
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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 8, 2005

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

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:

1

Article - Tax - General

2 10-804.

3 (b) (1) Each income tax return and estimated income tax declaration and
4 return shall be:

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

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

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

12 (II) IF THE PREPARER IS UNAVAILABLE FOR SIGNATURE, ANOTHER
13 PREPARER SHALL REVIEW THE ENTIRE PREPARATION OF THE RETURN OR CLAIM
14 FOR REFUND, AND THEN SHALL SIGN THE RETURN OR CLAIM FOR REFUND. THE
15 PREPARER SHALL SIGN THE RETURN IN THE MANNER PRESCRIBED BY THE
16 COMPTROLLER IN FORMS, INSTRUCTIONS, OR OTHER APPROPRIATE GUIDANCE.

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

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

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

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

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

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

1 13-715.

2 (A) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPH (2) OF THIS
3 SUBSECTION, ANY PERSON WHO IS AN INCOME TAX RETURN PREPARER WITH
4 RESPECT TO ANY RETURN OR CLAIM FOR REFUND, WHO IS REQUIRED UNDER §
5 10-804(B)(2) OF THIS ARTICLE TO SIGN THE RETURN OR CLAIM FOR REFUND, AND
6 WHO FAILS TO COMPLY WITH THAT REQUIREMENT WITH RESPECT TO THE RETURN
7 OR CLAIM FOR REFUND SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT
8 IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO
9 WILLFUL NEGLIGENCE.

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

13 (B) ANY PERSON WHO IS AN INCOME TAX RETURN PREPARER WITH RESPECT
14 TO ANY RETURN OR CLAIM FOR REFUND AND WHO FAILS TO COMPLY WITH § 10-804
15 (C)(3) OF THIS ARTICLE WITH RESPECT TO THE RETURN OR CLAIM FOR REFUND
16 SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT IS SHOWN THAT THE
17 FAILURE IS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLIGENCE. THE
18 MAXIMUM PENALTY IMPOSED UNDER THIS SUBSECTION ON ANY PERSON WITH
19 RESPECT TO DOCUMENTS FILED DURING ANY CALENDAR YEAR MAY NOT EXCEED
20 \$25,000.

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