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House action: Adopted with floor amendments  
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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  
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; establishing certain special~~  
15 ~~funds and authorizing certain uses of certain funds; authorizing certain grants~~  
16 ~~to certain counties and Baltimore City for a certain fiscal year; requiring the~~  
17 ~~counties and Baltimore City to use certain funds received from the amnesty~~  
18 ~~program for certain purposes; requiring the Governor to include a certain~~  
19 ~~appropriation to the Revenue Stabilization Fund in a certain budget bill~~  
20 ~~submitted at the 2002 session; establishing a special Tax Amnesty Reserve Fund~~

1 to retain moneys for future expenditures; providing that except under certain  
2 circumstances, moneys in the Fund shall be retained and may not be used for  
3 any purpose; providing for the application and effective date of this Act; and  
4 generally relating to an amnesty program for certain taxes.

5 BY repealing and reenacting, with amendments,  
6 Article - Tax - General  
7 Section 13-1001(d) and (e), 13-1003(c), 13-1004, 13-1006, 13-1007(a) through  
8 (c), and 13-1022  
9 Annotated Code of Maryland  
10 (1997 Replacement Volume and 2000 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
12 MARYLAND, That:

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

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

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

- 20 (1) Nonreporting of tax liability;
- 21 (2) Underreporting of tax liability; and
- 22 (3) Nonpayment of tax liability.

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

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

- 27 (1) On or before December 31, 2000, failed to file a return required or  
28 pay the tax imposed under the Tax - General Article for:
  - 29 (i) Individual income tax;
  - 30 (ii) Corporate income tax;
  - 31 (iii) Withholding tax;
  - 32 (iv) Sales and use tax; or
  - 33 (v) Admissions and amusement tax; and

1 (2) During the amnesty period:

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

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

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

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

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

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

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

19 (i) Includes the Office of the Attorney General of Maryland, the  
20 Office of the State Prosecutor, and the Office of the State's Attorney for any of the  
21 political subdivisions of the State; and

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

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

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

27 **Article - Tax - General**

28 13-1001.

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

33 (e) A person, including any officer of a corporation, who is required to file a  
34 sales and use tax return and who willfully fails to file the return as required under

1 Title 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a  
2 fine not exceeding [\$5,000] \$10,000 or imprisonment not exceeding 5 years or both.

3 13-1003.

4 (c) A person, including an officer of a corporation, who is required to file a  
5 sales and use tax return and who willfully makes a false statement or misleading  
6 omission on the return required under Title 11 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 13-1004.

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

15 13-1006.

16 (a) A person, including an officer of a corporation, who is required to collect  
17 the sales and use tax and who willfully fails to collect the tax as required under Title  
18 11 of this article is guilty of a misdemeanor and, on conviction, is subject to a fine not  
19 exceeding [\$5,000] \$10,000 or imprisonment not exceeding 5 years or both.

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

24 13-1007.

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

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

1 13-1022.

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

6 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before March 15,  
7 2002, the Comptroller shall report to the Governor and, subject to § 2-1246 of the  
8 State Government Article, to the General Assembly, on:

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

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

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

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

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

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

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

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

25 ~~(1) One third of the remaining funds shall be distributed to the Low~~  
26 ~~Interest Revolving Loan Account of the Volunteer Company Assistance Fund~~  
27 ~~established under Article 38A, §§ 46 through 46H of the Code; provided that, in~~  
28 ~~addition to the purposes provided under Article 38A, §46A of the Code, the funds~~  
29 ~~distributed to the Low Interest Revolving Loan Account from the amnesty program~~  
30 ~~may also be used for the purpose of funding capital projects for volunteer fire~~  
31 ~~companies, for new construction of fire facilities, or renovation of existing fire~~  
32 ~~facilities;~~

33 ~~(2) One third of the remaining funds shall be distributed to the~~  
34 ~~Dedicated Purpose Fund of the State Reserve Fund, to be used only to provide grants~~  
35 ~~to the counties and Baltimore City to be used for education purposes, to offset the~~  
36 ~~fiscal 1993 decreases in grants distributed to the county school boards for~~  
37 ~~transportation services under § 5-205 of the Education Article that occurred as a~~  
38 ~~result of budget reductions in 1992; provided that grants may be made to each county~~

1 in an amount up to 30% of the fiscal 1993 decrease in the grant experienced by the  
2 county; and

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

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

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

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

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

16 (i) Providing publicity for the amnesty program; and

17 (ii) Hiring additional tax compliance and enforcement personnel.

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

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

27 <u>Allegany County</u>	<u>\$ 720,392</u>
28 <u>Baltimore City</u>	<u>2,600,197</u>
29 <u>Caroline County</u>	<u>842,680</u>
30 <u>Cecil County</u>	<u>372,421</u>
31 <u>Dorchester County</u>	<u>484,843</u>
32 <u>Garrett County</u>	<u>842,738</u>
33 <u>Prince George's County</u>	<u>1,131,706</u>
34 <u>Somerset County</u>	<u>464,205</u>
35 <u>Wicomico County</u>	<u>540,818</u>

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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