



**HB 454 - Disclosure of Tax Information - Tax Compliance Activity
and Binding Data Use Agreements
House Ways and Means Committee
February 8, 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 HB454. 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.

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 address the current staff shortage (not enough auditors to go after the scofflaws). CPAs represent good taxpaying citizens and businesses, and we want others to pay the proper amounts under the law.

Yet, 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.

While we support the bill's goals, CPAs do have concerns about the First Reader version. We are in discussions with the Comptroller's Office about the wording for friendly amendments that would resolve those concerns and allow us to fully support an amended bill. Our current concerns include: 1) protection of private tax information and increased penalties for misuse of it; and 2) the requirement that the Comptroller's staff supervise and direct the activities of the persons who receive the tax information, and that the third parties cannot be paid on a contingency fee basis.

The proposed amendments would do the following few things:

- Add definitions of a few terms that are in the bill, for example, what is the tax information that is covered;

- Add specific reference to the Internal Revenue Code section that deals with confidentiality so that those rules are incorporated into the written agreement between the Comptroller's Office and the person receiving the private tax information;
- Add the provision that outside parties cannot be compensated on a contingency fee basis, and that the third parties are to be supervised by the Comptroller's staff at all times;
- Increase the penalty applied to any person who improperly discloses tax information -- it is our view that the current penalty in Maryland law is not a sufficient disincentive.

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 or Nick Manis nmanis@maniscanning.com.