

# **SB679 - FAV - Disclosure of Tax Information Tax Co**

Uploaded by: Brooke Lierman

Position: FAV

**Disclosure of Tax Information – Tax Compliance Activity and Binding Data Use Agreements**

SB679

To help close the Tax Gap – the multi-billion-dollar difference between what the State of Maryland is owed in taxes, and what is paid – the Comptroller’s Office needs to partner with other public and private entities with expertise in complex tax compliance. While these relationships will help level the playing field and balance the state’s budget, it is critical to ensure adequate protections are in place for confidential tax data.

**What this bill does:** This bill has three key components:

1. 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.
2. Requires a signed data use agreement for any and all data sharing relationships that involve taxpayer information.
3. Reinforces that individuals who come in contact with the disclosed tax data are not permitted to disclose unless expressly authorized in a binding data use agreement.

**Why this bill is important:** This bill is an important tool for the Office of the Comptroller to be proactive in developing partnerships that will allow the state to close the tax gap. Data partnerships will allow employees of the Comptroller’s Office to leverage outside partnerships to help them be more efficient and effective in their compliance roles.

Further, this bill significantly strengthens Maryland’s protections for confidential tax data by requiring binding data use agreements, and spelling out that unauthorized disclosure -even by people or entities that have a legal right to access the data - is not permitted and punishable under law. This will help the Comptroller’s Office do more to protect the vital data that belongs to Maryland’s taxpayers.



Brooke E. Lierman  
Comptroller of Maryland



**SB 679\_MD Center on Economic Policy\_FAV.pdf**

Uploaded by: Kali Schumitz

Position: FAV

# Data Sharing is an Important Step Towards More Accountability for Tax Underpayments

## Position Statement in Support of Senate Bill 679

*Given before the Senate Budget and Taxation Committee*

When businesses and individuals fail to accurately report their income and pay the taxes that they owe, whether intentionally or unintentionally, it reduces the state's ability to pay for vital public services and ultimately harms our communities. **The Maryland Center on Economic Policy supports Senate Bill 679** because it lays the foundation for stronger auditing practices that can help recoup some of the billions of dollars the state likely loses in underreporting each year.

Nationally, the IRS loses nearly \$400 billion per year to underreporting, according to analysis from the Government Accountability Office<sup>1</sup>. **If Maryland has a similar underpayment rate, that would equate to \$3 billion per year in unpaid taxes.** The growing prevalence of large, complex partnership business structures and use of tax shelters, along with the complexity of performing audits on such businesses are among the contributors to the national tax gap, GAO analysis finds. Self-employment income, including newer forms of income from things like short-term rental properties, content creation, and NFT trading, can also be particularly difficult to track and audit.

SB 679 is a necessary step toward strengthening the ability of the Comptroller's Office to address underreporting and to perform more complex audits. It would allow the office to enter into data-sharing agreements with third parties. It also creates the process necessary to protect sensitive taxpayer information as the office is working with these third parties.

With the state facing significant and growing structural deficits in the years to come, recovering even a fraction of underpaid taxes could go a long way in addressing our budget needs. Addressing underreporting will also make our tax system more fair, as it increases the chances that people trying to cheat the system and avoid paying what they owe in taxes will be held accountable.

**For these reasons, the Maryland Center on Economic Policy respectfully requests that the Budget and Taxation Committee make a favorable report on Senate Bill 679.**

## Equity Impact Analysis: Senate Bill 679

### *Bill summary*

Senate Bill 679 allows the Office of the Comptroller to enter into data-sharing agreements with certain outside parties and creates strong policies to protect taxpayer data that could be shared through these partnerships.

### *Background*

Nationally, the IRS loses nearly \$400 billion per year to underreporting, according to analysis from the Government Accountability Office. If Maryland has a similar underpayment rate, that would equate to \$3 billion per year in unpaid taxes. The growing prevalence of large, complex partnership business structures and use of tax shelters, along with the complexity of performing audits on such business are among the contributors to the national tax gap, GAO analysis finds. Self-employment income, including newer forms of income from things like short-term rental properties, content creation, and NFT trading, can also be particularly difficult to track and audit.

### *Equity Implications*

Working families and low-income taxpayers are currently more likely to be audited as is easier for the Comptroller's Office to use automated systems to detect and correct underreporting of standard wage income that is reported on a W-2 or flag individuals who incorrectly claim the Earned Income Tax Credit. Senate Bill 679 is an important part of the process that will level the playing field by strengthening the office's ability to perform more complex audits and catch those who are intentionally cheating the system.

