

Donald B. Tobin  
Dean and Professor of Law  
University of Maryland  
Francis King Carey School of Law

**Testimony in Support of Senate Bill 480  
Before the Senate Budget and Taxation Committee  
February 2, 2021**

Chair Guzzone, Vice Chair Rosapepe, 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 Senator Zucker, and my colleagues Ronald Weich, from the University of Baltimore School of Law and Janice Shih, from the Maryland Volunteer Lawyers Service (MVLS), in expressing my strong support for SB 480, and the sponsor's amendment, which creates tax clinics to provide legal services to low-income Marylanders with state tax disputes.

We have a crisis in this country concerning equal access to justice for members of our community. The Attorney General and leaders throughout Maryland have been working on reforms in this area, and the legislature has recognized a need to expand services to low-income Marylanders. One key area where low-income Marylanders often do not have representation is when they have tax controversies or problems involving their Maryland tax liabilities.

Maryland Carey Law, UB School of Law, and MVLS all receive grants from the IRS to support Low-Income Taxpayer Clinics (LITCs), which allow us to assist low-income taxpayers with their tax disputes with the IRS. These grants will enable us to assist Maryland taxpayers when the underlying Maryland tax issue is connected to a federal claim. The IRS grant, however, does not support our representing Maryland taxpayers who do not have a Federal tax issue, nor does it support outreach efforts dealing with Maryland tax issues.

As a reminder, our legal clinics allow students to provide legal advice to clients under the supervision of a faculty member. At Maryland Carey Law, we have approximately 20 legal clinics and provide approximately 75,000 hours of legal services to the people of Maryland. These clinics provide both services to the community and training to our law students.

Providing low-income Maryland taxpayers with representation benefits both the people and the State. The premise 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 attempting to defend their rights *pro se*. Our expectation is the tax clinic would improve outcomes for taxpayers and create administrative efficiencies for the Comptroller's office.

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 was often only a small part of a taxpayer's problem. The state liability, especially with

interest and penalties, could also be devastating for a taxpayer. I also saw a complex State tax system that was very difficult for taxpayers to navigate.

For example, low-income people are hit particularly hard by holds that were placed on their driver's license and vehicle registration when they have an unpaid tax liability. Without representation, taxpayers often cannot navigate their way through the tax system, and have difficulty getting these holds released. We have been working with the Comptroller to find ways to alleviate this pressure on low-income taxpayers, and this is an excellent first step.

But the larger issue of ensuring that we have a tax system that operates fairly for rich and poor alike is still a challenge. 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 can have catastrophic consequences. The burden of proof in these cases often falls on the taxpayer. State or Federal authorities require proof by the taxpayer of the taxpayers' innocence with regard to the tax liability. 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, 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 the taxpayer's 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.

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. Therefore, providing representation to low-income taxpayers who otherwise could not afford representation simply ensures a fair and equitable tax system. 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.

SB 480 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 SB 480.