

Comptroller reminds retailers that “tax discounts” aren’t legal

A humorous but misleading newspaper ad has prompted Comptroller William Donald Schaefer to remind retailers that stating or implying they will pay the Maryland sales tax on customers’ purchases is illegal.

The headline of the ad for computers “Tax Sale. Buy one now and we’ll pay the sales tax.” The words “we’ll pay the sales tax” were crossed out with what appeared to be a handwritten notation next to them that said, “Can’t say this! Must say, ‘We’ll offer a discount equal to the sales tax rate.’”

Comptroller Schaefer said “Humor is a great way to get your message across,

but I have a problem if that message is misleading.” The comptroller reminded businesses that Section 11-402 of the Tax General Article prohibits a vendor from *directly or indirectly* advertising, stating, or otherwise holding out that any part of the sales and use tax (1) will be assumed or absorbed by the vendor; (2) will not be added to the taxable price of tangible personal property or a taxable service; or (3) will be refunded if added to the taxable price of the sale. The Comptroller’s Office contacted the vendor in question to advise it that its ad was misleading, giving potential

Please see Discounts on page 3.

Voluntary disclosure helps businesses

The autumn 1999 issue of *ReveNews* described the voluntary disclosure program developed by the Multistate Tax Commission (MTC).

Through this program, companies can resolve undisclosed tax liabilities arising from past business activities at one time with member states, including Maryland. MTC’s National Nexus Program developed voluntary disclosure to help businesses comply with state tax obligations based on nexus connection or business presence.

However, taxpayers need not go through MTC to voluntarily disclose obligations to Maryland, because the Comptroller’s Office also offers a separate,

Please turn to Disclosure on page 8.

Comptroller’s comments

Tax delinquents “Caught in the Web”

When a handful of businesses or individuals don’t pay their taxes, it just isn’t fair to the vast majority who do. In the Comptroller’s Office, we’ve taken many steps to insure that everyone pays their fair share. Now we’ve taken one more – listing some of the largest tax delinquents on our Web site for all the world to see.

In this “Caught in the Web” initiative, we’re listing the owners or legal officers of

businesses who owe some of the largest Maryland tax liabilities for sales and use tax, employer withholding, and corporate income, as well as individuals who owe delinquent personal income. In fact, this issue of *ReveNews* details court cases involving a tax delinquent who was on our first “Caught in the Web” list.

Since we issued the first notices to delinquent taxpayers this summer, warning them that they were in danger of being listed on our Web site, we have collected approximately \$400,000 from 27 taxpayers. They didn’t want to take the chance of being caught in the Web.

We have already given people on this list every opportunity to pay their taxes or set up a payment plan – opportunities they have ignored. All of the accounts are considered part of the public record,

because tax liens have been filed in circuit court for each case. None of the accounts listed are in bankruptcy and none of the taxpayers are on active payment plans to resolve their debts.

If you or your clients fall behind on their tax obligations, I urge you to call my office immediately so we can work out a solution. You’ll find several articles in this issue of *ReveNews* on resolving tax obligations. Ignoring the problem only makes it worse – and puts you in danger of being “caught in the Web.”

Inside

- Seniors get special help p. 5
- What you should know about payment plans p. 6
- Offer in Compromise p. 7



William Donald Schaefer
Comptroller of Maryland

Briefly noted

Schaefer receives certificate of excellence for financial reporting

Comptroller William Donald Schaefer has received the highest award for top performance in government financial reporting from the Government Finance Officers Association (GFOA).

The Certificate of Achievement for Excellence in Financial Reporting, which recognized the comptroller's Comprehensive Annual Financial Report (CAFR) for fiscal year 1999, is the highest form of recognition in governmental accounting and reporting and has been awarded to Maryland for 20 consecutive years. Maryland was one of the first states to receive the certificate of achievement.

The fiscal year 1999 CAFR is available on the comptroller's Web site at www.marylandtaxes.com.

