
By: **Senator Lawlah (Joint Committee on the Management of Public Funds)**
and Senators Forehand, Haines, and McFadden

Introduced and read first time: February 3, 2006

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Revenue Collection - Offsets**

3 FOR the purpose of authorizing the Comptroller under certain circumstances to
4 withhold certain tax refunds and other payments owed by the State to certain
5 persons and to pay certain amounts to an agency of the federal government that
6 has certified delinquent nontax liabilities of certain persons; providing for
7 certain procedures relating to certain certifications and withholding of certain
8 tax refunds and other payments owed by the State; authorizing certain
9 disclosure of certain tax information under certain circumstances; defining
10 certain terms; and generally relating to the withholding of State payments.

11 BY repealing and reenacting, with amendments,
12 Article - Tax - General
13 Section 13-203 and 13-918
14 Annotated Code of Maryland
15 (2004 Replacement Volume and 2005 Supplement)

16 BY adding to
17 Article - Tax - General
18 Section 13-930 through 13-932, inclusive, to be under the new part "Part VI.
19 Federal Nontax Liabilities - Withholding of Tax Refunds and Payments"
20 Annotated Code of Maryland
21 (2004 Replacement Volume and 2005 Supplement)

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

24 **Article - Tax - General**

25 13-203.

26 (a) (1) In this subsection, "taxing official" means:

1 (i) a unit or official of another state whom the laws of that state
2 charge with the imposition, assessment, or collection of state taxes;

3 (ii) an employee of the United States Treasury Department; or

4 (iii) a collector of United States taxes.

5 (2) The Comptroller or Department may disclose to a taxing official tax
6 information that is contained in any tax report or return, audit of a tax return, or
7 report of a tax investigation and relates to the imposition, assessment, and collection
8 of taxes or to any other matter about taxation generally if:

9 (i) the Comptroller or Department is satisfied that the tax
10 information is to be used only for tax purposes;

11 (ii) the taxing official's jurisdiction makes similar information
12 available to the appropriate officials of this State; and

13 (iii) in the case of another state, its laws provide for adequate
14 confidentiality of Maryland tax returns or other information.

15 (b) Tax information may be disclosed in accordance with a proper judicial
16 order or a legislative order.

17 (c) Tax information may be disclosed to:

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

20 (2) another tax collector;

21 (3) the Maryland Tax Court;

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

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

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

26 (iii) against whom an action to recover tax or a penalty is pending or
27 will be initiated under this title;

28 (5) any license issuing authority of the State required by State law to
29 verify through the Comptroller that an applicant has paid all undisputed taxes and
30 unemployment insurance contributions payable to the Comptroller or the Secretary of
31 Labor, Licensing, and Regulation or that the applicant has provided for payment in a
32 manner satisfactory to the unit responsible for collection; [and]

33 (6) a local official as defined in § 13-925 of this title to the extent
34 necessary to administer Subtitle 9, Part V of this title; AND

1 (7) A FEDERAL OFFICIAL AS DEFINED IN § 13-930 OF THIS TITLE TO THE
2 EXTENT NECESSARY TO ADMINISTER PART VI OF THIS SUBTITLE.

3 (d) Tax information may be disclosed and published as statistics that are
4 classified in a manner that prevents the identification of a particular return and the
5 information contained in a particular return.

6 13-918.

7 (A) The Comptroller shall honor income tax refund interception requests in
8 the following order:

9 (1) a refund interception request to collect an unpaid State, county, or
10 municipal tax;

11 (2) a refund interception request under Title 10, Subtitle 1, Part II of the
12 Family Law Article;

13 (3) a refund interception request for converted funds under § 15-122.2 of
14 the Health - General Article;

15 (4) any other refund interception request by the State, county or other
16 political subdivision of the State; [and]

17 (5) a request for intercept made by a taxing official under Part IV of this
18 subtitle; AND

19 (6) A REQUEST FOR INTERCEPT MADE BY A FEDERAL OFFICIAL UNDER
20 PART VI OF THIS SUBTITLE.

21 (B) THE COMPTROLLER SHALL HONOR VENDOR PAYMENT INTERCEPTION
22 REQUESTS IN THE SAME ORDER OF PRIORITY PROVIDED IN SUBSECTION (A) OF THIS
23 SECTION FOR HONORING INCOME TAX INTERCEPTION REQUESTS.

24 13-928. RESERVED.

25 13-929. RESERVED.

26 PART VI. FEDERAL NONTAX LIABILITIES - WITHHOLDING OF TAX REFUNDS AND
27 PAYMENTS.

28 13-930.

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

30 (B) "FEDERAL OFFICIAL" MEANS A UNIT OR OFFICIAL OF THE FEDERAL
31 GOVERNMENT CHARGED WITH THE COLLECTION OF NONTAX LIABILITIES PAYABLE
32 TO THE FEDERAL GOVERNMENT PURSUANT TO 31 U.S.C. § 3716.

