

SENATE BILL 80

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1998 Regular Session
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(PRE-FILED)

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

Committee Report: Favorable

Senate action: Adopted

Read second time: January 23, 1998

CHAPTER _____

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)

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

3 **Article - Tax - General**

4 13-918.

5 The Comptroller shall honor income tax refund interception requests in the
6 following order:

7 (1) a refund interception request to collect an unpaid State, county, or
8 municipal tax;

9 (2) a refund interception request under Title 10, Subtitle 1, Part II of the
10 Family Law Article;

11 (3) a refund interception request for converted funds under § 15-122.2 of
12 the Health - General Article; [and]

13 (4) any other refund interception request BY THE STATE, COUNTY OR
14 OTHER POLITICAL SUBDIVISION OF THE STATE; AND

15 (5) A REQUEST FOR INTERCEPT MADE BY A TAXING OFFICIAL UNDER
16 PART IV OF THIS SUBTITLE.

17 PART IV. OUT-OF-STATE INCOME TAX LIABILITY - WITHHOLDING OF INCOME TAX
18 REFUNDS.

19 13-920.

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

21 (B) "REFUND" MEANS AN INDIVIDUAL'S MARYLAND INCOME TAX REFUND OR
22 ANY OTHER STATE'S INDIVIDUAL INCOME TAX REFUND.

23 (C) "TAXING OFFICIAL" MEANS A UNIT OR OFFICIAL OF ANOTHER STATE
24 CHARGED WITH THE IMPOSITION, ASSESSMENT, OR COLLECTION OF STATE INCOME
25 TAXES.

26 13-921.

27 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A TAXING
28 OFFICIAL MAY:

29 (1) CERTIFY TO THE COMPTROLLER THE EXISTENCE OF AN
30 INDIVIDUAL'S DELINQUENT INCOME TAX LIABILITY; AND

31 (2) REQUEST THE COMPTROLLER TO WITHHOLD ANY REFUND TO
32 WHICH THE INDIVIDUAL IS ENTITLED.

1 (B) A TAXING OFFICIAL MAY NOT CERTIFY OR REQUEST THE COMPTROLLER
2 TO WITHHOLD A REFUND UNLESS THE LAWS OF THE TAXING OFFICIAL'S STATE:

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

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

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

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

9 13-922.

10 (A) A CERTIFICATION BY A TAXING OFFICIAL TO THE COMPTROLLER SHALL
11 INCLUDE:

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

14 (2) THE SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION
15 NUMBER;

16 (3) THE AMOUNT OF THE INCOME TAX LIABILITY INCLUDING A
17 DETAILED STATEMENT FOR EACH TAXABLE YEAR SHOWING TAX, INTEREST, AND
18 PENALTY; AND

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

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

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

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

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

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

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

31 (II) WITH THE TAXING OFFICIAL, IN ACCORDANCE WITH THE LAWS
32 OF THE STATE OF THE TAXING OFFICIAL.

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

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

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

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

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

12 (4) IF AN INCOME TAX REFUND IS LESS THAN THE CERTIFIED AMOUNT,
13 WITHHOLD AMOUNTS FROM SUBSEQUENT INCOME TAX REFUNDS DUE THE
14 INDIVIDUAL, IF THE LAWS OF THE OTHER STATE PROVIDE THAT THE OTHER STATE
15 SHALL WITHHOLD SUBSEQUENT REFUNDS OF INDIVIDUALS CERTIFIED TO THAT
16 STATE BY THE COMPTROLLER.

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

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

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

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