



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

Testimony in Support of HB 804
Taxes – Whistleblower Reward Program and Time Period for Tax Collection

This bill would create a financial reward program for whistleblowers who help the state detect tax fraud.

Whistleblowers can uncover and report knowing violations of tax laws. By providing this information to the Comptroller's Office, the state can investigate and pursue cases of underpaid taxes, thereby returning additional monies to the state's coffers.

Although the vast majority of taxpayers comply with state tax laws, those who avoid paying their fair share of taxes starve the state of needed revenues and ultimately shift the tax burden onto those who play by the rules.

Whistleblowers who provide information to the state would be eligible to receive an amount of at least 15%, but not exceeding 30%, of the taxes, penalties and interest collected through the enforcement action.

Proven Success at the Federal Level

This bill is modeled on the IRS Whistleblower Office, which has successfully recouped billions of dollars in unpaid taxes for the federal government. In FY 2019 alone, the IRS collected over \$600 million in proceeds from administrative actions, criminal fines, and civil forfeitures resulting from cases brought forward by whistleblowers.¹

Many of these tax code violations would not have been caught without the involvement of whistleblowers. Last year, the U.S. Treasury's Inspector General for Tax Administration found in its review of the program that audits and exams based on whistleblower information were nearly twice as productive as normal IRS examinations.²

¹ Fiscal Year 2019 Annual Report to Congress. Publication 5241 (Rev. 2-2020) Catalog Number 68435Z.

² National Whistleblower Center Letter to the U.S. Senate Finance Committee, July 7, 2020.

Cases brought by whistleblowers are also more likely to result in penalties being assessed as compared to other tax fraud cases.

Targeting Enforcement on the Worst Actors

To prevent the Comptroller’s Office from being overwhelmed with suspected tax fraud cases to investigate, the bill is limited to whistleblowers who provide information on cases that involve large amounts of back taxes. The cases must:

- Involve an individual or married couple in Maryland’s top income tax bracket, with \$250,000 or more annual earnings; or
- Involve the highest earning businesses in the state, with gross receipts of at least \$2 million per year; only 2.1% of businesses domiciled in Maryland have receipts of \$2 million or more;³ and
- Where the sum of the tax, penalties, and interest in dispute exceed \$250,000.

Focusing on the wealthiest taxpayers is a proven compliance strategy. “High-income taxpayers have the most opportunity to engage in tax avoidance planning” and in “the past, the IRS has recognized that, because of this reality, it needed a strategy and a special emphasis on auditing high-income taxpayers.”⁴

Furthermore, IRS audit data demonstrates that high-income taxpayers owe the largest amounts of unpaid taxes and that audits of these taxpayers have the highest return on investment.

Taxpayer income	# of tax returns	# of IRS audits	Total audit yield	Yield per hour of IRS auditor’s time
\$200k-400k	4.1 million	62,159	\$439,079,280	\$605
>\$5 million	52,078	6,309	\$879,706,150	\$4,545

Maryland in Context

Currently, the Comptroller’s Office fields tips from informants who report suspected tax fraud, but it does not incentivize or readily publicize the option to report such information. Even without proactively engaging with whistleblowers, the Comptroller’s

³ Data provided by the Comptroller’s Office, January 2021

⁴ Treasury Inspector General for Tax Administration testimony to U.S. House Ways and Means Committee, May 9, 2019. https://www.treasury.gov/tigta/congress/congress_05092019.pdf

Office caught over 16,000 fraudulent returns in 2019 alone, bringing in more than \$21 million in unpaid taxes.⁵

Other Provisions Included in this Bill

- Extends the statute of limitations on collection of unpaid taxes from 7 years to 10 years to ensure that the state has sufficient time to detect tax fraud and recoup the money. This conforms with the time frame used by the IRS and most of our neighboring jurisdictions, including Pennsylvania, Delaware, West Virginia, and the District of Columbia.
- Grants whistleblowers a presumption of anonymity and right to confidentiality, as is the case with whistleblower suits brought under Maryland's False Claims Act.
- Requires the Comptroller to annually report metrics about the program as well as highlight notable tax avoidance schemes identified through the program so that the General Assembly can make appropriate changes in state tax laws.

⁵ Compliance information provided by Comptroller staff.