33 (C) "NONTAX LIABILITY DUE THE STATE" MEANS A LIABILITY CERTIFIED BY
34 THE SECRETARY OF BUDGET AND MANAGEMENT TO THE COMPTROLLER.

1 (D) "REFUND" MEANS AN AMOUNT DESCRIBED AS A REFUND OF TAX UNDER
2 THE PROVISIONS OF LAW THAT AUTHORIZE ITS PAYMENT.

3 (E) "VENDOR PAYMENT":

4 (1) MEANS ANY PAYMENT, OTHER THAN A REFUND, MADE BY THE
5 STATE TO ANY PERSON;

6 (2) INCLUDES ANY EXPENSE REIMBURSEMENT TO AN EMPLOYEE OF
7 THE STATE; AND

8 (3) DOES NOT INCLUDE A PERSON'S SALARY, WAGES, OR PENSION.

9 13-931.

10 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A FEDERAL
11 OFFICIAL MAY:

12 (1) CERTIFY TO THE COMPTROLLER THE EXISTENCE OF A PERSON'S
13 DELINQUENT NONTAX LIABILITY OWED BY THE PERSON TO THE FEDERAL
14 GOVERNMENT; AND

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

17 (B) A FEDERAL OFFICIAL MAY CERTIFY AND REQUEST THE COMPTROLLER TO
18 WITHHOLD A REFUND OR VENDOR PAYMENT ONLY IF THE LAWS OF THE UNITED
19 STATES:

20 (1) ALLOW THE COMPTROLLER, ON BEHALF OF THE STATE, TO CERTIFY
21 TAX AND NONTAX LIABILITIES DUE TO THE STATE;

22 (2) ALLOW THE COMPTROLLER, ON BEHALF OF THE STATE, TO ENTER
23 INTO A RECIPROCAL AGREEMENT WITH THE UNITED STATES, PURSUANT TO WHICH
24 THE FEDERAL OFFICIAL WOULD BE REQUIRED TO OFFSET FEDERAL PAYMENTS TO
25 COLLECT DELINQUENT DEBTS OWED TO THE STATE; AND

26 (3) PROVIDE FOR THE PAYMENT OF THE AMOUNT WITHHELD TO THE
27 STATE.

28 (C) THE COMPTROLLER SHALL APPLY A REFUND OR VENDOR PAYMENT
29 RECEIVED FROM A FEDERAL OFFICIAL ACCORDING TO THE PRIORITIES UNDER §
30 13-918 OF THIS SUBTITLE.

31 13-932.

32 (A) A CERTIFICATION BY A FEDERAL OFFICIAL TO THE COMPTROLLER SHALL
33 INCLUDE:

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

1 (2) THE SOCIAL SECURITY NUMBER OR FEDERAL TAX IDENTIFICATION
2 NUMBER;

3 (3) THE AMOUNT OF THE NONTAX LIABILITY; AND

4 (4) A STATEMENT THAT THE DEBT IS PAST DUE AND LEGALLY
5 ENFORCEABLE IN THE AMOUNT CERTIFIED AND THAT THERE ARE NO LEGAL
6 BARRIERS TO COLLECTION BY OFFSET.

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

10 (C) SUBJECT TO § 13-931(B) OF THIS SUBTITLE AND SUBSECTION (D) OF THIS
11 SECTION, AS TO ANY PERSON DUE A REFUND OR VENDOR PAYMENT, THE
12 COMPTROLLER SHALL:

13 (1) WITHHOLD ANY REFUND AND VENDOR PAYMENT THAT IS DUE A
14 PERSON WHOSE NAME HAS BEEN CERTIFIED BY A FEDERAL OFFICIAL;

15 (2) NOTIFY THE PERSON OF THE AMOUNT WITHHELD IN ACCORDANCE
16 WITH THE CERTIFICATION BY A FEDERAL OFFICIAL OF THE EXISTENCE OF A
17 LIABILITY;

18 (3) PAY TO THE FEDERAL OFFICIAL THE LESSER OF:

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

20 (II) THE AMOUNT CERTIFIED;

21 (4) PAY ANY REFUND AND VENDOR PAYMENT IN EXCESS OF THE
22 CERTIFIED AMOUNT TO THE PERSON; AND

23 (5) WITHHOLD AMOUNTS FROM SUBSEQUENT REFUNDS AND VENDOR
24 PAYMENTS DUE THE PERSON IF THE INITIAL REFUND AND VENDOR PAYMENT IS
25 LESS THAN THE CERTIFIED AMOUNT.

26 (D) IF AN INDIVIDUAL FILED A JOINT INCOME TAX RETURN AND THE DEBT
27 CERTIFIED BY A FEDERAL OFFICIAL IS NOT THE LIABILITY OF BOTH PARTIES TO THE
28 JOINT INCOME TAX RETURN, THE COMPTROLLER MAY NOT WITHHOLD OR PAY TO
29 THE FEDERAL OFFICIAL THAT PORTION OF THE INCOME TAX REFUND
30 ATTRIBUTABLE TO THE INDIVIDUAL NOT OWING THE DEBT.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 July 1, 2006.