

SENATE BILL 80

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Q3

1998 Regular Session  
8lr6101

(PRE-FILED)

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By: **Chairman, Budget and Taxation Committee (Departmental -  
Comptroller)**

Requested: November 14, 1997

Introduced and read first time: January 14, 1998

Assigned to: Budget and Taxation

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A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Refunds and Offsets - Out-of-State Income Tax Liability**

3 FOR the purpose of authorizing certain out-of-state taxing officials to request the  
4 Comptroller to withhold an individual's income tax refund if the individual has  
5 a delinquent income tax liability in that state, under certain circumstances;  
6 authorizing the Comptroller to withhold a certain tax refund and pay the refund  
7 to a requesting state if the requesting state has a reciprocal refund withholding  
8 law; establishing certain procedures and hearing rights under this Act;  
9 providing for the application of this Act; and generally relating to the  
10 withholding of income tax refunds.

11 BY repealing and reenacting, with amendments,  
12 Article - Tax - General  
13 Section 13-918  
14 Annotated Code of Maryland  
15 (1997 Replacement Volume)

16 BY adding to  
17 Article - Tax - General  
18 Section 13-920 through 13-922, inclusive, to be under the new part "Part IV.  
19 Out-of-State Income Tax Liability - Withholding of Income Tax Refunds"  
20 Annotated Code of Maryland  
21 (1997 Replacement Volume)

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

1 **Article - Tax - General**

2 13-918.

3 The Comptroller shall honor income tax refund interception requests in the  
4 following order:5 (1) a refund interception request to collect an unpaid State, county, or  
6 municipal tax;7 (2) a refund interception request under Title 10, Subtitle 1, Part II of the  
8 Family Law Article;9 (3) a refund interception request for converted funds under § 15-122.2 of  
10 the Health - General Article; [and]11 (4) any other refund interception request BY THE STATE, COUNTY OR  
12 OTHER POLITICAL SUBDIVISION OF THE STATE; AND13 (5) A REQUEST FOR INTERCEPT MADE BY A TAXING OFFICIAL UNDER  
14 PART IV OF THIS SUBTITLE.15 PART IV. OUT-OF-STATE INCOME TAX LIABILITY - WITHHOLDING OF INCOME TAX  
16 REFUNDS.

17 13-920.

18 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

19 (B) "REFUND" MEANS AN INDIVIDUAL'S MARYLAND INCOME TAX REFUND OR  
20 ANY OTHER STATE'S INDIVIDUAL INCOME TAX REFUND.21 (C) "TAXING OFFICIAL" MEANS A UNIT OR OFFICIAL OF ANOTHER STATE  
22 CHARGED WITH THE IMPOSITION, ASSESSMENT, OR COLLECTION OF STATE INCOME  
23 TAXES.

24 13-921.

25 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A TAXING  
26 OFFICIAL MAY:27 (1) CERTIFY TO THE COMPTROLLER THE EXISTENCE OF AN  
28 INDIVIDUAL'S DELINQUENT INCOME TAX LIABILITY; AND29 (2) REQUEST THE COMPTROLLER TO WITHHOLD ANY REFUND TO  
30 WHICH THE INDIVIDUAL IS ENTITLED.31 (B) A TAXING OFFICIAL MAY NOT CERTIFY OR REQUEST THE COMPTROLLER  
32 TO WITHHOLD A REFUND UNLESS THE LAWS OF THE TAXING OFFICIAL'S STATE:

33 (1) ALLOW THE COMPTROLLER TO CERTIFY AN INCOME TAX DUE;

1 (2) ALLOW THE COMPTROLLER TO REQUEST THE TAXING OFFICIAL TO  
2 WITHHOLD THE INDIVIDUAL'S TAX REFUND; AND

3 (3) PROVIDE FOR THE PAYMENT OF THE REFUND TO MARYLAND.

4 (C) THE WITHHOLDING OF A REFUND SHALL BE SUBJECT TO THE PRIORITIES  
5 UNDER § 13-918 OF THIS SUBTITLE.

6 13-922.

7 (A) A CERTIFICATION BY A TAXING OFFICIAL TO THE COMPTROLLER SHALL  
8 INCLUDE:

9 (1) THE FULL NAME AND ADDRESS OF THE INDIVIDUAL AND ANY OTHER  
10 NAMES KNOWN TO BE USED BY THE INDIVIDUAL;

11 (2) THE SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION  
12 NUMBER;

13 (3) THE AMOUNT OF THE INCOME TAX LIABILITY INCLUDING A  
14 DETAILED STATEMENT FOR EACH TAXABLE YEAR SHOWING TAX, INTEREST, AND  
15 PENALTY; AND

16 (4) A STATEMENT THAT ALL ADMINISTRATIVE REMEDIES AND APPEALS  
17 HAVE BEEN EXHAUSTED AND THAT THE ASSESSMENT OF TAX, INTEREST, AND  
18 PENALTY HAS BECOME FINAL.

