



2021

Maryland

Tax and Legislative

Update

Peter Franchot
Comptroller of Maryland

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Revenue Administration Division

Director's Office

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Debora A. Gorman , Deputy Director	dgorman@marylandtaxes.gov	410-260-7451
Vacant , Assistant Director		
Crystal Slakes , Assistant Director	cslakes@marylandtaxes.gov	410-260-6621
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Legal

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Payment Processing

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Processing Control

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Project Management

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Returns Processing

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Revenue Accounting

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Special Functions/Administration

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Special Projects (QRDT)

Yulia Poberesky, Manager	ypoberesky@marylandtaxes.gov	410-260-7775
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Taxpayer Accounting

Vacant, Manager

For Information About	Contact	Local Number	Toll-Free Number
Taxpayer Information	Taxpayer Service	410-260-7980	800-638-2937
Business Taxpayer Assistance	Taxpayer Service	410-260-7980	800-638-2937
Tax Practitioner Hotline		410-260-7424	
Automated Refund Inquiry		410-260-7701	800-218-8160
Telefile Zero Tax Due Businesses		410-260-7225	
Telefile Individual Extensions		410-260-7829	
Tax Forms	Central Files	410-260-7951	
Electronic Filing Help	Electronic Filing	410-260-7753	

Taxpayer Services Division

TAX INFORMATION AND ASSISTANCE:

Visit our web site at www.marylandtaxes.gov or call 1-800-638-2937 or from Central Maryland 410-260-7980

WALK IN SERVICE

Free, in-person tax assistance is provided at the taxpayer service offices listed below. Please bring a completed copy of your federal return and all W-2 statements. Offices are open Monday - Friday, 8:30 a.m. - 4:30 p.m. except for State Holidays.

SPECIAL ASSISTANCE

Hearing impaired individuals may call:

Maryland Relay Service (MRS) 711
Larger format tax forms 410-260-7951

ADA accommodations for Walk-in Service:

from Central Maryland 410-260-7980
from elsewhere 800-638-2937

TELEPHONE SERVICE

Telephone service is available 8:30am until 4:30pm, Monday through Friday. The Comptroller of Maryland offers extended hours for telephone assistance from February 1 to April 15, 2022. During this period, telephone assistance is available from 8:30am until 7:00pm, Monday through Friday except for State Holidays.

EMAIL SERVICE

Email to: taxhelp@marylandtaxes.gov. Please include your name, address and the last four digits of your Social Security Number in your email message. This will help us generate a quick response to your inquiry.

REFUND INFORMATION

Central Maryland 410-260-7701
Elsewhere 1-800-218-8160

MAILING YOUR RETURN

Mail Returns with **No Payment To:**

Comptroller of Maryland
Revenue Administration Division
110 Carroll Street
Annapolis, Maryland 21411-0001

Mail Returns with **Payment To:**

Comptroller of Maryland
Payment Processing
PO Box 8888
Annapolis, Maryland 21401-8888

Sending your return by certified mail will not result in special handling and may delay your refund.

BRANCH OFFICES

Annapolis

60 West Street, Suite 102
Annapolis, MD 21411

Baltimore

State Office Building
301 W. Preston Street, Room 206
Baltimore, MD 21201-2384

Cumberland

Allegany Museum
3 Pershing Street, Suite 101
Cumberland, MD 21502-3042

Elkton

Upper Chesapeake Corporate Center
103 Chesapeake Boulevard, Suite D
Elkton, MD 21921-6313

Frederick

Courthouse/Multiservice Center
100 West Patrick Street, Room 2110
Frederick, MD 21701-5646

Greenbelt

Triangle Centre
6401 Golden Triangle Drive, Suite 100
Greenbelt, MD 20770-3202

Hagerstown

Crystal Building
1850 Dual Highway, Suite 201
Hagerstown, MD 21740-6686

Salisbury

Sea Gull Square
1306 South Salisbury Blvd, Suite 182
Salisbury, MD 21801-6846

Towson

Hampton Plaza
300 East Joppa Road, Suite PL 1A
Towson, MD 21286-3020

Upper Marlboro

Prince George's County Courthouse
14735 Main Street, Room 083B
Upper Marlboro, MD 20772-9978

Waldorf

1036 St. Nicholas Drive, Suite 202
Waldorf, MD 20603-4757

Wheaton

Westfield Wheaton South Building
11002 Veirs Mill Road, Suite 408
Wheaton, MD 20902-2574

Taxpayer Services Division

DIRECTOR'S OFFICE

Gary E. White , Director	gwhite@marylandtaxes.gov	410-260-7455
Patricia Guiles , Deputy Director	pguiles@marylandtaxes.gov	410-260-6254
Dennis Gwinn , Assistant Director	dgwinn@marylandtaxes.gov	410-260-7724
Ana Garay , Assistant Director	agaray@marylandtaxes.gov	410-260-7621
Paulette Burroughs , Manager	pburroughs@marylandtaxes.gov	410-260-7048
Tammy Anderson , Assistant to the Director	tanderson@marylandtaxes.gov	410-260-7279

TAXPAYER INFORMATION CONTACT CENTER

Trinidad Paiz , Manager, Taxpayer Information Contact Center	tpaiz@marylandtaxes.gov	410-260-7762
Sheri Tripodi , Assistant Manager, Taxpayer Information Contact Center	stripodi@marylandtaxes.gov	410-260-7798
Joe Hall , Manager, Individual Tax Call Center	jhall@marylandtaxes.gov	410-260-6046
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BRANCH OPERATIONS

Ralph Bartles , Manager, Branch Operations	rbartles@marylandtaxes.gov	410-260-7252
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Rosanna Cline , Regional Manager, West Region	rcline@marylandtaxes.gov	667-404-3114
Vickie Hammett , Regional Manager, South Region	vhammett@marylandtaxes.gov	667-401-3182
Andrea Seals , Regional Manager, North-East Region	aseals@marylandtaxes.gov	667-401-1867

Annapolis Branch Office - 60 West Street Annapolis, MD 21401

Christopher Rasmussen , Manager	crasmussen@marylandtaxes.gov	667-401-3071
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Baltimore Branch Office - State Office Bldg. 301 W. Preston Street Rm. 206 Baltimore, MD 21201

Vacant , Manager		410-767-1306
Vacant , Assistant Manager, Taxpayer Assistance		
Lai Eppel , Assistant Manager, Cashier's Office	lli@marylandtaxes.gov	410-617-9002

Cumberland Branch Office - 3 Pershing Street, Suite 101 Cumberland, MD 21502

Janet Kesner , Manager	jkesner@marylandtaxes.gov	667-401-3070
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Elkton Branch Office - Upper Chesapeake Corporate Ctr. 103 Chesapeake Blvd., Suite D Elkton, MD 21921

Ronald Johnson , Manager	rjohnson1@marylandtaxes.gov	667-401-3124
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Frederick Branch Office - Courthouse / Multiservice Ctr. Room 2603 - 100 West Patrick Street, Frederick MD 21701

Tsailien Tsaur , Manager	tsaur@marylandtaxes.gov	667-401-1729
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Taxpayer Services Division

Greenbelt Branch Office - 6401 Golden Triangle Drive, Suite 100, Greenbelt MD 20770

Vacant, Manager

Michelle McIntyre, Assistant Manager

m McIntyre@marylandtaxes.gov

667-401-2895

Hagerstown Branch Office - Crystal Bldg. 1850 Dual Highway, Suite 201, Hagerstown MD 21740

