

# HOUSE BILL 108

Q7

9lr1488

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By: ~~Delegate Feldman~~ Delegates Feldman, Bartlett, Boteler, Cardin, Elmore, Doory, Frick, George, Gilchrist, Hixson, Howard, Ivey, Kaiser, Murphy, Myers, Olszewski, Rice, Ross, Stukes, F. Turner, and Walker

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Assigned to: Ways and Means

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: April 7, 2009

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

### 2 **Tax Amnesty Program**

3 FOR the purpose of requiring the Comptroller to waive certain penalties and interest  
4 imposed for the nonpayment, nonreporting, or underreporting of certain taxes  
5 under certain circumstances; establishing a period during which the  
6 Comptroller shall grant amnesty; authorizing the Comptroller to enter into  
7 certain agreements to provide a certain waiver under certain circumstances  
8 with respect to certain taxes that a taxpayer agrees to pay in accordance with  
9 certain terms and a certain schedule; requiring the Comptroller to submit a  
10 certain report on the amnesty program; ~~providing for the distribution of the~~  
11 ~~receipts from the amnesty program~~; and generally relating to ~~an~~ a tax amnesty  
12 program for certain taxes.

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That:

15 (a) Subject to Section 2 of this Act, the Comptroller shall declare an amnesty  
16 period for delinquent taxpayers from September 1, 2009, to October ~~21~~ 30, 2009, both  
17 inclusive.

18 (b) The amnesty period shall be applicable to the Maryland State and local  
19 income tax, withholding taxes, sales and use taxes, and admissions and amusement  
20 taxes.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(c) The waiver required under this Act applies to:

- (1) Nonreporting of tax liability;
- (2) Underreporting of tax liability; and
- (3) Nonpayment of tax liability.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) ~~The~~ Except as otherwise provided in this section, the Comptroller shall waive all civil penalties (except previously assessed fraud penalties) ~~attributable to taxes paid during the amnesty period, and one-half of the interest imposed against~~ a taxpayer who:

~~(1)~~ (i) On or before December 31, 2008, failed to file a return required or pay the tax imposed under the Tax – General Article for:

- ~~(i)~~ 1. Individual income tax;
- ~~(ii)~~ 2. Corporate income tax;
- ~~(iii)~~ 3. Withholding tax;
- ~~(iv)~~ 4. Sales and use tax; or
- ~~(v)~~ 5. Admissions and amusement tax; and

~~(2)~~ (ii) During the amnesty period:

~~(i)~~ 1. Files a delinquent return and pays the tax, including one-half of any interest, due under the return, including all interest; or

~~(ii)~~ 2. Pays the tax, plus ~~all~~ one-half of any interest, due on a previously filed ~~return.~~ return; or

3. With respect to delinquent tax due under a return filed during the amnesty period or under a previously filed return, enters into an agreement with the Comptroller under paragraph (2) of this subsection to pay the tax, including one-half of any interest, in accordance with the terms and schedule established in the agreement.

(2) (i) The Comptroller may at the Comptroller's discretion enter into an agreement with a taxpayer to provide a waiver under this section with respect to taxes that are not paid in full during the amnesty period but that the taxpayer agrees to pay in accordance with the terms and schedule established under the agreement.

1                   (ii) Except as otherwise provided in this paragraph, the  
2 required terms and schedule for payment under an agreement under this paragraph  
3 are entirely at the discretion of the Comptroller.

4                   (iii) An agreement under this paragraph shall provide for  
5 payment in full of the delinquent tax plus one-half of the interest due on or before  
6 December 31, 2010.

7                   (iv) With respect to taxes that are subject to an agreement under  
8 this paragraph:

9                   1. The waiver of civil penalties and interest provided  
10 under this section is void if the taxpayer fails to pay the full amount of taxes plus  
11 one-half of any interest strictly in accordance with the terms and schedule established  
12 in the agreement; and

13                   2. The waiver provided under this section for one-half of  
14 the interest imposed with respect to delinquent taxes does not apply to interest  
15 accruing for periods after October 30, 2009, on amounts remaining unpaid after that  
16 date.

