
By: **The Speaker (By Request - Administration)**

Introduced and read first time: January 19, 2005

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Compliance**

3 FOR the purpose of requiring that before certain licenses issued by the Insurance
4 Commissioner are renewed and before certain licenses and registrations issued
5 by the Motor Vehicle Administration are renewed, the issuing authority shall
6 verify through the Office of the Comptroller that certain taxes and
7 unemployment insurance contributions have been paid or that payment has
8 been provided for in a certain manner; altering the rate of a certain tax imposed
9 on certain pass-through entities; altering the rate of tax to be withheld on
10 certain winnings derived from wagering; requiring the withholding of tax at a
11 certain rate on certain distributions; altering the rate of tax that must be paid to
12 the clerk of the circuit court for a county or to the Department of Assessments
13 and Taxation prior to the recording of certain deeds for the sale of certain
14 property; altering a certain credit allowed for the expense of collecting and
15 paying the sales and use tax; altering certain circumstances under which an
16 employer is required to base withholding for an employee on not more than the
17 actual number of exemptions allowed on the employee's prior year's return;
18 authorizing the Comptroller under certain circumstances to withhold certain tax
19 refunds and other payments owed by the State to certain persons and to pay
20 certain amounts to local subdivisions that have certified delinquent tax or other
21 liabilities of certain persons; providing for certain procedures, notifications, and
22 hearing rights relating to certain certifications and withholding of certain tax
23 refunds and other payments owed by the State; authorizing certain disclosure of
24 certain tax information under certain circumstances; defining certain terms;
25 making the provisions of this Act severable; providing for the effective date and
26 application of this Act; and generally relating to the enforcement of State tax
27 laws.

28 BY repealing and reenacting, with amendments,
29 Article - Insurance
30 Section 10-115
31 Annotated Code of Maryland
32 (2003 Replacement Volume and 2004 Supplement)

33 BY repealing and reenacting, with amendments,

1 Article - Tax - General
2 Section 10-102.1(d)(1), 10-908(d), 10-910(b), 10-912(c), 11-105, and 13-203(c)
3 Annotated Code of Maryland
4 (2004 Replacement Volume)

5 BY adding to
6 Article - Tax - General
7 Section 10-908(f); and 13-925 through 13-927, inclusive, to be under the new
8 part "Part V. Political Subdivision Liabilities - Withholding of Tax Refunds
9 and Payments"
10 Annotated Code of Maryland
11 (2004 Replacement Volume)

12 BY repealing and reenacting, with amendments,
13 Article - Transportation
14 Section 1-103
15 Annotated Code of Maryland
16 (2001 Replacement Volume and 2004 Supplement)

17 BY adding to
18 Article - Transportation
19 Section 13-406.2 and 16-115(j)
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2004 Supplement)

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

24 **Article - Insurance**

25 10-115.

26 (a) (1) Licenses expire every other year on the anniversary of the date of
27 issuance of the license unless renewed as provided in this section.

28 (2) If a license expires under paragraph (1) of this subsection, the
29 appointments held by the insurance producer shall be terminated as of the day of the
30 expiration of the license.

31 (b) At least 1 month before a license expires, the Commissioner shall mail to
32 the holder of the license, at the last known address of the holder:

33 (1) a renewal application form; and

34 (2) a notice that states:

1 (i) the date by which the Commissioner must receive the renewal
2 application for the renewal to be issued and mailed before the license expires; and

3 (ii) the amount of the renewal fee.

4 (c) [Before] SUBJECT TO SUBSECTION (F) OF THIS SECTION, BEFORE a license
5 expires, the holder of the license may renew it for an additional 2-year term, if the
6 holder:

7 (1) otherwise is entitled to a license;

8 (2) files with the Commissioner a renewal application:

9 (i) on the form that the Commissioner provides; or

10 (ii) in an electronic format that the Commissioner approves;

11 (3) completes the continuing education requirements established under §
12 10-116 of this subtitle; and

13 (4) pays to the Commissioner the renewal fee required by § 2-112 of this
14 article.