Federal ID info now available from Salisbury office

The comptroller's Salisbury taxpayer service office can now provide federal tax identification numbers for new businesses registering in Maryland, saving them a step in the registration process.

The office is located at 201 Baptist Street. The Salisbury office joins the comptroller's Annapolis, Baltimore, and Wheaton offices in providing this service (see *ReveNews* Vol. 21, No. 3, Summer 2000).

In a pilot project conducted with the Internal Revenue Service, the taxpayer service offices that receive the most walk-in visitors are authorized to assign federal tax identification numbers to new business applicants when they complete the Maryland combined registration application for businesses.

Triple A rating saves millions in interest costs

The Maryland Board of Public Works, consisting of Comptroller William Donald Schaefer, Governor Parris N. Glendening, and Treasurer Richard Dixon, sold \$200,000,000 in General Obligation bonds for a low-interest bid of 5.047%

On July 19, 2000. The bonds were rated "Triple A," the best possible rating, by Moody's Investors Service, Inc., Standard & Poor's Corporation, and Fitch Investor's Service, Inc., the three major bond rating agencies. "Thanks to the Triple A rating, the state has saved almost \$158.2 million in interest costs since 1971, compared to what we would have paid with the next best Double A rating, including \$4.3 million on the July 19 sale," said Comptroller Schaefer.

Proceeds from the sale will fund a variety of capital projects, including public school construction, higher education and community college facilities, and water quality projects.

Fairgoers find funds along with fun

A visit to the Maryland State Fair was unexpectedly profitable for 349 people who visited the comptroller's unclaimed property booth there. Those folks discovered they were the rightful owners of a total of almost \$120,000.

The largest single claim was more than \$13,000. The comptroller's representatives were on hand at the fair in Timonium from August 25 through September 4 to help fairgoers find out if they were the legitimate owners of lost wages, bank accounts, insurance benefits, and stock dividends that have been unclaimed after five years.

Visitors to the comptroller's booth at the Maryland Seafood Festival, held September 8 to 10, found an additional \$24,000 in unclaimed funds. Of the 28

accounts found at the festival, the largest single claim was more than \$19,000.

"You can always check our records for free by visiting our Web site at www.marylandtaxes.com or the national data base service at www.missingmoney.com," said Comptroller Schaefer.

Two arrested for fuel fraud

On August 4, enforcement agents for the Comptroller's Office charged two West Virginia residents with fuel fraud at the Welch's Mini Mart they operated in Westernport, Maryland.

Owner Glenn Welsh and employee Chad Thomas were charged with unlawfully commingling grades of gasoline with intent to fraud by placing regular grade gasoline in the retail service station's premium grade storage tank. The violation is a misdemeanor, which carries a fine of up to \$5,000 or up to one year's imprisonment, or both. Enforcement agents also issued a stop sale order against the business. Inspectors had repeatedly found that premium grade 93 octane gasoline sold at the Mini Mart failed to meet state specifications, and, upon further investigation, an agent observed Mr. Thomas pumping regular grade 87 octane gasoline into the premium supply tank.

New tax on "other tobacco products"

Since July 1, 2000, "other tobacco products (OTP)," meaning tobacco products other than cigarettes, including cigars, pipe tobacco, chewing tobacco, and snuff, have been subject to an excise tax of 15 percent of the wholesale cost of those products.

Wholesalers and retailers who sell those products in Maryland must register with the Alcohol and Tobacco Tax Division before making any OTP sales, and the wholesalers are primarily responsible for remitting the tax. Regulation

Please see Briefly Noted on the next page.

Briefly noted

Briefly Noted from previous page.

03.02.02.08, effective May 29, 2000, sets forth the methods of collecting the tax and the reporting requirements for wholesalers, retailers, and consumers. This regulation is available on the comptroller's Web site at www.marylandtaxes.com, the Forms-by-Fax system at 410-974-3299, or by calling the Alcohol and Tobacco Tax Division at 410-260-7314.

