

SENATE BILL 304

Q3, Q4, Q7

7lr0140
CF 7lr0156

By: **The President (By Request – Administration)**

Introduced and read first time: January 20, 2017

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Taxpayer Protection Act**

3 FOR the purpose of prohibiting a person from employing certain individuals not registered
4 with the State Board of Individual Tax Preparers to provide certain services; altering
5 the statute of limitations for certain offenses arising under the Tax – General Article;
6 providing certain employees of the Field Enforcement Bureau of the Comptroller’s
7 Office with certain police powers when enforcing certain laws; repealing the
8 authority of certain employers or payors to submit certain information to the
9 Comptroller in a certain format; requiring all employers or payors required to submit
10 certain information to the Comptroller to submit the information in a certain format;
11 providing that a certain definition of “tax information” includes certain information
12 contained on certain types of returns filed with the Comptroller; altering a certain
13 definition of “taxing official” to include certain attorneys; authorizing the
14 Comptroller to disclose certain information to the State Board of Individual Tax
15 Preparers; altering a certain penalty the tax collector is required to impose; requiring
16 a tax collector to impose a certain penalty on certain paid tax preparers; requiring
17 the Comptroller to assess a certain penalty on a person required to provide a certain
18 annual report if the person fails to provide the report or provides a false report;
19 authorizing the Attorney General to bring a certain civil action to enjoin a person
20 from acting as an income tax preparer under certain circumstances; providing when
21 a court may enjoin a person from acting as an income tax preparer; requiring the
22 Attorney General to bring a civil action in certain counties; imposing a certain
23 penalty on certain income tax preparers for certain offenses; making stylistic
24 changes; and generally relating to the collection and enforcement of taxes.

25 BY repealing and reenacting, with amendments,
26 Article – Business Occupations and Professions
27 Section 21–401
28 Annotated Code of Maryland
29 (2010 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,
2 Article – Courts and Judicial Proceedings
3 Section 5–106(l)
4 Annotated Code of Maryland
5 (2013 Replacement Volume and 2016 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Tax – General
8 Section 2–107(a), 10–911, 13–201, 13–203, 13–703, and 13–1004
9 Annotated Code of Maryland
10 (2016 Replacement Volume)

11 BY adding to
12 Article – Tax – General
13 Section 13–706.1 and 13–715(c)
14 Annotated Code of Maryland
15 (2016 Replacement Volume)

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

18 **Article – Business Occupations and Professions**

19 21–401.

20 (A) Except as otherwise provided in this title, [a person] AN INDIVIDUAL may not
21 provide, attempt to provide, or offer to provide individual tax preparation services in the
22 State unless registered by the Board.

23 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS TITLE, A PERSON MAY NOT
24 EMPLOY AN INDIVIDUAL TO PROVIDE, ATTEMPT TO PROVIDE, OR OFFER TO PROVIDE
25 INDIVIDUAL TAX PREPARATION SERVICES IN THE STATE UNLESS THE INDIVIDUAL IS
26 REGISTERED BY THE BOARD.

27 **Article – Courts and Judicial Proceedings**

28 5–106.

29 (l) A prosecution for an offense arising under the Tax – General Article with
30 respect to the sales and use, admissions and amusement, financial institution franchise,
31 income, or motor fuel tax shall be instituted within [3] 6 years after the date on which the
32 offense was committed.

33 **Article – Tax – General**

34 2–107.

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

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

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

6 (i) **ADMISSIONS AND AMUSEMENT TAX;**

7 **(II) alcoholic beverage tax;**

8 **[(ii) tobacco tax;]**

9 **(III) INCOME TAX;**

10 **(IV) MOTOR CARRIER TAX;**

11 **(V) MOTOR FUEL AND LUBRICANTS;**

12 **[(iii) (VI) motor fuel tax;**

13 **[(iv) motor carrier tax;**

14 **(v) motor fuel and lubricants; and]**

15 **(VII) SALES AND USE TAX;**

16 **(VIII) TOBACCO TAX; AND**

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

19 10-911.

20 (a) Each employer or payor required under § 10-906 of this subtitle to withhold
21 income tax for an employee or a person who receives a payment subject to withholding shall
22 prepare a statement that shows for the previous calendar year:

23 (1) the name of the employer or payor;

24 (2) the name of the employee or person who receives the payment subject
25 to withholding;

1 (3) the total amount that the employer paid to the employee as wages or
2 the total amount that the payor has paid to the person;

3 (4) the total amount of tips that the employee reported;

4 (5) the total amount of income tax that has been withheld under this
5 subtitle;

6 (6) any amount by which income tax required to be withheld on tips
7 exceeds the other net wages paid to the employee; and

8 (7) any other information that the Comptroller requires by regulation.