15 (d) (1) If mailed, an application for renewal of a license shall be considered
16 made in a timely manner if it is postmarked on or before the expiration date of the
17 license.

18 (2) If submitted electronically, an application for renewal shall be
19 considered made in a timely manner if, on or before the expiration date of the license,
20 the application:

21 (i) is addressed properly or otherwise directed properly to an
22 information processing system that the Administration has designated or uses for the
23 purpose of receiving electronic applications and from which the Administration is able
24 to retrieve the application;

25 (ii) is in a form capable of being processed by that system; and

26 (iii) enters an information processing system outside the control of
27 the sender or of a person that sent the electronic application on behalf of the sender or
28 enters a region of the information processing system designated or used by the
29 Administration that is under the control of the Administration or an agent of the
30 Administration.

31 (e) (1) The Commissioner shall renew the license of each holder who meets
32 the requirements of this section.

33 (2) If the holder of a license complies with subsections (b) and (c) of this
34 section before the license expires, the license remains in effect until the decision of the
35 Commissioner regarding the application for renewal is final.

1 (F) (1) A LICENSE IS CONSIDERED RENEWED FOR PURPOSES OF THIS
2 SUBSECTION IF THE LICENSE IS ISSUED TO A PERSON FOR THE PERIOD
3 IMMEDIATELY FOLLOWING A PERIOD FOR WHICH THE PERSON PREVIOUSLY
4 POSSESSED THE SAME OR A SUBSTANTIALLY SIMILAR LICENSE.

5 (2) BEFORE A LICENSE MAY BE RENEWED UNDER THIS SECTION, THE
6 COMMISSIONER SHALL VERIFY THROUGH THE OFFICE OF THE COMPTROLLER THAT
7 THE APPLICANT HAS PAID ALL UNDISPUTED TAXES AND UNEMPLOYMENT
8 INSURANCE CONTRIBUTIONS PAYABLE TO THE COMPTROLLER OR THE SECRETARY
9 OF LABOR, LICENSING, AND REGULATION OR THAT THE APPLICANT HAS PROVIDED
10 FOR PAYMENT IN A MANNER SATISFACTORY TO THE UNIT RESPONSIBLE FOR
11 COLLECTION.

12 [(f)] (G) The Commissioner may adopt regulations to:

13 (1) carry out this section; and

14 (2) develop a staggered system of renewals for licenses of insurance
15 producers.

16 **Article - Tax - General**

17 10-102.1.

18 (d) (1) Except as provided in paragraph (2) of this subsection, the tax
19 imposed under subsection (b) of this section is A RATE EQUAL TO THE SUM OF THE
20 RATE OF THE TAX IMPOSED UNDER § 10-106.1 OF THIS TITLE AND the top marginal
21 State tax rate for individuals under § 10-105(a)(4) of this subtitle applied to:

22 (i) the sum of each nonresident partner's distributive share of a
23 partnership's nonresident taxable income;

24 (ii) the sum of each nonresident shareholder's pro rata share of an
25 S corporation's nonresident taxable income; or

26 (iii) the sum of each nonresident member's distributive share of a
27 limited liability company's nonresident taxable income.

28 10-908.

29 (d) A payor shall withhold from a payment subject to withholding of winnings
30 derived from wagering:

31 (1) if the payee is a resident, a rate equal to the sum of [2.5%] 3.0% and
32 the top marginal State income tax rate for individuals under § 10-105(a) of this title,
33 applied to the payment; and

34 (2) if the payee is a nonresident, A RATE EQUAL TO THE SUM OF THE
35 RATE OF THE TAX IMPOSED UNDER § 10-106.1 OF THIS TITLE AND the top marginal