Cigarette wholesalers' cost of doing business

Alcohol and Tobacco Tax Regulation 03.02.03.07, which provides a way for wholesalers selling cigarettes to Maryland retailers to demonstrate a cost of doing business of less than the standard five percent markup provided by the Maryland Cigarette Sales Below Cost Act, was amended effective May 29, 2000.

Under the amended regulation, the way income and expenses must be reported to prove a lesser cost of doing business was changed. However, as *ReveNews* went to press, the Circuit Court for Anne Arundel County issued a temporary injunction, requested by several wholesalers, prohibiting the implementation of the amended parts of the regulation. This regulation is available on the comptroller's Web site at www.marylandtaxes.com, the Forms-by-Fax system at 410-974-3299, or by calling the Alcohol and Tobacco Tax Division at 410-260-7314.

Exemption for sales to commercial vessels clarified

Effective July 1, 2000, the sales and use tax exemption for the sale of fuel and repair parts for a commercial fishing vessel was expanded to include **all** vessels that are regularly engaged in a commercial enterprise. Charter fishing boats, head boats, water taxis, and sightseeing boats are examples of qualifying vessels.

Vessels that are only occasionally involved in a commercial activity would not qualify for the exemption.

Hayman named director of communications

Comptroller William Donald Schaefer has appointed Louise L. Hayman as director of communications effective September 18, 2000.

Hayman, an Annapolis resident, has 28 years experience in public relations, most recently serving as executive director of the Maryland Commission for Celebration 2000, a position she continues to hold on a voluntary basis.

She has also been vice president for public relations at the Chesapeake Bay Foundation, director of public information and press secretary to the county executive of Anne Arundel County, and deputy press secretary to Mr. Schaefer when he was governor of Maryland.

Earlier, she was corporate affairs officer for USF&G Corporation and, before that, assistant vice president for public relations

at Union Trust Bank. Her first public relations position was as community education administrator for the Maryland Historical Trust. Michael D. Golden, previously acting communications director, will serve as deputy director with primary responsibility for media relations.

Dougherty elected to IFTA committee

Michael Dougherty, a manager of business tax audits for the Comptroller's Office, was elected vice-chair of the International Fuel Tax Agreement (IFTA) Audit Committee at the IFTA board of directors meeting in Edmonton, Canada, in July.

Mr. Dougherty's term starts February 1, 2001, and runs through January 31, 2003. After his term as vice-chair, he will serve as chairman of the audit committee for two years. IFTA is an agreement between the 48 contiguous states and the ten Canadian provinces allowing interstate motor carriers to file and pay taxes due to all members to a single base jurisdiction.

Comptroller Schaefer reminds retailers that "tax discounts" aren't legal

Discounts from page 1.

buyers the mistaken impression that they will not have to pay Maryland sales tax.

The sales tax is separately stated because the customer, not the seller, pays it. Stating the tax separately also insures that the Comptroller's Office can verify during audits that the business has properly collected and computed the tax. "This is a protection for businesses," said the comptroller.

In addition, the Comptroller's Office cannot administer exemptions from the tax for organizations such as churches and governments if the tax isn't separately

stated. "We love sales, too," said Comptroller Schaefer, "but not when they offer a 'sales tax discount.'"

ReveNews.....

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The courts decide...

Income tax

“Caught in the Web” delinquent

The comptroller has won two cases against one of the first taxpayers listed on the comptroller’s “Caught in the Web” program, which names tax delinquents with the largest unresolved tax liabilities on the agency’s Web site. (see *Comptroller’s Comments*, front page).

On March 3, 2000, the Court of Special Appeals upheld lower court decisions affirming assessments against R. Edwin Brown, a Maryland attorney, and his wife for unpaid income taxes for the years 1986 through 1989. The Internal Revenue Service had notified the comptroller of significant increases in the Browns’ taxable income for all four years. Based on that information, the comptroller assessed the Browns for unpaid Maryland tax.

