

Maryland



Maryland tax information ● WILLIAM DONALD SCHAEFER ● State Comptroller

New local calculation biggest change for 1999 returns

Maryland's local income tax rates will *look* drastically different this year, thanks to legislation that simplified the local calculation. But on average, the impact on taxpayers will be about the same.

For example, the old Anne Arundel County rate of 50% of the

state tax liability is now 2.51% of taxable income. The change was made to eliminate the separate local tax calculation (necessitated by a phased-in state tax cut that doesn't flow through to the local tax) that bedeviled many taxpayers last year.

The personal exemption increases that are part of tax reduction will

now flow through the local tax calculation for simplification purposes. To offset this local revenue loss, the effective local rates increase slightly, although, on average, taxpayers' liability will not change.

The chart on page 2 lists local rates for tax years 1999 and 2000.

Comptroller's Comments

Electronic filing keeps growing

During my first income tax filing season as comptroller, I took a special interest in our electronic filing program, because it's something that's good for people, good for business, and good for the Comptroller's Office.

So I'm happy to report that Maryland's electronic filing program had a record year, passing the 300,000 returns filed mark for the first time by the end of August. That's 35 percent more than were filed at the same time last year!

Most of those returns – more than 278,000 – were filed through professional tax preparers, which makes them a major part of our success. Our first year of online filing was also a hit, with more than 21,600 returns filed by personal computer. This year, we'll be working with commercial software companies to help them promote their free online filing for low and moderate income taxpayers.

A lot of people who filed electronically this year, more than 78,000, also used direct deposit for their Maryland refund. Why should people choose direct deposit? Because it's the fastest way to get your money into your bank account. Last year, it usually took only 48 hours for electronic filers to have their Maryland refunds deposited directly into their

bank accounts. It's also the safest and easiest way to get your refund - no lost checks, no trips to the bank.

All kinds of people benefit from electronic filing. I do know that senior citizens definitely take advantage of technology. In fact, last year 15,474 senior citizens over 65 filed electronically, proving that you're never too old to learn new technology!

As comptroller, I want to make technology more accessible for everyone, and I look forward to the upcoming filing season as we work toward another record year for electronic filing.

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William Donald Schaefer
William Donald Schaefer
Comptroller of Maryland

Enforcement activities

Field Enforcement agents make cigarette smuggling busts

From July 1, 1999, when Maryland cigarette tax increased from 36 cents to 66 cents per pack, through the end of September, agents of the comptroller's Field Enforcement Division have made eight arrests for cigarette smuggling.

That surpasses the total of five arrests for all of the previous fiscal year. The most recent arrest came on September 30, when agents stopped a Virginia man in Montgomery County for unlawful transportation and possession of 3,940 packs of cigarettes not bearing Maryland tax stamps.

Since the tax was increased on July 1, agents have confiscated 39,264 packs of untaxed cigarettes.

The largest bust came on September 20, when a New York City Man was arrested for trying to smuggle 9,410

packs. "Eventually cigarette smugglers are going to get the message: yo can't circumvent Maryland tax law," said Comptroller William Donald Schaefer.

The maximum penalty is a \$1,000 fine and/or one year imprisonment on the possession charge and a \$6,750 fine and/or one year imprisonment on the transportation charge.

Other violations

- The R. J. Reynolds Tobacco Company of Winston-Salem, North Carolina, was fined \$5,000 for violating the Maryland Cigarette Sales Below Cost Act and provisions regarding cigarette buydowns.
- Century Distributors of Rockville, Maryland, was fined \$2,000 for violating the Maryland Cigarette Sales Below Cost Act and regulations involving the wholesaler's cost of doing business.
- Joseph E. Seagram & Sons Inc. of New York, New York, was fined \$1,500 for failure to properly file a new item according to the Price Filing Regulation.
- Hanmi Inc. of Columbia, Maryland, was fined \$1,500 for violating the price filing regulation and providing something of value to a retail licensee.
- Heath Communications Inc. t/a Training For Intervention Procedures (TIPS) of Arlington, Virginia, was fined \$1,000 for allowing instructors without the proper permit to provide TIPS training and operate as agents of TIPS.
- L. J. Zucco of Vineland, New Jersey, was fined \$1,000 for violating the Maryland Cigarette Sales Below Cost Act.
- Pacific Company Inc. of Rockville, Maryland, was fined \$800 for violation of the price filing regulation and providing something of value to a retail licensee.
- Old Dominion Brewing Co. LLC of Baltimore, Maryland, was fined \$750 for the improper receipt and sale of malt beverage products.
- Bond Distributing Company of Baltimore was fined \$500 for following improper procedures in renting a refrigerated vehicle to a retail licensee.