19 (B) THE COMPTROLLER SHALL DETERMINE IF AN INDIVIDUAL FOR WHOM A  
20 CERTIFICATION IS RECEIVED IS DUE A REFUND OF MARYLAND INCOME TAX.

21 (C) AS TO ANY INDIVIDUAL DUE A REFUND, THE COMPTROLLER SHALL:

22 (1) NOTIFY THE INDIVIDUAL OF A CERTIFICATION BY ANOTHER STATE  
23 OF THE EXISTENCE OF AN INCOME TAX LIABILITY;

24 (2) PROVIDE THE INDIVIDUAL WITH NOTICE OF AN OPPORTUNITY TO  
25 REQUEST A HEARING TO CHALLENGE THE CERTIFICATION; AND

26 (3) INFORM THE INDIVIDUAL THAT THE HEARING MAY BE REQUESTED:

27 (I) PURSUANT TO § 13-508 OF THIS TITLE; OR

28 (II) WITH THE TAXING OFFICIAL, IN ACCORDANCE WITH THE LAWS  
29 OF THE STATE OF THE TAXING OFFICIAL.

30 (D) IF THE INDIVIDUAL REQUESTS A HEARING PURSUANT TO § 13-508 OF THIS  
31 TITLE, THE CERTIFICATION OF THE TAXING OFFICIAL SHALL BE PRIMA FACIE  
32 EVIDENCE OF THE CORRECTNESS OF THE INDIVIDUAL'S DELINQUENT INCOME TAX  
33 LIABILITY TO THE CERTIFYING STATE.

34 (E) SUBJECT TO SUBSECTION (F) OF THIS SECTION, THE COMPTROLLER MAY:

1           (1)     WITHHOLD ANY INCOME TAX REFUND THAT IS DUE TO AN  
2 INDIVIDUAL WHOSE NAME HAS BEEN CERTIFIED BY A TAXING OFFICIAL;

3           (2)     PAY TO THE OTHER STATE THE ENTIRE REFUND OR THE AMOUNT  
4 CERTIFIED, WHICHEVER IS LESS;

5           (3)     PAY ANY INCOME TAX REFUND IN EXCESS OF THE CERTIFIED  
6 AMOUNT TO THE INDIVIDUAL; AND

7           (4)     IF AN INCOME TAX REFUND IS LESS THAN THE CERTIFIED AMOUNT,  
8 WITHHOLD AMOUNTS FROM SUBSEQUENT INCOME TAX REFUNDS DUE THE  
9 INDIVIDUAL, IF THE LAWS OF THE OTHER STATE PROVIDE THAT THE OTHER STATE  
10 SHALL WITHHOLD SUBSEQUENT REFUNDS OF INDIVIDUALS CERTIFIED TO THAT  
11 STATE BY THE COMPTROLLER.

12       (F)     (1)     THE COMPTROLLER MAY NOT WITHHOLD OR PAY TO ANOTHER  
13 STATE AN INDIVIDUAL'S INCOME TAX REFUND UNTIL ALL ADMINISTRATIVE AND  
14 JUDICIAL REMEDIES PROVIDED UNDER SUBTITLE 5 OF THIS TITLE AND TITLE 10 OF  
15 THIS ARTICLE HAVE BEEN EXHAUSTED.

16           (2)     IF AN INDIVIDUAL FILED A JOINT RETURN, THE COMPTROLLER MAY  
17 NOT WITHHOLD OR PAY TO ANOTHER STATE THE INDIVIDUAL'S INCOME TAX  
18 REFUND UNLESS THE CERTIFICATION INCLUDES BOTH NAMES OF THE INDIVIDUALS  
19 JOINTLY OWING INCOME TAX TO THE OTHER STATE.

20       (G)     AFTER RECEIVING A CERTIFICATION FROM A TAXING OFFICIAL, THE  
21 COMPTROLLER SHALL NOTIFY THE OTHER STATE IF THE COMPTROLLER  
22 DETERMINES THAT A WITHHOLDING CANNOT BE MADE.

23     SECTION 2.   AND BE IT FURTHER ENACTED, That this Act shall take  
24 effect October 1, 1998 and shall be applicable to all taxable years beginning after  
25 December 31, 1997.