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

Introduced and read first time: January 17, 2005

Rules suspended

Assigned to: Budget and Taxation

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A BILL ENTITLED

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  
15 Section 13-715  
16 Annotated Code of Maryland  
17 (2004 Replacement Volume)

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

20 **Article - Tax - General**

21 10-804.

22 (b) (1) Each income tax return and estimated income tax declaration and  
23 return shall be:

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

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

2 (2) AN INDIVIDUAL WHO IS AN INCOME TAX RETURN PREPARER WITH  
3 RESPECT TO A RETURN OR CLAIM FOR REFUND OF TAX SHALL SIGN THE RETURN OR  
4 CLAIM FOR REFUND AFTER IT IS COMPLETED AND BEFORE IT IS PRESENTED TO THE  
5 TAXPAYER OR NONTAXABLE ENTITY FOR SIGNATURE. IF THE PREPARER IS  
6 UNAVAILABLE FOR SIGNATURE, ANOTHER PREPARER SHALL REVIEW THE ENTIRE  
7 PREPARATION OF THE RETURN OR CLAIM FOR REFUND, AND THEN SHALL SIGN THE  
8 RETURN OR CLAIM FOR REFUND. THE PREPARER SHALL SIGN THE RETURN IN THE  
9 MANNER PRESCRIBED BY THE COMPTROLLER IN FORMS, INSTRUCTIONS, OR OTHER  
10 APPROPRIATE GUIDANCE.

11 (3) IF MORE THAN ONE INCOME TAX RETURN PREPARER IS INVOLVED IN  
12 THE PREPARATION OF THE RETURN OR CLAIM FOR REFUND, THE INDIVIDUAL  
13 PREPARER WHO HAS THE PRIMARY RESPONSIBILITY AS BETWEEN OR AMONG THE  
14 PREPARERS FOR THE OVERALL SUBSTANTIVE ACCURACY OF THE PREPARATION OF  
15 THE RETURN OR CLAIM FOR REFUND SHALL BE CONSIDERED TO BE THE INCOME  
16 TAX RETURN PREPARER FOR PURPOSES OF PARAGRAPH (2) OF THIS SUBSECTION.

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

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

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

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

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

29 13-715.

30 (A) ANY PERSON WHO IS AN INCOME TAX RETURN PREPARER WITH RESPECT  
31 TO ANY RETURN OR CLAIM FOR REFUND, WHO IS REQUIRED UNDER § 10-804(B)(2) OF  
32 THIS ARTICLE TO SIGN THE RETURN OR CLAIM FOR REFUND, AND WHO FAILS TO  
33 COMPLY WITH THAT REQUIREMENT WITH RESPECT TO THE RETURN OR CLAIM FOR  
34 REFUND SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT IS SHOWN  
35 THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL  
36 NEGLIGENCE. THE MAXIMUM PENALTY IMPOSED UNDER THIS SUBSECTION ON ANY  
37 PERSON WITH RESPECT TO DOCUMENTS FILED DURING ANY CALENDAR YEAR MAY  
38 NOT EXCEED \$25,000.

39 (B) ANY PERSON WHO IS AN INCOME TAX RETURN PREPARER WITH RESPECT  
40 TO ANY RETURN OR CLAIM FOR REFUND AND WHO FAILS TO COMPLY WITH § 10-804

1 (C)(3) OF THIS ARTICLE WITH RESPECT TO THE RETURN OR CLAIM FOR REFUND  
2 SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT IS SHOWN THAT THE  
3 FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLIGENCE. THE  
4 MAXIMUM PENALTY IMPOSED UNDER THIS SUBSECTION ON ANY PERSON WITH  
5 RESPECT TO DOCUMENTS FILED DURING ANY CALENDAR YEAR MAY NOT EXCEED  
6 \$25,000.

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