Karen Grote, Manager

kgrote@marylandtaxes.gov

667-401-3184

Hagerstown Call Center - 33 W. Franklin Street, Hagerstown, MD 21740

Cynthia Orr, Manager

corr@marylandtaxes.gov

667-162-2766

Salisbury Branch Office - Sea Gull Square 1306 S. Salisbury Blvd., Unit 186, Salisbury MD 21801

Laura Shriner, Manager

lshriner@marylandtaxes.gov

667-260-7069

Salisbury Contact Center - Sea Gull Square 1306 S. Salisbury Blvd., Unit 182, Salisbury MD 21801

Kecia Anderson, Manager

kanderson@marylandtaxes.gov

667-260-7058

Towson Branch Office - Hampton Plaza 300 East Joppa Rd, Plaza Level 1-A, Towson MD 21286

Jeannette Smith, Manager

jsmith@marylandtaxes.gov

667-401-1851

Douglas Foreman, Assistant Manager

dforeman@marylandtaxes.gov

667-401-3179

Upper Marlboro Branch Office - Prince Georges County Courthouse-Room 083B 14735 Main Street, Upper Marlboro MD 20772

Leonard Santek, Manager

lsantek@marylandtaxes.gov

667-401-3045

Vacant, Assistant Manager

Waldorf Branch Office - 1036 St. Nicholas Dr., Suite 202, Waldorf MD 20603

Ramona Bowen, Manager

rbowen@marylandtaxes.gov

667-401-3162

Vacant, Assistant Manager

Wheaton Branch Office - Westfield Wheaton South Bldg. 11002 Veirs Mill Rd., Suite 408, Wheaton MD 20902

Rene' Smith, Manager

rsmith@marylandtaxes.gov

667-401-1853

Nadine Jordan, Assistant Manager

njordan@marylandtaxes.gov

667-401-3091

<u>For Information About</u>	<u>Contact</u>	<u>Local Number</u>	<u>Toll-Free Number</u>
Individual Tax Assistance	Taxpayer Information Contact Center	410-260-7980	800-638-2937
Business Tax Assistance	Taxpayer Information Contact Center	410-260-7980	800-638-2937
Taxpayer Assistance	taxhelp@marylandtaxes.gov		
Practitioner Tax Assistance	Taxpayer Information Contact Center	410-260-7424	
Practitioner Tax Assistance	taxprohelp@marylandtaxes.gov		
Refund Inquiry	IVR	410-260-7701	800-218-8160
Extensions	IVR	410-260-7829	
Withholding None Line	IVR	410-260-7225	
Sales Tax None Line	IVR	410-260-7225	

Compliance Division

Administration

Toll-Free 888-674-0020

Daniel C. Riley, Jr. , Director	driley@marylandtaxes.gov	410-767-1556
Robert R. Scheerer , Deputy Director	rscheerer@marylandtaxes.gov	410-767-1557
Kimberly G. Cordish , Assistant Director	kcordish@marylandtaxes.gov	410-767-1557
Andrew J. Maschas , Assistant Director	jmaschas@marylandtaxes.gov	410-767-1557
Edward Wykowski , Assistant Director	ewykowski@marylandtaxes.gov	410-767-1555
Kyle St. Denny , Assistant to Director	kstdenny@marylandtaxes.gov	410-767-1570

Collections

Business Tax	Toll-Free Number: 888-614-6337	Local Number: 410-767-1600
Individual Income	Toll-Free Number: 888-674-0016	Local Number: 410-974-2432

Paula Evans , Manager, Business Tax Collections	pevans@marylandtaxes.gov	410-767-6224
Charles Weinreich , Asst. Mgr., Business Tax Collections	cweinreich@marylandtaxes.gov	410-767-1603
Wendell Oatneal , Asst. Mgr., Business Collections	woatneal@marylandtaxes.gov	410-767-1312
Sherray Miller , Manager, Individual Income Tax Collections	smiller@marylandtaxes.gov	410-260-7057
Cynthia Low , Asst. Mgr., Individual Income Tax Collections	clow@marylandtaxes.gov	410-260-7757
Vacant , Asst. Mgr., Individual Income Tax Collections		

Compliance Programs

Toll-Free 888-615-0369
Local Number: 410-767-1322

Edna Anderson , Manger	eanderson@marylandtaxes.gov	410-767-1322
Kim Carrington , Assistant Manager, Individual Nexus	kcarrington@marylandtaxes.gov	410-767-1484
Angel Gamble , Assistant Manager, Business Nexus	agamble@marylandtaxes.gov	410-767-1949

Business Tax Audits

Toll-Free 800-492-1752
Local Number: 410-767-1500

Benjamin Miller, Jr. , Chief Auditor	bmiller@marylandtaxes.gov	410-767-1504
Gina Wiklund , Assistant Chief Auditor	gwiklund@marylandtaxes.gov	410-767-1526
Timothy Bowman , Assistant Chief Auditor	tbowman@marylandtaxes.gov	410-767-1536
Karry Pifer , Assistant Chief Auditor	kpifer@marylandtaxes.gov	410-767-1518

Hearings & Appeals

Toll-Free 888-615-0268
Local Number: 410-767-1572

Charles Zephir , Manager	czephir@marylandtaxes.gov	410-767-4362
Robert M. Peery , Assistant Manager	rpeery@marylandtaxes.gov	410-767-1575
Jasmine Elavia , Assistant Manager	jelavia@marylandtaxes.gov	410-767-1580

Unclaimed Property

Toll-Free 800-782-7383
Local Number: 410-767-1700

Maheshwar Seegopaul , Manager	mseegopaul@marylandtaxes.gov	410-767-1705
Deborah Vulcan , Assistant Manager	dvulcan@marylandtaxes.gov	410-767-4123

<u>For Information About</u>	<u>Contact</u>	<u>Local Number</u>	<u>Toll-Free Number</u>
Bulk Sales	Julia Gittings	410-767-1539	888-615-0369
Collections Attorneys	Kimberly Stephens	410-767-1562	888-614-6337
Delinquent Business Taxes	Collections	410-649-0633	888-614-6337
Delinquent Individual Income Taxes	Collections	410-974-2432	888-674-0016
General Information	Taxpayer Service	410-260-7980	800-638-2937
MVA Hotline - Business	Collections	410-649-0633	888-614-6337
Mobile Homes	Sharon Edwards	410-767-1324	888-674-0020
Offers in Compromise	Kyle St. Denny	410-767-1570	888-674-0020
Refunds, <i>Sales and Use, Admissions & Amusement Taxes</i>	Beverly Banks	410-767-1538	800-492-1752
Registration	Taxpayer Service	410-260-7980	800-638-2937
Returns, Forms, Bulletins	Taxpayer Service	410-260-7980	800-638-2937
Special Business Licenses	State License Bureau	410-260-6240	800-674-0017
Temporary Licenses	Temporary Licenses/Special Events	410-767-1540	888-648-9638
Unclaimed Property	Unclaimed Property Unit	410-767-1700	800-782-7383
Vendor Offset	Lisa Marable	410-767-1648	888-614-6337
Voluntary Disclosures	Kyle St. Denny	410-767-1570	888-674-0020

Comptroller of Maryland Resources and Legislation

Resources

The following Revenue Administration Division representatives contributed to the material in this outline. They are located in the Division's main office in Annapolis and solicit your comments and questions.

