

HOUSE BILL 828

Unofficial Copy
Q7

2001 Regular Session
(11r1575)

ENROLLED BILL

-- Ways and Means/Budget and Taxation --

Introduced by **Delegates Conway, Amedori, R. Baker, W. Baker, Bartlett, Bohanan, Boutin, Bozman, Brinkley, Cadden, Conroy, D'Amato, Dewberry, Donoghue, Eckardt, Edwards, Elliott, Frush, Fulton, Getty, Glassman, Griffith, Guns, Hecht, James, Kagan, K. Kelly, Klima, McClenahan, McKee, Mitchell, Moe, O'Donnell, Parrott, Patterson, Pitkin, Proctor, Rawlings, Riley, Rosso, Rudolph, Schisler, Shank, Snodgrass, Stocksdale, Stull, Turner, Vallario, and ~~Wood~~ Wood, Carlson, Cryor, C. Davis, Finifter, Greenip, Healey, Heller, Hixson, Howard, Marriott, Phillips, Ports, Rzepkowski, and Shriver**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Tax Amnesty Program**

3 FOR the purpose of requiring the Comptroller to waive certain penalties imposed for
4 the nonpayment, nonreporting, or underreporting of certain taxes under certain
5 circumstances; establishing a period during which the Comptroller shall grant
6 amnesty; increasing certain criminal penalties for persons who fail to make a
7 withholding return, fail to withhold taxes, fail to remit withholding taxes, fail to
8 remit sales and use taxes, or fail to file a return or report as required under
9 certain tax laws; increasing certain criminal penalties for persons acting in a

1 representative capacity who prepare or assist in the preparation of false or
 2 fraudulent income tax returns; requiring the Comptroller to submit a certain
 3 report on the amnesty program; providing for the distribution of the receipts
 4 from the amnesty program; ~~requiring that certain proceeds be distributed to~~
 5 ~~certain funds to be used only for certain purposes; establishing certain special~~
 6 ~~funds and authorizing certain uses of certain funds; authorizing certain grants~~
 7 ~~to certain counties and Baltimore City for a certain fiscal year; requiring the~~
 8 ~~counties and Baltimore City to use certain funds received from the amnesty~~
 9 ~~program for certain purposes; requiring the Governor to include a certain~~
 10 ~~appropriation to the Revenue Stabilization Fund in a certain budget bill~~
 11 ~~submitted at the 2002 session; establishing a special Tax Amnesty Reserve Fund~~
 12 ~~to retain moneys for future expenditures; providing that except under certain~~
 13 ~~circumstances, moneys in the Fund shall be retained and may not be used for~~
 14 ~~any purpose; providing for the application and effective date of this Act; and~~
 15 generally relating to an amnesty program for certain taxes.

16 BY repealing and reenacting, with amendments,
 17 Article - Tax - General
 18 Section 13-1001(d) and (e), 13-1003(c), 13-1004, 13-1006, 13-1007(a) through
 19 (c), and 13-1022
 20 Annotated Code of Maryland
 21 (1997 Replacement Volume and 2000 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 23 MARYLAND, That:

24 (a) Subject to Section 2 of this Act, the Comptroller shall declare an amnesty
 25 period for delinquent taxpayers from September 1, 2001 to October 31, 2001, both
 26 inclusive.

27 (b) The amnesty period shall be applicable to the Maryland State and local
 28 income tax, withholding taxes, sales and use taxes, and admissions and amusement
 29 taxes.

30 (c) The waiver required under this Act applies to:

- 31 (1) Nonreporting of tax liability;
- 32 (2) Underreporting of tax liability; and
- 33 (3) Nonpayment of tax liability.

34 SECTION 2. AND BE IT FURTHER ENACTED, That:

35 (a) The Comptroller shall waive all civil penalties (except previously assessed
 36 fraud penalties) attributable to taxes paid during the amnesty period, imposed
 37 against a taxpayer who:

1 (1) On or before December 31, 2000, failed to file a return required or
2 pay the tax imposed under the Tax - General Article for:

- 3 (i) Individual income tax;
- 4 (ii) Corporate income tax;
- 5 (iii) Withholding tax;
- 6 (iv) Sales and use tax; or
- 7 (v) Admissions and amusement tax; and

8 (2) During the amnesty period:

9 (i) Files a delinquent return and pays the tax due under the
10 return, including all interest; or

11 (ii) Pays the tax, plus all interest, due on a previously filed return.

