iv) sales services; or

(v) technical and nontechnical services.

(b) The sales and use tax does not apply to a sale of tangible personal property for use or consumption in research and development.

§11–218.

The sales and use tax does not apply to a sale of:

(1) a clam or oyster rake, crab bait, crab or eel pot, or fish net;

(2) a dredge, handscrape, or hand or patent tong; or

(3) fuel or a repair part for a commercial fishing vessel or for a vessel otherwise used for commercial purposes.

§11–219.

(a) The sales and use tax does not apply to a personal, professional, or insurance

service that:

(1) is not a taxable service; and

(2) involves a sale as an inconsequential element for which no separate charge is made.

(b) The sales and use tax does not apply to a sale of custom computer software services relating to procedures and programs that:

(1) otherwise are taxable under this title;

(2) are to be used by a specific person;

(3) (i) are created for that person; or

(ii) contain standard or proprietary routines that incorporate significant creative input to customize the procedures and programs for that person; and

(4) do not constitute a program, procedure, or documentation that is mass produced and sold to:

(i) the general public; or

(ii) persons associated in a trade, profession, or industry.

(c) The sales and use tax does not apply to the sale of an optional computer software maintenance contract if the buyer does not have a right, as part of the contract, to receive at no additional cost software products that are separately priced and marketed by the vendor.

(d) The sales and use tax does not apply to the use of a taxable service obtained by using a prepaid telephone calling arrangement.

§11–220.

(a) The sales and use tax does not apply to a sale to the State or a political subdivision of the State.

(b) The exemption under subsection (a) of this section may not be construed to exempt any sale of tangible personal property, otherwise taxable under this title, to a contractor to be used under a contract with the State or a political subdivision of the State for construction, repair, or alteration of real property.

§11–221.

(a) The sales and use tax does not apply to:

(1) a sale of an admission by a person whose gross receipts from the sale are subject to the admissions and amusement tax;

(2) a sale of a communication service, other than a taxable service, rendered by a person whose charge for a communication service is or would be subject to the federal excise tax as described in § 4251 of the Internal Revenue Code in effect on July 1, 1979;

(3) a sale of a motor fuel that is subject to the motor fuel tax or the motor carrier tax;

(4) except for a rental, a sale of a motor vehicle, other than a house or office trailer, that is subject to the motor vehicle excise tax under § 13-809 or § 13-811 of the Transportation Article;

(5) a lease of a motor vehicle that is leased for a period of at least 1 year;

(6) a rental of a motion picture, motion picture trailer, or advertising poster for display on theater premises by a person whose gross receipts from the activity related to the rental is subject to the admissions and amusement tax; or

(7) except for a rental, a sale of a vessel that is subject to the excise tax under § 8-716 of the Natural Resources Article.

(b) If a person who buys tangible personal property or a taxable service in a retail sale pays the sales and use tax when the retail sale is made, the person is not required to pay the tax again when the person uses that tangible personal property or taxable service in the State.

(c) (1) To the extent that a buyer pays another state a tax on a sale or gross receipts from a sale of tangible personal property or a taxable service that the buyer acquires before the property or service enters this State, the sales and use tax does not apply to use of the property or service in this State.

(2) If the tax paid to another state is less than the sales and use tax, the buyer shall pay the difference between the sales and use tax and the amount paid to the other state in accordance with the formula under § 11-303(b) of this title.

§11–222.

The sales and use tax does not apply to a sale of deliverable end item testing equipment that is used to perform a contract for the United States Department of Defense and that, under the terms of the contract, is to be transferred to the federal government, if the contract is awarded as a result of a bid submitted after June 1, 1986.

§11–223.

The sales and use tax does not apply to a sale of:

(1) a bus to a person who uses the bus only:

(i) in the operation of the transportation system of a political subdivision of the State; and

(ii) for public transportation on regular schedules and between fixed termini, as defined in Title 11 of the Transportation Article; or

(2) a transportation service.

§11–224.

The sales and use tax does not apply to a sale of water that is delivered to the buyer through pipes or conduits.

§11–225.

(a) In this section, "computer program" means a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

(b) The sales and use tax does not apply to a sale of a computer program that is legally permitted to be and is intended to be:

(1) reproduced for sale; or

(2) incorporated in whole or in part into another computer program intended for sale.

§11–226. IN EFFECT

(a) (1) In this subsection, "Energy Star product" means an air conditioner, clothes washer or dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, light–emitting diode (LED) light bulb, dehumidifier, boiler, or programmable thermostat that has been designated as meeting or exceeding the applicable Energy Star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy.

(2) Beginning in calendar year 2011, the weekend that consists of the Saturday immediately preceding the third Monday in February through the third Monday in February each year shall be a tax–free weekend during which the exemption under paragraph (3) of this subsection shall apply.

(3) During the tax–free weekend established under paragraph (2) of this subsection, the sales and use tax does not apply to the sale of any:

(i) Energy Star product; or

(ii) solar water heater.

(b) The sales and use tax does not apply to the sale of a multifuel pellet stove designed to burn agricultural field corn.

11–226. // EFFECTIVE JUNE 30, 2017 PER CHAPTER 424 OF 2014 //

(a) (1) In this subsection, "Energy Star product" means an air conditioner, clothes washer or dryer, furnace, heat pump, standard size refrigerator, compact fluorescent light bulb, dehumidifier, boiler, or programmable thermostat that has been designated as meeting or exceeding the applicable Energy Star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy.

(2) Beginning in calendar year 2011, the weekend that consists of the Saturday immediately preceding the third Monday in February through the third Monday in February each year shall be a tax–free weekend during which the exemption under paragraph (3) of this subsection shall apply.

(3) During the tax–free weekend established under paragraph (2) of this subsection, the sales and use tax does not apply to the sale of any:

(i) Energy Star product; or

(ii) solar water heater.

(b) The sales and use tax does not apply to the sale of a multifuel pellet stove designed to burn agricultural field corn.

§11–227.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Film production activity" means the production or postproduction of film or video projects including feature films, television projects, commercials, corporate films, infomercials, music videos, or other projects for which the producer or production company will be compensated, and which are intended for nationwide commercial distribution.

(ii) "Film production activity" includes the production or postproduction of digital, animation, and multimedia projects.

(iii) "Film production activity" does not include:

1. production or postproduction of student films or noncommercial personal videos; or

2. any activity not necessary to and undertaken directly and exclusively for the making of a master film, tape, or image.

(3) "Tangible personal property or a taxable service used directly in connection with a film production activity" includes:

(i) camera equipment and supplies;

(ii) film and tape;

(iii) lighting and stage equipment and supplies;

(iv) sound equipment and supplies;

(v) recording equipment and supplies;

(vi) costumes, wardrobes, and materials to construct them;

(vii) props, scenery, and materials to construct them;

(viii) design supplies and equipment;

(ix) drafting supplies and equipment;

(x) special effects supplies and equipment;

(xi) short–term vehicle rentals; and

(xii) fabrication, printing, or production of scripts, storyboards, costumes, wardrobes, props, scenery, or special effects.

(b) The sales and use tax does not apply to a sale of tangible personal property or a taxable service used directly in connection with a film production activity by a film producer or production company certified by the Department of Economic Competitiveness and Commerce under Title 6, Subtitle 2 of the Economic Development Article.

§11–228.

(a) In this section, "accessory items" includes jewelry, watches, watchbands, handbags, handkerchiefs, umbrellas, scarves, ties, headbands, and belt buckles.

(b) (1) Beginning in calendar year 2010, the 7–day period from the second Sunday in August through the following Saturday shall be a tax–free period for back–to–school shopping in Maryland during which the exemption under paragraph (2) of this subsection shall apply.

(2) During the tax–free period for back–to–school shopping established under paragraph (1) of this subsection, the sales and use tax does not apply to the sale of any item of clothing or footwear, excluding accessory items, if the taxable price of the item of clothing or footwear is $100 or less.

§11–229.

The sales and use tax does not apply to a sale of electricity, fuel, and other utilities used to operate the machinery or equipment used to produce snow for commercial purposes.

§11–230.

(a) (1) In this section the following words have the meanings indicated.

(2) "Geothermal equipment" means equipment that uses ground loop technology to heat and cool a structure.

(3) "Residential wind energy equipment" means equipment installed on residential property that uses wind energy to generate electricity to be used in a residential structure on the property.

(4) (i) "Solar energy equipment" means equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure or supplied to the electric grid, or provide hot water for use in a structure.

(ii) "Solar energy equipment" does not include equipment that is part of a nonsolar energy system or that uses any type of recreational facility or equipment as a storage medium.

(b) The sales and use tax does not apply to a sale of geothermal equipment, residential wind energy equipment, or solar energy equipment.

§11–231.

The sales and use tax does not apply to the sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that:

(1) is operated solely in support of a corporate or any other headquarters, training, conference, or awards facility or campus;

(2) provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility; and

(3) does not offer lodging services to the general public.

§11–301.

The sales and use tax is computed on:

(1) the taxable price of each separate sale;

(2) if a combined sale is made, the combined taxable price of all retail sales on the same occasion by the same vendor to the same buyer; or

(3) if retail sales of tangible personal property or a taxable service are made through vending or other self–service machines, 94.5% of the gross receipts from the retail sales.

§11–302.

For each retail sale or sale for use other than a sale under § 11–405, § 11–406, or § 11–410 of this title, the sales and use tax shall be:

(1) stated separately from the sale price; and

(2) shown separately from the sale price on any record of a sale:

(i) at the time of the sale;

(ii) when the vendor issues evidence of the sale; or

(iii) when the vendor uses evidence of the sale.

§11–303.

(a) A buyer is allowed a depreciation allowance as an adjustment to taxable price if:

(1) tangible personal property or a taxable service is acquired before the tangible personal property is brought into the State for use in the State or before the taxable service is used in the State; and

(2) the use first occurs in another state or federal jurisdiction.

(b) The allowance under subsection (a) of this section for each full year that follows the date of purchase is 10% of the taxable price paid to acquire the tangible personal property or taxable service.

§11–401.

(a) A vendor is a trustee for the State and is liable for the collection of the sales and use tax for and on account of the State.

(b) A vendor has the same rights to collect the sales and use tax from a buyer and the same rights regarding the nonpayment of the sales and use tax by a buyer that the vendor would have if the sales and use tax were a part of the purchase price of the tangible personal property or taxable service at the time of the sale.

§11–402.

Subject to § 11–302 of this title, a vendor may:

(1) assume or absorb all or any part of the sales and use tax imposed on a

retail sale or use; and

(2) pay that sales and use tax on behalf of the buyer.

§11–403.

(a) Except as otherwise provided in this subtitle, a vendor shall collect the applicable sales and use tax from the buyer:

(1) at the time that the sale is made, regardless of when the taxable price is paid;

(2) if the tax is based on a credit or installment sale, at the time that the Comptroller requires by regulation; or

(3) if a sale for use is not taxable when the sale is made, at the time that the use becomes taxable.

(b) Except as otherwise provided in this title, unless a buyer is otherwise required by regulation to pay the sales and use tax directly to the Comptroller, the buyer shall pay the sales and use tax to the vendor at the time required under subsection (a) of this section.

(c) A vendor shall refund to a buyer the proportionate amount of sales and use tax that the buyer has paid if:

(1) (i) a sale is rescinded or canceled; or

(ii) the property sold is returned to the vendor; and

(2) the purchase price is wholly or partially repaid or credited.

§11–404.

The collection of the sales and use tax on a sale for use in the State is not affected even if:

(1) as a result of solicitation by the vendor in a catalog or other written advertisement, the order of the buyer or the contract of sale is delivered, mailed, or otherwise transmitted out of the State to the vendor;

(2) the order of the buyer or the contract of sale provides for tangible personal property obtained or manufactured out of the State to be shipped directly to the buyer from the point of origin;

(3) tangible personal property, intended to be brought into the State for use in the State, is delivered outside the State directly to the buyer;

(4) the order of the buyer or the contract of sale is made or closed:

(i) by acceptance or approval out of the State; or

(ii) before the tangible personal property enters the State; or

(5) whether transportation costs are paid by the vendor or the buyer, tangible personal property:

(i) is mailed to a buyer in the State from outside the State; or

(ii) is delivered outside the State to a carrier freight on board or otherwise and directed to the buyer in the State.

§11–405.

A vendor who sells tangible personal property or a taxable service through a vending or other self-service machine:

(1) shall pay the sales and use tax to the Comptroller; and

(2) may not collect the sales and use tax from the buyer as a separately stated item.

§11–406.

(a) (1) If the nature of a vendor's business makes the collection of the sales and use tax at the time of a retail sale impracticable, the vendor may submit to the Comptroller an application for authority to prepay the tax.

(2) If the Comptroller approves the application, the Comptroller may impose on the applicant any condition that is reasonable under the circumstances.

(3) If the Comptroller denies an application or imposes a condition on the applicant, the Comptroller shall:

(i) give the applicant notice of the action; and

(ii) schedule a prompt hearing for review of the action.

(4) An applicant may waive the hearing under paragraph (3) of this subsection.

(b) A vendor who obtains authority to prepay the tax under this section:

(1) shall pay the sales and use tax to the Comptroller; and

(2) may not collect the sales and use tax from the buyer as a separately stated item.

§11–407.

(a) (1) Except as provided in subsection (c) of this section, on or after July 1, 1993, the Comptroller may not:

(i) grant the authority to make direct payment, to the Comptroller, of sales and use tax due on purchases by a vendor; or

(ii) issue permits evidencing such authority.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, the Comptroller may continue to administer direct payment permits issued to vendors before July 1, 1993.

(3) The Comptroller may:

(i) issue the permit subject to reasonable and necessary terms and conditions; and

(ii) revoke the direct payment permit at any time for cause.

(b) A vendor who receives evidence that the buyer has a direct payment permit is discharged from:

(1) the duty to collect the sales and use tax; and

(2) the liability for the sales and use tax.

(c) (1) (i) The Comptroller may enter into an effective rate agreement with a vendor licensed under Subtitle 7 of this title to allow the vendor to compute its sales and use tax liability for purchases made by the vendor for a specific period using a predetermined agreed-upon effective rate, eliminating the need to determine the liability on a transaction-by-transaction basis.

(ii) An effective rate agreement:

1. shall specify the types of records to be maintained by the vendor; and

2. may exclude specified types of purchases or purchases in excess of specified dollar amounts.

(iii) The Comptroller may void an effective rate agreement entered into under this subsection if the vendor's operations significantly change during the term of the agreement.

(2) (i) If the Comptroller enters into an effective rate agreement with a vendor under this subsection, the Comptroller may issue a direct payment permit authorizing the vendor to make direct payment, to the Comptroller, of the sales and use

tax due on purchases by that vendor that are subject to the effective rate agreement.

(ii) A direct payment permit issued under this paragraph remains in effect as long as the effective rate agreement is in effect.

§11–408.

(a) If a buyer is required under Subtitle 2 of this title or by regulation to provide a vendor with evidence of an exemption, the vendor may not recognize the exemption unless the buyer, before the sale is consummated, provides the vendor with:

(1) evidence that the buyer has an exemption certificate; or

(2) the evidence that the Comptroller requires by regulation.

(b) (1) Except as provided in paragraph (3) of this subsection, the duty of a vendor to collect the sales and use tax from a buyer is waived if the buyer provides the vendor with a signed resale certificate that:

(i) is in the form that the Comptroller requires by regulation;

(ii) states the name and address of the buyer;

(iii) 1. provides the Maryland sales and use tax registration number of the buyer; or

2. for the sale of an antique or used collectible, provides a sales and use tax registration number of another state and states that the buyer is an out-of-state vendor who does not engage in the business of an out-of-state vendor, as defined in § 11-701 of this title; and

(iv) contains a statement to the effect that the tangible personal property or taxable service is bought for the purpose of resale.

(2) (i) If a buyer provides a resale certificate with a sales and use tax registration number of another state as provided under paragraph (1)(iii)2 of this subsection, the buyer shall also provide a copy of a sales and use tax registration license issued to the buyer from that state.

(ii) If a buyer is from a state without a sales and use tax, that buyer shall provide a copy of a trader's license from that state or a comparable type of identification.

(3) (i) A vendor may not accept a resale certificate if the vendor knows or should know that the sale is not for the purpose of resale.

(ii) A vendor may not accept a resale certificate for a cash, check, or credit card sale if:

1. the taxable price is less than $200; and

2. the tangible personal property or taxable service is not delivered by the vendor directly to the buyer's retail place of business.

(4) A vendor shall obtain a resale certificate from a buyer:

(i) before the sale is consummated; or

(ii) if the vendor receives a notice of the Comptroller's intent to assess sales and use tax for failure to obtain a proper resale certificate, within 60 days after the date on which the notice is mailed.

(5) If the vendor fails to obtain the resale certificate as required, the Comptroller's assessment under paragraph (4)(ii) of this subsection is final.

(c) If the taxable price is less than $200 for a cash, check, or credit card sale or sale for use that is not a retail sale and the tangible personal property or taxable service is not delivered by the vendor directly to the buyer's retail place of business:

(1) the sales and use tax shall be paid when the sale is made or when the use becomes taxable; and

(2) the buyer who pays the sales and use tax may file a claim for a refund with the Comptroller.

§11–409.

Notwithstanding any other provisions of law, before a State agency issues a rebate or similar instrument or authorizes a rebate or similar instrument to be issued by a nongovernment entity to reduce the cost of a retail sale of household appliances under a program to promote energy efficiency, the State agency or nongovernment entity shall require the buyer of a household appliance to certify that:

(1) the household appliance was purchased at a retail sale in the State; or

(2) the buyer paid the applicable State sales and use tax.

§11–410.

A marina that sells dyed diesel fuel, as defined in § 11–104(h) of this title:

(1) shall pay the sales and use tax to the Comptroller; and

(2) may not collect the sales and use tax from the buyer as a separately stated item.

§11–501.

(a) A buyer who fails to pay the sales and use tax on a purchase or use subject to the tax to the vendor as required in § 11-403 of this title or who is required by regulation to file a return for a purchase or use subject to the tax shall complete, under oath, and file with the Comptroller a sales and use tax return:

(1) on or before the 20th day of the month that follows the month in which the buyer makes that purchase or use; and

(2) for other periods and on other dates that the Comptroller specifies, by regulation, including periods in which the buyer does not make any purchase or use subject to the sales and use tax.

(b) The return shall state for the period that the return covers:

(1) the total value of the tangible personal property or taxable service that is subject to the sales and use tax; and

(2) the sales and use tax due.

§11–502.

(a) Each vendor shall complete, under oath, and file with the Comptroller a sales and use tax return:

(1) on or before the 20th day of the month that follows the month in which the vendor makes any retail sale or sale for use; and

(2) for other periods and on other dates that the Comptroller specifies by regulation, including periods in which the vendor does not make any retail sale or sale for use.

(b) A return shall state, for the period that the return covers:

(1) for a vendor making a retail sale in the State:

(i) the gross proceeds of the business of the vendor;

(ii) the taxable price of sales on which the sales and use tax is computed; and

(iii) the sales and use tax due; and

(2) for a vendor making a sale for use:

(i) the total value of the tangible personal property or taxable service the use of which became subject to the sales and use tax; and

(ii) the sales and use tax due.

(c) If the Comptroller approves, a vendor engaging in more than 1 business in which the vendor makes retail sales or sales for use may file a consolidated return covering the activities of the businesses.

§11–503.

If the Comptroller finds that good cause exists and subject to § 13-601 of this article, the Comptroller may extend the time to file a sales and use tax return for the period that the Comptroller considers reasonable.

§11–504.

(a) A vendor shall keep:

(1) complete and accurate records of:

(i) all retail sales and sales for use; and

(ii) the sales and use tax collected; and

(2) other records in the form that the Comptroller requires by regulation, including bills of lading and invoices.

