

ENROLLED BILL

-- Budget and Taxation/Ways and Means --

Introduced by **Chairman, Budget and Taxation Committee (By Request - Departmental - Comptroller)**

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.

President.

CHAPTER _____

1 AN ACT concerning

2 **Comptroller - Tax Return Preparer - Filing Requirements and Penalties**

3 FOR the purpose of requiring certain tax return preparers to sign certain returns or
4 claims for refund; requiring a tax return preparer to furnish a certain
5 identifying number; imposing certain penalties for certain failures to sign a
6 return or furnish a certain identifying number; and generally relating to tax
7 return preparers.

8 BY repealing and reenacting, with amendments,
9 Article - Tax - General
10 Section 10-804(b) and (c)
11 Annotated Code of Maryland
12 (2004 Replacement Volume)

13 BY adding to
14 Article - Tax - General

1 Section 13-715
2 Annotated Code of Maryland
3 (2004 Replacement Volume)

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

6 **Article - Tax - General**

7 10-804.

8 (b) (1) Each income tax return and estimated income tax declaration and
9 return shall be:

10 [(1)] (I) signed in the same manner required for the signing of a federal
11 return under §§ 6061 through 6064 of the Internal Revenue Code; and

12 [(2)] (II) made under oath.

13 (2) (I) AN INDIVIDUAL WHO IS AN INCOME TAX RETURN PREPARER
14 WITH RESPECT TO A RETURN OR CLAIM FOR REFUND OF TAX SHALL SIGN THE
15 RETURN OR CLAIM FOR REFUND AFTER IT IS COMPLETED AND BEFORE IT IS
16 PRESENTED TO THE TAXPAYER OR NONTAXABLE ENTITY FOR SIGNATURE.

17 (II) IF THE PREPARER IS UNAVAILABLE FOR SIGNATURE, ANOTHER
18 PREPARER SHALL REVIEW THE ENTIRE PREPARATION OF THE RETURN OR CLAIM
19 FOR REFUND, AND THEN SHALL SIGN THE RETURN OR CLAIM FOR REFUND. THE
20 PREPARER SHALL SIGN THE RETURN IN THE MANNER PRESCRIBED BY THE
21 COMPTROLLER IN FORMS, INSTRUCTIONS, OR OTHER APPROPRIATE GUIDANCE.

22 (3) IF MORE THAN ONE INCOME TAX RETURN PREPARER IS INVOLVED IN
23 THE PREPARATION OF THE RETURN OR CLAIM FOR REFUND, THE INDIVIDUAL
24 PREPARER WHO HAS THE PRIMARY RESPONSIBILITY AS BETWEEN OR AMONG THE
25 PREPARERS FOR THE OVERALL SUBSTANTIVE ACCURACY OF THE PREPARATION OF
26 THE RETURN OR CLAIM FOR REFUND SHALL BE CONSIDERED TO BE THE INCOME
27 TAX RETURN PREPARER FOR PURPOSES OF PARAGRAPH (2) OF THIS SUBSECTION.

28 (c) (1) To properly identify persons listed in a return or other document, a
29 person shall include in the document the Social Security or other identifying number
30 that the Comptroller requires:

31 (i) of the person required to file the return or document; and

32 (ii) of the person on whose behalf the return or document is filed.

33 (2) If a return or document is filed on behalf of a person, that person
34 shall provide the identifying number required in a return or document to the person
35 who files the return or document.

1 (3) ANY RETURN OR CLAIM FOR REFUND PREPARED BY AN INCOME TAX
2 RETURN PREPARER SHALL BEAR THE IDENTIFYING NUMBER FOR SECURING PROPER
3 IDENTIFICATION OF THE PREPARER, THE PREPARER'S EMPLOYER, OR BOTH, AS
4 PRESCRIBED UNDER § 6109(A)(4) OF THE INTERNAL REVENUE CODE.

5 13-715.

6 (A) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
7 SUBSECTION, ANY PERSON WHO IS AN INCOME TAX RETURN PREPARER WITH
8 RESPECT TO ANY RETURN OR CLAIM FOR REFUND, WHO IS REQUIRED UNDER §
9 10-804(B)(2) OF THIS ARTICLE TO SIGN THE RETURN OR CLAIM FOR REFUND, AND
10 WHO FAILS TO COMPLY WITH THAT REQUIREMENT WITH RESPECT TO THE RETURN
11 OR CLAIM FOR REFUND SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT
12 IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO
13 WILLFUL NEGLIGENCE.

14 (2) THE MAXIMUM PENALTY IMPOSED UNDER THIS SUBSECTION ON
15 ANY PERSON WITH RESPECT TO DOCUMENTS FILED DURING ANY CALENDAR YEAR
16 MAY NOT EXCEED \$25,000.

17 (B) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
18 SUBSECTION, ANY PERSON WHO IS AN INCOME TAX RETURN PREPARER WITH
19 RESPECT TO ANY RETURN OR CLAIM FOR REFUND AND WHO FAILS TO COMPLY WITH
20 § 10-804 (C)(3) OF THIS ARTICLE WITH RESPECT TO THE RETURN OR CLAIM FOR
21 REFUND SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT IS SHOWN
22 THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL
23 NEGLIGENCE.

24 (2) THE MAXIMUM PENALTY IMPOSED UNDER THIS SUBSECTION ON
25 ANY PERSON WITH RESPECT TO DOCUMENTS FILED DURING ANY CALENDAR YEAR
26 MAY NOT EXCEED \$25,000.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect July 1, 2005.