12 (b) (1) Except as otherwise provided in this Act, a taxpayer may not be
13 charged with a criminal tax offense arising out of any return filed and tax paid during
14 the amnesty period if the taxpayer, in accordance with the provisions of this Act,
15 during the amnesty period either:

16 (i) Files a delinquent return and pays the tax due under the
17 return, including all interest; or

18 (ii) Pays the tax, plus all interest, due on a previously filed return.

19 (2) The amnesty from criminal charges under paragraph (1) of this
20 subsection does not apply to:

21 (i) Any criminal charges pending in the courts of the State; or

22 (ii) Any criminal charges under investigation by an office with the
23 constitutional authority to prosecute a person for violation of criminal laws.

24 (3) For purposes of this subsection, an office with constitutional
25 authority to prosecute persons for violation of the criminal laws:

26 (i) Includes the Office of the Attorney General of Maryland, the
27 Office of the State Prosecutor, and the Office of the State's Attorney for any of the
28 political subdivisions of the State; and

29 (ii) Does not include the Office of the Comptroller.

30 (c) This Act does not authorize the Comptroller to waive any interest charges
31 or previously assessed fraud penalties.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
2 read as follows:

3 **Article - Tax - General**

4 13-1001.

5 (d) A person who is required to file an income tax return and who willfully
6 fails to file the return as required under Title 10 of this article is guilty of a
7 misdemeanor and, on conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or
8 imprisonment not exceeding 5 years or both.

9 (e) A person, including any officer of a corporation, who is required to file a
10 sales and use tax return and who willfully fails to file the return as required under
11 Title 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a
12 fine not exceeding [\$5,000] \$10,000 or imprisonment not exceeding 5 years or both.

13 13-1003.

14 (c) A person, including an officer of a corporation, who is required to file a
15 sales and use tax return and who willfully makes a false statement or misleading
16 omission on the return required under Title 11 of this article is guilty of a
17 misdemeanor and, on conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or
18 imprisonment not exceeding 5 years or both.

19 13-1004.

20 An income tax return preparer who willfully prepares, assists in preparing, or
21 causes the preparation of a false income tax return or claim for refund with
22 fraudulent intent or the intent to evade income tax is guilty of a misdemeanor and, on
23 conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or imprisonment not
24 exceeding 5 years or both.

25 13-1006.

26 (a) A person, including an officer of a corporation, who is required to collect
27 the sales and use tax and who willfully fails to collect the tax as required under Title
28 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not
29 exceeding [\$5,000] \$10,000 or imprisonment not exceeding 5 years or both.

30 (b) A person, including an officer of a corporation, who is required to pay over
31 the sales and use tax and who willfully fails to pay over the tax as required under
32 Title 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a
33 fine not exceeding [\$5,000] \$10,000 or imprisonment not exceeding 5 years or both.

34 13-1007.

35 (a) A person who is required to file an income tax withholding return and who
36 willfully fails to file the return as required under Title 10 of this article is guilty of a

1 misdemeanor and, on conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or
2 imprisonment not exceeding 5 years or both.

3 (b) A person who is required to withhold income tax and who willfully fails to
4 withhold the tax as required under Title 10 of this article is guilty of a misdemeanor
5 and, on conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or imprisonment
6 not exceeding 5 years or both.

7 (c) A person who is required to pay over income tax and who willfully fails to
8 pay over the tax as required under Title 10 of this article is guilty of a misdemeanor
9 and, on conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or imprisonment
10 not exceeding 5 years or both.

11 13-1022.

12 A person who willfully fails to take any action that the Comptroller requires
13 under § 10-804 or § 13-302 of this article with respect to the income tax is guilty of a
14 misdemeanor and, on conviction, is subject to a fine not exceeding [\$5,000] \$10,000 or
15 imprisonment not exceeding 5 years or both.

16 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before March 15,
17 2002, the Comptroller shall report to the Governor and, subject to § 2-1246 of the
18 State Government Article, to the General Assembly, on:

19 (1) The revenues raised under the amnesty program; and

20 (2) Other matters relating to the amnesty program.