(b) A vendor shall make the records under subsection (a) of this section available for inspection and examination by the Comptroller at any time during business hours.

(c) A vendor shall keep the records required under subsection (a) of this section for 4 years, unless the Comptroller:

(1) consents in writing to an earlier destruction of the records; or

(2) requires in writing that the records be kept longer.

§11–505.

(a) A transferee or auctioneer in a bulk transfer, as defined in § 6-102 of the Commercial Law Article, shall mail to the Comptroller the notice to creditors, as required in §§ 6-107 and 6-108 of the Commercial Law Article, whether or not:

(1) the transferor lists the Comptroller as a creditor; or

(2) the transferee or auctioneer knows that the transferor owes any sales and use tax.

(b) If the Comptroller finds that the transferor owes sales and use tax, the Comptroller shall file a claim for sales and use tax due from the transferor at the address required in the notice to creditors.

(c) If the Comptroller files a claim under subsection (b) of this section, the transferee or auctioneer shall withhold the amount stated in the claim from distribution to the transferor.

§11–601.

(a) A buyer who fails to pay the sales and use tax to the vendor for any purchase or use subject to the tax as required in § 11-403 of this title or who is required by regulation to file a return for a purchase or use subject to the tax shall pay the sales and use tax on that purchase or use with the return that covers the period in which the buyer makes that purchase or use.

(b) (1) A vendor who makes a sale subject to the sales and use tax shall pay the sales and use tax that the vendor collects for that sale or that the vendor assumes or absorbs for that sale with the return that covers the period in which the vendor makes that sale.

(2) A vendor who, under a direct payment permit, makes a purchase or use subject to the sales and use tax shall pay the sales and use tax for that purchase or use with the return that covers the period in which the vendor makes that purchase or use.

(3) A vendor who makes a sale subject to the sales and use tax under a prepayment authorization or through a vending machine shall pay the sales and use tax on that sale with the return that covers the period in which the vendor makes that sale.

(c) Personal liability for the sales and use tax and for the interest and penalties of the tax extends to:

(1) a buyer for tax that the buyer does not pay to:

(i) the vendor as required in § 11-403 of this title; or

(ii) the Comptroller as required by regulation; and

(2) a vendor for tax that the vendor does not:

(i) collect from the buyer as required in § 11-403 of this title; or

(ii) pay to the Comptroller as required in subsection (b) of this section.

(d) If a buyer or vendor liable for the sales and use tax and for the interest and penalties of the tax under subsection (c) of this section is a corporation or limited liability company or limited liability partnership (including a limited partnership registered as a limited liability limited partnership), personal liability for the sales and use tax and for the interest and penalties of the tax extends to:

(1) in the case of a corporation:

(i) the president, vice president or treasurer of the corporation; and

(ii) any officer of the corporation who directly or indirectly owns more than 20% of the stock of the corporation; and

(2) in the case of a limited liability company:

(i) if the limited liability company does not have an operating agreement, all members; or

(ii) if the limited liability company has an operating agreement, those individuals who manage the business and affairs of the limited liability company; and

(3) in the case of a limited liability partnership:

(i) if the limited liability partnership does not have a written partnership agreement, all general partners; or

(ii) if the limited liability partnership has a written partnership agreement, those individuals who manage the business and affairs of the limited liability partnership.

(e) A member of a limited liability company does not manage the business and affairs of the limited liability company under subsection (d) of this section solely by doing one or more of the following:

(1) consulting with or advising the individuals who manage the business and affairs of the limited liability company;

(2) directing the management of the limited liability company in the same manner as a director of a corporation directs the management of a corporation; or

(3) voting on any matter required to be voted on by the members of the limited liability company, including, but not limited to:

(i) the approval or disapproval of amendments to the operating agreement;

(ii) the termination and winding up of the limited liability company;

(iii) the sale, exchange, lease, mortgage, pledge, or other transfer of a material portion of the assets of the limited liability company;

(iv) the incurrence of indebtedness by the limited liability company other than in the ordinary course of its business;

(v) a change in the nature of the business of the limited liability company;

(vi) the expulsion or admission of a member;

(vii) the appointment or discharge of a manager;

(viii) the merger of the limited liability company with or into any other entity; or

(ix) any matter related to the business of the limited liability company not otherwise enumerated in this section that the operating agreement states may be subject to the approval or disapproval of the members.

(f) The possession or exercise of powers other than those contained in subsection (e) of this section by a member does not necessarily constitute management by the member of the business or affairs of the limited liability company.

(g) The same rules and exceptions applicable to a member of a limited liability company set forth in subsections (e) and (f) of this section shall be applicable to individuals and members of limited liability partnerships.

§11–701.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Engage in the business of an out-of-state vendor" means to sell or deliver tangible personal property or a taxable service for use in the State.

(2) "Engage in the business of an out-of-state vendor" includes:

(i) permanently or temporarily maintaining, occupying, or using any office, sales or sample room, or distribution, storage, warehouse, or other place for the sale of tangible personal property or a taxable service directly or indirectly through an agent or subsidiary;

(ii) having an agent, canvasser, representative, salesman, or solicitor operating in the State for the purpose of delivering, selling, or taking orders for tangible personal property or a taxable service; or

(iii) entering the State on a regular basis to provide service or repair for tangible personal property.

(c) (1) "Engage in the business of a retail vendor" means to sell or deliver tangible personal property or a taxable service in the State.

(2) "Engage in the business of a retail vendor" includes liquidating a business that sells tangible personal property or a taxable service, when the liquidator

holds out to the public that the business is conducted by the liquidator.

(d) (1) "License" means a license issued by the Comptroller:

(i) to engage in the business of an out-of-state vendor; or

(ii) to engage in the business of a retail vendor.

(2) "License" includes a special license issued under § 11-707 of this subtitle.

§11–702.

A person shall be licensed by the Comptroller before the person may:

(1) engage in the business of an out-of-state vendor in the State; or

(2) engage in the business of a retail vendor in the State.

§11–703.

An applicant for a license to engage in the business of an out-of-state vendor or to engage in the business of a retail vendor shall submit an application to the Comptroller:

(1) for each place of business in the State where the applicant sells tangible personal property or a taxable service;

(2) if the applicant has no fixed place of business and sells from 1 or more vehicles, for each vehicle; or

(3) if the applicant has no fixed place of business and does not sell from a vehicle, for the place designated as the address to which notices are to be mailed.

§11–704.

The Comptroller shall issue to each applicant who meets the requirements of this subtitle a license for each place of business designated in the application.

§11–705.

While it is effective, and except as provided under § 11-707(b) of this subtitle, a license authorizes the licensee:

(1) to engage in the business of an out-of-state vendor; or

(2) to engage in the business of a retail vendor.

§11–706.

(a) Except as otherwise provided in this section, a license is effective until it is:

(1) surrendered by the licensee; or

(2) revoked for cause by the Comptroller.

(b) (1) If a partnership that is licensed to engage in the business of a retail vendor is dissolved by the death of a partner, the surviving partner or partners may operate under the license for not more than 60 days after the date of dissolution.

(2) If a person who is licensed to engage in the business of a retail vendor dies, the heirs or legal representative of the licensee may operate under the license for the period of time necessary for the administration of the licensee's estate.

(3) If a person who is licensed to engage in the business of a retail vendor declares bankruptcy, the receiver or trustee in bankruptcy may operate under the license for the period of time necessary for the administration of the licensee's assets.

(4) If 2 or more persons who constitute a single vendor licensed to engage in the business of a retail vendor operate at 1 place of business under 1 license, the retirement of 1 or more persons from the business or the addition of 1 or more persons to the business will not affect the license or require a new license for the place of business.

§11–707.

(a) The Comptroller may issue a special license to an applicant who:

(1) is not required to be licensed as an out-of-state vendor or a retail vendor;

(2) operates out of the State and sells tangible personal property or a taxable service for use in the State; and

(3) submits to the Comptroller an application on the form that the Comptroller requires.

(b) While it is effective, a special license authorizes the licensee to collect the sales and use tax.

§11–708.

Each licensee shall display the license in each place of business of the licensee in the State.

§11–709.

Except as otherwise provided in this subtitle, a license may not be transferred.

§11–710.

Subject to the hearing provisions of § 11-711 of this subtitle, the Comptroller may deny a license to any applicant, reprimand any licensee, or suspend or revoke a license:

(1) if the applicant or licensee:

(i) fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another; or

(ii) fraudulently or deceptively uses a license; or

(2) for cause.

§11–711.

(a) Except as otherwise provided in § 10-226 of the State Government Article, before the Comptroller takes an action under § 11-710 of this subtitle, the Comptroller shall give the person against whom the action is contemplated an opportunity for a hearing before the Comptroller.

(b) The Comptroller shall give notice and hold the hearing in accordance with Title 10, Subtitle 2 of the State Government Article.

(c) The Comptroller may administer oaths in connection with any proceeding under this section.

§11–712.

A person may not engage in the business of a retail vendor or engage in the business of an out-of-state vendor without a license issued by the Comptroller under this subtitle.

§12–101.

(a) In this title the following words have the meanings indicated.

(b) "Cigarette" means any size or shaped roll for smoking that is made of tobacco or tobacco mixed with another ingredient and wrapped in paper or in any other material except tobacco.

(c) "Manufacturer" means a person who acts as a manufacturer as defined in § 16–201 of the Business Regulation Article or as an other tobacco products manufacturer as defined in § 16.5–101 of the Business Regulation Article.

(d) "Other tobacco product" means:

(1) any cigar or roll for smoking, other than a cigarette, made in whole or in part of tobacco; or

(2) any other tobacco or product made primarily from tobacco, other than a cigarette, that is intended for consumption by smoking or chewing or as snuff.

(e) "Other tobacco products retailer" means a person authorized under § 16.5–205(b) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(f) "Sell" means to exchange or transfer, or to make an agreement to exchange or transfer, title or possession of property, in any manner or by any means, for consideration.

(g) "Tax stamp" means a device in the design and denomination that the Comptroller authorizes by regulation for the purpose of being affixed to a package of cigarettes as evidence that the tobacco tax is paid.

(h) "Tobacconist" means a person authorized under § 16.5–205(e) of the Business Regulation Article to purchase other tobacco products on which the tobacco tax has not been paid.

(i) "Unstamped cigarettes" means a package of cigarettes to which tax stamps are not affixed in the amount and manner required in § 12–304 of this title.

(j) "Wholesale price" means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.

(k) "Wholesaler" means, unless the context requires otherwise, a person who acts as a wholesaler as defined in § 16–201 of the Business Regulation Article or as an other tobacco products wholesaler as defined in § 16.5–101 of the Business Regulation Article.

§12–102.

(a) Except as provided in § 12–104 of this subtitle, a tax is imposed on cigarettes and other tobacco products in the State.

(b) A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose a tax on cigarettes or other tobacco products.

§12–103.

(a) A rebuttable presumption exists that any cigarette or other tobacco product in the State is subject to the tobacco tax.

(b) Cigarettes or other tobacco products are contraband tobacco products if they:

(1) are possessed or sold in the State in a manner that is not authorized under this title or under Title 16 or Title 16.5 of the Business Regulation Article; or

(2) are transported by vehicle in the State by a person who does not have, in the vehicle, the records required by § 16–219 or § 16.5–215 of the Business Regulation Article for the transportation of cigarettes or other tobacco products.

(c) A person who possesses cigarettes or other tobacco products has the burden of proving that the cigarettes or other tobacco products are not subject to the tobacco tax.

§12–104.

(a) "Consumer" means a person who possesses cigarettes or other tobacco products for a purpose other than selling or transporting the cigarettes or other tobacco products.

(b) The tobacco tax does not apply to:

(1) cigarettes that a licensed wholesaler under Title 16 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary;

(2) other tobacco products that an other tobacco products wholesaler licensed under Title 16.5 of the Business Regulation Article is holding for sale outside the State or to a United States armed forces exchange or commissary; or

(3) cigarettes or other tobacco products that:

(i) a consumer brings into the State:

1. if the quantity brought from another state does not exceed other tobacco products having a retail value of $100 or 5 cartons of cigarettes; or

2. if the quantity brought from a United States armed forces installation or reservation does not exceed other tobacco products having a retail value of $100 or 5 cartons of cigarettes;

(ii) a person is transporting by vehicle in the State if the person has, in the vehicle, the records required by § 16–219 or § 16.5–215 of the Business Regulation Article for the transportation of cigarettes or other tobacco products; or

(iii) are held in storage in a licensed storage warehouse on behalf of a licensed cigarette manufacturer or an other tobacco products manufacturer.

§12–105.

(a) The tobacco tax rate for cigarettes is:

(1) $1.00 for each package of 10 or fewer cigarettes;

(2) $2.00 for each package of at least 11 and not more than 20 cigarettes;

(3) 10.0 cents for each cigarette in a package of more than 20 cigarettes; and

(4) 10.0 cents for each cigarette in a package of free sample cigarettes.

(b) (1) Except as provided in paragraph (2) of this subsection, the tobacco tax rate for other tobacco products is 30% of the wholesale price of the tobacco products.

(2) (i) In this paragraph, "premium cigars" has the meaning stated in § 16.5–101 of the Business Regulation Article.

(ii) Except as provided in subparagraph (iii) of this paragraph, the tobacco tax rate for cigars is 70% of the wholesale price of the cigars.

(iii) The tobacco tax rate for premium cigars is 15% of the wholesale price of the premium cigars.

§12–201.

(a) A manufacturer shall complete and file with the Comptroller a tobacco tax return:

(1) on or before the 15th day of the month that follows the month in which the manufacturer distributes in the State free sample cigarettes of the manufacturer; and

(2) if the Comptroller so specifies, by regulation, on other dates for each month in which the manufacturer does not distribute any sample cigarettes.

(b) A licensed other tobacco products manufacturer shall file the information return that the Comptroller requires.

(c) A licensed storage warehouse operator and a licensed other tobacco products storage warehouse operator shall file the information return that the Comptroller requires.

§12–202.

(a) A wholesaler shall complete and file with the Comptroller a tobacco tax return:

(1) for cigarettes:

(i) on or before the 21st day of the month that follows the month in which the wholesaler has the first possession, in the State, of unstamped cigarettes for which tax stamps are required; and

(ii) if the Comptroller so specifies, by regulation, on other dates for each month in which the wholesaler does not have the first possession of any unstamped

cigarettes in the State; and

(2) for other tobacco products, on or before the 21st day of the month that follows the month in which the wholesaler has possession of other tobacco products on which the tobacco tax has not been paid.

(b) Each return shall state the quantity of cigarettes or the wholesale price of other tobacco products sold during the period that the return covers.

§12–203.

(a) Each wholesaler shall:

(1) keep an invoice for each purchase of tax stamps;

(2) maintain a daily record of the tax stamps affixed to cigarette packages; and

(3) maintain a complete and accurate record of each sale of cigarettes or other tobacco products for resale outside of the State.

(b) A wholesaler shall:

(1) keep the records required under subsection (a) of this section for a period of 6 years or for a shorter period that the Comptroller authorizes; and

(2) allow the Comptroller to examine the records.

§12–301.

In this subtitle, "licensed wholesaler" means a wholesaler who is licensed under Title 16, Subtitle 2 of the Business Regulation Article to act as a wholesaler or under Title 16.5, Subtitle 2 of the Business Regulation Article to act as an other tobacco products wholesaler.

§12–302.

(a) A manufacturer of sample cigarettes shall pay the tobacco tax on those cigarettes distributed in the State without charge, in the manner that the Comptroller requires by regulation, with the return that covers the period in which the manufacturer distributed those cigarettes.

(b) The wholesaler who first possesses in the State unstamped cigarettes for which tax stamps are required shall pay the tobacco tax on those cigarettes by buying and affixing tax stamps.

(c) The tobacco tax on other tobacco products shall be paid by the wholesaler who sells the other tobacco products to a retailer in the State.

(d) (1) A licensed other tobacco products retailer or a licensed tobacconist shall pay the tobacco tax on other tobacco products on which the tobacco tax has not been paid by filing a quarterly tax return, with any supporting schedules, on forms provided by the Comptroller on the following dates covering tax liabilities in the preceding quarter:

(i) January 21;

(ii) April 21;

(iii) July 21; and

(iv) October 21.

(2) A licensed other tobacco products retailer or a licensed tobacconist required to file a tax return under paragraph (1) of this subsection shall pay a tobacco tax at the rate provided in § 12–105(b) of this title based on the invoice amount charged by the licensed other tobacco products manufacturer, exclusive of any discount, trade allowance, rebate, or other reduction.

§12–303.

(a) (1) A licensed wholesaler may buy tax stamps, in the manner and at the time that the Comptroller requires by regulation.

(2) Tax stamps may not be bought from a person other than the Comptroller unless the buyer:

(i) has written permission from the Comptroller to do so; or

(ii) is acting in accordance with the regulations of the Comptroller for stamping floor stock.

(b) The Comptroller shall allow a licensed wholesaler a discount of 0.82% of the purchase price of tax stamps.

§12–304.

(a) A manufacturer that pays the tobacco tax shall indicate prominently on each package of cigarettes that:

(1) the package contains sample cigarettes that are not for sale; and

(2) all applicable tobacco taxes on those cigarettes have been paid.

(b) (1) Except as provided in subsection (c) of this section, within 72 hours after receiving cigarettes in the State and before selling or attempting to sell the cigarettes, a licensed wholesaler who first possesses the cigarettes shall affix, to the smallest cigarette package, tax stamps:

(i) in a total amount that at least equals the tobacco tax due on the number of cigarettes in the package; and

(ii) in the manner that the Comptroller requires, including placing the tax stamps on the cigarette package so that the stamps are visible to a buyer.

(2) If a tax stamp has been affixed to a package of cigarettes, a person may not affix the same tax stamp to another package of cigarettes.

(c) A licensed wholesaler is not required to affix tax stamps to:

(1) sample cigarettes if the cigarette package is marked in accordance with subsection (a) of this section; or

(2) cigarettes that are segregated or marked to indicate that the cigarettes:

(i) were received within the immediately preceding 72 hours; or

(ii) are being held for a sale or use that is exempt under this title.

(d) (1) Except as provided in subsection (c)(2) of this section, a rebuttable presumption exists that any unstamped cigarettes in the possession of a licensed wholesaler are possessed in violation of this title.

(2) The licensed wholesaler who possesses unstamped cigarettes has the burden of proving that the cigarettes are not possessed in violation of this title.

§12–305.

(a) Unless otherwise authorized under this title, a person may not possess, sell, or attempt to sell unstamped cigarettes in the State.

(b) A person may not make, cause to be made, or procure an altered or counterfeited tax stamp.

(c) A person may not knowingly or willfully use, transfer, or possess an altered or counterfeited tax stamp.

§13–101.

(a) In this title the following words have the meanings indicated.

(b) "Governmental unit" means:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

(c) (1) "Tax collector" means the person or governmental unit responsible for collecting a tax.

(2) "Tax collector" includes:

(i) the Comptroller;

(ii) the Department, with respect to:

1. the financial institution franchise tax; and

2. the public service company franchise tax; and

(iii) the registers of wills, with respect to the inheritance tax.

§13–102.

(a) Unpaid tax and interest and penalties on the tax are, from the due date, the personal debt of the person required to pay the tax.

(b) Subsection (a) of this section does not add to or otherwise change the personal liability of an officer of a corporation under any other provision of law.

§13–103.

(a) A tax collector shall apply a payment under this title first to any penalty and accrued interest and then to the unpaid tax.

(b) This section does not affect the authority of a tax collector to compromise claims or to abate or waive penalties or interest.

§13–104.