1 State income tax rate for individuals under § 10-105(a) of this title, applied to the
2 payment.

3 (F) IF A PAYMENT TO A RESIDENT PAYEE IS A DESIGNATED DISTRIBUTION
4 THAT IS AN ELIGIBLE ROLLOVER DISTRIBUTION WITHIN THE MEANING OF § 3405(C)
5 OF THE INTERNAL REVENUE CODE AND THE PAYMENT IS SUBJECT TO MANDATORY
6 WITHHOLDING OF FEDERAL INCOME TAX, THE PAYOR SHALL WITHHOLD FROM THE
7 PAYMENT THE SUM OF 3% AND THE TOP MARGINAL STATE INCOME TAX RATE FOR
8 INDIVIDUALS UNDER § 10-105(A) OF THIS TITLE, APPLIED TO THE PAYMENT.

9 10-910.

10 (b) (1) Except as provided in paragraph (2) of this subsection, an employer
11 shall base withholding for an employee:

12 (i) on the number of exemptions stated in the exemption certificate
13 that the employee files; or

14 (ii) if the employee fails to file an exemption certificate or files an
15 invalid certificate under subsection (c) of this section, on 1 exemption.

16 (2) If the Comptroller notifies an employer that an employee has an
17 unpaid tax liability OR THAT AN EMPLOYEE IS SUBJECT TO A TAX REFUND
18 INTERCEPTION REQUEST, the employer shall base withholding for the employee on a
19 number of exemptions not exceeding the actual number of exemptions allowed on the
20 employee's prior year's income tax return, as specified by the Comptroller.

21 10-912.

22 (c) Except as otherwise provided in this section, in a sale or exchange of real
23 property and associated tangible personal property owned by a nonresident or
24 nonresident entity, the deed or other instrument of writing that effects a change of
25 ownership on the assessment books under the Tax - Property Article may not be
26 recorded with the clerk of the circuit court for a county or filed with the Department
27 of Assessments and Taxation unless payment is made to the clerk of the circuit court
28 for a county or the Department of Assessments and Taxation in an amount equal to:

29 (1) [4.75% of] THE SUM OF THE RATE OF THE TAX IMPOSED UNDER §
30 10-106.1 OF THIS TITLE AND THE TOP MARGINAL STATE INCOME TAX RATE FOR
31 INDIVIDUALS UNDER § 10-105(A) OF THIS TITLE, APPLIED TO the total payment to a
32 nonresident; or

33 (2) 7% of the total payment to a nonresident entity.

34 11-105.

35 (A) THIS SECTION APPLIES ONLY TO A PERSON WHO BOTH TIMELY FILES AND
36 PAYS A SALES AND USE TAX RETURN ELECTRONICALLY.

1 [(a)] (B) Except as provided in [subsections (b) and (c)] SUBSECTION (C) of
2 this section, a person who timely files a sales and use tax return is allowed, for the
3 expense of collecting and paying the tax, a credit equal to [0.9%] 0.45% of the gross
4 amount of sales and use tax that the person is to pay to the Comptroller.

5 [(b)] (C) (1) Subject to paragraph (2) of this subsection, the credit allowed
6 under this section is [1.2%] 0.6% of the first \$6,000 of the gross amount of sales and
7 use tax that the person is to pay with each return.

8 (2) For a vendor who files or is eligible to file a consolidated return under
9 § 11-502 of this title, the credit allowed under paragraph (1) of this subsection is
10 [1.2%] 0.6% of the first \$6,000 of the gross amount of sales and use tax that the
11 person is or would be required to pay with the consolidated return.

12 [(c)] From July 1, 2004 through June 30, 2006:

13 (1) the credit allowed under subsection (a) of this section is 0.45% of the
14 gross amount of sales and use tax that the person is to pay to the Comptroller; and

15 (2) the credit allowed under subsection (b) is:

16 (i) 0.6% of the first \$6,000 of the gross amount of sales and use tax
17 that the person is to pay with each return; or

18 (ii) for a vendor described in subsection (b)(2) of this section, 0.6% of
19 the first \$6,000 of the gross amount of sales and use tax that the person is or would be
20 required to pay with the consolidated return.]

