

**Testimony in Support of House Bill 454
Before the House Ways and Means Committee
February 26, 2020**

Chair Kaiser, Vice Chair Washington and members of the Committee, my name is Donald Tobin, and I am the Dean and a Professor of Law at the University of Maryland Francis King Carey School of Law. I am pleased to join Delegate Rosenberg, and my colleagues from from the University of Baltimore School of Law, and the Maryland Volunteer Lawyers Service (MVLS), in expressing my strong support for HB 454, which expands tax clinics at the three organizations to provide legal services to low-income Marylanders with state tax disputes.

Maryland Carey Law, UB School of Law, and MVLS all receive grants from the IRS to support federal Low-Income Taxpayer Clinics (LITCs). Funding for these clinics allows us to assist low-income taxpayers with their federal tax disputes. These grants also allow us to assist taxpayers with their state disputes when the underlying state tax issue is connected to a federal issue. The IRS grant, however, does not support our assistance to Maryland taxpayers with their state tax disputes when they do not have a Federal tax issue.

As a reminder, at both Maryland Carey Law and UB, our legal clinics allow students to provide legal advice to clients under the supervision of a faculty member. At MVLS, volunteer lawyers work with experts at MVLS to assist clients with tax disputes. At Maryland Carey Law, we have approximately 20 legal clinics and provide approximately 75,000 hours of legal services to the people of Maryland. For us, our clinics provide supervised training for the next generation of great lawyers while also providing representation to those who cannot afford private lawyers.

Providing low-income Maryland taxpayers with representation benefits both the people of Maryland and the State. The premis behind the funding of the federal Low-Income Taxpayer Clinics by the IRS is that ensuring representation for taxpayers provides for a more just and equitable tax system. It also improves tax administration and efficiency because it is far easier for the taxing authority to deal with represented parties than to try to obtain information and litigate against parties trying to defend their rights *pro se*. These same fundamental goals apply to state tax disputes as well.

In 2014, I had the honor of returning to Maryland to be Dean of the University of Maryland Carey School of Law. As a member of the Maryland Bar and a tax lawyer, I agreed to help teach in our Low-Income Taxpayer Clinic. I quickly learned that a taxpayer's federal tax liability is often only a small part of a taxpayer's problem. The state tax liability, especially with interest and penalties, can also be devastating for a taxpayer. I also saw a complex state tax resolution system that was very difficult for taxpayers to navigate.

The ramifications for a low-income person facing a significant tax liability can be overwhelming. For example, low-income people are hit particularly hard by holds placed on their driver's license and vehicle registration because of unpaid tax liability. Without

representation, taxpayers often cannot navigate their way through the tax system, and have difficulty getting these holds released. Taxpayers who could not get their holds released either couldn't drive to work or to the doctor, or drove on expired licenses or registrations – thus possibly subjecting them to criminal prosecution. We have been working with the Comptroller on creating a regulation that would exempt low-income people or people with economic hardship from driver's license and registration holds, and this is a great first step. But this is a clear example of how a neutral tax enforcement system can hit those without representation particularly hard.

We must have a tax system that operates fairly for rich and poor alike. Tax collection is like almost no other process in our legal system. It is a civil action by the government to collect taxes, so a litigant is not entitled to an attorney. But to a low-income taxpayer without representation, the tax collection process is complicated and daunting and operates more like a criminal process than a civil one. State or federal authorities require proof by taxpayers of their innocence with regard to the tax liability. In this civil process, taxpayers have the burden of showing that they are not subject to the tax liability asserted. Most individual taxpayers are not skilled or trained enough in the law, let alone the tax law, to ably represent themselves before state or federal tax authorities. Taxpayers with means can hire lawyers and accountants to represent them before Maryland's tax authorities, but low-income taxpayers have no ability to do so.

The result is that even in the best situations, low-income taxpayers are faced with huge hurdles of putting together a case on both factual and legal grounds. It is in these cases that lawyers can be a lifeline. In some cases, lawyers can simply help taxpayers understand what they owe and why, and help those taxpayers enter into workable payment plans with the Comptroller. In other instances, lawyers may be able to point out ways in which a taxpayer can reduce liability, or why some of the Comptroller's assumptions may be inaccurate. In more extreme cases, lawyers can help represent taxpayers in explaining why the Comptroller's interpretation of the law may not be correct.

You may ask why the state government should be funding a program to represent taxpayers in actions against the state. But a fair system of tax administration really demands such representation. In tax administration, the goal is to get it right. A fair tax system collects a fair amount of tax from each taxpayer. The government does not seek to collect tax that is not due. It asks all taxpayers to pay the just and fair amount due. Therefore, providing representation to low-income taxpayers who otherwise could not afford representation, simply ensures equal treatment, fair representation and an equitable tax system. One that recognizes that a fair and just tax system does not just require fair and just tax laws, but also a fair and just enforcement of those laws.

Fair and just enforcement of the tax laws for low-income people requires that they have an ability to present their cases in the same manner as people who can afford lawyers. HB 454 ensures that hard working Marylanders with tax disputes get the representation they deserve. Therefore, I strongly urge the Committee to provide a favorable report on HB 454.