

**Letter of Information – Senate Bill 577 – Maryland Revised Uniform Anatomical Gift Act –
Donors – Registration by Tax Return Checkoff**
Budget and Tax Committee
February 7, 2024

We greatly appreciate the effort put forth by Senator King to increase anatomical gifts within the state. This is an important cause that deserves discussion. However, we write to highlight operational concerns that have emerged in our review of the legislation that could have a significant impact on our office.

While we extend our support to the spirit of this initiative, it is imperative to ensure that the program's placement does not compromise the Comptroller's essential operations. As the placement of this program under our purview could potentially expose us to legal and operational issues that are unrelated to tax and outside of our area of expertise, we ask the committee to consider this feedback in relation to the bill.

To operationalize SB577, we must alter existing tax forms, collect new sensitive data that does not have a tax purpose, share sensitive personal data and tax information with Donate Life Maryland - a non-governmental entity - develop new data validation processes, and integrate an interface between our office and DHS, which comes with operational costs among other considerations.

Tax form programming

- This bill requires our office to alter tax returns and requires the collection of personally identification information (PII) that is not required for tax purposes. Each year, the Comptroller's Office must test our tax forms and approve the versions created by third-party vendors prior to the launch of tax season. The more non-tax information that must be collected and the more complex the tax return becomes, the longer it takes us to accomplish this annual – and vital – task.



Data sharing

- § 4-516 - requires the Comptroller and the Motor Vehicle Administration (MVA) to cooperate with a non-governmental entity (Donate Life Maryland) to transfer all relevant information regarding the donors making, amending or, or revoking of atomical gift. In this instance, “cooperate” means to share data. To enable this data sharing, the data sharing requirement will need to be added to the exceptions to non-disclosure in TG § 13-203. This will give the Comptroller the authority to create a Memorandum of Understanding (MOU) or Data-Sharing Agreement with the MVA and the non-governmental entity. However, we have concerns about sharing taxpayer data with non-governmental organizations. It increases the risk of data breaches, which is against our promise to keep tax data confidential. The confidentiality of taxpayer data is vital to maintaining a voluntary tax system. Without it, the incentive to comply would be significantly reduced. Section 2-118 requires that if a taxpayer becomes an organ donor, their tax information will be shared with many other individuals, including medical personnel and administrators at all levels.

Transmittal of information

- According to § 2-118(b), if a taxpayer checks the box, the Comptroller is required to transmit information on the taxpayer such as their driver's license number, state identification number, or social security number, first and last name, date of birth, and address. However, we have some concerns about this requirement. First, the Comptroller's office does not collect driver's license numbers or state identification numbers and we advise against collecting any sensitive personally identifiable information (PII) that is not necessary for tax administration purposes. Second, our agency only collects dates of birth for dependents where it is necessary to determine eligibility for certain programs. Like identification numbers, we advise against collecting any sensitive PII that is not necessary for tax administration purposes. Last, the addresses collected by the Comptroller's office cannot be used as reliable indicators of identity. For example, two individuals with similar names may live in the same apartment at different times. Our MOU with MVA specifically states that the tax information, at the time it is shared, is not verified, and cannot be used for identification purposes.
- We understand that the bill's intent is to collect data in real-time but given that the Comptroller's office collects data annually in waves, it may not be feasible as the Comptroller's office collects data once a year in waves. A timing concern that we had in the past and expressed when dealing with the health insurance checkbox, is the delay in processing. If this bill passes, we anticipate the same issues. For instance, if someone checks a box to donate their organs, but the information isn't immediately available due to processing delays and they pass away, their organs might not be donated. Requiring a check box, when real-time data is necessary, could potentially lead to lawsuits against the agency and hold our office liable for failing to facilitate a potentially life-saving donation, which can be avoided.

In addition to the listed concerns, there are additional technical issues that require intense discussion and debate to ensure there is appropriate mechanisms in place to carry out the intent of this bill, of which we are not confident exist at the moment in Maryland.

As always, the Comptroller's Office remains committed to supporting initiatives that benefit the community and look forward to working with you on this matter. Please contact Justin Hayes, Director of State Affairs at jhayes@marylandtaxes.gov or 410-260-7696, with any questions.