Source of information Telephone

Wayne P. Green, Director	(410) 260-7445
Debora Gorman, Legislation	(410) 260-7451
Wayne P. Green, Statistics	(410) 260-7445
Andres Aviles, Forms and Procedures	(410) 260-7022

Legislation

INCOME TAX – Subtractions	Tax Legislation Enacted in 2021
<p>House Bill 0010 and Senate Bill 0048 Income Tax – Subtraction Modification</p> <p>Code Sections Affected TG § 10-208(a), (w)</p> <p>Living Organ Donors</p>	<p>This bill increases, from \$7,500 to \$10,000, the amount of the maximum subtraction modification for certain expenses paid or incurred by an individual that are attributable to the individual's donation of an organ. The bill also alters the definition of "qualified expenses" to include unreimbursed child or elder care expenses, as well as unreimbursed medication expenses.</p> <p>Effective date is July 1, 2021</p>
<p>House Bill 0711</p> <p>Income Tax – Subtraction Modification</p> <p>Code Sections Affected TG §§ 10-208; 10-308</p> <p>Donations to Diaper Bank and Other Charitable Entities</p>	<p>This bill allows an income tax subtraction of up to \$1,000 for certain qualifying diaper, hygiene products, or monetary donations to qualifying diaper banks or other qualified charitable entities by taxpayers in a given calendar year. It states that the Comptroller should adopt regulations to implement this subtraction under this act and submit a report to the General Assembly.</p> <p>Effective July 1, 2021 (applies to all taxable years beginning after December 31, 2020, but before January 1, 2024)</p>
<p>House Bill 1178 – Income Tax – Subtraction Modification</p> <p>Code Sections Affected TG § 10-108</p> <p>First-Time Homebuyer Savings Account</p>	<p>This bill allows a subtraction modification for contributions to a first-time homebuyer savings account and certain earnings on the account. The subtraction includes up to \$5,000 of the amount contributed by an account holder to a first-time homebuyer savings account, as well as any earnings, including interest. If an individual withdraws funds from such account for a purpose other than eligible costs for the purchase of a home, the funds will be taxed as ordinary income and the account holder will be subject to a 10% penalty. The bill also instructed the Comptroller to adopt regulations to carry out the provisions of the new subsection.</p> <p>Effect July 1, 2021 (applies to taxable years beginning after December 31, 2020)</p>
<p>Senate Bill 0496/House Bill 0612 – Recovery for the Economy, Livelihoods, Industries, Entrepreneurs, and Families (RELIEF) Act</p> <p>Code Sections Affected TG §§ 10-102.1; 10-306(a),(b); 10-307(g)(4), (5), (6); 10-701.1; 10-704; 10-205(a), (m); 10-207(jj); 10-208(a),(y)</p>	<p>This bill allows a subtraction under the Maryland income tax for certain unemployment insurance benefits and coronavirus relief payments. The bill also requires the Comptroller to send payments to taxpayers who received earned income tax credits for tax year 2020. The bill also establishes the Recovery Now Fund and dictates how money from the Fund is to be spent.</p> <p>Effective February 15, 2021</p>

Comptroller of Maryland Resources and Legislation

INCOME TAX – Credits	Tax Legislation Enacted in 2021
<p>House Bill 1252/Senate Bill 0102 – Income Tax Credit</p> <p>Code Sections Affected TG § 10-751</p> <p>Preceptors in Areas with Health Care Workforce Shortages</p>	<p>This bill extends to June 30, 2026, the termination dates of the licensed physician and nurse practitioner preceptor income tax credit, and alters the number of training hours required to qualify for the credit. The bill also establishes a physician assistant preceptor income tax credit. The State Board of Physicians must assess a \$15 fee for the renewal of a physician assistant license to be paid to the Physician Assistant Preceptorship Tax Credit Fund to offset the costs of the physician assistant preceptor tax credit.</p> <p>Effective June 1, 2021</p>
<p>Senate Bill 0218 – Income Tax Credit</p> <p>Code Sections Affected TG §§ 10-704, 10-751</p> <p>Child Tax Credit and Expansion of the Earned Income Credit</p>	<p>This emergency bill expands eligibility of the State and local earned income tax credits and thereby the State and local poverty level credits, by allowing a taxpayer to claim the tax credits notwithstanding certain federal requirements. The bill also creates a refundable credit against the State income tax equal to \$500 for each dependent child who is a qualified dependent under Section 152 of the Internal Revenue Code and is under the age of 17 years and has a disability. In order to qualify, a taxpayer must have a federal adjusted gross income of \$6,000 or less. The credit is reduced by the amount of any federal child tax credit claimed for the child in the year.</p> <p>Effective upon Enactment</p>
<p>House Bill 1017 - Income Tax Credit</p> <p>Code Sections Affected TG § 10-746</p> <p>Venison Donation - Reporting Requirement and Testing for Chronic Wasting Disease</p>	<p>This bill requires a venison donation program to report annually to the Comptroller by January 31 of each year the name, address, and number of deer donated by individuals in the preceding tax year. The Department of Natural Resources (DNR) must report to the General Assembly by December 31, 2021, on the testing of deer brought to deer processors for chronic wasting disease.</p> <p>Effective July 1, 2021 (applies to all taxable years beginning after December 31).</p>
<p>House Bill 0007 – Income Tax Credit and Grant Program</p> <p>Code Sections Affected TG § 10-746</p> <p>Venison Donation Expenses</p>	<p>This bill alters the existing venison donation income tax credit by extending eligibility to certain donations made to the Montgomery County Deer Donation Program. The bill also establishes, beginning in fiscal 2023, a Venison Donation Grant Program to be administered by the Department of Natural Resources (DNR).</p> <p>The tax credit may be claimed by a taxpayer who donates the processed deer meat to a venison donation program administered by a 501(c)(3) nonprofit, or by a Montgomery County resident who hunts and harvests a deer in the county and donates the deer carcass or processed deer meat to the Montgomery County Deer Donation Program. Qualified expenses include the expenses incurred to (1) hunt and harvest a deer and (2) transport a deer carcass or processed deer meat.</p> <p>The credit is \$50 per deer, and may not exceed \$200 total, unless the individual harvested each deer in accordance with a deer management permit.</p> <p>Effective July 1, 2021.</p>

Comptroller of Maryland Resources and Legislation

INCOME TAX – Credits	Tax Legislation Enacted in 2021
<p>Senate Bill 0885 – Economic and Community Development – Income Tax Credit</p> <p>Code Sections Affected TG § 10-751</p> <p>Catalytic Revitalization Projects and Historic Revitalization Tax Credit</p>	<p>This bill creates a refundable income tax credit for 20% of costs of the rehabilitation and new construction costs for a qualifying catalytic revitalization project. A qualifying catalytic revitalization project is defined as a substantial renovation of a property formerly owned by the state or federal government that was previously used as a college, K-12 school, hospital, mental health facility, or military facility. The Department of Housing and Community Development will administer the credit and may only issue certificates for a limited number of projects in a given period. The Department of Housing and Community Development or the Comptroller may not recapture the credit if the project is transferred by fee simple transfer or by transfer of an ownership in interest in the entity to a new owner. This act takes effect on July 1, 2021 and terminates on January 1, 2031.</p> <p>Effective July 1, 2021 (applicable to all taxable years beginning after December 31, 2020)</p>
<p>House Bill 0752 – Income Tax – Food Donation Pilot Program</p> <p>Code Sections Affected TG § 10-745</p> <p>Extension</p>	<p>This bill extends the food donation income tax credit for qualified farms for two additional tax years through tax year 2023.</p> <p>Effective July 1, 2021</p>
<p>House Bill 1086 – Maryland Tax Credit Evaluation Act</p> <p>Code Sections Affected TG §§ 1-401 – 1-408; 13-1103</p> <p>Alterations</p>	<p>This bill requires that, within one year after the enactment of an income tax credit, state government units administering such credits report to the Senate and House on the measures the unit has taken to implement the credit.</p> <p>Effective July 1, 2021</p>