(a) (1) Subject to the approval of the Treasurer and subject to the limitation under paragraph (2) of this subsection, the Comptroller or the Department may provide by regulation for the payment of any unpaid tax liability in connection with a tax return, report, or other document required to be filed with the Comptroller or the Department in funds that are immediately available to the State on the date the payment is due.

(2) Except as provided in paragraph (3) of this subsection, the Comptroller or the Department may not require payment in funds that are immediately available to the State if the unpaid tax liability in connection with a tax return, report, or other document is less than $10,000.

(3) (i) The Comptroller may require a person who is an agent of the payor or employer as defined in § 10-905 of this article to make payments in

immediately available funds on the date the payment is due by the employer or payor if the total amount of the payments to be made by the agent for any pay period exceeds $10,000 in the aggregate.

(ii) Any amounts for which an agent has not received timely payment from an employer or payor:

1. shall be excluded for purposes of determining whether the total amount of payments to be made by an agent for a pay period exceeds $10,000 in the aggregate; and

2. may not be required to be paid in immediately available funds under this paragraph.

(iii) This paragraph does not impose or affect liability for the payment of any tax.

(b) Any regulations adopted by the Comptroller or the Department under this section shall establish a suitable means for payment in immediately available funds so as to insure the availability of those funds to the State on the date of payment.

(c) (1) Subject to paragraphs (2) and (3) of this subsection, if a person fails to pay a tax imposed under this article on or before the date the tax is due in immediately available funds as required by the regulations of the Comptroller or the Department, the Comptroller or the Department shall assess interest and a penalty on the unpaid tax from the date the tax is due to the date on which the funds from the tax payment become available to the State.

(2) The Comptroller or the Department may waive interest and penalties on late payments if the person required to pay the tax proves that:

(i) the person made a good faith effort to comply with the requirements of this section; and

(ii) the person exercised due diligence to initiate payment correctly and on a timely basis.

(3) (i) Any interest or penalty assessed under this section due to an agent's failure to make payment in immediately available funds as required under subsection (a)(3) of this section:

1. shall be assessed against and paid by the agent; and

2. is not the responsibility of the payor or employer.

(ii) This paragraph does not prevent assessment of interest and penalty against a payor or employer that is required to make payment in immediately available funds without regard to subsection (a)(3) of this section.

(d) This section does not affect any requirement otherwise established by law for the filing of any return, report, or other document.

§13–105.

Subject to the approval of the Treasurer, the Comptroller by regulation may provide for payment in funds that are immediately available to the State of any delinquent unpaid tax liability for:

(1) income tax withheld by an employer;

(2) income tax from a corporation; or

(3) sales and use tax.

§13–201.

In this subtitle, "tax information" means:

(1) the amount of income or any other particulars disclosed in a tax return required under this article, if the return contains return information, as defined in § 6103 of the Internal Revenue Code;

(2) any return information, as defined in § 6103 of the Internal Revenue Code, required to be attached to or included in a tax return required under this article; or

(3) any information contained in:

(i) an admissions and amusement tax return; or

(ii) a sales and use tax return.

§13–202.

Except as otherwise provided in this subtitle, an officer, employee, former officer, or former employee of the State or of a political subdivision of the State may not disclose, in any manner, any tax information.

§13–203.

(a) (1) In this subsection, "taxing official" means:

(i) a unit or official of another state whom the laws of that state charge with the imposition, assessment, or collection of state taxes;

(ii) an employee of the United States Treasury Department; or

(iii) a collector of United States taxes.

(2) The Comptroller or Department may disclose to a taxing official tax information that is contained in any tax report or return, audit of a tax return, or report of a tax investigation and relates to the imposition, assessment, and collection of taxes or to any other matter about taxation generally if:

(i) the Comptroller or Department is satisfied that the tax information is to be used only for tax purposes;

(ii) the taxing official's jurisdiction makes similar information available to the appropriate officials of this State; and

(iii) in the case of another state, its laws provide for adequate confidentiality of Maryland tax returns or other information.

(b) Tax information may be disclosed in accordance with a proper judicial order or a legislative order.

(c) Tax information may be disclosed to:

(1) an employee or officer of the State who, by reason of that employment or office, has the right to the tax information;

(2) another tax collector;

(3) the Maryland Tax Court;

(4) a legal representative of the State, to review the tax information about a taxpayer:

(i) who applies for review under this title;

(ii) who appeals from a determination under this title; or

(iii) against whom an action to recover tax or a penalty is pending or will be initiated under this title;

(5) any license issuing authority of the State required by State law to verify through the Comptroller that an applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection;

(6) a local official as defined in § 13–925 of this title to the extent necessary to administer Subtitle 9, Part V of this title;

(7) a federal official as defined in § 13–930 of this title to the extent necessary to administer Part VI of this subtitle; and

(8) the Department of Health and Mental Hygiene in accordance with:

(i) the federal Children's Health Insurance Program Reauthorization Act of 2009; and

(ii) § 10–211.1 of this article.

(d) Tax information may be disclosed and published as statistics that are classified in a manner that prevents the identification of a particular return and the information contained in a particular return.

§13–204.

In addition to a disclosure allowed under § 13-203 of this subtitle, the Comptroller shall allow:

(1) the treasurer or finance officer of a county or municipal corporation to inspect the admissions and amusement tax return of a business, including a governmental unit, located in the county or municipal corporation; and

(2) the Maryland Stadium Authority to inspect an admissions and amusement tax return that relates to admissions to a facility owned or leased by the Authority.

§13–205.

(a) In this section, "taxpayer identity information" means a taxpayer's:

(1) name;

(2) address; and

(3) identifying number, as described in § 6109 of the Internal Revenue Code.

(b) (1) In addition to a disclosure allowed in § 13-203 of this subtitle, the Comptroller may disclose taxpayer identity information that relates to the taxes administered by the Comptroller under § 2-102 of this article:

(i) on written request of the administrator of the Central Collection Unit for taxpayer identity information, to the administrator or other employer or agent of the Unit but only for purposes of collection of a debt that the taxpayer owes to the State;

(ii) to 1 or more commercial printers for the purpose of printing the taxpayer identity information on tax forms;

(iii) to 1 or more commercial entities for the purpose of using a lockbox or similar system for tax forms and payments;

(iv) in lists of names of persons who have failed to pay the tax as

required in this article and other relevant information that the Comptroller determines may help in the collection of unpaid tax; and

(v) except for the identifying numbers described in subsection (a)(3) of this section, to:

1. 1 or more persons with whom the Comptroller has contracted to obtain telephone numbers of taxpayers for use in the collection of unpaid tax; or

2. the press or other medium for the purpose of notifying persons entitled to tax refunds if, after reasonable effort and time, the Comptroller has been unable to locate those persons.

(2) If the Comptroller discloses taxpayer identity information to a person under a contract described in paragraph (1)(v)1 of this subsection, the person:

(i) shall use that information only to obtain telephone numbers for the Comptroller; and

(ii) may not use any telephone number or taxpayer identity information or disclose the information to any other person.

§13–206.

In addition to a disclosure allowed under § 13-203 of this subtitle, the Comptroller may make an agreement with the appropriate authority of any other state that has laws similar to the motor carrier tax laws for cooperative audits of motor carrier tax returns and reports.

§13–207.

(a) In this section, "income tax return preparer" means a person who:

(1) prepares or helps to prepare federal or State income tax returns for compensation; or

(2) advertises or publicizes that the person prepares or helps to prepare federal or State income tax returns.

(b) An income tax return preparer may not disclose any information that the preparer obtains while preparing or helping to prepare a return, unless the disclosure is:

(1) based on the written consent of the taxpayer;

(2) authorized expressly by a law of this State or the federal government;

(3) needed to prepare the return; or

(4) required by a court order.

§13–301.

A tax collector may examine or audit a tax return filed with the tax collector.

§13–302.

(a) To determine whether a tax return is correct or otherwise to enforce a provision of this article, a tax collector may:

(1) examine any records or other data that may be relevant or material to the matters required to be included in a tax return;

(2) conduct an investigation;

(3) hold a hearing;

(4) administer oaths;

(5) take testimony and other evidence; and

(6) subpoena:

(i) any person; or

(ii) any relevant document.

(b) If the Comptroller determines that the taxpayer's records are so detailed, complex, or voluminous that an audit of all detailed records would be unreasonable or impractical, the Comptroller may compute the sales and use tax by using scientific random sampling techniques.

(c) If a person fails to comply with a subpoena or fails to testify on any matter on which the person lawfully may be interrogated, on petition of a tax collector, a circuit court or, if the subpoena is issued under authority of an orphans' court, the orphans' court may pass an order directing compliance with the subpoena or compelling testimony.

§13–303.

If a person or governmental unit fails to file a tax return as required under this article, the tax collector shall mail the person or governmental unit a notice and demand for the return that requires the person or governmental unit:

(1) for the sales and use tax, to file the return and to pay the tax within 10 days after the date on which the notice is mailed; and

(2) for any other tax, to file the return and to pay the tax within 30 days

after the date on which the notice is mailed.

§13–304.

If a person fails to comply with a notice and demand for a return the tax collector:

(1) may compel the person to make the return; and

(2) if the person fails to make the return, may file an appropriate action in a court of competent jurisdiction.

§13–401.

(a) Except as provided in subsection (b) of this section, if a tax collector examines or audits a return and determines that the tax due exceeds the amount shown on the return, the tax collector shall assess the deficiency.

(b) A tax collector shall allow a credit against any sales and use tax deficiency that would otherwise be assessed for any amount of sales and use tax that the tax collector determines the person who filed the return overpaid on or before the date the deficiency was due.

§13–402.

(a) If a notice and demand for a return is made under § 13-303 of this title and the person or governmental unit fails to file the return, the tax collector shall:

(1) except as otherwise provided in this section:

(i) compute the tax by using the best information in the possession of the tax collector; and

(ii) assess the tax due;

(2) for financial institution franchise tax:

(i) estimate net earnings by using the best information in the possession of the tax collector; and

(ii) assess a tax not exceeding twice the tax due on the estimated net earnings;

(3) for income tax:

(i) estimate income by using the best information in the possession of the tax collector; and

(ii) assess a tax not exceeding twice the tax due on the estimated income;

(4) for motor carrier tax:

(i) compute the tax by using a miles per gallon factor based on the use, in the State, of 40 gallons of motor fuel for each commercial motor vehicle in the person's fleet on each day during the period for which the return is not filed; and

(ii) assess the tax due; and

(5) for public service company franchise tax:

(i) estimate gross receipts from the best information in the possession of the tax collector; and

(ii) assess the tax due on the estimated gross receipts.

(b) A credit shall be allowed against any sales and use tax that would otherwise be assessed under this section for any amount of sales and use tax that the tax collector determines the person who failed to file the return overpaid on or before the date the amount assessed was due.

§13–403.

(a) If a person or governmental unit fails to keep the records required under § 4-202 of this article, the Comptroller may:

(1) compute the admissions and amusement tax by using a factor that the Comptroller develops pursuant to subsection (c) of this section; and

(2) assess the tax due.

(b) If a person or governmental unit fails to keep the records required under § 6-202 of this article, the Comptroller may:

(1) compute the boxing and wrestling tax by using a factor that the Comptroller develops pursuant to subsection (c) of this section; and

(2) assess the tax.

(c) The factor utilized by the Comptroller pursuant to this section shall be developed by:

(1) a survey of the business of the person or governmental unit, including any available records;

(2) a survey of other persons or governmental units engaged in the same or similar business; or

(3) other means.

§13–405.

(a) If a person keeps records that do not contain the information required in § 9-209 of this article, the Comptroller may:

(1) compute the motor carrier tax by using a miles per gallon factor based on the best information in the possession of the Comptroller; and

(2) assess the tax due.

(b) If a person fails to keep records or to make records available to the Comptroller as required in § 9-209 of this article, the Comptroller shall:

(1) compute the motor carrier tax by using a miles per gallon factor based on the use, in the State, of 40 gallons of motor fuel for each commercial motor vehicle in the person's fleet on each day during the period for which the records are not kept or made available; and

(2) assess the tax due.

§13–406.

If a person fails to keep the records required under § 9-309 of this article, the Comptroller may:

(1) compute the motor fuel tax due by using the best information in the possession of the Comptroller; and

(2) assess the tax due.

§13–407.

(a) If a person or governmental unit fails to keep the records required under § 11-504 of this article, the Comptroller may:

(1) compute the sales and use tax by using a factor that the Comptroller develops by:

(i) a survey of the business of the person or governmental unit, including any available records;

(ii) a survey of other persons or governmental units engaged in the same or similar business; or

(iii) other means; and

(2) assess the tax due.

(b) (1) If a person or governmental unit fails to obtain a proper resale

certificate on or before the date stated in a notice of intent to assess the sales and use tax under § 11-408(b) of this article, the Comptroller may assess the sales and use tax on the sale.

(2) An assessment under this subsection is final.

§13–408.

(a) If the Comptroller determines that a person has failed to keep the records of out-of-state cigarette or other tobacco product sales required under § 12-203 of this article, the Comptroller shall:

(1) compute the tobacco tax as if the cigarettes or other tobacco products were sold in the State; and

(2) assess the tax due.

(b) If the Comptroller determines that a person has possessed or transported cigarettes or other tobacco products on which the tobacco tax has not been paid as required under Title 12 of this article, the Comptroller shall assess the tobacco tax due.

§13–409.

(a) If the Internal Revenue Service issues a final determination that increases federal taxable income, federal estate, or federal generation–skipping transfer tax reported on a federal return, the tax collector shall assess the financial institution franchise tax, public service company franchise tax, income tax, Maryland estate tax, or Maryland generation–skipping transfer tax on the increase in the taxable net earnings, gross receipts, Maryland taxable income, federal credit for State death tax, or federal credit for State generation–skipping transfer tax that results from the federal adjustment.

(b) Within 90 days after the Internal Revenue Service issues to a person the final determination to which subsection (a) of this section refers, the person shall submit to the tax collector a report of federal adjustment that includes:

(1) a statement of the amount of the increase; and

(2) if the person contends that the final federal determination is erroneous, an explanation of the reasons for the contention.

§13–410.

A tax collector shall mail a notice of assessment under this title to the person or governmental unit against which an assessment is made.

§13–411.

An assessment of tax under this article is prima facie correct.

§13–412.

If both the seller and buyer are liable for payment of the motor fuel tax or the sales and use tax:

(1) the Comptroller may make an assessment against both; and

(2) the assessment under item (1) of this section against either the seller or buyer does not bar an assessment against the other for the same tax or any part that has not been paid.

§13–413.

(a) Interest, penalties, and collection fees shall be assessed and collected in the same manner as a tax.

(b) For purposes of this title, collection fees assessed pursuant to § 13-832 of this title shall be considered a penalty.

§13–501.

(a) In this subtitle the following words have the meanings indicated.

(b) "Tax Court" means the Maryland Tax Court.

(c) (1) "Tax determining agency" means a governmental unit of the State that is authorized to make the final decision or determination or issue the final order about a tax issue within the jurisdiction of the Tax Court, before the decision may be appealed to the Tax Court.

(2) "Tax determining agency" includes a property tax assessment appeal board.

§13–504.

(a) In this section, "state tax":

(1) means a tax that is lawfully imposed by another state and is similar to a tax imposed under this article; and

(2) includes interest and penalties on the tax.

(b) A court of this State shall recognize and enforce the liability for a state tax if the state that imposes the tax similarly recognizes and enforces the liability for a tax that this State lawfully imposes.

(c) (1) An official of a reciprocating state may bring an action in a court of this State to collect state taxes.

(2) Certification, by the Secretary of State or other comparable official of another state, that an official has authority to collect state taxes is conclusive proof of that authority.

§13–505.

A court may not issue an injunction, writ of mandamus, or other process against the State or any officer or employee of the State to enjoin or prevent the assessment or collection of a tax under this article.

§13–508.

(a) Within 30 days after the date on which a notice of assessment of the admissions and amusement tax, alcoholic beverage tax, boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax, public service company franchise tax, financial institution franchise tax, sales and use tax, or tobacco tax is mailed, a person or governmental unit against which the assessment is made may submit to the tax collector:

(1) an application for revision of the assessment; or

(2) except for the public service company franchise tax, if the assessment is paid, a claim for refund.

(b) If a person or governmental unit fails to submit an application for revision or claim for refund within the time allowed in subsection (a) of this section, the assessment becomes final.

(c) The Comptroller or an employee of the Comptroller's office expressly designated by the Comptroller promptly:

(1) (i) shall hold an informal hearing on a person's or governmental unit's admissions and amusement tax, alcoholic beverage tax, boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax, sales and use tax, or tobacco tax application for revision or claim for refund under subsection (a) of this section; and

(ii) after the hearing:

1. shall act on the application for revision; and

2. may assess any additional tax, penalty, and interest due; and

(2) shall mail to the person or governmental unit a notice of final determination.

(d) The Department promptly:

(1) (i) shall act on a person's public service company franchise tax or financial institution franchise tax application for revision under subsection (a) of this section; or

(ii) 1. shall hold an informal hearing after giving reasonable notice to the person; and

2. after the hearing:

A. shall act on the application for revision; and

B. may assess any additional tax, penalty, and interest due; and

(2) shall mail to the person a notice of final determination.

§13–509.

(a) Notwithstanding a person's failure to file a timely application for revision or claim for refund of an assessment of the admissions and amusement tax, alcoholic beverage tax, boxing and wrestling tax, income tax, motor carrier tax, motor fuel tax, sales and use tax, or tobacco tax under § 13–508(a) of this subtitle, the Comptroller or the Comptroller's designee may issue an order decreasing or abating an assessment to correct an erroneous assessment.

(b) If action is taken under subsection (a) of this section, the order shall state clearly the reasons for decreasing or abating the assessment.

(c) Any order issued by the Comptroller under subsection (a) of this section shall be final and not subject to appeal.

(d) The Comptroller's refusal to enter an order under subsection (a) of this section shall be final and not subject to appeal.

§13–510.

(a) Except as provided in subsection (b) of this section and subject to § 13-514 of this subtitle, within 30 days after the date on which a notice is mailed, a person or governmental unit that is aggrieved by the action in the notice may appeal to the Tax Court from:

(1) a final assessment of tax, interest, or penalty under this article;

(2) a final determination on an application for revision or claim for refund under § 13-508 of this subtitle;

(3) an inheritance tax determination by a register or by an orphans' court

other than a circuit court sitting as an orphans' court;

(4) a denial of an alternative payment schedule for inheritance tax or Maryland estate tax;

(5) a final determination on a claim for return of seized property under § 13-839 or § 13-840 of this title; or

(6) a disallowance of a claim for refund under § 13-904 of this title.

(b) If a tax collector does not make a determination on a claim for refund within 6 months after the claim is filed, the claimant may:

(1) consider the claim as being disallowed; and

(2) appeal the disallowance to the Tax Court.

(c) An appeal to the Maryland Tax Court under this section shall be deemed to be filed within the time allowed for the appeal if a written petition is mailed to the Maryland Tax Court with a postmark date within the time allowed for the appeal.

§13–511.

A register, on behalf of the State, or a person in interest may appeal to the Court of Special Appeals from an order or determination of an orphans' court or a court exercising the jurisdiction of the orphans' court that relates to the inheritance tax.

§13–514.

Unless a person has exhausted all available administrative remedies before the appropriate tax determining agency, the person may not appeal to the Tax Court.

§13–515.

(a) An individual may appear before the Tax Court without a lawyer.

(b) The following individuals may represent the persons indicated without a lawyer before the Tax Court:

(1) a partner for the partnership; and

(2) a corporate officer for the corporation.

(c) Any person or governmental unit may be represented before the Tax Court by a lawyer who is admitted to practice law in the State.

§13–516.

(a) To appeal to the Tax Court, a person or governmental unit shall file with

the Tax Court a written petition that states succinctly:

(1) the nature of the case;

(2) the facts on which the appeal is based; and

(3) each question presented for review by the Tax Court.