The Browns challenged the assessments, asserting that they had not been made with the three-year statute of limitations. However, the court agreed with the comptroller that the general three-year statute of limitations didn’t apply when assessments resulted from federal adjustments. Rather, if, within 90 days following the federal adjustment, the taxpayer notifies the comptroller of the amount of the federal adjustment and of any reasons why the taxpayer disagrees with it, the comptroller must make the assessment within one year.

If the taxpayer does not file such a report, the comptroller may assess at any time. The court rejected the Browns’ argument that the IRS notification to the comptroller was sufficient to invoke the one-year statute of limitations, holding that the law was clear that the one-year period of limitations applied only if the *taxpayer* notified the comptroller of the adjustment in writing within the 90 days specified by law.

The court also rejected a second argument made by the Browns that no assessment is made by the comptroller until the “final determination” provided for in section 13-508 of the Tax-General Article. The court agreed with the comptroller that the final determination followed an assessment in those instances in which the taxpayer sought revision of the assessment.

On March 29, 2000, the Circuit Court for Montgomery County affirmed a decision of the Maryland Tax Court upholding assessments against the Browns for 1990. The legal issues were identical to those litigated in the above case, and the circuit court relied on the reported opinion in that case to hold that the comptroller’s assessment was timely. The Browns, whose refusal to pay the tax due in spite of these two decisions landed them on the “Caught in the Web” list, owe the state \$136,000 in taxes, penalty, and interest.

Determining operational functions

On August 17, 2000, in *Southland Corporation v. Comptroller* (see *ReveNews* Vol 18, No. 3, Summer 1997), the Circuit Court for Baltimore City upheld the comptroller’s right to tax an apportioned share of the capital gain that Southland realized on the sale of its interest in Citgo service stations.

This decision reversed the latest Maryland Tax Court ruling in the case, which dates to 1996. In 1996, the tax court held that the comptroller could not tax an apportioned share of that gain. The Circuit Court for Baltimore City reversed, holding that the tax court had applied an erroneous principle of law.

On May 13, 1997, the Court of Special Appeals of Maryland vacated the circuit court’s judgment and remanded the case to the tax court for specific factual determinations regarding the operational functions test set forth by the Supreme

Court of the United States in *Allied Signal v. Director of the Division of Taxation of New Jersey*. (see *ReveNews* Vol. 18, No. 3, Summer 1997).

In the latest decision, the circuit court again agreed with the comptroller about the operational functions test. Under the operational functions test, a state may tax income derived from interstate activities if the activities serve an operational function rather than merely an investment function. Since Citgo sold gasoline at Southland’s “7-Eleven” convenience stores, the comptroller contended that the significant integration of Citgo’s operations into Southland’s met the operational functions test. Southland has appealed the decision to the Court of Special Appeals.

Alcohol & tobacco tax

Winery license

On August 25, 2000, the Circuit Court for Talbot County ruled in favor of the Comptroller’s Office, which was sued by Warren and Lynne Rich, acting on behalf of Little Ashby Winery, for denying an application for a limited winery license.

At the time they applied for the limited winery license, the applicants held a retail alcoholic beverage club license. They argued that the alcoholic beverage statute prohibiting the holder of a winery (manufacturers’) license from also holding a retail license violated the Equal Protection and Due Process clauses of the United States Constitution.

Judge Horne agreed with the comptroller that the statute in all respects was constitutional and that the state had a legitimate interest in protecting the three-tier distribution system, whereby a person at one level of the alcoholic beverage industry is not entitled, without a specific statutory exemption, to hold a license at another level.

This suit followed an unsuccessful attempt by Mr. Rich to have the Maryland law amended during the 2000 General Assembly session to allow the holder of a retail club license in Talbot County to obtain a limited winery license.

Classes highlight changes, updates

Federal-state tax institutes

Tax professionals interested in getting a jump on the income tax filing season will want to attend the 26th annual Maryland Federal and State Tax Institute, sponsored by the University of Maryland University College. The state portion of the program will cover tax law changes as well as the latest regulations, administrative releases, and changes in Maryland forms.