INCOME TAX – Deduction	Tax Legislation Enacted in 2018
<p>House Bill 570 (Chapter 576, Acts of 2018)/Senate Bill 318 (Chapter 577, Acts of 2018)– Income Tax – Standard Deduction</p> <p>Alteration and Cost-of-Living Adjustments</p>	<p>The Act provides that for each year after December 31, 2018, each minimum and maximum standard deduction limitation amount will be increased by an amount equal to the product of the minimum and maximum standard deduction limitation amount by the cost-of-living adjustment. If an increase is not a multiple of \$50, the increase will be rounded down to the next lowest multiple of \$50. For Tax Year 2021, for single, married filing separately, and dependent taxpayers, the minimum standard deduction is \$1,550 and the maximum is \$2,350. For Tax Year 2021, for married filing jointly, head of household, and qualifying widow(er), the minimum standard deduction is \$3,100 and the maximum standard deduction is \$4,700.</p> <p>The Act takes effect July 1, 2018, and applies to tax year 2019 and beyond.</p>

Comptroller of Maryland Resources and Legislation

INCOME TAX – Subtractions	Tax Legislation Enacted in 2018
<p>House Bill 1069 (Chapter 582, Acts of 2018) – Income Tax – Subtraction Modification</p> <p>Volunteer Fire, Rescue, and Emergency Medical Services Members</p>	<p>The Act increases the value of the State income tax subtraction modification for qualifying volunteer fire, rescue, or emergency medical services personnel. The maximum subtraction is increased as follows: \$4,750 for tax year 2018; \$5,000 for tax year 2019; \$6,000 for tax year 2020; \$6,500 for tax year 2021; and \$7,000 for a taxable year beginning after December 31, 2021.</p> <p>This Act took effect July 1, 2018.</p>

CORPORATE INCOME TAX – Apportionment	Tax Legislation Enacted in 2018
<p>House Bill 1794 (Chapter 342, Acts of 2018)/ Senate Bill 1090 (Chapter 341, Acts of 2018) Corporate Income Tax</p> <p>Single Sales Factor Apportionment</p>	<p>The Act phases in a single sales formula used to apportion income to the State for the corporate income tax over a five-year period beginning in tax year 2018. For a trade or business that is unitary, the apportionment fraction shall be as follows:</p> <p>Tax year 2018 = $\frac{\text{property factor} + \text{payroll factor} + (3 \times \text{sales factor})}{5}$</p> <p>Tax year 2019 = $\frac{\text{property factor} + \text{payroll factor} + (4 \times \text{sales factor})}{6}$</p> <p>Tax year 2020 = $\frac{\text{property factor} + \text{payroll factor} + (5 \times \text{sales factor})}{7}$</p> <p>Tax year 2021 = $\frac{\text{property factor} + \text{payroll factor} + (6 \times \text{sales factor})}{8}$</p> <p>For tax years after December 31, 2021, if a trade or business is a unitary business, the part of the corporation’s Maryland modified income derived from or reasonably attributable to a trade or business carried on in the State shall be determined using a single sales factor apportionment formula. The single sales factor apportionment formula requires the business to multiple its Maryland modified income by 100% of the sales factor.</p> <p>The Act also defines “worldwide headquartered company” as a corporation included in a group of corporations including a parent that: (1) filed a Form 10-Q with the SEC for the quarterly period ending 7/30/17; (2) has its principal executive office in Maryland; and (3) employs at all times between 7/1/17 and 6/30/20, at least 500 full time employees at the parent corporation’s principal executive office located in Maryland. Worldwide headquartered companies that filed a federal corporate income tax return may elect to calculate its Maryland modified income derived from or reasonably attributable to trade or business carried on in the State using the three-factor apportionment fraction: the numerator is the sum of the property factor, the payroll factor, and twice the sales factor, and the denominator is four. The numerator includes gross income from intangible investments, including dividends, interest, royalties, and capital gains from the sale of intangible property.</p> <p>The Act takes effect July 1, 2018, and applies to tax year 2018 and beyond.</p>

Comptroller of Maryland Resources and Legislation

SALES AND USE TAX	Tax Legislation Enacted in 2021
<p>House Bill 0582 and Senate Bill 0294 – Sales and Use Tax Exemption – Cecil County</p> <p>Statutes Affected TG § 11-241</p> <p>Federal Facilities Redevelopment Areas</p>	<p>This bill provides an exemption from the sales and use tax for construction material or warehousing equipment purchased for use on real property in Cecil County that was previously owned by the federal government, was transferred from the federal government to the State or to an entity established under Title 11 Subtitle 4 of the Economic Development Article, and is entirely under the environmental management of the State Hazardous Substance Response Plan under Title 7, Subtitle 2 of the Environment Article or the Voluntary Cleanup Program under Title 7, Subtitle 5 of the Environment Article. The buyer claiming the exemption must provide to the vendor evidence of eligibility issued by the Comptroller.</p> <p>Effective July 1, 2021 (expires June 30, 2031)</p>
<p>House Bill 0337 and Senate Bill 0257 – Sales and Use Tax Credit</p> <p>Code Sections Affected TG § 11-105</p> <p>Vendor Collection Credit – Job Training</p>	<p>This bill authorizes certain vendors certified by the Secretary of Labor as qualified job training organizations to claim credits, not to exceed \$100,000 for any calendar year, for the expense of collecting and paying sales and use tax.</p> <p>Effective July 1, 2021</p>
<p>House Bill 0932/Senate Bill 1001 (Veto Override of 2020 Bill)</p> <p>Code Sections Affected TG §§ 2-1302.1; 11-101; 11-102(a); 11-103; 11-217(b); 11-221(d)</p> <p>21st-Century Economy Fairness Act</p>	<p>This bill applies the sales and use tax to digital products and codes. Such sales are presumed to be made in the state in which the customer tax address, defined in the bill, is located.</p> <p>Effective July 1, 2020</p>
<p>House Bill 0441/Senate Bill 0366 – Department of Assessments and Taxation</p> <p>Identification Number for Business – Task Force</p>	<p>This bill requires SDAT to convene a task force to study and make recommendations on the adoption of a unique Maryland Identification Number for registered or licensed businesses.</p> <p>Effective June 1, 2021 (expires June 30, 2022)</p>

