

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 454
Ways and Means

(The Speaker)(By Request - Office of the Comptroller)

Budget and Taxation

Disclosure of Tax Information - Tax Compliance Activity and Binding Data Use Agreements

This departmental bill authorizes the disclosure of tax information to a person, governmental entity, or tax compliance organization for the purpose of assisting the Comptroller in tax compliance activity and requires specified parties to whom confidential tax information is to be disclosed to enter into a binding written data use agreement. An officer, employee, former officer, or former employee of a person, governmental entity, or tax compliance organization to which tax information has been disclosed in accordance with the bill’s authorization may not disclose, in any manner, any tax information obtained in accordance with the data use agreement, unless the disclosure is authorized expressly by State or federal law, authorized by the data use agreement, or required by a court order. Consistent with existing law, an officer, employee, former officer, or former employee of a person, governmental entity, or tax compliance organization to which tax information has been disclosed who makes a disclosure in violation of State law is guilty of a misdemeanor subject to a fine of up to \$1,000 and/or up to six months imprisonment. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: Potential increase in general and special fund revenues and special fund expenditures beginning as early as FY 2025 due to increased tax compliance activity, as discussed below. Any increased compliance activity, as well as requirements relating to data use agreements, can be handled with existing budgeted resources. Expenditures are not otherwise materially affected.

Local Effect: Potential increase in local revenues beginning as early as FY 2025 due to increased tax compliance activity, as discussed below. Local expenditures are not materially affected.

Small Business Effect: The Office of the Comptroller has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Current Law/Bill Summary: In general, and except as otherwise provided for by law, an officer, former officer, or former employee of the State or of a political subdivision may not disclose, in any manner, any tax information, as defined under § 13-201 of the Tax-General Article. *Under the bill*, the definition of “tax information” is clarified to include any tax return, information return, declaration of estimated tax, extension of time to file a return, or claim for refund that is filed with the tax collector and any amendment or supplement thereto, as specified. The bill further specifies that the term includes any information contained in a digital advertising gross revenues tax return.

Section 13-203 of the Tax-General Article specifies various general exceptions to nondisclosure. The Comptroller or the State Department of Assessments and Taxation (SDAT) may disclose to a taxing official (as defined in § 13-203 of the Tax-General Article) information that is contained in any tax report or return, audit of a tax return, or report of a tax investigation and relates to the imposition, assessment, and collection of taxes or to any other matter about taxation generally if (1) the Comptroller or SDAT is satisfied that the tax information is to be used only for tax purposes; (2) the taxing official’s jurisdiction makes similar information available to the appropriate officials of the State; and (3) in the case of another state, its laws provide for adequate confidentiality of Maryland tax returns or other information.

Among other specified exceptions to nondisclosure, § 13-203(c) lists additional individuals and entities to which tax information may be disclosed – in some cases, subject to specified conditions and limitations – such as the Maryland Tax Court, specified legal representatives of the State, specified license issuing authorities of the State, specified local and federal officials, and specified State agencies with respect to the administration of specified provisions of law. *Under the bill:*

- this list is expanded to include a person, governmental entity, or tax compliance organization (as defined by the bill) for the purpose of assisting the Comptroller in tax compliance activity;
- before disclosing tax information in accordance with the bill’s authorization or to certain other persons and entities listed under § 13-203(c), the Comptroller must require the party to whom the information is to be disclosed to enter into a binding,

written data use agreement, the terms of which must be prescribed by the Comptroller according to the Comptroller's data security policies, consistent with State and federal requirements, and in compliance with specified provisions of the Internal Revenue Code (in other cases, the Comptroller may, in its sole discretion, require a person or governmental entity to whom tax information is disclosed under § 13-203(c) to enter into a binding written data use agreement); and

- the Comptroller must adequately supervise specified recipients of tax information at all times.

Pursuant to § 13-1018 of the Tax-General Article, an officer, employee, former officer, or former employee of the State or of a political subdivision who makes an unlawful disclosure of tax information is guilty of a misdemeanor and, on conviction, subject to a fine of up to \$1,000 and/or up to six months imprisonment. *Under the bill*, this prohibition and related penalties apply to officers, employees, former officers, and former employees of persons, governmental entities, and tax compliance organizations to which tax information has been disclosed under the bill's authorization.

Background: The Comptroller's Office advises that the bill furthers tax compliance efforts by authorizing the Comptroller to enter into data-sharing agreements with outside entities, such as the Multistate Tax Commission and Northeastern States Tax Officials Association, to assist the Comptroller's Compliance Division with complex audit activities while ensuring adequate protections for confidential tax data.

State and Local Fiscal Effect: To the extent that the bill's authorization results in increased tax compliance, State general and special fund revenues, special fund expenditures for local highway user revenue grants, local income tax revenues, local highway user revenues, and other local revenues may increase beginning as early as fiscal 2025. The Comptroller's Office can handle any increase in tax compliance activity with existing budgeted resources. The expanded application of existing misdemeanor penalty provisions is not anticipated to materially affect State or local revenues or expenditures.

It is assumed that State and local entities subject to the bill's provisions relating to written data use agreements can comply with the terms of such agreements with existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 679 (The President)(By Request - Office of the Comptroller)
- Budget and Taxation..

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Alcohol, Tobacco, and Cannabis Commission; Maryland Department of Emergency Management; Maryland State Department of Education; Maryland Department of Health; Maryland Department of Labor; State Retirement Agency; Maryland Association of Counties; Department of Legislative Services

Fiscal Note History: First Reader - February 6, 2024
js/hlb Third Reader - March 19, 2024
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Disclosure of Tax Information - Tax Compliance Activity and Binding Data Use Agreements

BILL NUMBER: HB0454

PREPARED BY: Justin Hayes, Director of State Affairs

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This bill authorizes the Office of the Comptroller to enter into data-sharing arrangements with outside entities – such as the Multistate Tax Commission (MTC) and the Northeastern States Tax Officials Association (NESTOA) – to assist our Compliance Division with complex audit activities, requires a signed data use agreement for any and all data sharing relationships that involve taxpayer information, and reinforces that individuals who come in contact with disclosed tax data are not allowed to disclose unless expressly authorized in a binding data use agreement. There is no direct impact on small businesses anticipated by this legislation, aside from potential increased audit activity may be possible based on partnerships with other tax compliance authorities.