Attendees will earn eight continuing professional education credit hours from the Maryland Board of Public Accountancy. The \$150 registration fee includes the sessions, a valuable reference manual, lunch, and a certificate of attendance.

For information on registering, call 301-985-7650 or toll-free at 877-982-9876, or visit the Tax Institute Web site at www.umuc.edu/taxinst.

Institute schedule

November 21

Linthicum
Maritime Institute of
Technology Training and
Conference Center

December 9

Adelphi
University of Maryland
University College
Inn & Conference Center

Free electronic filing seminars

The Comptroller of Maryland, the Internal Revenue Service, the District of Columbia Office of Tax Revenue, and the Delaware Division of Revenue are sponsoring six free electronic filing seminars designed to educate both new and veteran e-file practitioners.

The IRS will provide a review of the 2000 e-file season, an overview of 2001 initiatives, changes in rules and regulations, and marketing information. State representatives will also provide updates.

Representatives from the IRS and Maryland will be available at every location, while representatives from Delaware will be available at the Delaware and Salisbury locations, and representatives from the District of Columbia will be available at the Baltimore, Hagerstown, and Beltsville locations. While the seminars are free, lunch is not provided. Although pre-registration is not required, please call the contact numbers listed below to ensure seating at the session of your choice.

October 16, 2000

9:30 A.M. -3:30 P.M.
Hagerstown Center of
Frostburg State University
Community Room
Hagerstown, MD
Contact: Kevin Hatton
410-962-6965
410-962-0823 fax
Kevin.Hatton@irs.gov

October 23, 2000

9:30 A.M. -3:30 P.M.
USDA Agricultural Research
Center
Beltsville, MD
Contact: Sonja Peterson
202-442-6461
202-442-6330 fax
sonjap@otrta.dc.gov

October 20, 2000

9:30 A.M. -3:30 P.M.
Salisbury State University
Salisbury, MD
Contact: Jeane Wires
410-260-7617
410-974-3456 fax
jwires@comp.state.md.us

November 18, 2000

9:30 A.M. -3:30 P.M.
Life Resource Center/Harbor
Hospital
Baltimore, MD
Contact: Kevin Hatton
410-962-6965
410-962-0823 fax
Kevin.Hatton@irs.gov

Seniors get special help, thanks to volunteers

Beginning in February, older taxpayers will flock to local senior centers for one of their most popular seasonal events – the arrival of the TCE volunteers. TCE – Tax Counseling for the Elderly – is the largest tax volunteer program in Maryland. It offers free tax preparation services to low- and moderate-income taxpayers age 60 and older.

The IRS works with national sponsors in each state to administer the program. In Maryland, the American Association of Retired Persons (AARP)

is the largest sponsor. Other sponsors include the Department of Aging in Prince George's County, the National Association of Retired Federal Employees (NARFE) in Frederick County, and the Excellence Foundation, Inc., which sponsors some volunteers in Baltimore County. The Comptroller's Office works closely with IRS and TCE county coordinators to train TCE volunteers in preparation for each tax season.

While TCE volunteers do most of their tax preparation and assistance in Maryland's senior centers, they also

offer services to shut-ins, usually in senior housing complexes. Last year, the volunteers helped more than 34,500 seniors in Maryland, 5,500 in Delaware, and almost 3,000 in the District of Columbia.

TCE volunteers, primarily retirees, come from all walks of life, and the program is always looking for more volunteers. To learn more about being a TCE volunteer, call Norman Rifkin of IRS at 410-962-2402 (e-mail Norman.Rifkin@irs.gov) or call AARP at 1-888-AARPNOW.

Online sales subject to Maryland sales and use tax

Federal legislation misleading titled

The Internet Tax Freedom Act, passed by Congress in 1998, has been widely misreported to be a "moratorium" on the taxation of all Internet sales. In fact, that law does not address retail sales made over the Internet, and those sales are subject to the sales and use tax in the same way other retail sales are.