SALES AND USE TAX	Tax Legislation Enacted in 2020
<p>Senate Bill 573 – Peer-to-Peer Car Sharing</p> <p>Sales and Use Tax Sunset Extension and Study</p>	<p>This bill extends from June 30, 2020 to June 30, 2021 the termination provisions of Chapter 582 of the Acts of 2018 which imposed a sales and use tax rate of 8% for sales and charges made in connection with a shared motor vehicle used for peer-to-peer car sharing and made available on a peer-to-peer car sharing program. The bill also requires the Department of Legislative Services to provide a report that could assist the General Assembly in determining a fair and equitable State taxation on sales and charges made in connection with a shared motor vehicle used for peer-to-peer car sharing and made available on a peer-to-peer car sharing program.</p>

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INCOME TAX – Credits	Tax Legislation Enacted in 2019
<p>House Bill 403 (Chapter 361, Acts of 2019) – Income Tax Credit</p> <p>Qualified Farms - Food Donation Pilot Program - Expansion and Extension</p>	<p>This Act expands the Food Donation Pilot Program to include farms located anywhere in the state instead of just certain counties. It also reduces the maximum amount of tax credit certificates the State may issue in one year from \$250,000 to \$100,000. Additionally, the act extends the duration of the program from December 31, 2019 to December 31, 2021. This Act shall take effect July 1, 2019 and applies until the end of Tax Year 2021.</p>
<p>House Bill 482 (Chapter 544, Acts of 2019) - Income Tax Credits</p> <p>Endowments of Maryland Historically Black Colleges and Universities and Film Production Activity – Establishment and Alterations</p>	<p>This Act establishes a tax credit against the Maryland income tax for 25% of a donation made to a qualified permanent endowment fund at Bowie State University, Coppin State University, University of Maryland Eastern Shore, or Morgan State University. The Comptroller may award no more than \$240,000 in tax credits each year and must adopt regulations to implement the tax credit application, approval, and monitoring process. This Act also allows changes the minimum time a film production entity must be incorporated in the state to claim a tax credit against the state income tax from 1 year to 3 months.</p> <p>This Act shall take effect July 1, 2019 and apply to tax years 2019 through 2023.</p>

SALES & USE TAX – Tobacco	Tax Legislation Enacted in 2021
<p>Senate Bill 0883/House Bill 1234 – Tobacco Tax and Sales and Use Tax</p> <p>Code Sections Affected TG §§ 12-101(f)-(h); 12-105(c); 12-103; 12-201; 12-204; 12-302(e); 13-825(h)</p> <p>Out-of-State Sales of Premium Cigars and Pipe Tobacco and Tobacco Smoking Devices</p>	<p>This bill requires certain out-of-state tobacco sellers to have a license in order to sell certain products to consumers in the state. The bill also establishes the tax rate for out-of-state sales of certain tobacco products and imposes certain record-keeping responsibilities on out-of-state tobacco sellers.</p> <p>Effective Upon enactment</p>
<p>House Bill 0732 (Veto Override of 2020 Bill) – Taxation</p> <p>Code Sections Affected TG §§ 1-101(g-1); 2-102; 4A; 7.5-101 through 301; 11-104(j); 12-101(d); 12-102; 12-105; 13-402(a)(4)-(5); 13-602(a); 13-702(a); 13-1002(b)-(c); 13-1101(b)-(c)</p> <p>Tobacco Tax, Sales and Use Tax, and Digital Advertising Gross Revenues Tax</p>	<p>This bill increases tax rates on certain tobacco products and imposes a sales and use tax rate of 12% on electronic smoking devices. The bill also imposes a tax on revenues from certain digital advertising services in the state.</p> <p>Effective July 1, 2020</p>

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SALES & USE TAX – Tobacco	Tax Legislation Enacted in 2021
<p>Senate Bill 0787/House Bill 1200 – Digital Advertising Gross Revenues, Income, Sales and Use, and Tobacco Taxes</p> <p>Code Sections Affected TG §§ 2-1302.1; 7.5-101; 7.5-102; 10-102.1; 10-207; 11-101; 11-204; 11-209; 11-210; 11-214; 11-216; 11-219; 11-220; 11-221; 11-227; 11-303; 11-401; 11-405; 11-408; 11-501; 11-502.1; 11-701; 11-703; 11-707</p> <p>Alterations and Implementation</p>	<p>This bill creates a subtraction modification for certain utility arrearage amounts forgiven in tax year 2021, pursuant to the RELIEF Act. The bill also exempts broadcast and news media entities from the digital gross revenues tax and prohibits a person from directly passing on the cost of the tax to a customer through a separate fee, surcharge, or line-item.</p> <p>Effective July 1, 2020</p>

ECONOMIC DEVELOPMENT – Incentive Tax Credit	Tax Legislation Enacted in 2021
<p>Senate Bill 0019 – Economic Development</p> <p>Code Sections Affected TG § 10-725</p> <p>Biotechnology Investment Incentive Tax Credit Program – Alterations</p>	<p>This departmental bill alters the biotechnology investment incentive tax credit by (1) reducing the percentage value of the tax credit; (2) terminating the program effective June 30, 2028; (3) establishing the objective and goals of the program; (4) altering certain eligibility requirements; and (5) requiring the Department of Commerce to report specified information. The bill also prohibits Commerce from certifying investments in a single biotechnology company (1) that exceed 10% of the total appropriations to the reserve fund for that fiscal year or (2) whose investors have received \$7.0 million in aggregate funding for all fiscal years.</p> <p>Effective June 1, 2021 (applies to all initial credit certificates issued after June 30, 2021).</p>
<p>Senate Bill 0186 – Economic Development – Job Creation Tax Credit</p> <p>Code Sections Affected TG § 10-743</p> <p>Credit for Hiring Veterans</p>	<p>This departmental bill (1) extends the termination date for the job creation tax credit to January 1, 2027; (2) establishes an enhanced job creation tax credit for the hiring of a qualified veteran; and (3) extends program eligibility to small businesses who hire a qualified veteran. The bill also repeals the Hire Our Veterans Tax Credit.</p> <p>Effective July 1, 2021 (applies to job creation tax credits certified after December 31, 2021)</p>
<p>Senate Bill 0196 – Economic Development – Research and Development Tax Credit</p> <p>Code Sections Affected TG § 10-721</p> <p>Alterations</p>	<p>This departmental bill extends the termination date for the research and development (R&D) tax credit to June 30, 2025. The bill also alters the tax credit by (1) eliminating the basic credit; (2) increasing to \$12 million the amount of growth tax credits that can be awarded in each tax year; (3) requiring the Department of Commerce to set aside \$3.5 million of the total tax credits awarded annually to qualified small businesses; (4) limiting to \$250,000 the maximum value of the tax credit; (5) defining net book assets for the purpose of determining small business eligibility; and (6) establishing the purpose of the program.</p> <p>Effective July 1, 2021 (applies to all Maryland R&D tax credits certified after February 15, 2021)</p>