21 13-203.

22 (c) Tax information may be disclosed to:

23 (1) an employee or officer of the State who, by reason of that employment
24 or office, has the right to the tax information;

25 (2) another tax collector;

26 (3) the Maryland Tax Court;

27 (4) a legal representative of the State, to review the tax information
28 about a taxpayer:

29 (i) who applies for review under this title;

30 (ii) who appeals from a determination under this title; or

31 (iii) against whom an action to recover tax or a penalty is pending or
32 will be initiated under this title; [and]

33 (5) any license issuing authority of the State required by State law to
34 verify through the Comptroller that an applicant has paid all undisputed taxes and

1 unemployment insurance contributions payable to the Comptroller or the Secretary of
2 Labor, Licensing, and Regulation or that the applicant has provided for payment in a
3 manner satisfactory to the unit responsible for collection; AND

4 (6) A LOCAL OFFICIAL AS DEFINED IN § 13-925 OF THIS TITLE TO THE
5 EXTENT NECESSARY TO ADMINISTER SUBTITLE 9, PART V OF THIS TITLE.

6 13-923. RESERVED.

7 13-924. RESERVED.

8 PART V. POLITICAL SUBDIVISION LIABILITIES - WITHHOLDING OF TAX REFUNDS
9 AND PAYMENTS.

10 13-925.

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

12 (B) "LOCAL OFFICIAL" MEANS A UNIT OR OFFICIAL OF A POLITICAL
13 SUBDIVISION OF THE STATE CHARGED WITH THE IMPOSITION, ASSESSMENT, OR
14 COLLECTION OF TAXES OR OTHER LIABILITIES PAYABLE TO THE POLITICAL
15 SUBDIVISION.

16 (C) "REFUND" MEANS A REFUND OF ANY TAX IMPOSED UNDER MARYLAND
17 LAW.

18 (D) (1) "VENDOR PAYMENT" MEANS ANY PAYMENT MADE BY THE STATE OR
19 BY A POLITICAL SUBDIVISION OF THE STATE TO ANY PERSON.

20 (2) "VENDOR PAYMENT" INCLUDES ANY EXPENSE REIMBURSEMENT
21 PAYABLE TO AN EMPLOYEE OF THE STATE OR OF A POLITICAL SUBDIVISION OF THE
22 STATE.

23 (3) "VENDOR PAYMENT" DOES NOT INCLUDE A PERSON'S SALARY,
24 WAGES, OR PENSION.

25 13-926.

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

28 (1) CERTIFY TO THE COMPTROLLER THE EXISTENCE OF A PERSON'S
29 DELINQUENT TAX LIABILITY OR ANY OTHER LIABILITY OWED BY THE PERSON TO
30 THE LOCAL OFFICIAL'S POLITICAL SUBDIVISION; AND

31 (2) REQUEST THE COMPTROLLER TO WITHHOLD ANY REFUND AND
32 VENDOR PAYMENT TO WHICH THE PERSON IS ENTITLED.

1 (B) A LOCAL OFFICIAL MAY NOT CERTIFY OR REQUEST THE COMPTROLLER TO
2 WITHHOLD A REFUND OR VENDOR PAYMENT UNLESS THE LAWS OF THE LOCAL
3 OFFICIAL'S POLITICAL SUBDIVISION:

4 (1) ALLOW THE COMPTROLLER TO CERTIFY TAX DUE TO THE STATE;

5 (2) ALLOW THE COMPTROLLER TO REQUEST THE LOCAL OFFICIAL TO
6 WITHHOLD FROM ANY VENDOR PAYMENT THE PERSON'S TAX DUE TO THE STATE;
7 AND

8 (3) PROVIDE FOR THE PAYMENT OF THE AMOUNT WITHHELD TO THE
9 COMPTROLLER.