Further, reducing the gap of uncollected taxes would generate revenue that could be invested into essential services including education, health care, and transportation. These services are especially vital for Marylanders who continue to suffer from the discriminatory policy that remains today. Investing in these basic services strengthens our economy and can dismantle the economic barriers that too often hold back Marylanders of color.

### *Impact*

Senate Bill 679 would likely **improve racial and economic equity** in Maryland.

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<sup>i</sup> U.S. Government Accountability Office, Tax Gap, <https://www.gao.gov/tax-gap>

# **SB 679 - Tax Info Disclosure - Fair Funding Coalit**

Uploaded by: Lisa Kligenmaier

Position: FAV

# MARYLAND FAIR FUNDING COALITION

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## Testimony in Support of SB 679

### Disclosure of Tax Information – Tax Compliance Activity and Binding Data Use Agreements

Senate Budget and Taxation Committee

February 14, 2024

*The Maryland Fair Funding Coalition is a coalition of more than 30 organizations across the state that are committed to creating a fair and equitable tax system that supports the public services families and communities need to thrive.*

**The Maryland Fair Funding Coalition supports SB 679**, which allows the Comptroller’s office to enter into data sharing agreements to assist the compliance division with complex audit activities so that the state can close the gap between taxes that are owed and taxes that are paid. SB 679 also puts protections in place to safeguard confidential tax information.

**SB 679 strives to help Maryland close our tax gap, ultimately making our tax system and compliance thereof fairer and more equitable.** The Fair Funding Coalition supports proposals – like SB 679 - that are focused on eliminating loopholes, breaks, and gaps that benefit special interests, as well as fixing our upside-down tax code, which allows the wealthiest individuals to pay the smallest share of their income in state and local taxes. As taxes have become increasingly complicated, allowing the state to enter into data-sharing arrangements with partner organizations that have expertise in tax compliance will level the playing field so that all Marylanders are paying their fair share.

**By bringing in additional revenue, SB 679 will help Maryland meet its budgetary obligations at an especially crucial time given the State is facing large structural deficits in the coming years.** When individuals and businesses fail to accurately pay the taxes they owe – intentionally or accidentally – it reduces the state’s ability to fund all the vital services that Marylanders use and rely on. If the Comptroller’s office can recover more of the taxes that are owed to the state, Maryland can meet its fiscal obligations and fund the investments necessary to support thriving families and communities.

**For these reasons, the Fair Funding Coalition urges a favorable report on Senate Bill 679.**

Submitted by: Lisa Klingenmaier, Campaign Manager of the Fair Funding Coalition.

[lisa@marylandrise.org](mailto:lisa@marylandrise.org)

# **SB 679\_MDCC\_Disclosure of Tax Information - Tax Co**

Uploaded by: Hannah Allen

Position: FWA





**LEGISLATIVE POSITION:**

**Favorable with Amendments**

**Senate Bill 679 - Disclosure of Tax Information - Tax Compliance Activity and Binding Data Use Agreements**

**Senate Budget and Taxation Committee**

**Wednesday, February 14, 2024**

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 6,800 members and federated partners working to develop and promote strong public policy that ensures sustained economic recovery and growth for Maryland businesses, employees, and families.

Senate Bill 679 authorizes the disclosure of taxpayer information by the Comptroller to certain third parties and governmental entities if those entities enter a written, binding data use agreement.

The Maryland Chamber is happy to support SB 679 as this legislation will allow the Comptroller's office to engage outside entities to assist in their audit work while ensuring that taxpayer data remains secure and free of fraud. The Comptroller's team has worked alongside the Maryland Chamber and other members of the business community to further strengthen this legislation through friendly amendments adding definitions, referencing federal Internal Revenue Code for clarity, and specifying that all third-party auditors must be under the responsibility and operate under the direction of the Comptroller.

