

ReveNews



Summer 2005 ~ Annual Tax Law Change Issue

Maryland Tax Information

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Comptroller of Maryland

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State Sets Sights on Internet Cigarette Sales

Maryland Attorney General J. Joseph Curran announced a joint public/private initiative to prevent the illegal sale of cigarettes over the Internet. Participants in the initiative include Attorneys General from across the country, the federal

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and credit card companies.

Maryland law prohibits the sale of cigarettes over the Internet to consumers in this state. Cigarettes sold on the Internet are much cheaper than cigarettes sold by

brick-and-mortar retailers because the Internet sellers falsely advertise that their cigarettes are tax-free.

In addition, while storefront retailers check photo IDs to prevent children from buying cigarettes, the vast majority of Internet sellers have age verification systems that are inadequate, often simply requiring the purchaser to click a button stating that he or she is over 18 years old.

All credit card companies have long-standing policies that prohibit the use of their cards for illegal transactions. During a meeting held in March in Washington DC, the state and federal authorities outlined the many laws that are being violated, and the companies agreed to take a variety of steps to ensure that their services are not used to facilitate these illegal transactions.

Among the many actions some of the credit card companies have taken to stop illegal online sales are: (1) adopting policies to prohibit the use of credit cards for the illegal sale of cigarettes over the Internet; and (2) agreeing to investigate and take action with respect to any Internet sellers identified by law enforcement as accepting their credit cards for illegal online cigarette sales.

Comptroller's Comments

Rainy Day Revenues...



Looks like the Comptroller's Office has been doing its job. The state's general fund has received unanticipated revenue. You probably read it in the paper. We're \$250 million above estimates so far for this fiscal year. You'd think our problems would be solved.

Unfortunately, we all know it's not that easy. Revenues come and revenues go. As much as we try to predict and try to be very conservative about it, there are forces that we do not control. Therefore, we have to keep our eye on the big picture – that is, fiscal soundness over the long run.

Why are we experiencing the current "sunny day?"

There is no firm answer, but it seems to be the result of a handful of revenue sources beating the estimates.

First, income taxes show excellent performance. It should be no surprise that the real estate boom is one of the most likely causes of this surprising surge in income taxes. Median prices of homes have increased by 82 percent in the last seven years and have likely resulted in taxable gains for the large number of sales in 2004.

Other sources contributing to the "sunny revenue day" are the closing of the Delaware holding company loophole by the Comptroller and stronger than expected growth in corporate profits. Also, the lottery's revenues are about \$4 million higher than expected for April, and estate taxes continue to boom.

However, with every "sunny day" comes a "rainy day." It's a cycle that goes on and on. So, my recommendation to those who will make the budgeting decisions: put this surplus in the Rainy Day Fund. It's tempting to spend it, especially close to an election year, but we need to be disciplined and resist the temptation. That's the big picture we must focus on – long-term economic stability.

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TAX CHANGES LEGISLATED BY THE 2005 MARYLAND GENERAL ASSEMBLY



Income Tax

HB 147 (Chapter 444) – Pass-Through Entity Tax

Increases the rate of estimated tax to be paid by a pass-through entity from 4.75 percent to 6 percent on the Maryland taxable income of its nonresident individual shareholders, partners or members. This new rate is the sum of the current highest marginal state income tax rate and the 1.25 percent lowest local tax rate. The tax will also apply to the income of nonresident corporations. Individual shareholders, partners or members or corporations may claim a credit on their Maryland income tax returns for the tax paid by a pass-through entity. The legislation exempts from the tax a pass-through entity that is itself a pass-through entity that is formed under Maryland laws or has registered with the Department of Assessments and Taxation to do business in Maryland, a real estate investment trust or a publicly-traded pass-through entity that has agreed to file an annual information return with the Comptroller that provides certain specified information. Effective for tax years beginning after December 31, 2004.

HB 147 (Chapter 444) – Qualified Production Activities

Eliminates the benefit of the recently-enacted federal deduction of income from a qualified production activity through a new addition modification on Maryland's personal and corporate income tax returns. Effective for tax years beginning after December 31, 2004.

HB 147 (Chapter 444) – Eligible Rollover Distributions – Withholding

Requires that Maryland tax be withheld from an eligible rollover distribution to a resident if the payment is subject to mandatory federal withholding. The withholding rate is 7.75 percent, but will change with any increase or decrease in the top marginal state income tax rate for individuals. Effective July 1, 2005.