New local tax calculations

COUNTY	1999 RATE	2000 RATE
ALLEGANY	2.83	2.82
ANNE ARUNDEL	2.51	2.50
BALTIMORE	2.77	2.76
BALTIMORE CITY	2.50	2.48
CALVERT	2.52	2.52
CAROLINE **	3.04	2.77
CARROLL	2.77	2.77
CECIL	2.52	2.51
CHARLES **	2.52	2.81
DORCHESTER	2.52	2.51
FREDERICK	2.52	2.51
GARRETT	2.54	2.53
HARFORD	2.52	2.51
HOWARD	2.41	2.41
KENT	2.52	2.51
MONTGOMERY **	3.01	2.90
PRINCE GEORGE'S	3.01	3.00
QUEEN ANNE'S	2.77	2.76
ST. MARY'S	2.92	2.92
SOMERSET	3.03	3.01
TALBOT	1.76	1.75
WASHINGTON	2.52	2.51
WICOMICO	3.02	3.01
WORCESTER **	1.01	1.25

**Counties that passed resolutions changing local rates to other than HB1149.

Maryland expands refund offsets

Connecticut agreement

By signing a reciprocal agreement with the state of Connecticut, Comptroller William Donald Schaefer has expanded Maryland's efforts to collect past due income taxes from people who have left the state.

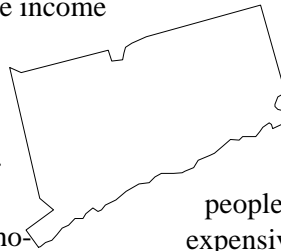
Under the agreement, each state will intercept income tax refunds of individuals who owe delinquent income tax to either state. The offset will start with returns filed in 2000.

The Maryland General Assembly first authorized reciprocal refund intercept agreements at its 1998 session. Maryland and Delaware entered into the first-in-

the-nation reciprocal agreement beginning with the 1999 filing season.

Through September 9, 1999, Delaware offset \$168,075 from 744 individuals for unpaid Maryland income taxes, while Maryland offset \$176,446 from 678 Delaware tax delinquents.

"Because collecting past due taxes from people outside Maryland is more time-consuming and expensive than collecting from Maryland residents, the offset program saves the state both time and money," said Comptroller Schaefer.



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Classes highlight changes, updates

Federal-state tax institutes

Who? Tax professionals interested in getting a jump on the income tax filing season as well as earning eight continuing Professional Education credit hours from the Maryland Board of Public Accountancy.

What? Why? The Maryland program will cover tax law changes, especially the simplified local tax calculation, as well as the latest regulations, administrative releases, and changes in Maryland forms. The \$150 registration fee includes the sessions, a valuable reference manual, a catered lunch, and a certificate of attendance.

When and where?

November 4	Salisbury	Salisbury State University
November 16	Frederick	Holiday Inn
November 23	Baltimore	Holiday Inn, Inner Harbor
December 4	College Park	Univ. of Md. College Inn & Conference Center
December 9	Rockville	Univ. of Md., Shady Grove Center

Electronic filing seminars

The Comptroller of the Treasury and the IRS sponsor these free seminars for tax preparers who offer electronic filing. The seminars, which cover the latest developments in electronic filing, are free and don't require preregistration.

For more information on electronic filing seminars, please call Luc Guinand at 410-260-7753. The seminars will be held on the following dates:

When and where?