(b) An opposing party shall respond in accordance with the rules of procedure of the Tax Court.

§13–517.

The Tax Court may require or, on request of a party, allow an amendment to a pleading or motion.

§13–518.

The Tax Court may require or, on request of a party, allow a party to file a brief or memorandum.

§13–519.

The Tax Court shall hear and determine appeals promptly.

§13–520.

(a) On receipt of a petition, the clerk of the Tax Court immediately shall issue a subpoena that requires the appropriate tax determining agency to produce at a hearing before the Tax Court:

(1) the record of the proceeding from which the appeal is taken or a certified copy of the record; and

(2) any map, plat, or other document that is connected with the record.

(b) On request of a party, the Tax Court shall issue a subpoena that requires at a hearing before the Tax Court:

(1) the appearance of a witness to testify; and

(2) the production of any pertinent document.

(c) A subpoena issued under this section or § 13-521 of this subtitle shall be served by:

(1) the sheriff or deputy sheriff of the jurisdiction in which the person subpoenaed is found;

(2) the clerk or a deputy clerk of the Tax Court;

(3) certified mail, return receipt requested; or

(4) a private process server.

§13–521.

(a) A party may take a deposition in or out of the State in the manner provided by law for taking depositions in a civil case.

(b) On request of a party, the Tax Court shall issue a subpoena that requires at a deposition:

(1) the appearance of a witness to testify; and

(2) the production of any pertinent document.

§13–522.

(a) If, without reasonable cause, a person fails to obey a subpoena, refuses to be sworn, or refuses to testify, the Tax Court may and, on request of a party, shall apply to a circuit court to issue an order, returnable within 5 days, that directs the person to show cause for the refusal to be sworn or to testify or the failure to obey the subpoena.

(b) (1) After the expiration of the time period in subsection (a) of this section, the circuit court shall conduct a hearing to determine the existence of reasonable cause.

(2) If the circuit court determines that there is no reasonable cause for the failure to comply, the circuit court shall order compliance with the directive of the Tax Court.

(c) A person who fails to comply with the order of a circuit court may be held in contempt of court, and the circuit court shall impose sanctions appropriate for contempt.

(d) A person may appeal a finding of contempt under this section.

§13–523.

An appeal before the Tax Court shall be heard de novo and conducted in a manner similar to a proceeding in a court of general jurisdiction sitting without a jury.

§13–524.

The Tax Court is not bound by the technical rules of evidence.

§13–525.

(a) A party may submit to the Tax Court a request for a ruling on a question of law that is material to the appeal.

(b) On a request submitted under subsection (a) of this section, the Tax Court may:

(1) issue a ruling on the question of law;

(2) modify the question submitted by a party and issue a ruling on the modified question; or

(3) decline to issue a ruling.

§13–526.

(a) Except as provided in subsection (c) of this section, on the request of a party, the Tax Court may submit an issue of fact to a circuit court for a jury trial.

(b) A submission under this section shall be filed in the circuit court for the county where the taxpayer resides or does business.

(c) An issue of fact as to the valuation of property may not be submitted under this section.

§13–527.

(a) The Tax Court shall provide:

(1) for recording equipment at all hearings; and

(2) on request of a party, for the preparation of a copy of the record of the proceedings.

(b) If, under § 3-111 of this article, the Tax Court appoints an examiner to hear an appeal, the Tax Court shall provide to each party a copy of the examiner's recommended decision.

§13–528.

(a) (1) The Tax Court shall have full power to hear, try, determine, or remand any matter before it.

(2) In exercising these powers, the Tax Court may reassess or reclassify, abate, modify, change or alter any valuation, assessment, classification, tax or final order appealed to the Tax Court.

(b) Absent affirmative evidence in support of the relief being sought or an error

apparent on the face of the proceeding from which the appeal is taken, the decision, determination, or order from which the appeal is taken shall be affirmed.

§13–529.

(a) In each appeal, the Tax Court shall issue a written order that sets forth its decision.

(b) Each order of the Tax Court shall be filed with its clerk.

(c) The clerk of the Tax Court shall certify the order in an appeal and mail a copy of the certified order to:

(1) each party to the appeal; and

(2) the tax determining agency from which the appeal is taken.

§13–532.

(a) (1) A final order of the Tax Court is subject to judicial review as provided for contested cases in §§ 10-222 and 10-223 of the State Government Article.

(2) Any party to the Tax Court proceeding, including a governmental unit, may appeal a final order of the Tax Court to the circuit court.

(b) When an order of the Tax Court is subject to judicial review, that order is enforceable unless the reviewing court grants a stay upon such condition, security or bond as it deems proper.

§13–601.

(a) Except as otherwise provided in this section, if a person or governmental unit fails to pay a tax imposed under this article on or before the date on which the tax is due, the tax collector shall assess interest on the unpaid tax from the due date to the date on which the tax is paid.

(b) Except as provided in subsections (c)(2) and (d) of this section, the date on which the tax is due is determined without regard to any extension of time to file a return.

(c) Interest on unpaid inheritance tax begins:

(1) 30 days after the date on which the tax is determined;

(2) on the original due date, if there is no formal administration of the estate and the tax is not paid within 30 days after the date on which the tax bill is mailed; or

(3) 30 days after the original due date, if an alternative payment schedule

for inheritance tax is allowed.

(d) Interest on unpaid Maryland estate tax begins 9 months after the date of the death of a decedent and applies to all Maryland estate tax that is not paid by that date, including a payment made in accordance with an alternative payment schedule.

(e) Interest on unpaid Maryland generation-skipping transfer tax begins on the date the Maryland generation-skipping transfer tax return is due and applies to tax that is not paid by that date, including an increase in Maryland generation-skipping transfer tax due to a change in federal generation-skipping transfer tax made after a payment of Maryland generation-skipping transfer tax.

(f) An overpayment of sales and use tax stops the accrual of interest on a sales and use tax deficiency to the extent of the overpayment as of the date the overpayment is made.

§13–602.

(a) Except as provided in subsections (b) and (c) of this section, a tax collector shall assess interest on unpaid tax from the due date to the date on which the tax is paid if a person who is required to estimate and pay financial institution franchise tax, public service company franchise tax, or income tax under § 8-210(b), § 8-405(b), or § 10-902 of this article:

(1) fails to pay an installment when due; or

(2) estimates a tax that is:

(i) less than 90% of the tax required to be shown on the return for the current taxable year; and

(ii) less than 110% of the tax paid for the prior taxable year, reduced by the credit allowed under § 10-703 of this article.

(b) Interest may not be assessed on the underestimation of individual income tax if:

(1) at least 90% of the individual's taxable income is also taxable by another state; and

(2) the underestimation is of the county income tax only.

(c) A tax collector may not assess interest on unpaid individual income tax under subsection (a) of this section if the amount of unpaid income tax is less than one-half the amount specified in § 6654(e)(1) of the Internal Revenue Code.

§13–603.

(a) Except as otherwise provided in this section, if a claim for refund under § 13-901(a)(1) or (2) or (d)(1)(i) or (2) of this title is approved, the tax collector shall pay interest on the refund from the 45th day after the claim is filed in the manner required in Subtitle 9 of this title to the date on which the refund is paid.

(b) A tax collector may not pay interest on a refund if the claim for refund is:

(1) made under any provision other than § 13-901(a)(1) or (2) or (d)(1)(i) or (2) of this title;

(2) based on:

(i) an error or mistake of the claimant not attributable to the State or a unit of the State government;

(ii) withholding excess income tax;

(iii) an overpayment of estimated financial institution franchise tax or estimated income tax; or

(iv) an overpayment of Maryland estate tax based on an inheritance tax payment made after payment of Maryland estate tax; or

(3) made for Maryland estate tax or Maryland generation-skipping transfer tax more than 1 year after the event on which the claim is based.

§13–604.

(a) The rate of interest for each month or fraction of a month is the percent equal to one-twelfth of the annual interest rate that the Comptroller sets for the calendar year under subsection (b) of this section.

(b) On or before October 1 of each year, the Comptroller shall set the annual interest rate for the next calendar year on refunds and moneys owed to the State as the percent, rounded to the nearest whole number, that is at the percent that equals the greater of:

(1) 13%; or

(2) 3 percentage points above the average prime rate of interest quoted by commercial banks to large businesses during the State's previous fiscal year, based on determination by the Board of Governors of the Federal Reserve Bank.

§13–605.

Interest may not be assessed on a penalty.

§13–606.

For reasonable cause, a tax collector may waive interest on unpaid tax.

§13–701.

(a) Except as otherwise provided in this subtitle, if a person or governmental unit fails to pay a tax when due under this article, the tax collector shall assess a penalty not exceeding 10% of the unpaid tax.

(b) (1) If a person fails to pay alcoholic beverage tax, financial institution franchise tax, income tax, or tobacco tax when required under this article, the tax collector shall assess a penalty not exceeding 25% of the unpaid tax.

(2) If a person fails to file a motor carrier tax return or motor fuel tax return when required under this article, the Comptroller shall assess a penalty not exceeding $25.

(c) The penalty under subsection (a) of this section may be assessed for unpaid inheritance tax at or after the time allowed for the assessment of interest under § 13-601(c) of this title.

§13–702.

(a) Except as provided in subsections (b) and (c) of this section, a tax collector shall assess a penalty not exceeding 25% of the amount underestimated, if a person who is required to estimate and pay financial institution franchise tax, public service company franchise tax, or income tax under § 8-210(b), § 8-405(b), or § 10-902 of this article:

(1) fails to pay an installment when due; or

(2) estimates a tax that is:

(i) less than 90% of the tax required to be shown on the return for the current taxable year; and

(ii) less than 110% of the tax paid for the prior taxable year, reduced by the credit allowed under § 10-703 of this article.

(b) A penalty may not be assessed on the underestimation of individual income tax if:

(1) at least 90% of the individual's taxable income is also taxable by another state; and

(2) the underestimation is of the county income tax only.

(c) A tax collector may not assess a penalty on unpaid individual income tax

under subsection (a) of this section if the amount of unpaid income tax is less than one-half the amount specified in § 6654(e)(1) of the Internal Revenue Code.

§13–703.

If, with the intent to evade the payment of tax, a person, including an officer of a corporation, or a governmental unit makes a false tax return, the tax collector shall assess a penalty not exceeding 100% of the underpayment of tax.

§13–704.

If, with the intent to evade the payment of tax, a person or governmental unit fails to file a tax return when required under this article, the tax collector shall assess a penalty not exceeding 100% of the underpayment of tax.

§13–705.

(a) The Comptroller shall assess a penalty not exceeding $500 if:

(1) an individual, as defined under § 10–101 of this article, files what purports to be an income tax return, but which:

(i) does not contain information on which the substantial correctness of the tax may be determined; or

(ii) contains information that, on its face, indicates the tax reported on the return is substantially incorrect; and

(2) the conduct of the individual is due to:

(i) a desire, apparent on the face of the return, to delay or impede the administration of the provisions of Title 10 of this article; or

(ii) a position that is frivolous because the position:

1. has no basis in law or fact;

2. is patently unlawful; and

3. does not involve a legitimate dispute or reflect an inadvertent mathematical or clerical error.

(b) The penalty under subsection (a) of this section is in addition to any penalty assessed under § 13–701 of this subtitle.

§13–706.

If a person is required to provide an income tax withholding statement under § 10-911 of this article, the Comptroller shall assess a penalty of $50 for each violation,

if the person willfully:

(1) fails to provide a required withholding statement; or

(2) provides a false withholding statement.

§13–707.

(a) If an employer or payor, as defined in § 10-905 of this article, willfully fails to withhold or pay over the income tax as required in Title 10 of this article, the Comptroller may suspend or revoke any business license issued by the State to the employer or payor.

(b) If a motor carrier fails to file a motor carrier tax return or pay the motor carrier tax when required under Title 9, Subtitle 2 of this article, the Comptroller may suspend or revoke any identification marker, permit, or temporary authorization issued to the motor carrier under Title 9, Subtitle 2 of this article.

(c) If a motor carrier fails to pay a tax, a fee, a penalty, or an interest assessment owed to the Maryland Motor Vehicle Administration, the Comptroller shall, upon receipt of notification from the Motor Vehicle Administration, suspend or revoke the appropriate identification marker, permit, or temporary authorization issued to the motor carrier under Title 9, Subtitle 2 of this article.

§13–708.

(a) If, within the period required in a notice and demand for a return, a person or governmental unit fails to file the return and pay the tax due, the tax collector shall assess a penalty of 25% of the tax assessed under § 13-402 of this title.

(b) A penalty under this section is in addition to the penalty provided under § 13-701 of this subtitle.

§13–709.

(a) If, within 10 days after receipt of a notice and demand for payment of a sales and use tax assessment that is final, a person or governmental unit fails to comply with the demand, the Comptroller shall assess a penalty of 25% of the unpaid assessment.

(b) The penalty under subsection (a) of this section is in addition to the penalty provided under § 13-701 of this subtitle.

§13–710.

If the Comptroller or any police officer seizes distilled spirits or mash in connection with an arrest of a person for the unlawful manufacture of distilled spirits in the State, on conviction of the person, the Comptroller shall assess a penalty of $5 for each 100 proof gallon on:

(1) all distilled spirits seized; or

(2) the potential quantity of distilled spirits that may be manufactured from the quantity of mash seized.

§13–711.

If a person willfully fails to keep any record required under § 12-203 of this article, the Comptroller may assess a penalty not exceeding 25% of the unpaid tobacco tax.

§13–712.

If, with the intent to evade the boxing and wrestling tax, a person sells a program or other item instead of an admission ticket, the person shall forfeit any license granted to the person under Title 4, Subtitle 3 of the Business Regulation Article.

§13–713.

(a) If a person pays a tax, interest, or penalties under this article by a check that is not honored by the bank on which it is drawn, the tax collector shall assess a service charge of $30 against the person.

(b) An assessment under subsection (a) of this section that is not paid within 25 days after the date on which the notice of assessment is mailed is a lien, in favor of the State, that:

(1) extends to all property and rights to property belonging to the person against whom the assessment is made; and

(2) may be collected under Subtitle 8, Part II of this title.

§13–714.

For reasonable cause, a tax collector may waive a penalty under this subtitle.

§13–715.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, any person who is an income tax return preparer with respect to any return or claim for refund, who is required under § 10-804(b)(2) of this article to sign the return or claim for refund, and who fails to comply with that requirement with respect to the return or claim for refund shall pay a penalty of $50 for that failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

(2) The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year may not exceed $25,000.

(b) (1) Subject to the provisions of paragraph (2) of this subsection, any person who is an income tax return preparer with respect to any return or claim for refund and

who fails to comply with § 10-804(c)(3) of this article with respect to the return or claim for refund shall pay a penalty of $50 for that failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

(2) The maximum penalty imposed under this subsection on any person with respect to documents filed during any calendar year may not exceed $25,000.

§13–716.

(a) The Comptroller shall assess a penalty of 25% of the amount of the underpayment of tax which is attributable to any substantial estate tax valuation understatement.

(b) For purposes of this section, there is a substantial estate tax valuation understatement if the value of any property claimed, or that should have been claimed, on any return of tax imposed by Title 7, Subtitle 3 of this article is 60% or less of the amount determined to be the correct amount of that valuation.

(c) A penalty may not be imposed under subsection (a) of this section unless the portion of the underpayment attributable to substantial estate tax valuation understatement is greater than $5,000.

§13–717.

(a) An income tax return preparer who is subject to § 10–824 of this article and who fails to file a return as required in § 10–824 of this article shall pay a penalty of $50 for that failure, unless it is shown that the failure is due to reasonable cause and is not due to willful neglect.

(b) The total amount of the penalties assessed under subsection (a) of this section may not exceed $500 for all returns filed by an income tax return preparer for any taxable year.

§13–801.

(a) Unpaid tax, interest, and penalties shall be first paid and satisfied from the proceeds of a sale of any property of a person liable for the tax.

(b) Notwithstanding subsection (a) of this section, a claim of a tax collector for unpaid tax, interest, and penalties shall be subordinate:

(1) to the claim of any purchaser, holder of a security interest, or mechanic's lienor, as those terms are defined in § 6323(h) of the Internal Revenue Code, or to the claim of a judgment creditor whose lien attached before the claim for unpaid tax, interest, and penalties; and

(2) to any claim described in § 6323(b), (c), or (d) of the Internal Revenue Code.

(c) (1) A judicial officer who makes a sale of property shall determine from a tax collector whether the owner of the property owes any tax, interest, or penalties.

(2) The judicial officer is personally liable and the bond of the officer is liable for any tax, interest, or penalties not paid to the tax collector in violation of this section.

(d) (1) Whenever property is taken in execution of an action to collect taxes, the tax collector may bid for and buy the property for the use of the State if the tax collector believes the purchase is necessary and proper for the protection of the State.

(2) A bid under paragraph (1) of this subsection may not exceed the claim of the State for unpaid taxes and the costs and expenses of the sale.

§13–802.

If the transferee or auctioneer in a bulk transfer fails to file the notice required in § 11-505 of this article or to retain consideration in an amount equal to the claim of the Comptroller for unpaid sales and use tax:

(1) any consideration in the bulk transfer is subject to a first priority right and lien for any sales and use tax that the transferor owes to the State; and

(2) the transferee or auctioneer is personally liable for the sales and use tax, interest and penalties that the transferor owes to the State.

§13–804.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) "Account" means:

1. any funds from a demand deposit account, checking account, negotiable order of withdrawal account, savings account, time deposit account, money market mutual fund account, or certificate of deposit account;

2. any funds paid towards the purchase of shares or other interest in a financial institution, as defined in paragraph (4)(ii) and (iii) of this subsection; and

3. any funds or property held by a financial institution, as defined in paragraph (4)(iv) of this subsection.

(ii) "Account" does not include:

1. an account or portion of an account to which an obligor does not have access due to the pledge of the funds as security for a loan or other obligation;

2. funds or property deposited to an account after the time that

the financial institution initially attaches the account;

3. an account or portion of an account to which the financial institution has a present right to exercise a right of setoff;

4. an account or portion of an account that has an account holder of interest named as an owner on the account; or

5. an account or portion of an account to which the obligor does not have an unconditional right of access.

(3) "Account holder of interest" means any person, other than the obligor, who asserts an ownership interest in an account.

(4) "Financial institution" means:

(i) a depository institution, as defined in the Federal Deposit Insurance Act under 12 U.S.C. § 1813(c);

(ii) a federal credit union or State credit union, as defined in the Federal Credit Union Act under 12 U.S.C. § 1752;

(iii) a State credit union regulated under Title 6 of the Financial Institutions Article; or

(iv) a benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity doing business in the State that holds property or maintains accounts reflecting property belonging to others.

(5) "Obligor" means a person whose property is subject to a tax lien.

(b) The Comptroller may request from a financial institution information and assistance to enable the Comptroller to enforce the tax laws of the State.

(c) (1) The Comptroller may request not more than four times a year from a financial institution the information set forth in subsection (d)(2) of this section concerning any obligor who is delinquent in the payment of taxes.

(2) A request for information by the Comptroller under paragraph (1) of this subsection shall:

(i) contain:

1. the full name of the obligor and any other names known to be used by the obligor; and

2. the Social Security number or other taxpayer identification number of the obligor; and

(ii) be transmitted to the financial institution in an electronic format unless the financial institution specifically asks the Comptroller to submit the request in writing.

(d) (1) Within 30 days after a financial institution receives a request for information under subsection (c) of this section, the financial institution shall, with respect to each obligor whose name the Comptroller submitted to the financial institution, submit a report to the Comptroller.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the report described in paragraph (1) of this subsection shall contain, to the extent reflected in the records of the financial institution:

1. the full name of the obligor;

2. the address of the obligor;

3. the Social Security number or other taxpayer identification number of the obligor;

4. any other identifying information needed to ensure positive identification of the obligor; and

5. for each account of the obligor, the obligor's account number and balance.

