

HOUSE BILL 828

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Q7

2001 Regular Session
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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

Introduced and read first time: February 9, 2001
Assigned to: Ways and Means

A BILL ENTITLED

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
10 representative capacity who prepare or assist in the preparation of false or
11 fraudulent income tax returns; requiring the Comptroller to submit a certain
12 report on the amnesty program; providing for the distribution of the receipts
13 from the amnesty program; requiring that certain proceeds be distributed to
14 certain funds to be used only for certain purposes; and generally relating to an
15 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.

1 (b) The amnesty period shall be applicable to the Maryland income tax,
2 withholding taxes, sales and use taxes, and admissions and amusement taxes.

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

4 (1) Nonreporting of tax liability;

5 (2) Underreporting of tax liability; and

6 (3) Nonpayment of tax liability.

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

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

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

13 (i) Individual income tax;

14 (ii) Corporate income tax;

15 (iii) Withholding tax;

16 (iv) Sales and use tax; or

17 (v) Admissions and amusement tax; and

18 (2) During the amnesty period:

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

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

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

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

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

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

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

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

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

5 (i) Includes the Office of the Attorney General of Maryland, the
6 Office of the State Prosecutor, and the Office of the State's Attorney for any of the
7 political subdivisions of the State; and

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

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

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

13 **Article - Tax - General**

14 13-1001.

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

23 13-1003.

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

29 13-1004.

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

1 13-1006.

2 (a) A person, including an officer of a corporation, who is required to collect
3 the sales and use tax and who willfully fails to collect the tax as required under Title
4 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not
5 exceeding [\$5,000] \$10,000 or imprisonment not exceeding 5 years or both.

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

10 13-1007.

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

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

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

23 13-1022.

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

28 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before March 15,
29 2002, the Comptroller shall report to the Governor and, subject to § 2-1246 of the
30 State Government Article, to the General Assembly, on:

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

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

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

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

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

5 (1) Providing publicity for the amnesty program; and

6 (2) Hiring additional tax compliance and enforcement personnel.

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

10 (1) One-third of the remaining funds shall be distributed to the Low
11 Interest Revolving Loan Account of the Volunteer Company Assistance Fund
12 established under Article 38A, §§ 46 through 46H of the Code; provided that, in
13 addition to the purposes provided under Article 38A, §46A of the Code, the funds
14 distributed to the Low Interest Revolving Loan Account from the amnesty program
15 may also be used for the purpose of funding capital projects for volunteer fire
16 companies, for new construction of fire facilities, or renovation of existing fire
17 facilities;

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

26 (3) One-third of the remaining funds to the Dedicated Purpose Fund of
27 the State Reserve Fund, to be used only to provide grants to the local subdivisions to
28 be used to improve wastewater treatment facilities in the subdivisions.

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

32 SECTION 7. AND BE IT FURTHER ENACTED, That, except as provided in
33 Section 6 of this Act, this Act shall take effect July 1, 2001.