

CHAPTER 422

(House Bill 810)

AN ACT concerning

Income Tax – Mandatory Income Tax Return Preparer Requirements

FOR the purpose of requiring certain income tax return preparers under certain circumstances to file certain income tax returns by electronic means as prescribed by the Comptroller; imposing certain penalties for certain violations; exempting certain returns and providing for certain waivers under certain circumstances; defining certain terms; providing for the application of this Act; and generally relating to mandatory electronic filing of certain income tax returns by certain income tax return preparers under certain circumstances.

BY adding to

Article – Tax – General

Section 10–824 and 13–717

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

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

Article – Tax – General

10–824.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “INCOME TAX RETURN PREPARER” MEANS A PERSON WHO FOR COMPENSATION PREPARES A SUBSTANTIAL PORTION OR MORE OF A QUALIFIED RETURN OR EMPLOYS ONE OR MORE PERSONS TO PREPARE FOR COMPENSATION A SUBSTANTIAL PORTION OR MORE OF A QUALIFIED RETURN.

(II) “INCOME TAX RETURN PREPARER” DOES NOT INCLUDE A PERSON WHO MERELY PERFORMS THOSE ACTS DESCRIBED UNDER § 7701(A)(36)(B) OF THE INTERNAL REVENUE CODE.

(3) “QUALIFIED RETURN” MEANS ANY ORIGINAL RETURN OF INDIVIDUAL INCOME TAX IMPOSED BY THIS TITLE, REGARDLESS OF WHETHER A TAX IS DUE OR A REFUND IS CLAIMED.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, AN INCOME TAX RETURN PREPARER SHALL FILE ALL QUALIFIED RETURNS THAT THE INCOME TAX RETURN PREPARER PREPARES BY ELECTRONIC MEANS AS PRESCRIBED BY THE COMPTROLLER IF:

(1) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2008, BUT BEFORE JANUARY 1, 2010, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN ~~200~~ 300 QUALIFIED RETURNS IN THE PRIOR TAXABLE YEAR; ~~AND~~

(2) FOR A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2009, BUT BEFORE JANUARY 1, 2011, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN 200 QUALIFIED RETURNS IN THE PRIOR TAXABLE YEAR; AND

~~(2)~~ (3) FOR ANY TAXABLE YEAR BEGINNING AFTER DECEMBER 31, ~~2009~~ 2010, THE INCOME TAX RETURN PREPARER HAS PREPARED MORE THAN 100 QUALIFIED TAX RETURNS IN THE PRIOR TAXABLE YEAR.

(C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A QUALIFIED RETURN IF:

(1) THE TAXPAYER HAS INDICATED ON THE QUALIFIED RETURN THAT THE TAXPAYER DOES NOT WANT THE RETURN FILED BY ELECTRONIC MEANS; OR

(2) THE INCOME TAX RETURN PREPARER PREPARING THE QUALIFIED RETURN HAS REQUESTED AND RECEIVED A WAIVER FROM THE COMPTROLLER.

(D) ~~(1)~~ ON WRITTEN REQUEST FOR A WAIVER BY AN INCOME TAX RETURN PREPARER WHO IS SUBJECT TO SUBSECTION (B) OF THIS SECTION, THE COMPTROLLER MAY GRANT THE INCOME TAX RETURN PREPARER ~~UP TO~~ A ~~12-MONTH~~ WAIVER OF THE REQUIREMENTS OF THIS SECTION IF THE INCOME TAX RETURN PREPARER IS ABLE TO ESTABLISH TO THE SATISFACTION OF THE COMPTROLLER EITHER REASONABLE CAUSE FOR NOT FILING THE RETURN BY ELECTRONIC MEANS OR THAT THERE IS NO FEASIBLE MEANS OF FILING THE RETURN BY ELECTRONIC MEANS WITHOUT UNDUE HARDSHIP.

~~(2) IF THE COMPTROLLER GRANTS THE WAIVER, THE INCOME TAX RETURN PREPARER MAY FILE SIGNED PAPER RETURNS FOR THE PERIOD ALLOWED UNDER THE WAIVER.~~

13-717.

(A) AN INCOME TAX RETURN PREPARER WHO IS SUBJECT TO § 10-824 OF THIS ARTICLE AND WHO FAILS TO FILE A RETURN AS REQUIRED IN § 10-824 OF THIS ARTICLE SHALL PAY A PENALTY OF \$50 FOR THAT FAILURE, UNLESS IT IS SHOWN THAT THE FAILURE IS DUE TO REASONABLE CAUSE AND IS NOT DUE TO WILLFUL NEGLIGENCE.

(B) THE TOTAL AMOUNT OF THE PENALTIES ASSESSED UNDER SUBSECTION (A) OF THIS SECTION MAY NOT EXCEED \$500 FOR ALL RETURNS FILED BY AN INCOME TAX RETURN PREPARER FOR ANY TAXABLE YEAR.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009, and shall be applicable to all taxable years beginning after December 31, 2008.

Approved by the Governor, May 7, 2009.