(ii) For a financial institution that submits reports through the Federal Parent Locator Service under 42 U.S.C. § 666(a)(17), the report described in paragraph (1) of this subsection may contain information that meets the specifications required for financial data match reports under the Federal Parent Locator Service.

(3) A report submitted under paragraph (1) of this subsection shall be provided to the Comptroller in machine-readable form.

(4) The Comptroller shall pay the financial institution a reasonable fee, not to exceed the actual costs incurred by the financial institution to comply with the requirements of this section, less any fees received from other units of the State for the same report.

(5) The Comptroller may institute civil proceedings to enforce this section.

(e) A financial institution that complies with a request from the Comptroller by submitting a report to the Comptroller in accordance with subsection (d) of this section is not liable under State law to any person for any:

(1) disclosure of information to the Comptroller under this section; or

(2) other action taken in good faith to comply with the requirements of

this section.

(f) A financial institution furnishing a report to the Comptroller under this section is prohibited from disclosing to an obligor that the name of that obligor has been received from or furnished to the Comptroller.

§13–805.

(a) Unpaid tax, interest, and penalties constitute a lien, in favor of the State, extending to all property and rights to property belonging to:

(1) the person required to pay the tax; or

(2) the fiduciary estate on which the tax is imposed.

(b) Unpaid inheritance tax, interest, and penalties constitute a lien, in favor of the State, extending to:

(1) the assets of a small business for which an alternative payment schedule was granted under § 7-218 of this article; and

(2) any other property on which inheritance tax is due.

(c) Unpaid Maryland estate tax and interest constitute a lien, in favor of the State, extending to the estate that is subject to the Maryland estate tax.

(d) Unpaid Maryland generation-skipping transfer tax and interest constitute a lien, in favor of the State, extending to any property included in the generation-skipping transfer for which the Maryland generation-skipping transfer tax is due.

§13–806.

(a) Unless another date is specified by law and except for a lien under subsection (b) of this section, a lien arises on the date of notice that the tax is due and continues to the date on which the lien is:

(1) satisfied; or

(2) released by the tax collector because the lien is:

(i) unenforceable by reason of lapse of time; or

(ii) uncollectible.

(b) (1) Except as otherwise provided in this subsection, a lien for unpaid inheritance tax:

(i) arises on the date of distribution; and

(ii) continues for 4 years.

(2) If the property is subject to a special valuation under § 7-211 of this article, a lien:

(i) arises on the date on which the interest in the property vests in possession; and

(ii) continues for 4 years.

(3) If the unpaid inheritance tax is attributable to the disqualification of property that was qualified for special valuation or exemption under § 7-211 of this article, the lien:

(i) arises on the date on which the decedent died; and

(ii) continues for 20 years.

§13–807.

(a) A tax collector may file a notice of tax lien with the clerk of the circuit court for the county where the property that is subject to the lien is located.

(b) (1) On receipt of a notice of tax lien, the clerk of a circuit court promptly shall:

(i) record and index the lien; and

(ii) enter the lien in the judgment docket of the court.

(2) The docket entry shall include:

(i) the name of the person whose property is subject to the tax lien; and

(ii) the amount and date of the tax lien.

§13–808.

From the date on which a tax lien is filed under § 13-807 of this subtitle, the lien has the full force and effect of a judgment lien.

§13–809.

(a) A tax lien shall be first paid and satisfied from the proceeds of a sale of any property of a person liable for the tax.

(b) (1) Notwithstanding subsection (a) of this section, a tax lien is not valid against any purchaser, holder of a security interest, mechanic's lienor, or judgment lien

creditor until notice of the tax lien has been filed under § 13-807 of this subtitle.

(2) Even if notice of a tax lien is filed, the lien is not valid against any claim described in § 6323(b), (c), or (d) of the Internal Revenue Code.

(c) The rules and definitions in § 6323(e), (h), and (i) of the Internal Revenue Code shall apply in construing this section.

§13–810.

(a) If a tax lien is not satisfied or released on or before the 15th day after the notice of the lien is filed, recorded, and indexed under § 13-807 of this subtitle, a qualified attorney who is a regular salaried employee of the Comptroller or, at the request of the tax collector, the Attorney General may bring an action in a court of the State to enforce the lien.

(b) The following persons shall be made parties to the proceeding:

(1) each person who has a lien on the property that is sought to be subjected to the proceedings; and

(2) each person who claims a right to or an interest in the property that is sought to be subjected to the proceedings.

(c) The court, acting without a jury, shall:

(1) adjudicate all matters involved in the proceedings; and

(2) determine the merits of all claims or liens.

(d) If the claim or interest of the State is established, the court may order:

(1) a sale of the property or rights to property; and

(2) a distribution of any proceeds of sale in accordance with the interests of the parties and the State.

§13–811.

(a) (1) In this section the following words have the meanings indicated.

(2) "Paymaster":

(i) means an employer's officer, representative, agent, or employee charged with the duty of paying salary, wages, or other compensation for personal services to an employee named in a notice of lien; and

(ii) if the person named in a notice of lien is employed by the federal government or its instrumentality with an office in the State where employee records

are kept, whether or not payroll records are kept or the payroll is prepared at that office, includes the employee who:

1. is designated to keep and maintain employee records in that office; and

2. is or may be designated to receive and distribute pay checks to the employees.

(3) "Tax wage lien" means the lien on wages described in this section.

(b) A tax lien for any tax administered by the Comptroller under this article extends to and covers all salary, wages, or other compensation for personal services that is due or becomes payable on or after the time the lien arises.

(c) The Comptroller promptly shall give notice of a tax wage lien that states the lien amount, the type of tax, and the name of the person against whom the lien is taken by:

(1) certified mail, return receipt requested, under the postmark of the United States Postal Service, to the employer; or

(2) personal service on the employer.

(d) (1) If an employer knows or has reason to know of the import of the contents of the certified mail and refuses to accept its delivery, service as required under subsection (c)(1) of this section is made when delivery is refused.

(2) Service as required under subsection (c)(2) of this section is made when personal service is made on an officer or paymaster of the employer.

(e) (1) From salary, wages, or other compensation for personal services that is due or becomes payable on or after the date on which a notice of wage lien is served to the date on which a notice of satisfaction or release of the wage lien is received, an employer or paymaster promptly shall pay to the Comptroller any salary, wages, or other compensation due to the delinquent taxpayer, excluding only those amounts specified in paragraph (2) of this subsection.

(2) The amount excluded under paragraph (1) of this subsection from amounts paid to the delinquent taxpayer is the amount exempt from attachment provided in § 15-601.1 of the Commercial Law Article.

(f) The Comptroller promptly shall give a notice of satisfaction or release of a tax wage lien to each employer or paymaster who received notice of the wage lien.

(g) If, after service of a notice of a tax wage lien, an employer or paymaster pays an employee salary, wages, or other compensation for personal services in excess of the amount allowed in subsection (e)(2) of this section, the employer or paymaster or both

shall be personally liable for the excess amount paid to the employee. However, the total amount that the Comptroller recovers may not exceed the total amount paid to the employee in violation of this section.

§13–812.

(a) (1) In this section the following words have the meanings indicated.

(2) "Account", "account holder of interest", and "financial institution" have the meanings stated in § 13-804 of this subtitle.

(3) "Obligor" means a person whose property is subject to a tax lien.

(b) (1) (i) The Comptroller may send notice of a tax lien to any financial institution that the Comptroller reasonably believes holds property subject to a tax lien.

(ii) The notice to be sent under this paragraph shall be provided by:

1. first-class mail, under the postmark of the United States Postal Service, at the address designated for this purpose by the financial institution or, if no address has been designated, to the principal office of the financial institution;

2. an electronic format agreed on by the Comptroller and the financial institution; or

3. any other reasonable manner as agreed on by the Comptroller and the financial institution.

(2) The notice to be sent by the Comptroller to a financial institution under paragraph (1) of this subsection shall contain:

(i) the name of the obligor;

(ii) the amount of the tax lien;

(iii) the last known address of the obligor;

(iv) the Social Security number or federal employer identification number of the obligor; and

(v) a notice to immediately seize and attach from one or more accounts held by the financial institution in the name of the obligor an aggregate amount equal to the lesser of the amounts in all accounts or the amount of the tax lien.

(c) (1) On receipt of the notice described in subsection (b) of this section, the financial institution promptly shall seize and attach from one or more of the accounts of the obligor held by the financial institution an aggregate amount equal to the lesser of:

(i) the total of the amounts in all the accounts of the obligor held by the financial institution; or

(ii) the amount stated in the notice sent under subsection (b) of this section.

(2) Within 30 days after the financial institution receives the notice directing it to seize and attach accounts of the obligor, the financial institution shall send notice to the Comptroller, in the manner specified in subsection (b) of this section, specifying the aggregate amount held under this subsection.

(3) (i) The financial institution may assess a fee against the accounts or the obligor, in addition to the amount identified in the notice under subsection (b) of this section.

(ii) In the case of insufficient funds to cover both the fee and the amount identified in the notice under subsection (b) of this section, the financial institution may first deduct and retain the fee from the amount seized and attached as provided in this section.

(4) The financial institution may not be held liable to any person, including the Comptroller, the obligor, or any account holder of interest, for wrongful dishonor or for any other claim relating to the seizure and attachment of an account or other actions taken in compliance with this section.

(d) (1) Within 10 business days after the Comptroller has received notice from the financial institution under subsection (c)(2) of this section, the Comptroller shall send a notice to the obligor, by regular mail, to the obligor's last known address.

(2) The notice shall contain the following information, to the extent known by the Comptroller:

(i) the address of the Comptroller;

(ii) the telephone number, address, and name of a contact person at the office of the Comptroller;

(iii) the name and Social Security number, federal employer identification number, or other taxpayer identification number of the obligor;

(iv) the address of the obligor;

(v) for each account of the obligor, the name of the financial institution that has seized and attached amounts as required by this section;

(vi) the total amount of the tax lien owed by the obligor;

(vii) the date the notice is being sent;

(viii) a statement informing the obligor that the Comptroller has directed the financial institution to seize and attach the amount of the tax lien owed by the obligor from one or more of the accounts of the obligor and, on subsequent notice by the Comptroller, to forward the amount to the Comptroller; and

(ix) a statement informing the obligor that, unless a timely challenge is made by the obligor or an account holder of interest under subsection (g) of this section, the Comptroller shall notify the financial institution to forward the amount seized and attached by the financial institution to the Comptroller.

(3) The Comptroller shall not be obligated to send the notice described in paragraphs (1) and (2) of this subsection if, prior to the time that the notice must be sent, the Comptroller and the obligor agree to an arrangement under which the obligor will pay amounts owed under the tax lien.

(e) (1) If a timely challenge is not made by the obligor or an account holder of interest under subsection (g) of this section, the Comptroller shall send a notice to the financial institution, in the manner specified in subsection (b) of this section, directing the institution to:

(i) forward the amount seized and attached by the financial institution to the Comptroller;

(ii) reduce the amount seized and attached by the financial institution to a revised amount as stated, forward the revised amount to the Comptroller, and release the excess amount; or

(iii) release the amount seized and attached by the financial institution.

(2) The Comptroller may send the notice described in paragraph (1) of this subsection before the time for filing a timely challenge under subsection (g) of this section on agreement among the Comptroller, the obligor, and, if the Comptroller is aware of an account holder of interest, the account holder of interest.

(f) The Comptroller shall apply the amount seized and forwarded by the financial institution to the obligor's tax lien obligation.

(g) (1) An obligor or an account holder of interest may challenge the actions of the Comptroller under this section by filing a motion with the circuit court within 10 days of the date of the notice sent under subsection (d)(1) of this section.

(2) An obligor or an account holder of interest may challenge the actions of the Comptroller based on:

(i) a mistake in the identity of the obligor;

(ii) a mistake in the ownership of the account;

(iii) a mistake in the contents of the account;

(iv) invalidity of the Comptroller's actions under § 11-603 of the Courts Article;

(v) a mistake in the amount of the lien obligation due; or

(vi) any other good cause.

(3) An obligor or an account holder of interest may not challenge the actions of the Comptroller based on a mistake or error in the original tax assessment underlying the tax lien against the obligor.

(h) (1) The Comptroller may withdraw the notice to seize and attach accounts by sending notice to the financial institution, in the manner specified in subsection (b) of this section, directing the financial institution to release the attachment on the accounts.

(2) If a determination is made by the Comptroller or by the circuit court that the account or accounts of the obligor should not have been held, the Comptroller shall notify the financial institution, in the manner specified in subsection (b) of this section, to release the amount seized and attached by the financial institution.

(3) If a determination is made by the Comptroller or by the circuit court, pursuant to a challenge under subsection (g) of this section, to reduce the amount seized and attached by the financial institution, the Comptroller shall notify the financial institution, in the manner specified in subsection (b) of this section, to revise the amount as stated, forward the revised amount to the Comptroller, and release the excess amount seized and attached by the financial institution.

(4) If a challenge made under subsection (g) of this section is denied by the circuit court, the Comptroller shall notify the financial institution, in the manner specified in subsection (b) of this section, to forward the amount seized and attached by the financial institution to the Comptroller.

(i) A financial institution that complies with a notice from the Comptroller sent under this section is not liable under State law to any person for:

(1) any disclosure of information to the Comptroller under this section;

(2) seizing and attaching any amounts from an account or sending any amount seized and attached by the financial institution to the Comptroller; or

(3) any other action taken in good faith to comply with the requirements of this section.

(j) A financial institution has no obligation to reimburse fees assessed as a result of the Comptroller instituting an action under this section or as otherwise

permitted by law or authorized by contract.

(k) This section may not be construed to prohibit the Comptroller from collecting taxes due from the obligor in any other manner authorized by law.

§13–815.

(a) Within the period allowed in Subtitle 11 of this title, an action to collect tax imposed under this article may be brought in a court of competent jurisdiction.

(b) If a person owes State and county or municipal corporation taxes to the same tax collector, an action under this section may combine claims for those taxes.

§13–816.

(a) If a tax under this article is not paid when due, the Governor, tax collector, or Treasurer shall ask a qualified attorney who is a regular salaried employee of the Comptroller or the Attorney General to bring an action against the person responsible to pay the tax, unless a lien on real property under Part II of this subtitle sufficiently secures the tax or a judgment in the action would not be collectible.

(b) (1) If a request is made under subsection (a) of this section, the attorney or the Attorney General shall bring the action.

(2) In an action under this section, the plaintiff shall be:

(i) the State;

(ii) the Treasurer; or

(iii) the tax collector authorized by law to collect the tax.

(c) If the attorney or Attorney General and the tax collector agree that the full amount of the claim is not collectible, the attorney or Attorney General may:

(1) compromise the claim;

(2) accept a lesser amount; and

(3) issue a release of the claim or a satisfaction of the judgment.

§13–817.

(a) In an action under § 13-816 of this subtitle, a request for attachment before judgment against any asset of the defendant may be filed in accordance with the Maryland Rules.

(b) The plaintiff in the action is not required to file an attachment bond.

§13–818.

(a) If the plaintiff in an action under § 13-816 of this subtitle requests, the action shall be tried as soon as the action is at issue and shall take precedence over all other civil cases.

(b) In an action under § 13-816 of this subtitle, a certificate of the tax collector that shows the amount of tax, penalty, and interest due:

(1) is prima facie evidence of the amount of tax, penalty, and interest; and

(2) imposes on the defendant the burden of proving that the tax, penalty, and interest have been paid or any other defense.

§13–821.

(a) Notwithstanding any other provision of this title, if a tax collector finds that the collection of a tax under this article will be jeopardized by the departure, from the State, of the person required to pay the tax, the removal of property from the State, the concealment of the person or the property, or any other act, the tax collector immediately may assess the tax, interest, and penalty as a jeopardy assessment.

(b) The tax collector shall mail to the person required to pay the tax a notice of jeopardy assessment that states:

(1) the findings about the jeopardy of tax collection;

(2) the amount of the assessment; and

(3) a demand that the person immediately:

(i) pay the assessment; or

(ii) submit evidence that collection of the tax is not in jeopardy.

(c) The findings of the tax collector about the jeopardy of tax collection are final and conclusive.

(d) If, within the 10 days after a notice of jeopardy assessment is mailed, a person fails to comply with the notice, the tax collector may take any action to collect the unpaid tax as authorized under this title.

§13–824.

To protect tax revenue, a tax collector may, to the extent allowed or required under § 13-825 of this subtitle:

(1) set an amount to secure payment of the tax, interest, and penalty that is due or may become due; and

(2) require acceptable security to be posted.

§13–825.

(a) The Comptroller may require a person whose gross receipts are subject to admissions and amusement tax and whose business is not a permanent operation in the State to post security for the tax in the amount that the Comptroller determines.

(b) The Comptroller shall require:

(1) a manufacturer, wholesaler, or nonresident winery permit holder who sells or delivers beer or wine to retailers in the State to post security for the alcoholic beverage tax:

(i) in an amount not less than:

1. $1,000 for beer; and

2. $1,000 for wine; and

(ii) if the alcoholic beverage tax on beer and wine paid in any 1 month exceeds $1,000, in an additional amount at least equal to the excess;

(2) a manufacturer or wholesaler who sells or delivers any distilled spirits or any wine and distilled spirits in the State to post a security for the alcoholic beverage tax:

(i) in an amount not less than $5,000; and

(ii) in an additional amount:

1. equal to twice the amount of its largest monthly alcoholic beverage tax liability for wine and distilled spirits in the preceding calendar year less $5,000; or

2. if the information for the preceding calendar year is not available or cannot be provided, equal to the amount that the Comptroller requires; and

(3) except as provided in subsection (i) of this section, a holder of a direct wine shipper's permit to post security for the alcoholic beverage tax in an amount not less than $1,000.

(c) The Comptroller may require a person whose gross receipts are subject to the boxing and wrestling tax to post security for the boxing and wrestling tax in the amount that the Comptroller determines.

(d) The Comptroller may require a real estate investment trust to post security for income tax in the amount that the Comptroller requires, if the trust:

(1) does not hold property in the State; or

(2) holds insufficient property in the State to provide adequate security for the income tax if the property were to become subject to a lien under this subtitle.

(e) The Comptroller may require a person seeking a refund of motor carrier tax to post security for the tax in an amount of not less than $5,000 but not more than $100,000.

(f) The Comptroller shall require an applicant for any license under Title 9 of this article, except for a Class "W" license, to post security for the motor fuel tax in the amount that the Comptroller requires, but not less than:

(1) $200,000 for a Class "A" license;

(2) $50,000 for a Class "B" license;

(3) $10,000 for a Class "C" license;

(4) $200,000 for a Class "D" license;

(5) $1,000 for a Class "F" license;

(6) $10,000 for a Class "G–Temporary" license;

(7) $1,000 for a Class "S" license; and

(8) $1,000 for a Class "U" license.

(g) The Comptroller may require a person subject to the sales and use tax to post security for the tax in the amount that the Comptroller determines.

(h) (1) The Comptroller may require a person subject to the tobacco tax to post security for the tax in the following amounts:

(i) for a manufacturer or wholesaler:

1. $10,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds $10,000;

(ii) for a subwholesaler or vending machine operator:

1. $1,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds $1,000; and

(iii) for an other tobacco products wholesaler:

1. $5,000, plus

2. the amount, if any, by which the tobacco tax due for any 1 month exceeds $5,000.