The Internet Tax Freedom Act is very limited in its scope. It simply established a three-year moratorium on Internet access fees (except in those states which had already enacted such a tax) and a three-year moratorium on "multiple and discriminatory taxes" on Internet sales. Such taxes would specifically target Internet sales while excluding the same sales made through other means. The three-year moratorium expires October 2001 but may be extended by Congress.

When businesses with a physical presence in Maryland make sales over the Internet to a Maryland address, they must

collect the same five percent sales tax they collect on sales from their retail locations. Out-of-state vendors with nexus (business presence) in Maryland must collect the use tax on Internet sales to Maryland residents. In other words, the rules are the same for Internet, mail-order, and in-person sales.

When businesses with a physical presence in Maryland make sales over the Internet to a Maryland address, they must collect the same five percent sales tax they collect on sales from their retail locations.

Finally, when a vendor doing business does not have nexus in Maryland and cannot be required to collect the tax, Maryland consumers are responsible for filing the consumer use tax return and paying the tax due. For a copy of the consumer use tax return or the tax tip, *What You Need to Know About*

Maryland's Use Tax, visit the comptroller's Web site at www.marylandtaxes.com, call our Forms-by-Fax service at 410-974-FAXX (410-974-3299), or call the Taxpayer Service Section at 410-260-7980 from central Maryland or 1-800-MDTAXES from elsewhere.

Payment plans – what you should know

The worst mistake a taxpayer with a delinquent tax liability can make is to ignore it. Tax liabilities don't go away. While the Comptroller's Office will start collection activity when taxes are overdue, it much prefers to work with taxpayers to help them meet their obligations through a payment plan.

I have an established liability for sales and withholding taxes. Can I arrange to pay the liability over time?

Yes, the Comptroller of Maryland offers payment plans on all of the taxes it collects. To qualify for a payment plan, you must be current on all returns you are required to file. Once you are in a payment plan, you must keep current with all filings *and* payments.

How long can I take to pay my tax liability?

It depends on your case. There is no set period of time for payment plans in general; a specific time period is set for each plan. Factors such as the amount you owe and your ability to pay will be considered. You may be required to furnish a financial statement as part of the process. It is to the taxpayer's advantage to pay the debt as quickly as possible, since interest continues to accrue. Payment plans do not automatically forgive penalty.

Are there any other actions related to the payment plan process?

Yes. The Comptroller's Office may file a lien in Circuit Court when payment plans are established, depending on the length of the plan.

How can I set up a payment plan with the Comptroller's Office?

If you owe business taxes, call 410-649-0633 from the Baltimore area or 1-888-614-6337 from elsewhere in Maryland. For individual tax liabilities, call 410-974-2432 from the Baltimore area or 1-888-647-0016 from elsewhere in Maryland.

What if I feel that I simply can't pay the amount I owe even over time?

You may be eligible for the comptroller's Offer in Compromise program. *See the article on page 7 for more details.*

Taxability of room cancellation charges

In response to an inquiry from the hotel/motel industry, the Comptroller's Office has clarified that hotel room cancellation charges or forfeited deposits on such rooms are subject to the sales and use tax.

While no specific statutory or regulatory provisions govern the taxability of room cancellation charges, law and regulation make it clear that sales and use taxes are generally due on any amounts withheld by the vendor for cancellation of a sale.

Section 11-403 of the Tax-General Article and COMAR 03.06.01.06A require vendors to refund to buyers a proportionate amount of sales and use tax the buyer has paid if "the purchase price is wholly or partially repaid or credited."

Because only a proportionate amount of the tax is refunded when only a portion of the purchase price is, the remaining tax, which is not refunded, must be remitted to the comptroller.

In addition, COMAR 03.06.01.06B permits a vendor to deduct the amount of any purchase price refunds from the total amount reported as tax collected. That leaves any amounts not refunded as part of the taxable sales or part of the tax collected.

For more information on the taxability of room cancellation charges, call the taxpayer service section at 410-767-1300 from the Baltimore area or 1-800-492-1751 from elsewhere in Maryland.