9 (b) On or before January 31 of each year an employer or payor of a payment
10 subject to withholding shall:

11 (1) provide 2 copies of the statement required under subsection (a) of this
12 section to the employee or person who receives a payment subject to withholding; and

13 (2) submit 1 copy of the statement to the Comptroller.

14 (c) (1) Except as provided in paragraph (2) of this subsection, an employer or
15 payor shall submit statements required under subsection (a) of this section [on magnetic
16 media or in other machine-readable or] **IN AN** electronic format that the Comptroller
17 requires by regulation[, if:

18 (i) the total number of statements of that statement type that the
19 employer or payor is required to submit equals or exceeds 25; or

20 (ii) a lower threshold applies for federal income tax purposes].

21 (2) The Comptroller:

22 (i) shall adopt regulations to provide a process for an employer or
23 payor that is required to submit statements [on magnetic media or in other
24 machine-readable or] **IN AN** electronic format under paragraph (1) of this subsection to
25 request a waiver from the requirement; and

26 (ii) may waive the requirement that an employer or payor submit
27 statements [on magnetic media or in other machine-readable or] **IN AN** electronic format
28 under paragraph (1) of this subsection if the Comptroller determines that the requirement
29 will result in undue hardship to the employer or payor.

30 13-201.

31 In this subtitle, "tax information" means:

1 (1) the amount of income or any other particulars disclosed in a tax return
2 required under this article, if the return contains return information, as defined in § 6103
3 of the Internal Revenue Code;

4 (2) any return information, as defined in § 6103 of the Internal Revenue
5 Code, required to be attached to or included in a tax return required under this article; or

6 (3) any information contained in:

7 (i) an admissions and amusement tax return; [or]

8 **(II) AN ALCOHOLIC BEVERAGE TAX RETURN;**

9 **(III) A BAY RESTORATION FEE RETURN;**

10 **(IV) A BOXING AND WRESTLING TAX RETURN;**

11 **(V) AN E-9-1-1 FEE RETURN;**

12 **(VI) A FINANCIAL INSTITUTION FRANCHISE TAX RETURN;**

13 **(VII) AN INHERITANCE TAX RETURN;**

14 **(VIII) A MARYLAND ESTATE TAX RETURN;**

15 **(IX) A MOTOR CARRIER TAX RETURN;**

16 **(X) A MOTOR FUEL TAX RETURN;**

17 **(XI) AN OTHER TOBACCO PRODUCTS TAX RETURN;**

18 **(XII) A PUBLIC SERVICE COMPANY FRANCHISE TAX RETURN;**

19 **[(ii)] (XIII) a sales and use tax return;**

20 **(XIV) A SAVINGS AND LOAN ASSOCIATION FRANCHISE TAX**
21 **RETURN;**

22 **(XV) A TIRE RECYCLING FEE RETURN;**

23 **(XVI) A TOBACCO TAX RETURN; OR**

24 **(XVII) A TRANSPORTATION SERVICES ASSESSMENT RETURN.**

1 13-203.

2 (a) (1) In this subsection, "taxing official" means:

3 (i) a unit or official of another state whom the laws of that state
4 charge with the imposition, assessment, or collection of state taxes;

5 (ii) an employee of the United States Treasury Department; [or]

6 (iii) a collector of United States taxes; **OR**

7 **(IV) A UNITED STATES DEPARTMENT OF JUSTICE ATTORNEY,**
8 **INCLUDING A UNITED STATES ATTORNEY.**

9 (2) The Comptroller or Department may disclose to a taxing official tax
10 information that is contained in any tax report or return, audit of a tax return, or report of
11 a tax investigation and relates to the imposition, assessment, and collection of taxes or to
12 any other matter about taxation generally if:

13 (i) the Comptroller or Department is satisfied that the tax
14 information is to be used only for tax purposes;

15 (ii) the taxing official's jurisdiction makes similar information
16 available to the appropriate officials of this State; and

17 (iii) in the case of another state, its laws provide for adequate
18 confidentiality of Maryland tax returns or other information.

19 (b) Tax information may be disclosed in accordance with a proper judicial order
20 or a legislative order.