(2) Except as provided in paragraph (5) of this subsection, the Comptroller may exempt a person from posting security for the tobacco tax if the person is and has been for the past 5 years:

(i) licensed as required under § 16–202 of the Business Regulation Article to act as a wholesaler or § 16.5–201 to act as an other tobacco products wholesaler; and

(ii) 1. in continuous compliance with the tobacco tax laws, as determined under paragraph (3) of this subsection; and

2. in continuous compliance with the conditions of the person's security posted under this subsection.

(3) For purposes of paragraph (2) of this subsection, a person is in continuous compliance with the tobacco tax laws for a period if the person has not, at any time during that period:

(i) failed to pay any tobacco tax or any tobacco tax assessment when due;

(ii) failed to file a tobacco tax return when due; or

(iii) otherwise violated any of the provisions of Title 12 or Title 13 of this article or Title 16 or Title 16.5 of the Business Regulation Article.

(4) (i) An exemption granted under paragraph (2) of this subsection is effective only to the extent that a person's potential tobacco tax liability does not exceed an amount determined by the Comptroller based on the person's experience during the 5–year compliance period under paragraph (2) of this subsection.

(ii) The Comptroller may revoke an exemption granted to a person under paragraph (2) of this subsection if the person at any time fails to be in continuous compliance with the tobacco tax laws, as described in paragraph (3) of this subsection.

(iii) The Comptroller may reinstate an exemption revoked under subparagraph (ii) of this paragraph if the person meets the requirements of paragraph (2)(i) and (ii) of this subsection for a period of 2 years following the revocation.

(5) The Comptroller may not exempt a person from posting a bond or other security for the tobacco tax unless the Comptroller determines that the person is solvent

and financially able to pay the person's potential tobacco tax liability.

(6) If a corporation is granted an exemption from posting a bond or other security for the tobacco tax, any officer of the corporation who exercises direct control over its fiscal management is personally liable for any tobacco tax, interest and penalties owed by the corporation.

(i) A person need not post security under subsection (b)(3) of this section if:

(1) the person is a manufacturer that has posted security under subsection (b)(2) of this section; or

(2) at any time starting 3 years after the Comptroller first issues a direct wine shipper's permit to the person, the Comptroller:

(i) determines that the person has a substantial record of tax and reporting compliance; and

(ii) waives the security requirement.

§13–826.

The following securities are acceptable:

(1) a bond issued by a surety company that is authorized to do business in the State and is approved by the State Insurance Commissioner as to solvency and responsibility;

(2) cash in an amount that the tax collector approves;

(3) marketable securities that the tax collector approves; or

(4) for admissions and amusement tax, alcoholic beverage tax, boxing and wrestling tax, and tobacco tax, an irrevocable letter of credit:

(i) in an amount that the Comptroller approves; and

(ii) with a date certain for coverage during the collection period.

§13–827.

When a tax collector requires a person to post security under § 13-825 of this subtitle, the tax collector shall mail the person a notice of the requirement and the amount required to be posted.

§13–828.

(a) If, within 5 days after the date on which the notice to post security is mailed to a person, the person submits to the tax collector a written request for a hearing, the

tax collector shall:

(1) hold the hearing; and

(2) at the hearing, make a final determination of the necessity for, propriety of, and amount of the security.

(b) The tax collector shall mail the person a notice of the final determination.

§13–829.

(a) Except as provided in subsection (b) of this section, a person shall post the security required under § 13-825 of this subtitle within 5 days after the date on which the notice is mailed under § 13-827 of this subtitle.

(b) If a hearing is held under § 13-828 of this subtitle, a person shall post the security within 15 days after the date on which the notice of the tax collector's final determination is mailed.

§13–830.

If the tax, interest, and penalty are not paid when due, the tax collector, without notice to the person who posted the security under § 13-829 of this subtitle, may:

(1) apply a cash or security deposit to the tax, interest, or penalty; or

(2) sell a security at public or private auction and apply the proceeds of the sale to the tax, interest, or penalty.

§13–831.

(a) Except for a liability that has accrued or will accrue before the date of release or discharge, a surety is released and discharged from liability on a bond to the State 60 days after the surety submits to the tax collector a written request for release or discharge.

(b) On receipt of a written request from a surety for release and discharge, the tax collector promptly shall give the person who posted the bond notice that:

(1) the surety has asked to be released and discharged from liability on the bond; and

(2) a substitute security must be filed before the date on which the surety is released and discharged under subsection (a) of this section.

§13–832.

(a) Subject to the limitation in subsection (b) of this section, if a tax under this article is referred for collection to an independent agency with which the Comptroller

has contracted for the collection of taxes, in addition to interest and penalties required to be assessed under this subtitle the Comptroller shall assess a collection fee sufficient to cover all collection costs charged by the agency to the Comptroller.

(b) The collection fee assessed by the Comptroller under paragraph (a) of this section may not, as a percentage, exceed the percentage of the fee charged by the Central Collection Unit in accordance with § 3-304(a)(2) of the State Finance and Procurement Article.

(c) For reasonable cause, the Comptroller may waive or reduce a collection fee assessed under this section.

§13–834.

(a) In this Part VI of this subtitle the following words have the meanings indicated.

(b) "Contraband alcoholic beverage" means an alcoholic beverage, as defined in § 5-101 of this article:

(1) on which alcoholic beverage tax is not paid; and

(2) that is delivered, possessed, sold, or transported in the State in a manner not authorized under Title 5 of this article or Article 2B of the Code.

(c) "Contraband tobacco products" means cigarettes or other tobacco products, as defined in § 12-101 of this article:

(1) on which tobacco tax is not paid; and

(2) that are delivered, possessed, sold, or transported in the State in a manner not authorized under Title 12 of this article or Title 16 of the Business Regulation Article.

(d) "Contraband motor fuel" means motor fuel, as defined in § 9-101 of this article:

(1) on which motor fuel tax is not paid; and

(2) that is delivered, possessed, sold, or transferred in the State in a manner not authorized under Title 9 of this article or Title 10 of the Business Regulation Article.

(e) "Conveyance" means:

(1) an aircraft, vehicle, or vessel used to transport alcoholic beverages, cigarettes, or other tobacco products; and

(2) a tank car, vehicle, or vessel that is used to transport motor fuel and

that, exclusive of any tank used for its own propulsion, has a capacity exceeding 50 gallons.

§13–835.

(a) The Comptroller or a peace officer of the State may:

(1) seize contraband alcoholic beverages or contraband tobacco products in the State without a warrant;

(2) stop and search a conveyance in the State if the Comptroller or officer knows or has reason to suspect that the conveyance is being used to transport in the State contraband tobacco products having a retail value of $100 or more or contraband alcoholic beverages; and

(3) seize a conveyance being used in the State to transport contraband alcoholic beverages or contraband tobacco products.

(b) A police officer of the State may:

(1) seize any contraband motor fuel in the State without a warrant;

(2) stop and search a conveyance in the State for contraband motor fuel if the officer has probable cause to believe that the conveyance is being used to carry contraband motor fuel in the State; and

(3) seize a conveyance being used to transport contraband motor fuel.

§13–836.

(a) (1) If contraband alcoholic beverages or contraband tobacco products are seized:

(i) the Comptroller or police officer shall give a notice of seizure to the person from whom the property is seized at the time of the seizure; and

(ii) the Comptroller shall:

1. where possible, give a notice of seizure to the registered owner of a seized conveyance; and

2. publish a notice of seizure of the conveyance in a newspaper of general circulation in the county where the seizure occurred.

(2) If contraband motor fuel is seized, within 48 hours after the seizure, not including weekends and holidays, the Comptroller shall give a notice of seizure to:

(i) the owner of the contraband motor fuel;

(ii) the registered owner of the seized conveyance; and

(iii) any secured party noted in the records of the Motor Vehicle Administration.

(3) A notice of seizure shall state the right of an owner or other interested person, including a secured party of record, to file a claim for the return of the seized property.

(b) (1) A police officer who seizes a conveyance used to transport contraband alcoholic beverages promptly shall notify the Comptroller of the seizure.

(2) A police officer who seizes any contraband tobacco products or conveyance used to transport contraband tobacco products shall deliver the seized cigarettes or other tobacco products and conveyance to the Comptroller.

(3) A police officer who seizes any contraband motor fuel shall:

(i) deliver the seized contraband motor fuel and conveyance to the Comptroller; or

(ii) if the seized conveyance is operated by a common carrier, regulated by either the Maryland Public Service Commission or the Interstate Commerce Commission, and transports motor fuel for another person, for a fee, direct the operator of the conveyance to take it to a location that the Comptroller designates.

(c) For a seized conveyance transporting contraband motor fuel that is operated by a common carrier, the Comptroller shall:

(1) remove the contraband from the conveyance at the location that the Comptroller designates;

(2) retain the contraband, subject to §§ 13-840 and 13-841 of this subtitle;

(3) after removing the contraband, release the conveyance to its operator; and

(4) reimburse the common carrier for all tariff charges applicable to the movement of the conveyance from:

(i) the place of seizure to the location where the contraband motor fuel was removed; and

(ii) the place where the contraband motor fuel was removed to the nearer of the common carrier's home terminal or the place of seizure.

§13–837.

The owner or another person with an interest in seized property may file a claim

for the return of the property with the Comptroller within 30 days after:

(1) the seizure of alcoholic beverages, cigarettes, other tobacco products, motor fuel or conveyances used to transport motor fuel; or

(2) a notice of seizure of a conveyance used to transport alcoholic beverages, cigarettes, or other tobacco products is published.

§13–838.

(a) A person forfeits any interest, right, or title to property that is seized for violation of the alcoholic beverage tax laws if the person:

(1) fails to file a claim for return of the seized property within the time allowed under § 13–837 of this subtitle; or

(2) is adjudged guilty of violating the alcoholic beverage tax laws.

(b) (1) If, within the time allowed to file a claim under § 13–837 of this subtitle, a person who has a lien interest in property seized for violation of the alcoholic beverage tax law files a petition, the circuit court for the county in which property is seized shall proceed in rem to hear and determine the question of forfeiture of the interest by the lien holder.

(2) If the circuit court finds that the lien holder had knowledge of the intended unlawful use of the property, the interest, right, and title of a lien holder shall be forfeited.

(3) Absent a finding under paragraph (2) of this subsection, the Comptroller, in the best interest of the State may:

(i) pay the outstanding indebtedness secured by the lawful lien and keep the property; or

(ii) deliver the property to the lien holder.

§13–839.

(a) If a person files a claim for return of seized alcoholic beverages, cigarettes, other tobacco products, or a conveyance used for their transportation under § 13-837 of this subtitle, the Comptroller or the Comptroller's designee shall:

(1) promptly act on the request and hold an informal hearing;

(2) direct the return of alcoholic beverages, cigarettes, or other tobacco products unless the Comptroller or Comptroller's designee has satisfactory proof that the person was not in compliance with any provisions of Title 5 or Title 12 of this article at the time of seizure; and

(3) direct the return of the conveyance if the Comptroller or Comptroller's designee has satisfactory proof that the owner of the conveyance was not willfully evading any provisions of Title 5 or Title 12 of this article at the time of seizure.

(b) The Comptroller or Comptroller's designee shall grant or deny the application for return of seized alcoholic beverages, cigarettes, other tobacco products, or a conveyance in accordance with subsection (a) of this section by mailing the person a notice of final determination.

§13–840.

(a) If a person files with the Comptroller a claim for return of the seized motor fuel or conveyances used in its transportation, the Comptroller shall:

(1) provide an opportunity for a hearing; and

(2) if requested by the claimant, conduct the hearing within 5 working days after the claim is received.

(b) The Comptroller shall:

(1) make a final determination of whether the property should be forfeited within 2 working days after the date of the conclusion of the hearing; and

(2) mail a notice of the final determination on the date on which that determination is made.

§13–841.

(a) (1) Contraband alcoholic beverages that are seized under this title and forfeited may be disposed of or destroyed in the manner allowed under Article 2B, § 1-201(f)(5) and (6) and (g) of the Code.

(2) The Comptroller shall sell at public auction a conveyance that is seized under this title in connection with contraband alcoholic beverages and forfeited.

(b) (1) The Comptroller shall sell contraband tobacco products seized under this title and forfeited to a State institution, a nonprofit charitable institution, a licensed cigarette wholesaler, or a licensed cigarette manufacturer in the manner the Comptroller determines.

(2) The Comptroller shall sell at public auction a conveyance that is seized under this title in connection with contraband tobacco products and forfeited.

(c) (1) If either the Comptroller or, on appeal, a court determines that seized conveyance or motor fuel is not subject to forfeiture:

(i) the Comptroller is not required to return the motor fuel seized to

the owner or other interested person who filed the claim for return of the property, but may, at the option of the Comptroller, pay to the person an amount equal to the value of the motor fuel as determined by the average wholesale value on the date of seizure for the Baltimore Terminal as reported by a nationally recognized oil price reporting service on the date of seizure; and

(ii) the Comptroller shall return the conveyance to the registered owner and shall have no further liability to the registered owner.

(2) If a seized conveyance or motor fuel is forfeited, the Comptroller shall:

(i) 1. use the contraband motor fuel for any public purpose; or

2. sell the contraband motor fuel to any person; and

(ii) sell the seized conveyance to any person.

(d) In the manner required under Title 2 of this article for distributions of revenue, the Comptroller shall distribute the net proceeds from the sale of any conveyance or other property under this section after paying:

(1) the costs incurred in conjunction with the seizure and disposal of the property;

(2) the cost of the sale; and

(3) any bona fide lien against the conveyance.

§13–842.

A person who possessed contraband alcoholic beverages, contraband tobacco products, or contraband motor fuel that are seized and sold under this section is not relieved from any penalty under this title.

§13–845.

(a) Except as provided in subsection (b) of this section, if the inheritance tax determined on an interest in property under § 7-209, § 7-210, or § 7-211 of this article is not paid when due, the court that has jurisdiction to administer the estate shall order the personal representative to sell as much of the interest in property on which inheritance tax is unpaid as is necessary to:

(1) pay inheritance tax on the property; and

(2) pay the expenses of the sale.

(b) A court may not order the sale of an interest in property under subsection (a) of this section after the period provided for the lien on the property under § 13-806 of this subtitle has expired.

§13–901.

(a) A claim for refund may be filed with the tax collector who collects the tax, fee, or charge by a claimant who:

(1) erroneously pays to the State a greater amount of tax, fee, charge, interest, or penalty than is properly and legally payable;

(2) pays to the State a tax, fee, charge, interest, or penalty that is erroneously, illegally, or wrongfully assessed or collected in any manner; or

(3) pays a tax qualifying for refund under subsections (b) through (h) of this section.

(b) A claim for refund of alcoholic beverage tax may be filed by a claimant who:

(1) buys alcoholic beverages that are exempt under § 5-104(b) of this article;

(2) discontinues an alcoholic beverage business;

(3) discontinues the sale and delivery in the State of alcoholic beverages in certain container sizes; or

(4) holds alcoholic beverages for sale that:

(i) are condemned by an authorized official; or

(ii) if the claim is $250 or more, are lost, rendered unmarketable, or destroyed in the State due to fire, flood, or other disaster, or due to vandalism or malicious mischief, except loss due to theft.

(c) (1) A claim for refund of income tax may be filed by a claimant whose Maryland taxable income is decreased as a result of a federal contract renegotiation under § 1481 of the Internal Revenue Code.

(2) A claim for refund of income tax under this subsection or subsection (a) of this section may be filed:

(i) by the claimant; or

(ii) on behalf of the claimant, by a person allowed to file a return under § 10-808 of this article.

(d) A claim for refund of Maryland estate tax or Maryland generation-skipping transfer tax may be filed by a claimant required to pay the tax if:

(1) the Maryland estate tax is decreased as a result of:

(i) a decrease in the federal estate tax on the estate; or

(ii) an inheritance tax payment made after a Maryland estate tax payment; or

(2) the Maryland generation-skipping transfer tax is decreased as a result of a decrease in the federal generation-skipping transfer tax on the generation-skipping transfer.

(e) A claim for refund of motor carrier tax may be filed by a claimant who has excess motor carrier tax credit, if:

(1) the claimant has provided the security required for a motor carrier under § 13-825 of this title; or

(2) the Comptroller has audited the records of the claimant.

(f) (1) Except as provided in paragraph (3) of this subsection, a claim for refund of motor fuel tax may be filed by a claimant who pays the tax on:

(i) aviation fuel, as defined in § 9–101 of this article, that is:

1. dispensed to aircraft by an aircraft manufacturing company located in the State; or

2. used:

A. by a person who engages in agricultural activities; and

B. in an aircraft that is used for agricultural purposes at least 70% of the time that the aircraft is used; or

(ii) motor fuel, as defined in § 9–101 of this article, that:

1. is used to operate:

A. a bus that is used only in the operation of a transportation system of a political subdivision of the State to transport the public on regular schedules between fixed termini, as defined in Title 11 of the Transportation Article;

B. farm equipment that is used for an agricultural purpose and is not registered to operate on a public highway;

C. fire or rescue apparatus or vehicles by a volunteer fire company or nonprofit volunteer rescue company incorporated in the State;

D. an internal combustion engine that is installed permanently at a fixed location; or

E. a vehicle that is owned and used by a Maryland chapter of the American Red Cross or a bona fide unit of a national veterans' organization;

2. is bought by:

A. the United States or a unit of the United States government;

B. the Department of General Services for use by State agencies; or

C. a person who is required to pay a tax on the same fuel to another state;

3. except for any operation of a motor vehicle on a public highway in the State, is used for a commercial purpose, including:

A. the operation of a vessel used only for commercial purposes;

B. commercial cleaning; or

C. commercial dyeing;

4. is used in any of the following vehicles that have pumping or other equipment mechanically or hydraulically driven by the engine that propels the vehicle:

A. a concrete mixing motor vehicle or concrete pump truck;

B. a motor fuel delivery vehicle;

C. a solid waste compacting vehicle;

D. a well–drilling vehicle; or

E. farm equipment registered as a vehicle for highway use that is designed or adapted solely and used exclusively for bulk farm spreading of agriculture liming materials, chemicals, or fertilizer;

5. is used by a system of transportation based in the State, in a vehicle that is used to provide transportation to elderly or low income individuals, or individuals with disabilities, if the system is operated by a nonprofit organization for purposes relating to the charge for which the nonprofit organization was established and the nonprofit organization:

A. is exempt for federal income tax purposes under § 501(c) of the Internal Revenue Code;

B. is funded to provide transportation to elderly or low income individuals, or individuals with disabilities;

C. receives part of its operating funding from the Maryland Department of Transportation or the Maryland Department of Health and Mental Hygiene;

D. has stated in its charter or bylaws that operating transportation services for elderly or low income individuals, or individuals with disabilities, is one of the purposes for which it was established; and

E. is actively operating a system of transportation for elderly or low income individuals, or individuals with disabilities; or

6. is lost as a result of fire, collision, or other casualty, except for loss in ordinary transportation and storage.

(2) A refund based on a claim under paragraph (1)(ii)4 of this subsection may not exceed the following percentages of the motor fuel tax paid:

(i) 35% for a concrete mixing vehicle or concrete pump truck;

(ii) 55% for farm equipment, registered as a vehicle for highway use, that is designed or adapted solely and used exclusively for bulk spreading of agriculture liming materials, chemicals, or fertilizers;

(iii) 10% for a motor fuel delivery vehicle;

(iv) 15% for a solid waste compacting vehicle; and

(v) 80% for a well–drilling vehicle.

(3) A person may not make a claim for a refund of motor fuel tax under paragraph (1)(ii)1B of this subsection for motor fuel used to operate a farm truck under the provisions of § 8–602(c) of the Transportation Article.