Offer in Compromise Tax liability resolution program

The Comptroller of Maryland's Offer in Compromise program is used to resolve tax liabilities that are at least two years old when the taxpayer is unable to pay in full and all other efforts to resolve the liability have been unsuccessful.

The program is not an appeal of the tax liability. Under the program, the Comptroller's Office looks at the taxpayer's available resources, considers those resources in light of the taxpayer's circumstances, and arrives at an equitable resolution of the liability by *considering* a reduction or abatement of the amount due.

Before taxpayers can apply to the program, their tax liability must have resulted in an assessment, and they must meet a number of other requirements. These include exhausting all other avenues of administrative appeal, being current with respect to all returns due, not being involved in an open bankruptcy proceeding, and being unlikely to be able to pay in full at any time in the foreseeable future due to financial circumstances.

When considering whether or not to accept an Offer in Compromise, the comptroller will consider doubt as to liability, insufficient resources, and economic or other hardship.

All decisions under the program are final and cannot be appealed. Taxpayers whose offers are accepted must remain current with tax filings for at least three years after the offer is accepted. If they do not, the full liability will become due immediately, and the comptroller will take all necessary action to collect.

To learn more about the program: for business taxes, call 410-649-0633 from the Baltimore area or 1-888-614-6337 from elsewhere in Maryland. For individual tax liabilities, call 410-974-2432 from the Baltimore area or 1-888-647-0016 from elsewhere in Maryland.

Backup withholding to start for vendors without valid ID information

Mandated by IRS

Beginning in January 2001, the state of Maryland will institute 31 percent federally mandated backup withholding on all state payments to vendors for whom we do not have correct name and taxpayer identification number (TIN) information.

The Comptroller's Office has already sent two notices to these vendors, urging them to provide the correct information needed to avoid backup withholding.

Internal Revenue Service (IRS) regulations require preparers of 1099 information returns – such as the Comptroller's Office – to report correct TINs and names. If the name and TIN vendors provide the state are not correct or do not agree with the name and TIN on their Federal tax returns, IRS mandates that the state withhold 31 percent of all payments to the vendor. Those payments are deposited in a non-interest bearing escrow account and transferred to IRS.

The Comptroller's Office will report the backup withholding amount to the vendor at the end of the tax year on Form 1099. The vendor must then report the amount as federal income tax withheld on their federal return. To ensure that payments are not subject to federal backup withholding, vendors check *as soon as possible* to make sure that any remittance advice they receive from the state has their correct name and TIN. The name and TIN on the federal tax return must agree with any name and TIN on any 1099 provided by the state.

If that information does not agree, or if vendors have any questions about federal backup withholding, they should contact the Federal Information Returns Desk at the Comptroller of Maryland, General Accounting Division at telephone: 410-260-7812; fax: 410-974-3979; or **e-mail: gad@comp.state.md.us**.

Voluntary disclosure helps businesses

Disclosure from page 1.

Maryland-only voluntary disclosure program that allows businesses to voluntarily report and pay past due tax liabilities.

Maryland's program, like MTC's, is confidential as well as voluntary. Taxpayers make the initial contact through a third party, usually an accountant or tax attorney, who indicates the nature of the business, why the taxpayer thinks there's a Maryland liability, and any other disclosure terms proposed by the business. The taxpayer may remain anonymous throughout the negotiation and agreement process.

The voluntary disclosure program applies only when the comptroller has not previously contacted the taxpayer about the

liability. The comptroller may negotiate interest and penalties during the process.

Once both parties execute the agreement, the business usually has 60 days to report and pay the amount due. The comptroller reserves the right to audit any amounts within the time period agreed upon during the negotiations. The agreement will be void if the taxpayer made any misrepresentations to the comptroller.

During fiscal year 2000, Maryland received almost \$2 million in income and sales tax through both programs, with the largest amount coming through the state program.

For more information on Maryland's voluntary disclosure program, contact Ron LaMartina, Compliance Programs.

"Tax Discounts" aren't legal See Page 1

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Goldstein Treasury Building
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