October 7	9:00 a.m.	Baltimore Life Resource Center, Harbor Hospital
October 13	10:00 a.m.	HagerstownRm. 104, Hagerstown Center of F.S.U.
October 14	9:00 a.m.	Beltsville USDA Agricultural Research Center
October 15	10:00 a.m.	Salisbury State Multiservice Center

How? For more information, call the University of Maryland University College Center for Professional Development at 301-985-7644 or 800-444-6853 or go online at www.umuc.edu.taxinst and click on "More Information." Fax if paying by VISA or MasterCard at 301-985-7887.

The courts decide. . .

Out of state retailers held liable for collecting tax

Sales & use tax

Nexus creates use tax obligation. The Circuit Court for Anne Arundel County has ruled that an out-of-state furniture retailer and the company that delivers its furniture must collect the Maryland use tax on all goods sold and delivered to customers in Maryland (*Comptroller v. Furnitureland South, Inc. and Royal Transport, Inc.*, August 13, 1999).

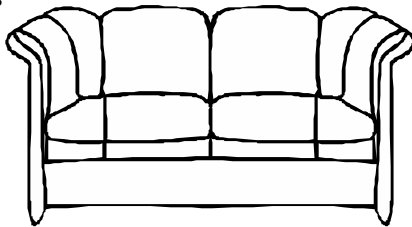
The key issue was whether or not these businesses had nexus in Maryland. Furnitureland, a North Carolina retailer, does not deliver in Maryland using its own trucks. Instead, it uses Royal Transport, Inc., a company financed by Furnitureland, as its carrier.

Royal collects more than \$200,000 in C.O.D. payments on more than 100 Furnitureland deliveries in Maryland each month in trucks with Furnitureland advertising displayed on the side.

Royal's drivers sometimes carry extra items for sale to customers on Furnitureland's behalf, install and set up furniture on site, make repairs on damaged furniture being delivered as well as furniture that was previously delivered, and facilitate returns.

Under Maryland law, the comptroller can require an out-of-state business to collect the use tax when it has an agent or representative that delivers, sells, takes orders, or provides service

and repairs in Maryland. Noting the volume of business conducted in Maryland and the extent of Royal's service to Furnitureland, Judge Ronald A. Silkworth concluded that both companies have substantial nexus in Maryland, that Royal is Furnitureland's agent and that, consequently, both companies must collect the tax.



Furnitureland and Royal, relying on the U.S. Supreme Court decision in *National Bellas Hess* (1967),

argued that Royal was a common carrier and that the "safe harbor" for out-of-state vendors whose only connection with customers in the taxing state is by common carrier or the U.S. mail applied. But Judge Silkworth rejected this argument, noting that the personalized delivery and repair service provided by Royal doesn't fit within the meaning of the term "common carrier." The defendants have appealed to the Court of Special Appeals of Maryland.

Bulk sale transfer. On May 3, 1999, the Maryland Tax Court affirmed the comptroller's assessment of sales and use tax based on the liability of a company acquired in a bulk sale.

In *Mr. Pizza II, Inc. v. Comptroller*, Mr. Pizza II had purchased the assets of Pardners, Inc. in a bulk sale transfer. Pardners, Inc. had an outstanding sales and use tax liability. No notice of the transfer was sent to the

comptroller, as required by state law. Nor did Mr. Pizza II comply with the notice requirements of the Bulk Transfer Act of the Commercial Law Article.

The Bulk Transfer Act contains a six-month limitation period, during which creditors must file some type of action to collect on a debt owed by the bulk transfer seller. The Tax-General Article does not contain such a limitation. The comptroller started its assessment after the six-month limitation period expired.

However, the court held that the six-month limitation did not prohibit the comptroller's assessment under the Tax-General Article. It found that the comptroller's assessment against the purchaser was neither an "action or levy" to attack the transfer or goods nor an "action or levy" under the Commercial Law Article. Mr. Pizza II, Inc. has appealed to the Circuit Court for Anne Arundel County.

Admissions & Amusement Tax

Dinner theaters. In a case involving a dinner theater, the Court of Special Appeals of Maryland has agreed with the comptroller that the full amount of the admissions charge is subject to the admissions and amusement tax.