(g) A claim for refund of sales and use tax may be filed by a claimant who:

(1) pays the tax on a sale exempt under § 11-216 of this article;

(2) refunds the tax to a buyer in a canceled or rescinded sale under § 11-403(c) of this article;

(3) pays the tax in a canceled or rescinded sale for which the vendor refuses to refund the tax as required under § 11-403(c) of this article; or

(4) pays the tax under § 11-408(c) of this article on a cash sale or sale for use that is not a retail sale.

(h) A claim for refund of tobacco tax may be filed by a claimant who buys tobacco tax stamps that:

(1) are affixed erroneously to anything other than a package of cigarettes;

(2) are affixed to a package of unsalable cigarettes;

(3) are canceled by the Comptroller;

(4) if the claim is $250 or more, are lost or destroyed in the State due to fire, flood, or other disaster, vandalism, or malicious mischief, except loss due to theft; or

(5) mutilated or damaged, whether or not affixed to a package of cigarettes.

§13–902.

A claim for refund shall be:

(1) made, under oath, in the form that the tax collector requires; and

(2) supported by the documents that the tax collector requires, including original invoices showing alcoholic beverage and motor fuel purchases.

§13–903.

A claim for refund shall be filed within the time required under § 13-1104 of this title.

§13–904.

(a) The tax collector shall:

(1) investigate each claim for refund; and

(2) conduct a hearing at the request of the claimant prior to a final determination on the claim.

(b) The tax collector shall give the claimant notice of:

(1) the determination of the claim for refund; and

(2) any delay in paying an allowed claim.

§13–905.

(a) Subject to the additional provisions under this section, a tax collector shall pay any claim for refund that has been allowed by the tax collector unless:

(1) the claimant has not paid all other taxes, fees, or charges payable to the State; or

(2) the amount of the refund due is less than $1.

(b) If a claim for refund of income tax is based on a return that is filed jointly by the personal representative and surviving spouse of a decedent, the Comptroller shall pay the claim to the estate of the decedent.

(c) The payment of income tax refunds is subject to tax refund interception under § 10–113 of the Family Law Article and §§ 13–912 through 13–919 of this subtitle.

(d) The Comptroller may not pay a refund of excess motor carrier tax credit unless the motor carrier has complied with Title 9, Subtitle 2 of this article and regulations adopted under it for a full registration year and the Comptroller, in the Comptroller's discretion, allows the refund.

(e) For a claim of refund for sales and use tax, the Comptroller shall either:

(1) pay the refund; or

(2) allow a credit of the amount of the refund on subsequent sales and use tax payments due from the claimant.

(f) If requested by a claimant on a form provided by the Comptroller, the Comptroller shall directly deposit portions of an income tax refund into at least two accounts at one or more financial institutions.

§13–906.

(a) In this section, "register" means the register of wills of a county.

(b) (1) If a person is required to pay inheritance tax the payment of which would reduce the Maryland estate tax imposed on an estate and would entitle the estate to a Maryland estate tax refund, on the written request of the personal representative of the estate, the Comptroller may pay directly to the register, to be applied against the inheritance tax, any Maryland estate tax refund to which the estate would be entitled as a result of the payment of the inheritance tax.

(2) If a person becomes entitled to an inheritance tax refund the payment of which would result in an increase in the Maryland estate tax imposed on an estate, on the written request of the person making a claim for the inheritance tax refund or if a claim for an inheritance tax refund has not been made, the register may pay the inheritance tax refund directly to the Comptroller to be applied against any unpaid Maryland estate tax or additional Maryland estate tax that would become due as a result of the inheritance tax refund.

(c) If a payment from the Comptroller to the register or from the register to the Comptroller under subsection (b) of this section does not discharge a person's tax liability in its entirety, the person shall pay any remaining unpaid inheritance tax to the register or any remaining unpaid Maryland estate tax to the Comptroller.

(d) Payment by the Comptroller to the register or by the register to the Comptroller under subsection (b) of this section shall satisfy the obligation of the register or Comptroller to pay a refund to the extent of the payment.

§13–908.

(a) If the tax collector determines that collection of financial institution franchise tax or income tax is not warranted because of the administration and collection costs involved, the tax collector may abate the tax or any interest, penalties or charges relative to the tax.

(b) (1) The income tax imposed under this article shall be abated in the case of any individual:

(i) who dies while in active service as a member of the armed forces of the United States, if such death occurs while serving in a combat zone or as a result of wounds, disease, or injury incurred while so serving; or

(ii) who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury incurred while the individual was a military or civilian employee of the United States and which were incurred outside the United States in a terroristic or military action.

(2) The abatement of tax shall have the same effect and shall apply to the same taxable years as provided under § 692 of the Internal Revenue Code.

§13–909.

(a) Without regard to the provisions of § 13-1104 of this title, if the tax collector determines a person's financial institution franchise tax or income tax for multiple taxable years and simultaneously finds both overpayments and deficiencies in those taxable years, the tax collector:

(1) may offset the deficiencies to the extent of the overpayments; but

(2) may not allow a refund that is barred under Subtitle 11 of this title.

(b) An overpayment determined under subsection (a) of this section may not be applied as an offset to a deficiency in any taxable year other than the years included in the Comptroller's determination under subsection (a) of this section.

§13–912.

(a) In this part the following words have the meanings indicated.

(b) "Central Collection Unit" means the Central Collection Unit in the Department of Budget and Management.

(c) (1) "Debt" means:

(i) a liquidated sum due and owing any State agency that has accrued through contract, subrogation, tort, operation of law, or other cause of action, regardless of whether there is an outstanding judgment for that sum; or

(ii) a delinquent restitution account on a judgment of restitution referred to the Unit for collection under § 11-616 of the Criminal Procedure Article.

(2) "Debt" includes converted funds as defined in § 15-122.2 of the Health - General Article.

(d) "Debtor" means:

(1) a person owing a debt to a State agency that has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; or

(2) a defendant or liable parent in arrears of restitution payments whose account has been referred to the Central Collection Unit under § 11-616 of the Criminal Procedure Article.

(e) "State agency" means any agency, association, board, bureau, college, commission, committee, council, foundation, fund, department, institute, institution, public corporation, service, trust, university, the Maryland Higher Education Loan Corporation, or other unit of State government, including any subunit of these agencies.

§13–913.

(a) (1) Except as provided in paragraph (2) of this subsection, for any debt not excepted by law from the Central Collection Unit's responsibilities under Title 3, Subtitle 3 of the State Finance and Procurement Article or otherwise, the Central Collection Unit may:

(i) certify to the Comptroller the existence of any debt that has been referred to it for collection by a State agency; and

(ii) request the Comptroller to withhold the sum certified from any income tax refund to which a debtor is entitled.

(2) A debt may not be withheld if the State agency or the Central Collection Unit has been advised by the Attorney General that the validity of the debt is legitimately in dispute or an alternate means of collection is pending and believed to be adequate.

(b) (1) The Department of Budget and Management shall establish by regulation those classes or categories of debts, including any minimum debt amount, that may be referred to the Central Collection Unit for withholding.

(2) Subject to § 13-918 of this subtitle, if more than one State agency is owed money by the same debtor, any amount withheld from an income tax refund shall be applied in the order of referral of the debt by the State agencies.

(c) (1) Subject to paragraph (2) of this subsection, the withholding of debt from an income tax refund authorized by this part does not preclude use of any other remedy provided by law for the collection of debts owed to the State and this part shall be liberally construed to effectuate its purposes.

(2) This part shall be interpreted in a manner that does not deprive a debtor of any rights or defenses that would be available to that debtor in defending against a claim of setoff incident to a judicial proceeding.

§13–914.

(a) At least 30 calendar days before certifying a debt to the Comptroller, the Central Collection Unit shall notify the debtor in writing that it intends to request the Comptroller to withhold the debt from any income tax refund due the debtor.

(b) The notice required under subsection (a) of this section shall advise the debtor of:

(1) the amount due and owing;

(2) the basis of the debt;

(3) the opportunity to request an investigation of the debt;

(4) the opportunity to contest any adverse determination after an investigation in a hearing before the Central Collection Unit; and

(5) the right to a judicial appeal of a final action by the Central Collection Unit.

§13–915.

(a) (1) A certification by the Central Collection Unit to the Comptroller shall be made on or before January 1 of each calendar year in the form that the Comptroller prescribes.

(2) The certification shall include:

(i) the full name and address of the debtor and any other names known to be used by the debtor;

(ii) the Social Security number or federal tax identification number of the debtor; and

(iii) the amount of the debt.

(b) (1) The Comptroller shall:

(i) withhold any income tax refund that may be due to a debtor whose name has been certified by the Central Collection Unit; and

(ii) pay to the Central Collection Unit the entire refund or the amount certified by the Central Collection Unit, whichever is less.

(2) All moneys paid to the Central Collection Unit by the Comptroller under this part shall be disposed of by the Central Collection Unit as provided in § 3-305 of the State Finance and Procurement Article.

(3) Any income tax refund in excess of the certified amount shall be paid to the debtor.

(4) The Comptroller shall notify the debtor of:

(i) any amount paid to the Central Collection Unit; and

(ii) the debtor's right:

1. to request an investigation by the Central Collection Unit of the validity of the debt or correctness of the amount; and

2. to an administrative hearing and judicial appeal if the Central Collection Unit makes a determination adverse to the debtor.

(c) (1) If a debtor has filed a joint income tax return and the debt is not the liability of both taxpayers, the Comptroller may not withhold that portion of an income tax refund attributable to the individual not owing the debt.

(2) After receiving certification of a debt from the Central Collection Unit, the Comptroller shall promptly notify the Central Collection Unit if the Comptroller determines that a withholding cannot be made.

(3) If an income tax refund is insufficient to satisfy a debt, the Comptroller may withhold amounts from subsequent income tax refunds due a debtor until the debt is extinguished.

(4) Partial payments of the debt shall first be applied against accrued interest, if any, and then to the principal amount of the debt.

(5) Interest on a debt may be withheld at the rate established for that debt by law or contract.

(d) Except for the amount of any income tax refund to which a debtor is entitled, the Comptroller may not disclose any item contained on a State or federal tax return or information required by State law to be attached to the State return.

§13–916.

(a) A debtor may request the Central Collection Unit to investigate a debt:

(1) after notification from the Central Collection Unit under § 13-914 of this subtitle that the Central Collection Unit intends to request the Comptroller to withhold the debt from any income tax refund due the debtor; or

(2) within 30 days after notification from the Comptroller under § 13-915 of this subtitle that a debt has been withheld.

(b) (1) On receipt of a request for an investigation, the Central Collection Unit shall investigate any questioned debt with the State agency that referred the debt.

(2) The Central Collection Unit shall make a written determination within 15 calendar days after it receives a request for investigation from the debtor.

(3) If the Central Collection Unit determines that a referral or certification is in error, it shall, as appropriate:

(i) correct the referral or certification;

(ii) discontinue certification procedures; or

(iii) promptly remit to the debtor any amounts that have been improperly withheld.

§13–917.

(a) (1) After its investigation, if the Central Collection Unit makes a determination adverse to the debtor, it shall promptly advise the debtor of the debtor's right to request a hearing on unresolved factual issues before the Central Collection Unit in accordance with the Administrative Procedure Act.

(2) Except for good cause shown, a request for a hearing before the Central Collection Unit must be made within 30 days after the date of notification of the debtor of an adverse determination by the Central Collection Unit following an investigation.

(3) The State agency that referred the debt to the Central Collection Unit may be made a party in any hearing before the Central Collection Unit.

(4) An issue may not be considered at the hearing that has been previously litigated.

(5) Within 15 days after receipt of a timely or otherwise proper request for a hearing under this subsection, the debtor shall be notified of the date of the hearing.

(6) After a hearing, if the Central Collection Unit determines that a certification or referral is in error, it shall take appropriate action as described in §

13-916(b)(3) of this subtitle.

(7) A determination by the Central Collection Unit of the validity of the debt or correctness of the amount owed shall be considered as final agency action under the Administrative Procedure Act.

(b) (1) A debtor aggrieved by a final decision of the Central Collection Unit concerning the validity of the debt or correctness of the amount may appeal the decision as provided for contested cases in §§ 10-222 and 10-223 of the State Government Article.

(2) If a debtor disputes a denial by the Comptroller of a claim for an income tax refund on grounds other than the validity of the debt or the correctness of the amount owed and that debtor also is appealing an adverse determination of the Maryland Tax Court under § 13-532 of this title, judicial review of both decisions shall be consolidated.

§13–918.

(a) The Comptroller shall honor income tax refund interception requests in the following order:

(1) a refund interception request to collect an unpaid State, county, or municipal tax;

(2) a refund interception request under Title 10, Subtitle 1, Part II of the Family Law Article;

(3) a refund interception request for converted funds under § 15–122.2 of the Health – General Article;

(4) a refund interception request under § 3–304 of the State Finance and Procurement Article;

(5) any other refund interception request by the State, county, or other political subdivision of the State;

(6) a request for intercept made by a taxing official under Part IV of this subtitle; and

(7) a request for intercept made by a federal official under Part VI of this subtitle.

(b) The Comptroller shall honor vendor payment interception requests in the same order of priority provided in subsection (a) of this section for honoring income tax refund interception requests.

§13–919.

(a) The Secretary of Budget and Management may adopt regulations relating to the referral of debts by State agencies to the Central Collection Unit and to the administrative procedures authorized under this part.

(b) The Comptroller may adopt regulations relating to the certification and withholding of amounts under this part.

§13–920.

(a) In this part the following words have the meanings indicated.

(b) "Refund" means an individual's Maryland income tax refund or any other state's individual income tax refund.

(c) "Taxing official" means a unit or official of another state charged with the imposition, assessment, or collection of state income taxes.

§13–921.

(a) Except as provided in subsection (b) of this section, a taxing official may:

(1) certify to the Comptroller the existence of an individual's delinquent income tax liability; and

(2) request the Comptroller to withhold any refund to which the individual is entitled.

(b) A taxing official may not certify or request the Comptroller to withhold a refund unless the laws of the taxing official's state:

(1) allow the Comptroller to certify an income tax due;

(2) allow the Comptroller to request the taxing official to withhold the individual's tax refund; and

(3) provide for the payment of the refund to Maryland.

(c) The withholding of a refund shall be subject to the priorities under § 13-918 of this subtitle.

§13–922.

(a) A certification by a taxing official to the Comptroller shall include:

(1) the full name and address of the individual and any other names known to be used by the individual;

(2) the Social Security number or federal tax identification number;

(3) the amount of the income tax liability including a detailed statement for each taxable year showing tax, interest, and penalty; and

(4) a statement that all administrative remedies and appeals have been exhausted and that the assessment of tax, interest, and penalty has become final.

(b) The Comptroller shall determine if an individual for whom a certification is received is due a refund of Maryland income tax.

(c) As to any individual due a refund, the Comptroller shall:

(1) notify the individual of a certification by another state of the existence of an income tax liability;

(2) provide the individual with notice of an opportunity to request a hearing to challenge the certification; and

(3) inform the individual that the hearing may be requested:

(i) pursuant to § 13-508 of this title; or

(ii) with the taxing official, in accordance with the laws of the state of the taxing official.

(d) If the individual requests a hearing pursuant to § 13-508 of this title, the certification of the taxing official shall be prima facie evidence of the correctness of the individual's delinquent income tax liability to the certifying state.

(e) Subject to subsection (f) of this section, the Comptroller may:

(1) withhold any income tax refund that is due to an individual whose name has been certified by a taxing official;

(2) pay to the other state the entire refund or the amount certified, whichever is less;

(3) pay any income tax refund in excess of the certified amount to the individual; and

(4) if an income tax refund is less than the certified amount, withhold amounts from subsequent income tax refunds due the individual, if the laws of the other state provide that the other state shall withhold subsequent refunds of individuals certified to that state by the Comptroller.

(f) (1) The Comptroller may not withhold or pay to another state an individual's income tax refund until all administrative and judicial remedies provided under Subtitle 5 of this title and Title 10 of this article have been exhausted.

(2) If an individual filed a joint return, the Comptroller may not withhold or pay to another state the individual's income tax refund unless the certification includes both names of the individuals jointly owing income tax to the other state.

(g) After receiving a certification from a taxing official, the Comptroller shall notify the other state if the Comptroller determines that a withholding cannot be made.

§13–925.

(a) In this part the following words have the meanings indicated.

(b) "Local official" means a unit or official of a political subdivision of the State charged with the imposition, assessment, or collection of taxes or other liabilities payable to the political subdivision.

(c) "Refund" means a refund of any tax imposed under Maryland law.

(d) (1) "Vendor payment" means any payment made by the State or by a political subdivision of the State to any person.

(2) "Vendor payment" includes any expense reimbursement payable to an employee of the State or of a political subdivision of the State.

(3) "Vendor payment" does not include a person's salary, wages, or pension.

§13–926.

(a) Except as provided in subsection (b) of this section, a local official may:

(1) certify to the Comptroller the existence of a person's delinquent tax liability or any other liability owed by the person to the local official's political subdivision; and

(2) request the Comptroller to withhold any refund and vendor payment to which the person is entitled.

(b) A local official may not certify or request the Comptroller to withhold a refund or vendor payment unless the laws of the local official's political subdivision:

(1) allow the Comptroller to certify tax due to the State;

(2) allow the Comptroller to request the local official to withhold from any vendor payment the person's tax due to the State; and

(3) provide for the payment of the amount withheld to the Comptroller.

(c) The withholding of a refund or vendor payment shall be subject to the priorities under § 13-918 of this subtitle.

§13–927.

(a) A certification by a local official to the Comptroller shall include:

(1) the full name and address of the person and any other names known to be used by the person;

(2) the Social Security number or federal tax identification number, if known;

(3) the amount of the tax or other liability including:

(i) a statement indicating the nature of the liability; and

(ii) in the case of a liability for taxes, a detailed statement for each taxable year showing tax, interest, and penalty; and

(4) a statement that all administrative remedies and appeals have been exhausted and that the tax or other liability has become final.

(b) The Comptroller shall determine if a person for whom a certification is received is due a refund of Maryland tax or a vendor payment.

(c) Subject to subsection (d) of this section, as to any person due a refund or vendor payment, the Comptroller shall:

(1) withhold any refund and vendor payment that is due a person whose name has been certified by a local official;

(2) notify the person of the amount withheld in accordance with the certification by a local official of the existence of a tax or other liability;

(3) pay to the political subdivision the lesser of:

(i) the entire refund and vendor payment; or

(ii) the amount certified;

(4) pay any refund and vendor payment in excess of the certified amount to the person; and

(5) if the refund and vendor payment is less than the certified amount, withhold amounts from subsequent refunds and vendor payments due the person, if the laws of the political subdivision provide that the political subdivision shall withhold a vendor payment due persons certified to the political subdivision by the Comptroller.

(d) If an individual filed a joint income tax return, the Comptroller may not withhold or pay to a political subdivision the individual's income tax refund unless the certification includes both names of the individuals filing the joint income tax return.

§13–930.

(a) In this part the following words have the meanings indicated.

(b) "Federal official" means a unit or official of the federal government charged with the collection of nontax liabilities payable to the federal government pursuant to 31 U.S.C. § 3716.

(c) "Nontax liability due the State" means a liability certified by the Secretary of Budget and Management to the Comptroller.

(d) "Refund" means an amount described as a refund of tax under the provisions of law that authorize its payment.

(e) "Vendor payment":

(1) means any payment, other than a refund, made by the State to any person;

(2) includes any expense reimbursement to an employee of the State; and

(3) does not include a person's salary, wages, or pension.

§13–931.

(a) Except as provided in subsection (b) of this section, a federal official may:

(1) certify to the Comptroller the existence of a person's delinquent nontax liability owed by the person to the federal government; and

(2) request the Comptroller to withhold any refund and vendor payment to which the person is entitled.