21 ~~SECTION 5. AND BE IT FURTHER ENACTED, That:~~

22 ~~(a) The Comptroller shall distribute the revenue collected under this Act from~~
23 ~~the amnesty program in accordance with the applicable provisions of Title 2 of the Tax~~
24 ~~General Article, except that the proceeds that would be credited to the General~~
25 ~~Fund under those provisions shall instead be distributed as provided in this section.~~

26 ~~(b) Up to 5% of the funds collected under this Act from the amnesty program~~
27 ~~that would be credited to the General Fund under the provisions of Title 2 of the Tax~~
28 ~~General may be distributed instead to a special fund to be administered by the~~
29 ~~Comptroller, to be used only for the purposes of:~~

30 ~~(1) Providing publicity for the amnesty program; and~~

31 ~~(2) Hiring additional tax compliance and enforcement personnel.~~

32 ~~(c) After the distribution under subsection (b) of this section, of the remaining~~
33 ~~funds collected under this Act from the amnesty program that would be credited to~~
34 ~~the General Fund under the provisions of Title 2 of the Tax General Article:~~

35 ~~(1) One third of the remaining funds shall be distributed to the Low~~
36 ~~Interest Revolving Loan Account of the Volunteer Company Assistance Fund~~

1 established under Article 38A, §§ 46 through 46H of the Code; provided that, in
 2 addition to the purposes provided under Article 38A, §46A of the Code, the funds
 3 distributed to the Low Interest Revolving Loan Account from the amnesty program
 4 may also be used for the purpose of funding capital projects for volunteer fire
 5 companies, for new construction of fire facilities, or renovation of existing fire
 6 facilities;

7 (2) ~~One third of the remaining funds shall be distributed to the~~
 8 ~~Dedicated Purpose Fund of the State Reserve Fund, to be used only to provide grants~~
 9 ~~to the counties and Baltimore City to be used for education purposes, to offset the~~
 10 ~~fiscal 1993 decreases in grants distributed to the county school boards for~~
 11 ~~transportation services under § 5-205 of the Education Article that occurred as a~~
 12 ~~result of budget reductions in 1992; provided that grants may be made to each county~~
 13 ~~in an amount up to 30% of the fiscal 1993 decrease in the grant experienced by the~~
 14 ~~county; and~~

15 (3) ~~One third of the remaining funds to the Dedicated Purpose Fund of~~
 16 ~~the State Reserve Fund, to be used only to provide grants to the local subdivisions to~~
 17 ~~be used to improve wastewater treatment facilities in the subdivisions.~~

18 SECTION 5. AND BE IT FURTHER ENACTED, That:

19 (a) Notwithstanding Title 2 of the Tax - General Article, the revenues
 20 collected under this Act from the amnesty program shall be distributed as provided in
 21 this section.

22 (b) Of the revenues collected that, under the applicable provisions of Title 2 of
 23 the Tax - General Article, would be credited to the General Fund of the State:

24 (1) The first \$2,000,000 shall be credited to a special fund to be
 25 administered by the Comptroller, which, subject to the budget amendment procedure
 26 provided for in § 7-209 of the State Finance and Procurement Article, may be used
 27 only for the purposes of:

- 28 (i) Providing publicity for the amnesty program; and
- 29 (ii) Hiring additional tax compliance and enforcement personnel.

30 (2) After the distribution under paragraph (1) of this subsection, the
 31 next \$30,000,000 shall be distributed to the General Fund of the State.

32 (3) (i) After the distribution under paragraphs (1) and (2) of this
 33 subsection, the next \$8,000,000 shall be distributed to a special fund, which, subject
 34 to the budget amendment procedure provided for in § 7-209 of the State Finance and
 35 Procurement Article, may be used only to provide grants for public education for fiscal
 36 year 2002 only to the following county boards of education and the New Baltimore
 37 City Board of School Commissioners in the following amounts, subject to
 38 subparagraph (iii) of this paragraph:

39 <u>Allegany County</u>	<u>\$ 720,392</u>
40 <u>Baltimore City</u>	<u>2,600,197</u>

1	<u>Caroline County</u>	<u>842,680</u>
2	<u>Cecil County</u>	<u>372,421</u>
3	<u>Dorchester County</u>	<u>484,843</u>
4	<u>Garrett County</u>	<u>842,738</u>
5	<u>Prince George's County</u>	<u>1,131,706</u>
6	<u>Somerset County</u>	<u>464,205</u>
7	<u>Wicomico County</u>	<u>540,818</u>

8 (ii) Except as provided in subparagraph (iii) of this paragraph, the
9 grants provided under this paragraph shall be paid within 30 days after the moneys
10 distributed to the special fund total \$8,000,000.