There are two additional amendments we would ask the committee to consider to further strengthen the Comptroller's ability to complete its audit work in an effective and transparent manner. First, we suggest a new section, 13-203(G), that specifies third-party entities should not be paid on a contingency basis. This new language will prevent the nightmare scenarios which have played out in other states where third parties have produced inaccurate audits to receive greater compensation. We suggest the below language:

**(G) A PERSON OR GOVERNMENTAL ENTITY TO WHOM TAX INFORMATION IS DISCLOSED IN ACCORDANCE WITH SUBSECTION (C)(16) OF THIS SECTION:**

**(1) SHALL NOT BE COMPENSATED ON A CONTINGENCY FEE OR SIMILAR BASIS DETERMINED WITH REGARD TO THE AMOUNT OF A PROPOSED TAX ASSESSMENT OR THE COLLECTION OF A TAX AND/OR ADDITIONS TO TAX.**

Second, we would strongly urge the Committee to consider increasing the penalties in the instance of a violation. Currently, a violation subjects that person to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months. The Maryland Chamber suggests increasing the fine to \$5,000 and making it on a *per disclosure* basis. Increased financial penalties will help deter bad actors from releasing taxpayers' personal data.

For these reasons, the Maryland Chamber of Commerce respectfully submits *favorable support of SB 679 with our two suggested amendments*.



**SB 679 \_ MACPA Written Testimony \_ FWA for 021424.**

Uploaded by: Rebekah Brown

Position: FWA



**SB 679 - Disclosure of Tax Information - Tax Compliance Activity  
and Binding Data Use Agreements  
Senate Budget and Taxation Committee  
February 14, 2024  
Legislative Position: Favorable with Amendments**

The Maryland Association of Certified Public Accountants (MACPA) is a membership organization with more than 8,000 CPA members serving thousands of individuals and businesses of all sizes throughout the state.

CPAs want to be able to support SB679. Currently, our position is "Favorable with Amendments" on the bill, which would allow the Comptroller to share privileged tax information with third parties assisting the State in tax compliance activity. We have met with the Comptroller's Office about our suggested amendments and are continuing those discussions.

We understand the reasons for the bill: the Comptroller's goal of closing the "tax gap" by finding the scofflaws who are not paying their legally owed taxes and providing additional resources to support the currently small audit staff in those audit and compliance functions. CPAs represent good taxpaying citizens and businesses, and we want all to pay the proper amounts under the law.

While we support the bill's goals, CPAs do continue to have concerns about the First Reader version and also about the several amendments the agency recently presented. We suggest continued consideration of amendments to address several matters:

- Protection of taxpayers' private information demands that the recipients of that information be required to enter into a binding written agreement with the Comptroller's Office that describes in detail such terms as the permitted uses of the taxpayer information, that the recipients' activities will always be under the direction and control of the Comptroller's Office, the penalties for misuse of the information, and other terms. We understand that the "may require" versus "shall require" such a binding written agreement is under further review. We strongly believe that "shall require" is of paramount importance.
- Clarity is needed regarding to whom the Comptroller can provide taxpayers' private information. The amendment that lists only "government entities" and "tax compliance organizations" (such as the Multistate Tax Commission and similar) does not seem to include the "data" organizations that we understand to be one of the target categories of recipients. It also leaves open the question, and our concern listed below, as to whether any of those recipients can hire third party auditors who would not be under the control of Maryland's Comptroller and who could be paid on a contingency fee basis.

- Any third parties who will be involved in tax audit activities, whether hired by the Maryland Comptroller's Office or by other entities with whom Maryland has agreements, should not be paid on a contingency fee basis. Many CPAs have had very bad experiences where other states have given private taxpayer information to third-party auditors, especially those that are paid on a contingent basis, i.e., their fee is based on the amount of the proposed assessment they issue. Such auditors have an incentive to quickly issue a large proposed assessment that ends up being incorrect but only after the taxpayer, its CPA, and the state hearings officers spend many, many hours and dollars reviewing and correcting the assessment. Our request for this amendment is restricted to audit activities of "taxes" that are covered by the Tax-General Article, as the only Article to which all of SB679 relates, so as not to upend the current arrangements that Maryland has with third parties who audit for Unclaimed Property remittances that are covered by the Commercial Law Article.
- All recipients of tax information should be "subject to the direction and supervision of the Comptroller at all times." We thank the Comptroller for including this in the most recent submitted amendments and ask that it remain in the bill.
- We suggest adding to the statute the specific reference to the Internal Revenue Code section that deals with confidentiality and nondisclosure rules, and that those rules are incorporated into the written agreement between the Comptroller's Office and the person receiving the private tax information. Saying only "consistent with state and federal requirements" is not helpful to the reader of our law – what "federal requirements" do we mean? Citing Internal Revenue Code section 6103 and its components informs the reader of the Legislature's intent and seriousness of the parameters that are to be employed.
- We believe it important that Maryland increase the penalty applied to any person who improperly discloses tax information. It is our view that the current \$1,000 penalty in Maryland law is not a sufficient disincentive. We recommend that in order to have penalties that might make bad actors think twice about improper actions, the penalties in current Tax-General Article section 13-1018 should be amended to reflect the same penalties that are contained in the Internal Revenue Code section 7213. Maryland draws much of its tax policies from the IRC; we suggest that these penalties should be the same too.