(b) A federal official may certify and request the Comptroller to withhold a refund or vendor payment only if the laws of the United States:

(1) allow the Comptroller, on behalf of the State, to certify tax and nontax liabilities due to the State;

(2) allow the Comptroller, on behalf of the State, to enter into a reciprocal agreement with the United States, pursuant to which the federal official would be required to offset federal payments to collect delinquent debts owed to the State; and

(3) provide for the payment of the amount withheld to the State.

(c) The Comptroller shall apply a refund or vendor payment received from a federal official according to the priorities under § 13-918 of this subtitle.

§13–932.

(a) A certification by a federal official to the Comptroller shall include:

(1) the full name and address of the person and any other names known to be used by the person;

(2) the Social Security number or federal tax identification number;

(3) the amount of the nontax liability; and

(4) a statement that the debt is past due and legally enforceable in the amount certified and that there are no legal barriers to collection by offset.

(b) The Comptroller shall determine if a person for whom a certification is received is due a refund of Maryland tax or a vendor payment.

(c) Subject to § 13-931(b) of this subtitle and subsection (d) of this section, as to any person due a refund or vendor payment, the Comptroller shall:

(1) withhold any refund and vendor payment that is due a person whose name has been certified by a federal official;

(2) notify the person of the amount withheld in accordance with the certification by a federal official of the existence of a liability;

(3) pay to the federal official the lesser of:

(i) the entire refund and vendor payment; or

(ii) the amount certified;

(4) pay any refund and vendor payment in excess of the certified amount to the person; and

(5) withhold amounts from subsequent refunds and vendor payments due the person if the initial refund and vendor payment is less than the certified amount.

(d) If an individual filed a joint income tax return and the debt certified by a federal official is not the liability of both parties to the joint income tax return, the Comptroller may not withhold or pay to the federal official that portion of the income tax refund attributable to the individual not owing the debt.

§13–935. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2019 PER CHAPTERS 590 AND 594 OF 2014 //

(a) In this part the following words have the meanings indicated.

(b) "Refund" means an individual's Maryland income tax refund.

(c) (1) "Warrant" means a criminal arrest warrant.

(2) "Warrant" includes a warrant issued for or that results from:

(i) a failure to appear before a court of the State;

(ii) a violation of the Maryland Vehicle Law that is punishable by a term of confinement; or

(iii) a violation of probation.

(3) "Warrant" does not include a body attachment.

(d) "Warrant official" means an official of the federal, State, or local government charged with serving a warrant.

§13–936. IN EFFECT

(a) This part applies only to individuals who:

(1) are residents of Anne Arundel County, Baltimore City, or Washington County; or

(2) have an outstanding warrant from Anne Arundel County, Baltimore City, or Washington County.

(b) This part does not apply to an individual:

(1) who is an active duty member of the armed forces of the United States; or

(2) who files a joint Maryland income tax return.

13–936. // EFFECTIVE SEPTEMBER 30, 2018 PER CHAPTER 213 OF 2013 //

// EFFECTIVE UNTIL SEPTEMBER 30, 2019 PER CHAPTERS 590 AND 594 OF 2014 //

(a) This part applies only to individuals who:

(1) are residents of Baltimore City or Washington County; or

(2) have an outstanding warrant from Baltimore City or Washington County.

(b) This part does not apply to an individual:

(1) who is an active duty member of the armed forces of the United States; or

(2) who files a joint Maryland income tax return.

§13–937. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2019 PER CHAPTERS 590 AND 594 OF 2014 //

A warrant official may:

(1) certify to the Comptroller the existence of an outstanding warrant for an individual who is a resident of Maryland or who receives income from Maryland; and

(2) request the Comptroller to withhold any refund to which the individual is entitled.

§13–938. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2019 PER CHAPTERS 590 AND 594 OF 2014 //

(a) A certification by a warrant official to the Comptroller shall include:

(1) the full name and address of the individual and any other names known to be used by the individual;

(2) the Social Security number or federal tax identification number; and

(3) a statement that the warrant is outstanding.

(b) The Comptroller shall determine if an individual for whom a certification is received is due a refund.

(c) As to any individual due a refund for whom a certification is received, the Comptroller shall:

(1) withhold the individual's refund; and

(2) notify the individual of a certification by the warrant official of the existence of an outstanding warrant.

(d) The Comptroller may not pay a refund until the warrant official notifies the Comptroller that the warrant is no longer outstanding.

§13–939. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2019 PER CHAPTERS 590 AND 594 OF 2014 //

The Comptroller shall withhold and pay any amount as provided in § 13–918 of this subtitle before withholding any part of an income tax refund under § 13–938 of this part.

§13–940. IN EFFECT

// EFFECTIVE UNTIL SEPTEMBER 30, 2019 PER CHAPTERS 590 AND 594 OF 2014 //

On or before December 1 of each year, the Office of the Comptroller shall report to the House Ways and Means Committee and the Senate Budget and Taxation Committee, in accordance with § 2–1246 of the State Government Article, on the implementation of §§ 13–935 through 13–939 of this part.

§13–1001.

(a) A person who is required to file an admissions and amusement tax return and who willfully fails to file the return as required under Title 4 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) A person who is required to file a boxing and wrestling tax return and who willfully fails to file the return as required under Title 6 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(c) A person who is required to file a financial institution tax return and who willfully fails to file the return as required under Title 8 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

(d) A person who is required to file an income tax return and who willfully fails to file the return as required under Title 10 of this article 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.

(e) A person, including any officer of a corporation, who is required to file a sales and use tax return and who willfully fails to file the return as required under Title 11 of this article 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.

(f) A person who is required to file a public service company franchise tax return and who willfully fails to file the return as required under Title 8 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

§13–1002.

(a) A person who willfully files a false alcoholic beverage tax return is guilty of perjury and, on conviction, is subject to the penalty for perjury.

(b) A person, including an officer of a corporation, who willfully files a false financial institution franchise tax return, a false public service company franchise tax return, or a false income tax return with the intent to evade the payment of tax due under this article is guilty of perjury and, on conviction, is subject to the penalty for perjury.

(c) Subsections (a) and (b) of this section apply to the alcoholic beverage, financial institution franchise, public service company franchise, and income taxes.

§13–1003.

(a) A person who is required to file an admissions and amusement tax return and who willfully makes a false statement or misleading omission on the return required under Title 4 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) A person who is required to file a boxing and wrestling tax return and who willfully makes a false statement or misleading omission on the return required under Title 6 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(c) A person, including an officer of a corporation, who is required to file a sales and use tax return and who willfully makes a false statement or misleading omission on the return required under Title 11 of this article 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.

§13–1004.

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.

§13–1005.

(a) A person who is required to pay the admissions and amusement tax and who willfully fails to pay the tax as required under Title 4 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) A person who is required to pay the boxing and wrestling tax and who willfully fails to pay the tax as required under Title 6 of this article is guilty

of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

§13–1006.

(a) A person, including an officer of a corporation, who is required to collect the sales and use tax and who willfully fails to collect the tax as required under Title 11 of this article 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) A person, including an officer of a corporation, who is required to pay over the sales and use tax and who willfully fails to pay over the tax as required under Title 11 of this article 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.

§13–1007.

(a) A person who is required to file an income tax withholding return and who willfully fails to file the return as required under Title 10 of this article 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) A person who is required to withhold income tax and who willfully fails to withhold the tax as required under Title 10 of this article 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.

(c) A person who is required to pay over income tax and who willfully fails to pay over the tax as required under Title 10 of this article 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.

(d) A person who is required to provide an income tax withholding statement under Title 10 of this article and who willfully fails to provide an income tax withholding statement or who willfully provides a false income tax withholding statement is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(e) A person who is required to file an income tax withholding certificate, under Title 10 of this article, and who willfully fails to provide information required on the withholding certificate or who willfully files a false certificate that results in the withholding of less than the required tax is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(f) An employer who fails to pay to the Comptroller salary, wages, or other compensation for personal services subject to a wage lien as required under § 13-811 of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding

$500 or imprisonment not exceeding 6 months or both.

§13–1008.

(a) A person who is required to pay the admissions and amusement tax and who willfully fails to keep records as required under § 4-202 of this article or under admissions and amusement tax regulations is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(b) A person who is required to pay the boxing and wrestling tax and who willfully fails to keep records as required under § 6-202 of this article or under boxing and wrestling tax regulations is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

(c) A person, including an officer of a corporation, who is required to keep records under Title 11 of this article or under sales and use tax regulations and who willfully fails to keep the records is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§13–1009.

A person who participates in evading the alcoholic beverage tax is guilty of a crime and, on conviction, is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§13–1010.

A person, including an officer of a corporation, who is required to pay the sales and use tax and who willfully evades the tax by use of a license number or exemption number that has not been issued by the Comptroller to the person using the number is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§13–1011.

A person who counterfeits an alcoholic beverage tax stamp, as defined in § 5-101 of this article, or certificate is guilty of a crime and, on conviction, is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§13–1012.

(a) A person who willfully makes, causes to be made, or procures an altered or counterfeited tobacco tax stamp in violation of § 12-305 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

(b) (1) A person who willfully uses, transfers, or possesses an altered or

counterfeited tobacco tax stamp in violation of § 12-305 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

(2) A person who uses a tobacco tax stamp more than once in violation of § 12-304 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 5 years or both.

(c) A person who buys a tobacco tax stamp from a person other than the Comptroller without an authorization from the Comptroller in violation of § 12-303 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(d) Each day that any violation under this section continues constitutes a separate offense.

§13–1013.

A person who willfully possesses, transports, sells, offers for sale, or allows storage on that person's property of any alcoholic beverage that is subject to the alcoholic beverage tax and on which the tax has not been paid is guilty of a crime and, on conviction, is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§13–1014.

(a) (1) A person who willfully possesses, sells, or attempts to sell unstamped or improperly stamped cigarettes in the State in violation of Title 12 of this article is guilty of a misdemeanor.

(2) If the number of unstamped or improperly stamped cigarettes that a person possesses, sells, or attempts to sell is 30 cartons or less, the person on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 3 months or both.

(3) If the number of unstamped or improperly stamped cigarettes that a person possesses, sells, or attempts to sell is more than 30 cartons, the person on conviction is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

(b) A person who willfully possesses, sells, or attempts to sell other tobacco products on which the tobacco tax has not been paid in the State in violation of Title 12 of this article is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $500 or imprisonment not exceeding 3 months or both.

(c) Each day that a violation under this section continues constitutes a separate offense.

§13–1015.

(a) A person who willfully ships, imports, sells into or within, or transports within, this State cigarettes or other tobacco products on which the tobacco tax has not been paid in violation of Title 12 of this article or § 16–219, § 16–222, § 16.5–215, or § 16.5–216 of the Business Regulation Article is guilty of a felony and, on conviction, is subject to the penalties set forth in subsections (b) and (c) of this section.

(b) (1) For a first violation, a person is subject to a mandatory fine of $150 for each carton of cigarettes or each package of other tobacco products transported.

(2) For each subsequent violation, a person is subject to a mandatory fine of $300 for each carton of cigarettes or each package of other tobacco products transported.

(c) In addition to the mandatory fine set forth in subsection (b) of this section, for a first or subsequent violation, a person may be subject to imprisonment not exceeding 2 years.

§13–1016.

A person who engages in the business of a retail vendor or engages in the business of an out-of-state vendor without having obtained a license as required under § 11-702 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100.

§13–1017.

A vendor who holds out to the public that the vendor will absorb or assume the sales and use tax in violation of § 11-402 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 6 months or both.

§13–1018.

An officer, employee, former officer, or former employee of the State or of a political subdivision of the State who makes a disclosure in violation of Subtitle 2 of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§13–1019.

Any income tax return preparer who discloses information in violation of § 13-207 of this title is guilty of a misdemeanor and, on conviction, is subject to a fine of not less than $500 or more than $10,000.

§13–1020.

(a) A person who violates any provision of Title 5 of this article for which there is no sanction provided, except suspension or revocation of a license or permit, is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 2 years or both.

(b) A person who violates any provision of Title 6 of this article for which there is no sanction provided is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $100.

(c) A person who violates a provision of § 9-219, § 9-220, or § 9-221 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine of not less than $200 or more than $500.

(d) A motor carrier who violates a provision of § 9–223 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 1 year or both.

§13–1021.

A person who violates a regulation adopted by the Comptroller to carry out the provisions of Title 5 of this article is guilty of a crime and, on conviction, is subject to a fine not exceeding $10,000 or imprisonment not exceeding 5 years or both.

§13–1022.

A person who willfully fails to take any action that the Comptroller requires under § 10-804 or § 13-302 of this article with respect to the 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.

§13–1023.

(a) A person who negligently or without reasonable cause fails to provide any information as required under this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $500.

(b) This section does not apply to:

(1) the alcoholic beverage tax;

(2) the Maryland estate tax; or

(3) the Maryland generation-skipping transfer tax.

§13–1024.

(a) A person who willfully or with the intent to evade payment of a tax under

this article or to prevent the collection of a tax under this article fails to provide information as required under this article or provides false or misleading information is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 18 months or both.

(b) A prosecution under this section does not bar a prosecution for perjury.

(c) This section does not apply to:

(1) the alcoholic beverage tax;

(2) the Maryland estate tax; or

(3) the Maryland generation-skipping transfer tax.

§13–1025.

(a) A person who assaults a tax collector who is performing an official duty is guilty of a crime and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 12 months or both.

(b) A person who assaults another person to prevent that person from bidding at a tax collector's sale or because that person bid at a tax collector's sale is guilty of a crime and, on conviction, is subject to a fine not exceeding $500 or imprisonment not exceeding 12 months or both.

§13–1026.

An employee or officer of the State, a county, or a municipal corporation who negligently fails to perform a duty or to do any act required under this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000.

§13–1027.

An employee or officer of the State, a county, or a municipal corporation who willfully fails to perform a duty required under this article with the intent to prevent the payment or collection of a tax under this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $5,000 or imprisonment not exceeding 2 years or both.

§13–1029.

A person who violates any provision of Title 9, Subtitle 3 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment in the county jail not exceeding 6 months or both.

§13–1030.

(a) A person who makes or assists another person to make a false claim for

refund of motor fuel tax is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment in the county jail not exceeding 6 months or both.

(b) A person who fraudulently obtains or assists another person to fraudulently obtain a refund of motor fuel tax is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment in the county jail not exceeding 6 months or both.

§13–1031.

A person who engages in the business of a dealer, a distributor, a special fuel seller, a special fuel user, or a turbine fuel seller without a license or receives, sells, or transfers motor fuel in violation of § 9-337 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding $1,000 or imprisonment not exceeding 6 months or both.

§13–1101.

(a) Except as otherwise provided in this section, an assessment of financial institution franchise tax, public service company franchise tax, income tax, or estate tax may not be made after 3 years from the later of:

(1) the date that the return is filed; or

(2) the date that the return is due.

(b) An assessment of financial institution franchise tax, public service company franchise tax, income tax, or estate tax may be made at any time if:

(1) a false return is filed with the intent to evade the tax;

(2) a willful attempt is made to evade the tax;

(3) a return is not filed as required under Title 7, Title 8, or Title 10 of this article;

(4) an amended estate tax return is not filed as required under Title 7 of this article;

(5) an incomplete return is filed; or

(6) a report of federal adjustment is not filed within the period required under § 13–409 of this title.

(c) If a report of federal adjustment is filed within the time required under § 13–409 of this title, the tax collector shall assess the financial institution franchise tax, public service company franchise tax, income tax, or estate tax within 1 year after the

date on which the tax collector receives the report.

(d) (1) Subject to the provisions of paragraph (2) of this subsection, an assessment of income tax or estate tax arising out of an amended return shall be made within 3 years after the date that the amended return is filed.

(2) An assessment of income tax under paragraph (1) of this subsection shall be related to changes made by the amended items in the return.

§13–1102.

(a) Except as provided in subsection (b) of this section, an action to recover admissions and amusement tax, boxing and wrestling tax, motor fuel tax, or sales and use tax may not be brought after 4 years from the date on which the tax is due.

(b) (1) (i) An action to recover admissions and amusement tax, boxing and wrestling tax, or sales and use tax may be brought at any time if there is proof that the tax is not paid due to fraud or gross negligence.

(ii) An underpayment of 25% or more of the sales and use tax due is prima facie evidence of gross negligence.

(2) An action to recover motor fuel tax may be brought at any time if there is proof that the tax is not paid due to fraud.

§13–1103.

(a) Except as otherwise provided in this section, a tax imposed under this article may not be collected after 7 years from the date the tax is due.

(b) If a tax collector fails to collect a tax and a receiver or trustee is appointed within the period specified in subsection (a) of this section to complete the tax collection, the period for collecting the tax extends for 2 years from the date that the trustee or receiver is appointed.

(c) If the assessment of any tax has been made within the period of limitations applicable to the assessment, a tax may not be collected after 7 years from the date of the assessment. Any judgment entered may be enforced or renewed as any other judgment.

§13–1104.

(a) Except as otherwise provided in this section, a claim for refund under this article may not be filed after 3 years from the date the tax, interest, or penalty was paid.

(b) A claim for refund of alcoholic beverage tax may not be filed after:

(1) 90 days from the date of purchase or invoice of exempt alcoholic beverages used by a hospital or religious organization; and

(2) 6 months from the date on which alcoholic beverages are condemned, lost, or rendered unmarketable.

(c) (1) Except as provided in paragraph (2) of this subsection, a claim for refund or credit of overpayment of financial institution franchise tax or income tax may not be filed after the periods of limitations for filing claims for refund or credit of overpayment set forth in § 6511 of the Internal Revenue Code.

(2) A claim for refund or credit of overpayment may not be filed later than 1 year from the date of:

(i) a final adjustment report of the Internal Revenue Service; or

(ii) a final decision of the highest court of the United States to which an appeal of a final decision of the Internal Revenue Service is taken.

(3) Except as provided in paragraph (4) of this subsection, a refund or credit of overpayment allowed upon a claim filed under this subsection may not exceed the amount of the Maryland tax resulting from the application of the limits set forth in § 6511 of the Internal Revenue Code.

(4) A refund or credit of overpayment allowed upon a claim filed under paragraph (2) of this subsection shall be limited to the amount of the reduction in Maryland tax resulting from the federal income tax adjustment.

(d) A claim for refund of Maryland estate tax, inheritance tax, or Maryland generation-skipping transfer tax may not be filed after 3 years from the date of the event that caused the refund.

(e) A claim for refund of excess motor carrier tax credit may not be filed after 24 months following the end of the period in which the excess credit was developed.

(f) Except as provided in § 13-508 of this title or for a claim under § 13-901(a)(1) or (2) of this title, a claim for refund of motor fuel tax may not be filed:

(1) after 1 year from the date of purchase;

(2) after October 1, if the claimant elects to file an annual claim for the 12-month period ending June 30; or

(3) for a period of less than 1 year, after 3 months following the end of the period for which the claim is filed.

(g) Except as provided in § 13-508 of this title, a claim for refund of sales and use tax may not be filed after 4 years from the date the tax was paid.

(h) Except for a claim under § 13-901(a)(1) or (2) of this title, a claim for refund of tobacco tax may not be filed after 1 year from the date of the event that caused the refund.

(i) A claim for refund or credit for overpayment of income tax attributable to a credit claimed under § 10-703 of this article for the payment of a state tax on income paid to another state may not be filed after the later of:

(1) the end of the limitation period otherwise prescribed under this section; or

(2) 1 year after the date the taxpayer received notification that the other state's income tax was due.

(j) Notwithstanding subsection (c) of this section, a claim for refund or credit for overpayment of income tax attributable to a right to a reduction in a person's Maryland income tax that is established by a decision of an administrative board or by an appeal of a decision of an administrative board may be filed within 1 year after the date of a final decision of the administrative board or a final decision of the highest court to which an appeal of a final decision of the administrative board is taken.