Please turn to Courts on the next page



The courts decide. . .

Courts from previous page

In *Day Sky Ltd., T/A Chesapeake Music Hall v. Comptroller*, decided July 6, 1999, Chesapeake Music Hall argued that the meal component of the charge should be separated from the show component and subjected to the 5% sales tax rather than the applicable 10% admissions tax.

But in affirming decisions of the Maryland Tax Court and the Circuit Court for Anne Arundel County (see *ReveNews*, Winter 1998, Vol. 19, No. 1), the court agreed that the dinner was reasonably related to the show and that no such allocation should be permitted.

Alcoholic Beverage Regulation

Price regulations. The United States District Court for the District of Maryland has upheld several Maryland statutes and regulations governing the wholesale price for wines and liquors.

On September 1, 1999, the court rejected a challenge brought by a large Baltimore County retailer, Beltway Fine Wines and Spirits, claiming that provisions of Maryland law prohibiting price discounting by manufacturers and wholesalers and requiring monthly price schedule filings with the Comptroller's Office violated federal antitrust laws and therefore were illegal.

The suit was filed against Comptroller William Donald Schaefer and Charles W. Ehart, director of the Alcohol and Tobacco Tax Unit and sought an injunction against further enforcement of the discounting and price filing provisions.

The court rejected two jurisdictional arguments made by the state. However, it held that, notwithstanding the anti-competitive effect of the anti-discount and price filing requirements, the state's power under the Twenty-First amendment to regulate and control the sale and distribution of alcoholic beverages overrode the strong concerns of the federal antitrust laws to promote competition.

The court relied on the stated policy of the Maryland alcoholic

beverage laws to eliminate price wars and to foster and promote temperance. "It is rational and accords perfectly with common sense, the court wrote, "that liquor, being subject to abuse, is more readily abused when more readily available, and it is a matter of simple economics that, the lower the price of a commodity, the more readily available it is." Concluding that the state did have the right to enact measures designed to maintain prices at a level that promoted temperance, the court dismissed the suit.

Don't ignore compliance notices

You've just received a compliance notice from the Comptroller's Office. Should you panic?

No, but you shouldn't send it to the recycling pile either. From now through December 1999, 18,000 individuals who didn't respond to an earlier filing inquiry notice are receiving estimated assessments for tax year 1997.

The original notices went to people who filed a federal return with a Maryland address for tax year 1997 but didn't file a Maryland return for the same year.

There are many valid reasons why you or your clients might not have filed a Maryland return for the year in question, but we have no way of knowing unless you tell us, which is why the initial notices asked for clarification.

We urge people who receive the compliance assessments to contact us at 410-767-1966 in the Baltimore area or toll-free 1-800-648-9638 from elsewhere to resolve the matter before collection activity is started.

In another compliance program, 3,000 taxpayers will be receiving notices asking them to clarify income reported on their 1997 Maryland returns. Maryland law requires that the same income be reported on the Maryland return as on the federal return.

Each year, through a program known as FAGIM or Federal Adjusted Gross Income Match, we compare the amounts and send notices to taxpayers when we find discrepancies. Again, when these notices are ignored, we assess estimated tax due, so please be sure to respond to the FAGIM notices.

National Nexus Program

Voluntary disclosure can help businesses

You don't *have* a business in Maryland, so you don't *do* business here and don't have to collect state tax, right? Not necessarily.

The key to whether or not a business must collect tax in a certain state is the complex issue of nexus connection, or business presence. Some cases are clear cut. A company must collect sales tax on out-of-state catalogue purchases if they have a store in the state the customer is ordering from. Other cases are more complex. Companies can create sales tax liabilities through their use of in-state permanent or temporary employees, traveling salesmen, independent contractors, inventory, leased

property, or other property. A good example of a nexus issue involving sales tax is detailed in the Furnitureland South case in this issue of *ReveNews*. But nexus can also impact income and franchise tax liability.