10 (C) THE WITHHOLDING OF A REFUND OR VENDOR PAYMENT SHALL BE
11 SUBJECT TO THE PRIORITIES UNDER § 13-918 OF THIS SUBTITLE.

12 13-927.

13 (A) A CERTIFICATION BY A LOCAL OFFICIAL TO THE COMPTROLLER SHALL
14 INCLUDE:

15 (1) THE FULL NAME AND ADDRESS OF THE PERSON AND ANY OTHER
16 NAMES KNOWN TO BE USED BY THE PERSON;

17 (2) THE SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION
18 NUMBER, IF KNOWN;

19 (3) THE AMOUNT OF THE TAX OR OTHER LIABILITY INCLUDING:

20 (I) A STATEMENT INDICATING THE NATURE OF THE LIABILITY;
21 AND

22 (II) IN THE CASE OF A LIABILITY FOR TAXES, A DETAILED
23 STATEMENT FOR EACH TAXABLE YEAR SHOWING TAX, INTEREST, AND PENALTY; AND

24 (4) A STATEMENT THAT ALL ADMINISTRATIVE REMEDIES AND APPEALS
25 HAVE BEEN EXHAUSTED AND THAT THE TAX OR OTHER LIABILITY HAS BECOME
26 FINAL.

27 (B) THE COMPTROLLER SHALL DETERMINE IF A PERSON FOR WHOM A
28 CERTIFICATION IS RECEIVED IS DUE A REFUND OF MARYLAND TAX OR A VENDOR
29 PAYMENT.

30 (C) AS TO ANY PERSON DUE A REFUND OR VENDOR PAYMENT, THE
31 COMPTROLLER SHALL:

32 (1) NOTIFY THE PERSON OF A CERTIFICATION BY A LOCAL OFFICIAL OF
33 THE EXISTENCE OF A TAX OR OTHER LIABILITY;

34 (2) PROVIDE THE PERSON WITH NOTICE OF AN OPPORTUNITY TO
35 REQUEST A HEARING TO CHALLENGE THE CERTIFICATION; AND

1 (3) INFORM THE PERSON THAT THE HEARING MAY BE REQUESTED:

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

3 (II) WITH THE LOCAL OFFICIAL, IN ACCORDANCE WITH THE LAWS
4 OF THE POLITICAL SUBDIVISION OF THE LOCAL OFFICIAL.

5 (D) IF THE PERSON REQUESTS A HEARING PURSUANT TO § 13-508 OF THIS
6 TITLE, THE CERTIFICATION OF THE LOCAL OFFICIAL SHALL BE PRIMA FACIE
7 EVIDENCE OF THE CORRECTNESS OF THE PERSON'S DELINQUENT TAX OR OTHER
8 LIABILITY TO THE POLITICAL SUBDIVISION.

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

10 (1) WITHHOLD ANY REFUND AND VENDOR PAYMENT THAT IS DUE A
11 PERSON WHOSE NAME HAS BEEN CERTIFIED BY A LOCAL OFFICIAL;

12 (2) PAY TO THE POLITICAL SUBDIVISION THE LESSER OF:

13 (I) THE ENTIRE REFUND AND VENDOR PAYMENT; OR

14 (II) THE AMOUNT CERTIFIED;

15 (3) PAY ANY REFUND AND VENDOR PAYMENT IN EXCESS OF THE
16 CERTIFIED AMOUNT TO THE PERSON; AND

17 (4) IF THE REFUND AND VENDOR PAYMENT IS LESS THAN THE
18 CERTIFIED AMOUNT, WITHHOLD AMOUNTS FROM SUBSEQUENT REFUNDS AND
19 VENDOR PAYMENTS DUE THE PERSON, IF THE LAWS OF THE POLITICAL SUBDIVISION
20 PROVIDE THAT THE POLITICAL SUBDIVISION SHALL WITHHOLD A VENDOR PAYMENT
21 DUE PERSONS CERTIFIED TO THE POLITICAL SUBDIVISION BY THE COMPTROLLER.