17                   (3) (i) In this paragraph, "corporate group" means an affiliated  
18 group or controlled group of corporations under § 1504 or § 1563 of the Internal  
19 Revenue Code.

20                   (ii) The amnesty program under this section does not apply to:

21                   1. Any taxpayer that as of September 1, 2009, has more  
22 than 500 employees in the United States or is a member of a corporate group that has  
23 more than 500 employees in the United States;

24                   2. Any taxpayer that was granted amnesty under the  
25 2001 Maryland Tax Amnesty Program established under Chapter 275 of the Acts of  
26 the General Assembly of 2001, with respect to the taxes for which the taxpayer  
27 received amnesty under the 2001 Maryland Tax Amnesty Program; or

28                   3. Any taxpayer eligible for the July 1, 2004, through  
29 November 1, 2004, Settlement Period, as provided in Chapter 557 of the Acts of 2004,  
30 which was applicable to the Maryland corporation income tax assessed by the  
31 Comptroller based on issues that were ruled on by the Maryland Court of Appeals in  
32 the decisions in the Comptroller of the Treasury v. SYL, Inc., and the Comptroller of  
33 the Treasury v. Crown Cork & Seal Company (Delaware), Inc., 375 Md. 78 (2003),  
34 whether or not the taxpayer participated in the Settlement Period.

35                   (b) (1) Except as otherwise provided in this Act, a taxpayer may not be  
36 charged with a criminal tax offense arising out of any return filed and tax paid during  
37 the amnesty period or in accordance with an agreement entered into under subsection

(a)(2) of this section if the taxpayer, in accordance with the provisions of this Act, during the amnesty period either: Act:

(i) During the amnesty period:

~~(i)~~ 1. Files a delinquent return and pays the tax, plus one-half of any interest, due under the return, ~~including all interest~~; or

~~(ii)~~ 2. Pays the tax, plus ~~all~~ one-half of any interest, due on a previously filed ~~return~~ return; or

(ii) With respect to delinquent tax due under a return filed during the amnesty period or under a previously filed return:

1. Enters into an agreement with the Comptroller under subsection (a)(2) of this section; and

2. Pays the full amount of taxes plus one-half of any interest strictly in accordance with the terms and schedule established in the agreement.

(2) The amnesty from criminal charges under paragraph (1) of this subsection does not apply to:

(i) Any criminal charges pending in the courts of the State; or

(ii) Any criminal charges under investigation by an office with the constitutional authority to prosecute a person for violation of criminal laws.

(3) For purposes of this subsection, an office with constitutional authority to prosecute persons for violation of the criminal laws:

(i) Includes the Office of the Attorney General of Maryland, the Office of the State Prosecutor, and the Office of the State's Attorney for any of the political subdivisions of the State; and

(ii) Does not include the Office of the Comptroller.

(c) ~~This~~ Except as expressly provided in this section, this Act does not authorize the Comptroller to waive any interest charges or previously assessed fraud penalties.

SECTION 3. AND BE IT FURTHER ENACTED, That, on or before March 15, 2010, the Comptroller shall report to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly, on:

(1) The revenues raised under the amnesty program; and

(2) Other matters relating to the amnesty program.

~~SECTION 4. AND BE IT FURTHER ENACTED, That:~~

~~(a) Except as provided in subsection (b) of this section, the Comptroller shall distribute the revenue collected under this Act from the amnesty program in accordance with the applicable provisions of Title 2 of the Tax General Article.~~

~~(b) (1) The first \$3,000,000 of the funds collected under this Act from the amnesty program that would be credited to the General Fund under the provisions of Title 2 of the Tax General Article shall be distributed instead to a special fund to be administered by the Comptroller.~~

~~(2) Subject to the budget amendment procedure provided for in § 7-209 of the State Finance and Procurement Article, the special fund established under this section may be used only for the purposes of:~~

~~(i) Providing publicity for the amnesty program; and~~

~~(ii) Hiring additional tax compliance and enforcement personnel.~~

~~SECTION 5. 4. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2009.~~

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.