To help businesses to learn about and comply with state tax obligations, the National Nexus Program of the Multistate Tax Commission (MTC) has developed a voluntary disclosure program. This innovative program allows companies to resolve potential tax liabilities at one time with member states, including Maryland. Through the program, companies may approach states anonymously to propose settle-

ment of potential tax liabilities arising from past business activities.

A detailed description of the voluntary disclosure program written by H. Beau Baez III, Counsel for the MTC National Nexus Program, is available in the online version of *ReveNews*, found on the comptroller's website at www.marylandtaxes.com.

If you have questions about the voluntary disclosure program or would like to initiate a disclosure, contact H. Beau Baez or Thomas K.E. Shimkin at the Multistate Tax Commission, 444 North Capitol Street, N.W., Suite 425, Washington D.C. 20001; telephone 202-508-3800; e-mail at nexus@mtc.gov.

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Focus on**Business tax tip #24 B Admissions & amusement tax at recreational facilities**

activities are taxable, and how to apply the tax to equipment rentals that are also subject to the sales and use tax. It also answers questions about lessons (basically, they're exempt), league fees (they're taxable), exemptions (bowling alleys and lanes are one exemption), and more.

You can download a copy of *Admissions & amusement tax at*

recreational facilities from the comptroller's website at www.marylandtaxes.com or you can call our Forms-by-Fax service at 410-974-FAXX (3299); ask for item 4024 from index 2. You can also call the Taxpayer Service Section at 410-260-7980 in central Maryland or 1-800-MD TAXES toll-free from elsewhere to receive your free copy of this tip.

Plenty of choices for this season's tax preparers

Again this year, tax preparers can choose from a number of paper-saving, space-saving ways to get current and prior year Maryland state and local income tax forms. By filling out order forms mailed at the beginning of September or using other easy options, preparers can get all the forms and instructions they'll need for the upcoming filing season. Among the options:

- **Free CD Rom.** This year's CD will feature forms and instructions for tax years 1999, 1998, 1997, and 1996. Last year, 44 percent of preparers ordering forms ordered the free CD.
- **Package X.** The reproducible Package X contains all of the 1999 forms and instructions, eliminating the need for preparers to stock up on tax booklets.
- **Internet.** Visit us at www.marylandtaxes.com for tax forms and instructions, a special section for tax preparers, an electronic filing bulletin board, and more.
- **Forms-by-Fax.** Use this fax-on-demand system to get forms and publications 24 hours a day, seven days a week by calling 410-974-FAXX (3299).

Maryland expands refund offsets

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IRS offsets

The Comptroller's Office is also taking advantage of a new federal program allowing state agencies to participate in the federal refund offset program. Beginning January 1, 2000, federal income tax refunds may be offset to satisfy delinquent state income tax debts. The Comptroller's Office started to send notices of intent to offset in September 1999.

To avoid having their federal income tax refunds offset, taxpayers must promptly pay the tax due or prove the debt is not past due or not legally enforceable. Questions about this program should be directed to the Collections Unit at 410-974-2432 in the Baltimore Metro area or 1-888-674-0016 from elsewhere.

Do you have any tax questions?

Visit our website at:
www.marylandtaxes.com

e-mail:
taxhelp@comp.state.md.us

Telephone:
410-260-7980
(Central Maryland)
1-800-MD TAXES
(from elsewhere)

Focus on**Business tax tip #24 – Admissions & amusement tax at recreational facilities**

If you operate a golf course, skating rink, or another kind of recreational or sports facility, you may be liable for a tax you might not be familiar with the admissions and amusement tax.

Our new tax tip, *Admissions & amusement tax at recreational facilities*, answers the most com-

monly asked questions about that tax and how it might affect you.

The admissions and amusement tax is a local tax on the gross receipts (that is, all the money received without deducting for any expenses) from admissions to a variety of events as well as from the use of recreational or sports facilities and the use or rental

of recreational or sports equipment. The Comptroller's Office collects the tax as a service to Maryland's municipalities and counties.

So how do you know if you have to collect this tax? Business tax tip #24 explains what is considered a recreational or sports facility, what

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Help us to enhance our services - See Page 6
