

SB 916 Testimony.pdf

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Position: FAV

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Budget and Taxation Committee
Capital Budget Subcommittee
Health and Human Services Subcommittee

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

Vote Yes on Senate Bill 916

Bill Title: Taxes - Whistleblower Reward Program and Statute of Limitations for Tax Collections

Hearing Date: March 9, 2021 – Budget and Taxation

Chair: The Honorable Guy Guzzone; Vice Chair: The Honorable James Rosapepe

I write to you today in support of Senate Bill 916. Tax revenue provides for economic growth and provides funding sources for programs that allow Maryland to uplift all residents. The revenue collected from taxes helps fund our children's education, provide healthcare, and allow our Great State to make investments in core infrastructure projects. In short, taxation not only funds public services, but also can increase the effectiveness of government. While the majority of taxpayers remain in compliance with state tax law, there are those who circumvent them.

The purpose of Senate Bill 916 is to create a financial reward program for whistleblowers who assist Maryland in detecting tax fraud. The Comptroller of Maryland would administer the program, and have sole discretion over the granting of monetary rewards. This bill is modeled on the IRS' Whistleblower Office, which has recuperated billions in unpaid federal taxes. Like the IRS, Senate Bill 916 would provide for the whistleblower to be granted up to 30% of the tax, penalty, and interest amounts collected due to information supplied. Further, the Bill would extend the statute of limitations to collect unpaid taxes from seven years to ten, ensure the presumption of anonymity, and require the Comptroller to issue an annual report on the program.

In efforts to target the worst offenders of tax fraud and to increase transparency, we hope that you will move for a favorable report of Senate Bill 916.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Cory V. McCray".

Cory V. McCray
State Senator

SB 916_Taxes-Whistleblower Reward Program_UNFAV.pd

Uploaded by: Duckman, Ashley

Position: UNF



LEGISLATIVE POSITION:

UNFAVORABLE

Senate Bill 916

Taxes – Whistleblower Reward Program and Statute of Limitations for Tax Collections

Senate Budget & Taxation Committee

Tuesday, March 9, 2021

Dear Chairman Guzzone and Members of the Committee:

Founded in 1968, the Maryland Chamber of Commerce is the leading voice for business in Maryland. We are a statewide coalition of more than 5,000 members and federated partners, and we work to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

As introduced, SB 916 seeks to establish a whistleblower reward program which would incentivize an individual or entity to provide information relating to a violation of state tax law, including rules and regulations. The individual or entity would be eligible to receive up to 30% of the recovered tax, penalty, and interest, but not less than 15%. The Maryland Chamber of Commerce is concerned that SB 916 will lead to a significant increase in the reporting of tax violations on businesses making good faith efforts to follow the law. Placing a reward on the reporting of these violations will only serve to incentivize additional claims placing greater time and expense burden on the Comptroller's Office.

SB 916 seems to be duplicative in its intent as the Maryland Comptroller's Office already has a system in which they accept tips from individuals who report what they believe to be tax underpayments. These tips currently come in without the motivation of compensation and the Comptroller's Office investigates these tips and takes corrective action as needed. In our discussion with the Comptroller's Office, we understand that many of these complaints do not result in a finding of an unpaid tax liability. Therefore, it would stand to reason that SB 916 would not lead to an increase in recovered revenue for the state. Additionally, SB 916 does not address issues such as reported violations that have already been the component of an audit or how to address taxpayers who have made good faith efforts to follow the law. It would be reasonable for the Comptroller to not engage claims for items that have already been subject to an audit or for their office to decide about whether a taxpayer has made a good faith effort to follow the letter of the law and therefore a reported violation would not need to be investigated.

For these reasons, the Chamber respectfully requests an **unfavorable report** on Senate Bill 916.

SB 916 MACPA Written Testimony - Oppose.pdf

Uploaded by: Halpern, MB

Position: UNF



Mar. 4, 2021

The Honorable Guy Guzzone, Chair
Budget and Taxation Committee
Miller Senate Office Building
Annapolis, Maryland 21401

Re: SB 916 “Taxes – Whistleblower Reward Program and Statute of Limitations for Tax Collections”

OPPOSE – RECOMMEND SUMMER STUDY

Dear Chairman Guzzone and members of the Committee,

The Maryland Association of CPAs represents nearly 9,000 Certified Public Accountants throughout the state. These CPAs work in public practice, private industry, government, non-profits, and education. As part of our professional designation and licensure, CPAs are required to uphold the highest standards of ethics. The MACPA supports state efforts in identifying and rectifying bad actors in the realm of adherence to tax laws, however, we have concerns about SB 916. If the General Assembly decides to embark on this path, we recommend additional study in order to address details of the provisions and the implementation process.

Our concerns include, among others:

- How can the statute itself best protect the confidentiality of taxpayer data in the Comptroller’s required procedures for whistleblower investigations?
- Should the program be directed at fraud only? There are many situations that are the result of good faith different interpretations of the statutes and regulations, or honest mistakes. How are these to be treated differently?
- Are issues that were contained in a prior audit or settlement clearly excluded from “original information” if reported by a whistleblower who had no knowledge of that audit or settlement?
- Are statutes of limitations on closed periods properly respected?
- Should there be a statutory provision for penalties imposed on a whistleblower who makes a frivolous complaint? (We understand that the Comptroller’s Office currently receives such reports, e.g., are determined to have been merely for purposes of annoying the target taxpayer.)

It is good that the proposed program is designed to be administered by the Comptroller’s Office where the expertise in tax matters resides, rather than by outside agencies. We question why section 1-406 even mentions disclosures of “information concerning a violation of this article [Tax-General] to any law enforcement agency,” and also references “rights and rewards

provided to qui tam plaintiffs under the Maryland False Claims Act” (which should not involve tax matters)?

Information from colleagues in other states that have similar programs tells us that there are indeed abusive situations, for example, a few firms that generate hundreds of repeat claims on the same issue that require the time and expense of the state authorities to address. Maryland is not Illinois, where a large number of whistleblower complaints involve the issue of vendors not properly charging sales tax on delivery fees (Illinois’s law is complex in providing for when the fees are taxable and when they are exempt), because Maryland law is clearer on its definition. And Maryland is not New York, where fully three-quarters of the reported whistleblower-generated tax revenue from the last few years came from one taxpayer involving the sales tax treatment of telephone service billings.

The Comptroller’s Office has many compliance programs already in place that identify many situations of tax underpayments, along with procedures for securing the proper tax payments. Additionally, the Comptroller’s Office already accepts tips from outsiders about perceived noncompliance – with no whistleblower fees being paid – and the agency investigates those tips. We understand that few of them result in identifying unpaid tax amounts. We are concerned that adding the possibility of a monetary award will lead to more “reports,” investigations that the Comptroller will need to perform, and taxpayers will have to defend, with the possible similar outcome of little or no additional tax revenue for Maryland after spending the investigatory time and costs.

In summary, the MACPA is fully supportive of Maryland collecting all tax dollars that are legally owed. We suggest that further review is warranted of the projected potential revenue enhancements, implementation costs and staff requirements, and statutory details of a whistleblower program. The MACPA would be pleased to assist in that regard. In the meantime, we recommend an unfavorable report on SB 916.

Sincerely,

MACPA State and Local Tax Advisory Group

cc: Nick Manis, Manis Canning & Associates