HB 147 (Chapter 444) – Gambling Winnings – Withholding

Increases the rates of withholding from gambling winnings to 7.75 percent (from 7.25 percent) for residents and to 6 percent (from 4.75 percent) for nonresidents. These rates will change with any increase or decrease in either the lowest county rate or the top marginal state income tax rate for individuals. Effective July 1, 2005.

HB 147 (Chapter 444) – Refund Interception Requests – Withholding

Requires an employer who is notified that an employee is subject to a tax refund interception request to withhold from the employee's wages based on the number of exemptions allowed on the employee's prior year income tax return. Effective July 1, 2005.

HB 147 (Chapter 444) – Real Estate Sales

Increases the percentage applied to a payment received by a nonresident from the sale of real property and associated tangible personal property from 4.75 percent to 6 percent (the sum of the current highest marginal personal income tax rate and the 1.25 percent lowest local tax rate). These individuals may claim a credit on their Maryland income tax returns for the amount paid to the clerk of the circuit court or to the Department of Assessments and Taxation. Effective July 1, 2005.

HB 147 (Chapter 444) – Heritage Rehabilitation Tax Credit

Requires the Department of Housing and Community Development to charge a reasonable fee, not to exceed 1 percent of the initial credit certificate issued for the project, to certify heritage structures and rehabilitations for purposes of the tax credit. The fee will only apply to a certification for commercial rehabilitation that is awarded an initial credit certificate on or after July 1, 2005. Effective June 1, 2005, the allowable credit may exceed the credit based on an estimated expenditure amount by \$250,000 if an application for approval of a plan to rehabilitate a commercial structure was submitted before June 1, 2002.

HB 664 (Chapter 99) – Biotechnology Investment Incentive Tax Credit

Creates a new credit for up to 50 percent of the amount contributed during the tax year by an individual, corporation or Qualified Maryland Venture Capital Firm to a Qualified Maryland Biotechnology Company, subject to certain maximum amounts. A prospective investor must apply to the Department of Business and Economic Development (DBED) at least 30 days before making an investment. Within a second 30-day period, the DBED will issue an Initial Credit Certificate to the prospective investor; the investment must be made within 10 days of receipt of the certificate. In the aggregate, Initial Credit Certificates authorized for any fiscal year by the DBED cannot exceed the amount appropriated by the governor for that fiscal year to the Biotechnology Investment Tax Credit Reserve Fund and will be issued on a first-come-first-served basis. A Final Credit Certificate may be redeemed by an investor for a tax year that begins on or after December 31, 2006. Effective July 1, 2005, for tax years 2005 and later.

SB 69 (Chapter 109) – Tax Return Preparer – Filing Requirements and Penalties

Requires a tax return preparer to sign a return or claim for refund before presenting the return or claim to the taxpayer or nontaxable entity for signature. If the preparer is unavailable for signature, the return or claim must be signed by another preparer who has

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reviewed the entire preparation of the return or claim. The person who was primarily responsible for the preparation must sign the return or claim if prepared by more than one preparer. The return or claim must include the identifying number of the preparer, the preparer's employer, or both. The legislation also provides for a penalty for the failure of a preparer to sign a return or claim as required of \$50, not to exceed \$25,000 for any one preparer for documents filed during any calendar year, and provides for the same penalties for a preparer who fails to report the required identifying number(s). Effective July 1, 2005.

SB 70 (Chapter 5) – Accelerated Monthly Reporting of Withholding

Reduces, from every three months to every month, the frequency with which an employer who must file withholding tax returns on an accelerated schedule is required to file a return. Monthly returns must be filed until the Comptroller receives written notice that the employer no longer has employees or is no longer required to file the return. Withholding returns must be filed on an accelerated monthly schedule if withholding for the preceding calendar year was \$15,000 or more and the withholding for the pay period causes the total accumulated tax withheld to equal or exceed \$700. If these thresholds are met, the return must be filed and the tax paid within three business days following the payroll. Effective January 1, 2006.

SB 95 (Chapter 7) – Reduced Withholding Exemptions for Failure to File Return

Mandates that an employer who is notified by the Comptroller that an employee has not filed a required Maryland income tax return base the amount of taxes to withhold from the employee's wages on one exemption. Effective July 1, 2005.

SB 341 (Chapter 142) – Holding Companies – Exemption from Modifications

Changes the calculation of the Aggregate effective tax rate (as defined in legislation enacted in the 2004 Session), for purposes of an exemption from the new requirements, to include the effective tax rate of a tax imposed by a foreign nation that has entered into a comprehensive treaty with the U.S. government. Last year's law change requires an add-back of illegitimate transactions between related entities or requires the holding company to file and report its income to Maryland. This year's legislation affords the same benefits to certain companies that have transactions with a related member in a foreign country as the law allowed to certain companies which had similar transactions with a related member in another state. Effective July 1, 2005, for tax years beginning after December 31, 2004.