11 (iii) On June 30, 2002, if the moneys distributed to the special fund
12 do not total \$8,000,000, the grants authorized under this paragraph shall be paid to
13 each county and Baltimore City in an amount that bears the same proportion to the
14 amount listed for the county or Baltimore City under subparagraph (i) of this
15 paragraph as the amount distributed to the special fund bears to \$8,000,000.

16 (iv) At the end of June 30, 2002, any moneys remaining in the
17 special fund and not used as authorized under this paragraph may not revert to the
18 General Fund of the State but shall be credited to the Tax Amnesty Reserve Fund
19 established under Section 7 of this Act.

20 (4) After the distributions under paragraphs (1) through (3) of this
21 subsection, the next ~~\$5,000,000~~ ~~\$15,000,000~~ \$10,000,000 shall be credited to the Low
22 Interest Revolving Loan Account of the Volunteer Company Assistance Fund
23 established under Article 38A, §§ 46 through 46H of the Code; provided that, in
24 addition to the purposes provided under Article 38A, § 46E of the Code, the funds
25 distributed to the Low Interest Revolving Loan Account from the amnesty program
26 may also be used for the purpose of funding capital projects for volunteer fire
27 companies, for new construction of fire facilities, or renovation of existing fire
28 facilities.

29 (5) After the distributions under paragraphs (1) through (4) of this
30 subsection, The remainder shall be credited to the Tax Amnesty Reserve Fund
31 established under Section 7 of this Act.

32 (c) The revenues collected that, under the applicable provisions of Title 2 of
33 the Tax - General Article, would be credited to the Transportation Trust Fund
34 established under § 3-216 of the Transportation Article shall be distributed in
35 accordance with the applicable provisions of Title 2 of the Tax - General Article.

36 (d) The revenues collected other than revenues that, under the applicable
37 provisions of Title 2 of the Tax - General Article, would be credited to the General
38 Fund of the State or the Transportation Trust Fund shall be distributed in accordance
39 with the applicable provisions of Title 2 of the Tax - General Article; provided,
40 however, that the counties and Baltimore City shall use the revenues received by the
41 counties and Baltimore City from the amnesty program under this subsection for
42 primary and secondary public education purposes only.

1 SECTION 6. AND BE IT FURTHER ENACTED, That in the Budget Bill
2 submitted at the 2002 Session of the General Assembly, the Governor shall include a
3 General Fund appropriation to the Revenue Stabilization Fund of the State Reserve
4 Fund established under § 7-311 of the State Finance and Procurement Article in an
5 amount equal to \$30,000,000. It is the intent of the General Assembly that the
6 appropriation required under this subsection be included as a deficiency
7 appropriation for Fiscal Year 2002.

8 SECTION 7. AND BE IT FURTHER ENACTED, That:

9 (a) In this section, "Fund" means the Maryland Tax Amnesty Reserve Fund
10 established under this section.

11 (b) The Maryland Tax Amnesty Reserve Fund is established to retain moneys
12 for future expenditures.

13 (c) The Fund is a continuing, nonlapsing fund which is not subject to § 7-302
14 of the State Finance and Procurement Article.

15 (d) The Fund consists of the moneys distributed to the Fund from tax amnesty
16 proceeds under Section 5 of this Act.

17 (e) The Treasurer shall separately hold, and the Comptroller shall account for,
18 the Fund.

19 (f) (1) The Fund shall be invested and reinvested in the same manner as
20 other State funds.

21 (2) Any investment earnings shall be credited to the General Fund.

22 (g) Unless specifically authorized by an Act of the General Assembly and
23 specifically authorized in the State budget bill as enacted, moneys in the Fund shall
24 be retained in the Fund and may not be used for any purpose.

25 (h) Moneys of the Fund may not be transferred from the Fund by budget
26 amendment or otherwise.

27 ~~SECTION 6.~~ 8. AND BE IT FURTHER ENACTED, That Section 3 of this Act
28 shall take effect November 1, 2001, and shall be applicable to all returns filed or due
29 to be filed after October 31, 2001.

30 ~~SECTION 7.~~ 9. AND BE IT FURTHER ENACTED, That, except as provided in
31 Section ~~6~~ 8 of this Act, this Act shall take effect ~~July~~ June 1, 2001.