We appreciate the Comptroller's team's time that they are spending with us and their willingness to work with us on amendments. We look forward to an amended bill that CPAs can fully support.

For more information about this position, please contact [marybeth@macpa.org](mailto:marybeth@macpa.org) or Nick Manis [nmanis@maniscanning.com](mailto:nmanis@maniscanning.com).

# **02142024 COST Testimony Concerns with Maryland S.B**

Uploaded by: Patrick Reynolds

Position: UNF



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February 14, 2024

Senator Guy Guzzone, Chair  
Senator Jim Rosapepe, Vice Chair  
Budget and Taxation Committee  
Maryland General Assembly

**Re: Concerns with Senate Bill 679, Disclosure of Tax Information – Tax Compliance Activity and Binding Data Use Agreements**

Dear Chair Guzzone, Vice Chair Rosapepe, and Members of the Committee:

I am writing on behalf of the Council On State Taxation (“COST”) to express concerns with certain provisions of Senate Bill 679 (“S.B. 679”) and respectfully suggest some modifications. First, we believe the bill should provide more restrictions as to the parties allowed to receive confidential taxpayer information; confidentiality of taxpayer information is a bedrock tax policy principle that should be maintained to the greatest extent possible. Next, if any confidential information is shared, the protocols established by information sharing agreements with the IRS and other taxing authorities should also apply. Finally, any party receiving confidential taxpayer information should not be paid on a contingent-fee basis.

**About COST**

COST is a nonprofit trade association consisting of over 500 multistate corporations engaged in interstate and international business. COST’s objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multijurisdictional business entities. Many of COST’s members conduct a significant amount of business in Maryland.

**Confidentiality of Taxpayer Information**

The COST Board of Directors has adopted a formal policy position regarding confidentiality of taxpayer information. That position is:

*Taxpayers have a justifiable expectation of privacy. State departments of revenue audit business taxpayers on a regular basis to ensure that all relevant tax laws are appropriately enforced; releasing specific business tax returns or information from those returns to the public would serve no policy purpose.<sup>1</sup>*

<sup>1</sup> COST’s policy statement is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/confidentialityoftaxpayerinformation.pdf>.

As currently drafted, the bill would allow taxpayer information to be disclosed to “a person or governmental entity for the purpose of assisting the comptroller in tax compliance activity.” If the intent of the bill is to allow the Comptroller to share information with the IRS and other state taxing authorities, we respectfully suggest the bill should restrict the disclosure to those specific parties. We further suggest that the bill specify that all protocols outlined in exchange-of-information agreements with the IRS and other state taxing authorities be followed.

### **Contingent Fee Arrangements Undermine Equitable Tax Administration**

The COST Board of Directors has adopted a formal policy statement opposing government utilization of contingent fee arrangements in tax audits and appeals. The policy statement provides:

*When States and localities contract with third parties for tax audits, audit selection using data analytics, and appeals services, several concerns arise, including: 1) Lack of Governmental transparency in their administration of the law, including disclosure of amounts paid to third parties. 2) Risk of divulging taxpayer confidential information. Third parties should be subject to the same penalties as government employees if handling taxpayer confidential information. 3) Creating incentives to distort the tax system for private gain. Contingent-fee arrangements jeopardize the neutral and objective weighing of the public’s interest, and instead create a direct economic interest for the third party in the outcome of the services rendered.<sup>2</sup>*

If the intent of the bill is to allow disclosure of information beyond the IRS and other state taxing authorities, we believe that any party to whom tax information is disclosed, 1) should be subject to the same penalties as employees of the Comptroller’s office, and 2) should not be paid on a contingent-fee basis.

### **Conclusion**

For the reasons outlined above, we recommend that you do not adopt S.B. 679 as currently drafted.

Respectfully,



Patrick J. Reynolds

cc: COST Board of Directors  
Douglas L. Lindholm, COST President & Executive Director

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<sup>2</sup> COST’s policy statement is available at: <https://www.cost.org/globalassets/cost/state-tax-resources-pdf-pages/cost-policy-positions/government-utilization-of-third-parties-in-tax-audits-and-appeals---final.pdf>.