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ECONOMIC DEVELOPMENT – Incentive Tax Credit		Tax Legislation Enacted in 2021
<p>Senate Bill 0160 - Economic Development – Cybersecurity Investment Incentive Tax Credit Program</p> <p>Code Sections Affected TG § 10-733, 1-303</p> <p>Expansion, Extension, and Study</p>	<p>This departmental bill extends the duration of the Cybersecurity Investment Incentive Tax Credit (CIITC) Program by two years, through June 30, 2025, and expands the applicability of the program to technology companies, rather than solely cybersecurity companies. The bill also establishes an evaluation and recommendation process for determining eligible industry sectors and modifies other program requirements. The program and its reserve fund are renamed accordingly. The credit will be called the Innovation Investment Incentive Tax Credit.</p> <p>Effective June 1, 2021 (applies to all initial tax credit certificates issued after June 30, 2021)</p>	
INCOME TAX CREDIT – Regional Institution Strategic Enterprise		Tax Legislation Enacted in 2021
<p>House Bill 1279/Senate Bill 0778 – Regional Institution Strategic Enterprise Zone Program</p> <p>Code Sections Affected TG §§ 10-725; 10-733 TP § 9-103.1</p> <p>Alterations</p>	<p>This bill changes the existing Regional Institution Strategic Enterprise (RISE) Zone Program by establishing a rental assistance program, establishing a Regional Institution Strategic Enterprise Fund, enhancing biotechnology investment incentive and cybersecurity investment incentive tax credits, limiting the zone size, and limiting existing income and property tax credits to businesses that are located in a RISE zone before January 1, 2023, and terminating tax credits on January 1, 2028. The bill takes effect June 1, 2021. Credits for investments in biotechnology companies may be claimed for taxable years beginning after December 31, 2020. Credits against property tax imposed on qualified property located in a RISE zone may be claimed for taxable years beginning after June 30, 2021.</p> <p>Effective June 1, 2021</p>	
INCOME TAX – Amendments		Tax Legislation Enacted in 2021
<p>House Bill 0495 – Income Tax – Internal Revenue Code Amendments</p> <p>Code Sections Affected TG § 10-108</p> <p>Decoupling</p>	<p>This bill prohibits the retroactive application, for purposes of determining Maryland taxable income, of amendments to the Internal Revenue Code (IRC) that affect the determination of FAGI or federal taxable income. This prohibition does not apply to an IRC amendment if the Comptroller determines that the impact of the amendment on State income tax revenue is less than \$5,000,000 for the fiscal year that begins during the calendar year in which the amendment is enacted or any fiscal year that precedes the calendar year in which the amendment is enacted.</p> <p>Effective July 1, 2021 (applies to taxable years beginning after December 31, 2020)</p>	
<p>Senate Bill 0578 – Income Tax – Internal Revenue Code Amendments</p> <p>Code Sections Affected TG § 10-108</p> <p>Decoupling</p>	<p>This bill changes the automatic one-year decoupling provision. Beginning in tax year 2021, automatic decoupling also applies to any taxable year preceding the calendar year when the Comptroller determines that the federal change will have at least a \$5 million impact in the fiscal year preceding the calendar year in which the amendment is enacted. This bill takes effect July 1, 2021.</p> <p>Effective July 1, 2021 (applies to taxable years beginning after December 31, 2020)</p>	

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INCOME TAX – Amendments	Tax Legislation Enacted in 2021
<p>House Bill 0421 – Income Tax Distribution</p> <p>Code Sections Affected TG § 1-206 CL §§ 17-101 & 17-317</p> <p>Tax Clinics for Low–Income Marylanders</p>	<p>This bill establishes the Tax Clinics for Low-Income Marylanders Fund and requires the Comptroller to distribute, for fiscal years 2022 and 2023, \$250,000 of the abandoned property special fund to the Tax Clinics for Low-Income Marylanders Fund. Additionally, the fund consists of money appropriated by the state budget and money from any other source accepted for the benefit of the fund. The fund provides grants for tax clinics at the University of Maryland School of Law, the University of Baltimore School of Law, and the Maryland Volunteer Lawyers Service to operate tax clinics for low-income Marylanders. The Comptroller administers the fund. These grants are supplemental to and are not intended to take the place of funding that otherwise would be appropriated for tax clinics.</p> <p>Effective July 1, 2021</p>

TAX INCIDENCE STUDY – Bureau of Revenue Estimates	Tax Legislation Enacted in 2021
<p>House Bill 0712/Senate Bill 0591 – Bureau of Revenue Estimates – Tax Incidence Study</p> <p>Code Sections Affected SFP §§ 6-101(a), (c); 6-104(d)</p> <p>Scope and Intergovernmental Assistance</p>	<p>This bill requires that the tax incidence report prepared by the Bureau of Revenue Estimates measure the burden of taxes and toll charges, including the individual income tax, the motor fuel tax, the real property tax, and the sales and use tax, as well as the aggregate impact of the taxes and charges among taxpayers of different income levels.</p> <p>Effective October 1, 2021</p>

TAX COLLECTIONS – Whistleblower Reward	Tax Legislation Enacted in 2021
<p>House Bill 0804/Senate Bill 0916 – Taxes</p> <p>Code Sections Affected TG §§ 1-206; 1-306; 1-301 – 1-303; 1-305; 1-306; 1-311; 1-304; 1-307 – 1310.</p> <p>Whistleblower Reward Program and Statute of Limitations for Tax Collections</p>	<p>This bill establishes a reward program for whistleblowers who provide information to the Comptroller in a sworn affidavit relating to the violation of state tax law. The whistleblower will be entitled to a monetary award of at least 15% but not exceeding 30% of the taxes, penalties, and interest collected through an enforcement action. Whistleblowers who report after a first whistleblower must materially add to the information to qualify for the reward. The bill also prohibits employers from retaliating against whistleblowers.</p> <p>Effective October 1, 2021</p>

TAX CREDIT – Historic Revitalization	Tax Legislation Enacted in 2021
<p>Senate Bill 0659/House Bill 0865 – Historic Revitalization Tax Credit</p> <p>Code Sections Affected SFP § 5A-303</p> <p>Small Commercial Projects – Alterations</p>	<p>This bill increases from \$4 million to \$5 million the maximum amount of initial tax credit certificates that the Director of the Maryland Historic Trust may issue for certain small commercial projects.</p> <p>Effective July 1, 2020.</p>

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EXCISE TAX – Repeal of Impact Fee	Tax Legislation Enacted in 2021
<p>House Bill 0528 – St. Mary’s County – Repeal of Impact Fee</p> <p>Code Sections Affected SFP § LG 20-70; 20-807</p> <p>Authorization of Building Excise Tax</p>	<p>This bill authorizes St. Mary’s County to impose a building excise tax on any building construction in the county. The county’s existing authority to impose a development impact fee is repealed.</p> <p>Effective July 1, 2023</p>

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Significant Court Cases September, 2020 – August, 2021

A. Potomac Edison Company v. Comptroller of the Treasury

Potomac Edison, which is pending in the Maryland Tax Court, hinges upon whether the production activity exemption from sales and use taxation in Tax-Gen. § 11-210 applies to electric utilities' purchase of equipment used to transmit and distribute electric power ("T&D equipment"). Maryland utilities use T&D equipment to deliver power generated by others to the customers in their geographic footprints.

The litigation originated with the Comptroller's audit and assessment of Potomac Edison for unpaid sales-and-use tax. Potomac Edison challenged the portion of the assessment arising from its T&D equipment purchases. It also filed a refund request at the end of the audit seeking the refund of sales-and-use tax it paid for other T&D equipment purchases during the same timeframe. The Comptroller affirmed the assessment and denied Potomac Edison's refund claim.