21 (c) Tax information may be disclosed to:

22 (1) an employee or officer of the State who, by reason of that employment
23 or office, has the right to the tax information;

24 (2) another tax collector;

25 (3) the Maryland Tax Court;

26 (4) a legal representative of the State, to review the tax information about
27 a taxpayer:

28 (i) who applies for review under this title;

29 (ii) who appeals from a determination under this title; or

1 (iii) against whom an action to recover tax or a penalty is pending or
2 will be initiated under this title;

3 (5) any license issuing authority of the State required by State law to verify
4 through the Comptroller that an applicant has paid all undisputed taxes and
5 unemployment insurance contributions payable to the Comptroller or the Secretary of
6 Labor, Licensing, and Regulation or that the applicant has provided for payment in a
7 manner satisfactory to the unit responsible for collection;

8 (6) a local official as defined in § 13–925 of this title to the extent necessary
9 to administer Subtitle 9, Part V of this title;

10 (7) a federal official as defined in § 13–930 of this title to the extent
11 necessary to administer Part VI of this subtitle; [and]

12 (8) the Department of Health and Mental Hygiene in accordance with:

13 (i) the federal Children’s Health Insurance Program
14 Reauthorization Act of 2009; and

15 (ii) § 10–211.1 of this article; AND

16 **(9) THE STATE BOARD OF INDIVIDUAL TAX PREPARERS.**

17 (d) Tax information may be disclosed and published as statistics that are
18 classified in a manner that prevents the identification of a particular return and the
19 information contained in a particular return.

20 13–703.

21 **(A)** If, with the intent to evade the payment of tax, a person, including an officer
22 of a corporation, or a governmental unit makes a false tax return, the tax collector shall
23 assess a penalty not exceeding 100% of the [underpayment of] tax DUE.

24 **(B) IF, WITH THE INTENT TO EVADE THE PAYMENT OF TAX, A PERSON HIRED**
25 **TO PREPARE A TAX RETURN MAKES A FALSE TAX RETURN, THE TAX COLLECTOR**
26 **SHALL ASSESS THE HIRED PREPARER A PENALTY NOT EXCEEDING 100% OF THE TAX**
27 **DUE.**

28 **13–706.1.**

29 **IF A PERSON IS REQUIRED TO PROVIDE AN ANNUAL WITHHOLDING**
30 **RECONCILIATION REPORT UNDER § 10–911 OF THIS ARTICLE, THE COMPTROLLER**
31 **SHALL ASSESS A PENALTY OF \$100 FOR EACH VIOLATION IF THE PERSON**
32 **WILLFULLY:**

1 **(1) FAILS TO PROVIDE A REQUIRED ANNUAL WITHHOLDING**
2 **RECONCILIATION REPORT; OR**

3 **(2) PROVIDES A FALSE ANNUAL WITHHOLDING RECONCILIATION**
4 **REPORT.**

5 13–715.

6 **(C) (1) THE ATTORNEY GENERAL MAY BRING AN ACTION IN THE NAME**
7 **OF THE STATE OR THE COMPTROLLER TO ENJOIN A PERSON FROM ACTING AS AN**
8 **INCOME TAX RETURN PREPARER AS DEFINED IN § 7701 OF THE INTERNAL REVENUE**
9 **CODE.**

10 **(2) A COURT MAY ENJOIN A PERSON FROM ACTING AS AN INCOME TAX**
11 **RETURN PREPARER IF THE COURT DETERMINES:**

12 **(I) THAT THE INCOME TAX RETURN PREPARER:**

13 1. **FAILED TO COMPLY WITH § 10–804(B)(2) OR (C)(3) OF**
14 **THIS ARTICLE;**

15 2. **MISREPRESENTED THE INCOME TAX RETURN**
16 **PREPARER’S EXPERIENCE, EDUCATION, OR REGISTRATION AS AN INCOME TAX**
17 **RETURN PREPARER;**

18 3. **GUARANTEED THE PAYMENT OF A TAX REFUND OR A**
19 **TAX CREDIT; OR**

20 4. **ENGAGED IN ANY OTHER FRAUDULENT OR**
21 **DECEPTIVE CONDUCT THAT SUBSTANTIALLY INTERFERES WITH THE PROPER**
22 **ADMINISTRATION OF THIS ARTICLE; AND**

23 **(II) THAT INJUNCTIVE RELIEF IS APPROPRIATE TO PREVENT**
24 **THE RECURRENCE OF THE CONDUCT SPECIFIED IN THIS PARAGRAPH.**

25 **(3) THE ATTORNEY GENERAL SHALL BRING THE ACTION IN THE**
26 **COUNTY WHERE THE DEFENDANT:**

27 **(I) RESIDES; OR**

28 **(II) ENGAGES IN THE PRACTICE OF INCOME TAX RETURN**
29 **PREPARATION.**

1 13-1004.

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

6 **(B) AN INCOME TAX RETURN PREPARER WHO WILLFULLY ATTEMPTS TO**
7 **EVADE ANY TAX IMPOSED UNDER THIS ARTICLE OR THE PAYMENT THEREOF IS**
8 **GUILTY OF A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT**
9 **EXCEEDING \$10,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
11 1, 2017.