22 (F) (1) THE COMPTROLLER MAY NOT WITHHOLD OR PAY TO A POLITICAL
23 SUBDIVISION A PERSON'S REFUND OR VENDOR PAYMENT UNTIL ALL
24 ADMINISTRATIVE AND JUDICIAL REMEDIES PROVIDED UNDER SUBTITLE 5 OF THIS
25 TITLE AND TITLE 10 OF THIS ARTICLE HAVE BEEN EXHAUSTED.

26 (2) IF AN INDIVIDUAL FILED A JOINT INCOME TAX RETURN, THE
27 COMPTROLLER MAY NOT WITHHOLD OR PAY TO A POLITICAL SUBDIVISION THE
28 INDIVIDUAL'S INCOME TAX REFUND UNLESS THE CERTIFICATION INCLUDES BOTH
29 NAMES OF THE INDIVIDUALS JOINTLY OWING TAX OR ANY OTHER LIABILITY TO THE
30 POLITICAL SUBDIVISION.

31 **Article - Transportation**

32 1-103.

33 (a) A license or permit is considered renewed for purposes of this section if the
34 license or permit is issued by a unit of State government to a person for the period

1 immediately following a period for which the person previously possessed the same or
2 a substantially similar license.

3 (b) Before any license or permit may be renewed under this article, the issuing
4 authority shall verify through the Office of the Comptroller that the applicant has
5 paid all undisputed taxes and unemployment insurance contributions payable to the
6 Comptroller or the Secretary of Labor, Licensing, and Regulation or that the applicant
7 has provided for payment in a manner satisfactory to the unit responsible for
8 collection.

9 [(c) Subsection (b) of this section does not apply to licenses issued under:

10 (1) Title 13 of this article (motor vehicle registrations); or

11 (2) Title 16 of this article (drivers' licenses).]

12 13-406.2.

13 BEFORE THE REGISTRATION OF A VEHICLE MAY BE RENEWED UNDER THIS
14 TITLE, THE ADMINISTRATION SHALL VERIFY THROUGH THE OFFICE OF THE
15 COMPTROLLER THAT THE OWNER OF THE VEHICLE HAS PAID ALL UNDISPUTED
16 TAXES AND UNEMPLOYMENT INSURANCE CONTRIBUTIONS PAYABLE TO THE
17 COMPTROLLER OR THE SECRETARY OF LABOR, LICENSING, AND REGULATION OR
18 THAT THE OWNER HAS PROVIDED FOR PAYMENT IN A MANNER SATISFACTORY TO
19 THE UNIT RESPONSIBLE FOR COLLECTION.

20 16-115.

21 (J) BEFORE A DRIVER'S LICENSE MAY BE RENEWED, THE ADMINISTRATION
22 SHALL VERIFY THROUGH THE OFFICE OF THE COMPTROLLER THAT THE APPLICANT
23 HAS PAID ALL UNDISPUTED TAXES AND UNEMPLOYMENT INSURANCE
24 CONTRIBUTIONS PAYABLE TO THE COMPTROLLER OR THE SECRETARY OF LABOR,
25 LICENSING, AND REGULATION OR THAT THE APPLICANT HAS PROVIDED FOR
26 PAYMENT IN A MANNER SATISFACTORY TO THE UNIT RESPONSIBLE FOR
27 COLLECTION.

28 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
29 Act or the application thereof to any person or circumstance is held invalid for any
30 reason in a court of competent jurisdiction, the invalidity does not affect other
31 provisions or any other application of this Act which can be given effect without the
32 invalid provision or application, and for this purpose the provisions of this Act are
33 declared severable.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 July 1, 2005. The changes made under this Act to § 10-102.1(d)(1) of the Tax -
36 General Article shall be applicable to all taxable years beginning after December 31,
37 2004.