Potomac Edison appealed the Comptroller's decisions to the Tax Court, which bifurcated the case to resolve initially whether, as a matter of law, the transmission and distribution of electricity qualifies as a production activity under Tax-Gen. § 11-210. The Tax Court held that it did not, rendering moot the need to address whether any of Potomac Edison's T&D equipment was directly and predominantly used in a production activity. Potomac Edison appealed. The Court of Special Appeals reversed the Tax Court's decision and remanded the case "for further proceedings." See *Potomac Edison Company v. Comptroller*, No. 1645, Sept. Term 2016, 2019 WL 1897463 *9-10 (Apr. 29, 2019). The Court of Special Appeals held that the Tax Court erred in concluding as a matter of law that none of the T&D equipment was subject to the exemption. *Id.* at *9. It observed that no "genuine dispute" existed that utilities process power, a production activity under Tax-Gen. § 11-210, noting that utilities raise and lower voltage to deliver power over long distances and at the level used by its customers. *Id.* at *8-9. The Court acknowledged, however, that not all T&D equipment may be used directly and predominantly to process power. *Id.*

Following the remand, the Tax Court held a merits-hearing on April 14-15, 2021. At the hearing, the Comptroller argued that Potomac Edison's T&D

equipment was not used in a production activity (*i.e.* processing) because none of the T&D equipment substantially changed electric power, as Maryland courts have previously required.

The Comptroller argued that no substantial change occurs when the voltage of electricity is increased or decreased because all that is effectively being done to it is to increase or decrease the pressure behind the electrons, much like the pressure behind water's flow. Potomac Edison volleyed that its T&D equipment continuously processes power from the moment it is purchased from the supplier to its delivery to the customer under the definition of processing and that its T&D system effectively functioned as one giant production site. In support of this argument, Potomac Edison pointed out that its customers generally could not use electricity at the voltages generated by the generation plants.

Even if the Court were to find some T&D equipment was used to process electricity, the Comptroller argued that none of the equipment is used directly and predominantly in a production activity but is instead directly and predominantly used to maintain and deliver electric power, neither of which is an exempt purpose. The Comptroller also argued that Potomac Edison's T&D equipment was not located on a production activity site as required by the exemption, and that the exemption's purpose of attracting manufacturers with the ability to choose their location to Maryland did not extend to utilities like Potomac Edison who must locate their operation in Maryland to generate revenue in the state.

The Tax Court has not yet issued a decision on the April 2021 merits hearing.

B. Travelocity.com, LP v. Comptroller of Maryland

In *Travelocity.com, LP v. Comptroller*, 473 Md. 319 (2021), the Maryland Court of Appeals, in a 4-3 decision, reversed the Maryland Tax Court's finding that Travelocity.com, LP ("Travelocity") was liable to collect and remit sales-and-use tax on hotel and rental car reservations, and specifically on the fees Travelocity charged its customers on top of the room or car rental rate. The Court concluded that Travelocity did not sell hotel rooms or rental cars because the hotels and car rental companies, and not Travelocity, transferred possession of the rooms to the customers and because Travelocity was not a vendor, as that term had been statutorily defined prior to enactment of the 2015 accommodations intermediary law.

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In 2011, the Comptroller assessed Travelocity for failure to remit sales-and-use tax on its “markup” (the fees it imposed on customers in addition to the room or car rental rate) of the sale price charged for hotel and rental car reservations made on Travelocity’s website. Travelocity appealed the assessment to the Maryland Tax Court, contending that it provided a service, the facilitation of the sale, but was not the seller. While the Tax Court litigation was pending, the Maryland General Assembly enacted H.B. 1065 and S.B. 190 (2015), which amended the definition of vendor to include an accommodations intermediary and clarified that online travel companies, like Travelocity, were liable for the collection and remittance of tax on room and car rental reservations. Following a hearing, the Tax Court determined that Travelocity was liable for the collection and remittance of the sales tax. The Tax Court’s decision was affirmed by the circuit court and while the case was on appeal before the Court of Special Appeals, the Court of Appeals granted certiorari.

The Court of Appeals reversed the Tax Court holding that Travelocity facilitated the sale of, but did not sell, the hotel rooms and rental cars and was not a vendor. A sale requires the transfer of title or possession for consideration. The Court concluded that because Travelocity did not acquire possession of the hotel rooms or the rental cars, the hotels and car rental companies, and not Travelocity, were viewed to be the sellers. In reaching this conclusion, the Court relied on the contracts between Travelocity and the hotels which provided that “Travelocity had no obligation or right under this Agreement to acquire an inventory of Rooms.” The Court viewed this provision to demonstrate “that Travelocity did not acquire title or possession of the hotel rooms or rental cars.” Accordingly, the Court concluded, based upon the contracts, that the hotels and car rental companies made the sales; Travelocity merely facilitated the sale of the reservations.

The Court of Appeals further concluded that because Travelocity did not sell or deliver tangible personal property it was not a retail vendor pursuant to Tax-Gen. § 11-701(c)(1) nor an out-of-state vendor pursuant to Tax Code § 11-701(b)(1). The Court found additional support for this conclusion based on the enactment in 2015 of the accommodations intermediary law. The Court viewed the General Assembly’s inclusion of the term “accommodations intermediary” in the vendor definition as evidence that Travelocity was not covered by the vendor definition that existed before

the statute’s amendment. The Court explained that the amendment “indicates that the statute was at least ambiguous as to whether Travelocity was included beforehand,” reasoning that “[i]f the amendment was merely clarifying that an accommodations intermediary was already included in the statutory definition of a vendor, then the additional term ‘accommodations intermediary’ would be surplusage—an unfavorable result in statutory interpretation.” Finally, the Court relied on the Maryland Tax Court’s own statements that “the [General Assembly’s] efforts to clarify and alter the definition of a vendor suggest that substantial uncertainty exists as to the applicability of the law to Travelocity.” For these reasons, the Court determined that the pre-amendment definition of vendor was ambiguous and because ambiguous tax statutes are interpreted in favor of the taxpayer, the ambiguity was interpreted in favor of Travelocity, resulting in the Court’s reversal of the Tax Court decision.

C. **Leadville Insurance Company v. Comptroller of the Treasury**

The taxpayer is Leadville Insurance Company, a wholly owned subsidiary of Macy’s Retail Holdings Inc. (Macy’s). Leadville was a Vermont based captive insurance company formed in 1996 by the Macy’s parent company and was licensed by Vermont’s former Department of Banking, Insurance, Securities, and Health Care Administration (BISHCA). A captive insurance company is an insurance company created and wholly owned by one or more non-insurance companies to insure the risks of its owner(s). Captives are essentially a form of self-insurance whereby the insurer is owned wholly by the insured.

May NY was the parent company of the May Department Stores franchise until 1996 when after restructuring, May DE became the parent company. Both of the May companies are predecessors to the current Macy’s parent company. Pursuant to the reorganization, in August 1996, May NY declared and paid a \$3.2 billion note receivable as a dividend to May DE. May DE subsequently transferred and reissued the note to Leadville as the payee; Macy’s was the payor.

The Comptroller conducted an audit of Macy’s and discovered that Macy’s paid a substantial amount of interest to Leadville during tax years 1996-2003. The Comptroller took the position that based on *Comptroller of the Treasury v. Syl, Inc.*, 375 Md. 78 (2003) and other Maryland court cases and Leadville’s lack of economic substance as a

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separate entity, the interest payments from Macy's to Leadville are in part, income taxable by Maryland. In 2010 the Comptroller assessed Leadville income tax, penalty and interest of \$23,831,054.34 for the seven years at issue.