SB 794 (Chapter 175) – Arts and Entertainment Districts – Qualifications

Expands the definition of a qualified residing artist by allowing an artist to live in the county in which the arts and entertainment district is located rather than in the district itself. Specifies that the subtraction of income derived within an arts and entertainment district that may be claimed by a qualified residing artist from the publication, production or sale of an artistic work must have been written, composed or executed by the artist in the arts and entertainment district. Previously, the artistic work could have been written, composed or executed in any location. Effective June 1, 2005, for tax years beginning after December 31, 2004.

Sales and Use Tax

HB 37 (Chapter 191) – Tax-Free Back-to-School Shopping Period

Allows a temporary exemption from the sales and use tax for the sale of any item of clothing or footwear, other than accessories, that costs \$100 or less. The tax-free period will extend from August 23, 2006 through August 27, 2006. Effective July 1, 2005.

HB 147 (Chapter 444) – Sales Tax Discount

Bars a vendor from claiming a discount for a timely-filed sales and use tax return for the tax paid on purchases or use made by the vendor. Effective July 1, 2005.

SB 423 (Chapter 307) – Modular Buildings

Requires that the sales and use tax be applied to 60 percent of the taxable price of a modular building, which is the estimated percentage of taxable building materials used in a conventional home. Effective July 1, 2005.

Estates and Trusts

HB 190 (Chapter 34) – Notice to Apparent Owner

Alters the time by which the Maryland Department of Health and Mental Hygiene may file a claim against the estate of a deceased Maryland Medical Assistance Program. A claim must be presented by the earlier of 6 months after publication of the notice of the first appointment of the personal representative (was 6 months after the first appointment) and 2 months after the personal representative mails or delivers notification to the DHMH that the claim will be barred unless presented within 2 months of receipt of the notice. Effective July 1, 2005.

Abandoned Property

HB 190 (Chapter 34) – Notice to Apparent Owner

Requires the holder to send written notice to the apparent owner of presumed abandoned property only if the property is valued at \$100 or more. Effective July 1, 2005.

HB 206 (Chapter 36) – Publication of Notice

Increases, from 180 to 365, the number of days after receipt of a report from the holder of property presumed abandoned that the Comptroller must publish a notice in a general circulation newspaper either in the county in which

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the last known address of the property's owner is located or, if this address not available or is out of state, in the county in which the property holder's principal place of business is located. Effective July 1, 2005.

Admissions and Amusements Tax

SB 794 (Chapter 175) – Arts and Entertainment Districts – Qualifications

Expands the definition of a qualified residing artist by including artists who live in the county in which the arts and entertainment district is located rather than only those who live in the district itself. Under current law, a county or municipal corporation may exempt admission or amusement tax gross receipts collected by an arts and entertainment enterprise or a qualifying residing artist in an arts and entertainment district. Effective July 1, 2005, for tax years beginning after December 31, 2004.

Other Changes

HB 147 (Chapter 444) – Insurance License – Tax Clearance

Requires that all taxes administered by the Comptroller and unemployment insurance contributions owed by an applicant are paid, or an approved payment arrangement is in place, before a license may be renewed. Effective July 1, 2005.

HB 147 (Chapter 444) – Refund and Vendor Payment Intercepts

Allows the Comptroller to withhold from any refund or vendor payment any amount of tax or other liability that the individual or business owes to a local government. The local government must have a reciprocal agreement to withhold and pay to the state amounts owed to the state from their vendor payments. Effective July 1, 2005.

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SB 172 (Chapter 287) – Child Support Arrearages

Requires the Comptroller to withhold from a vendor payment any amount in arrears under a child support agreement that exceeds \$150 if the Child Support Enforcement Administration provides in the case certain services under the Social Security Act. The legislation also provides certain investigative and appeal rights to the obligor. Effective October 1, 2005.

Comptroller of Maryland

Phone Numbers for Tax Professionals

Tax Pros Help Line	410-260-7424
Electronic Filing Problems	410-260-7753
Opening a New Business	410-767-1313 or 800-492-1751
Filing Extensions	410-260-7829 or 800-260-3664
Telefiling "Zero" Returns	410-260-7225
Business Tax Payments	410-260-7601

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