Initially, the Maryland Tax Court never addressed the substance of the Comptroller's position. The Court granted Leadville's motion for summary judgment on the ground that it is an insurance company and under Tax General § 10-104(4) not subject to Maryland's income tax. *Leadville Insurance Co., v. Comptroller of the Treasury*, Dkt. No. 13-IN-OO-0035. [In *National Indemnity Co. v. Comptroller of the Treasury*, Dkt. No. 14-IN-OO-0433, approximately two years earlier, the Tax Court also ruled that being an insurance company exempts imposition of the Maryland income tax per Tax General § 10-104(4). The Comptroller did not appeal the prior decision.]

The Comptroller took the position that (1) the plain language of Tax General §10-104(4) indicates that the income tax does not apply to the income of a person subject to taxation under Title 6 of the Insurance Article and (2) the plain language of Title 6 of the Insurance Article indicates that persons subject to tax under Title 4, Subtitle 2 of the Insurance Article, are not subject to taxation under Title 6. Unauthorized insurers, i.e. insurers who do not hold a certificate of authority issued by the Maryland Insurance Commissioner are subject to tax under Title 4, Subtitle 2 of the Insurance Article. Leadville does not hold a certificate of authority issued by the Maryland Insurance Commissioner and is an unauthorized insurer. Consequently, the Comptroller argued, to the extent Leadville would be subject to taxation under the Insurance Article at all, it would be subject to tax under Title 4, Subtitle 2 and not under Title 6. The plain language of the Tax General § 10-104(4) exemption only references a person "subject to taxation under Title 6."

The Comptroller appealed the Tax Court's grant of summary judgment to the Anne Arundel County Circuit Court. The Circuit Court, in a decision effective December 12, 2017, affirmed the decision of the Maryland Tax Court. The Comptroller appealed to the Court of Special Appeals.

On March 26, 2019, the Court of Appeals, in an unreported decision, reversed the decision of the Maryland Tax Court and remanded the matter back to that court for further proceedings. The Court of Special Appeals held that Leadville was not an authorized insurer under § 6-102 of the Insurance

Article. A Maryland authorized insurer must have a certificate of authority issued by the Maryland Insurance Commissioner, a certificate Leadville admitted it did not possess. Because it was not an authorized insurer, one must look to Title 4 of the Insurance Article to determine if Leadville was subject to tax.

Because the Maryland Tax Court did not address the application of Title 4 to Leadville, the matter was remanded back to the Maryland Tax Court for further proceedings.

On remand, the Maryland Tax Court ruled in favor of Leadville, granting summary judgment in an order dated July 12, 2020. The Tax Court held that Leadville was exempt from filing a Maryland corporate income tax return or paying Maryland corporate income tax for the tax years at issue. Specifically, the Tax Court held that § 4-209(c) of the Insurance Article exempts Leadville from all taxes, including corporate income tax, other than the premium receipts tax.

The Comptroller requested judicial review from the Circuit Court for Anne Arundel County. The parties submitted on their memoranda. On June 11, 2021, the Circuit Court affirmed the Tax Court decision granting summary judgment in favor of Leadville.

The Comptroller noted its appeal on June 23, 2021 to the Court of Special Appeals. The Court has yet to issue its briefing schedule or set the appeal in oral argument.

D. Comptroller of Maryland v. James R. & Monica Myers

In a reported opinion issued on July 1, 2021, *Comptroller of Maryland v. James R. Myers, et al*, 251 Md. App. 213 (2021), the Court of Special Appeals ruled in the Comptroller's favor, reversing the Maryland Tax Court's order to issue refunds in the amount of \$58,419 to James R. and Monica Myers. The case centered on what type of evidence a taxpayer must show to prove that he or she "filed" a document with the Comptroller when seeking a refund.

James and Monica Myers prepared amended tax returns seeking a refund for tax years 2007, 2008, 2009, 2010, 2011, 2012, and 2013. The Comptroller denied refunds for tax years 2008, 2009, and 2012, alleging that appellees had failed to file their amended returns for those years within the applicable limitations period.

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The Myers routinely filed their tax returns in a timely manner. After filing original returns for tax years 2007 through 2013, the Myers filed amended returns over a three-year period to claim *Wynne* credits. When the Myers did not receive refunds for the 2008, 2009, and 2012 tax years (they received them for 2007, 2010, 2011, and 2013), they refiled the amended returns in 2017, but, by this time, the period for claiming a refund for 2008, 2009, and 2012 had expired. The Comptroller denied the refunds, and the Myers initiated the administrative process to challenge that denial. At every stage of the process, the Myers testified that they mailed the amended returns for 2008, 2009, and 2012 through *first-class mail*. They did not send them through *registered mail*.

The Myers appealed to the Maryland Tax Court. After a lengthy hearing the Tax Court ruled, based on the Myers' testimony, testimony of their accountant, and other evidence, that the Myers timely mailed their amended returns for 2008, 2009, and 2012 and were entitled to the refunds. The Tax Court reversed the Comptroller's denial and ordered the Comptroller to pay the refunds.

The Comptroller requested judicial review, and the Circuit Court for Anne Arundel County affirmed the decision of the Tax Court. The Comptroller appealed to the Court of Special Appeals.

The Court of Special Appeals offered a two-prong analysis. First, it found that federal law requires a receipt of registered mail to raise a presumption of delivery. I.R.C. § 6511 relies on Treas. Reg. § 301.7502-1(b)(2), which provides that § 7502 "is applicable to the determination of whether a claim for credit or refund is timely filed for purposes of section 6511(a). Section 7502(c) and Treas. Reg. § 301.7502-1(e)(2)(i), together provide that, unless the taxpayer has direct proof that a document was delivered to the IRS, proof of registered or certified mail, or use of a certified private delivery service, is the sole means to prove delivery.

The Court held that under federal law when a refund request is mailed, but the IRS denies that it received it, a taxpayer can show timely filing only through a receipt of registered mail, or other methods set forth in the regulation.

Next, the Court of Special Appeals decided that this federal law—requiring a receipt of registered mail—applies to Maryland law when claiming a refund under TG § 13-1104(c).

"Maryland income tax law is to be construed in a fashion conformable to the Internal Revenue Code to which it is inextricably keyed." *Comptroller of the Treasury v. Diebold, Inc.*, 279 Md. 401, 408 (1977). TG § 10-107 provides that, "[t]o the extent practicable, the Comptroller shall apply the administrative and judicial interpretations of the federal income tax law to the administration of the income tax laws of this State."

TG § 13-1104, in setting forth the limitations period to file a claim for a refund, specifically incorporates I.R.C. § 6511, stating that a claim for a refund may not be filed after the limitations "set forth in § 6511." TG § 13-1104(c). Thus, TG § 10-107 requires the Comptroller to follow the federal administrative and judicial interpretations of § 6511, which relies on I.R.C. § 7502(c)'s requirement of a receipt of registered mail.

In *Diebold*, 279 Md. at 409, the Court of Appeals held that limitations under Maryland law should be calculated in the manner prescribed by I.R.C. § 6511(a) to avoid "the anomalous result that a refund of U.S. income taxes might [not] necessarily produce a refund of Maryland income tax." Thus, when the Comptroller determines whether there has been a timely filing under TG § 13-1104(c), and when a court reviews whether the Comptroller's decision in this regard was proper, the appellate court looks to the limitations period of I.R.C. § 6511(a), i.e., whether the taxpayer *filed* amended returns "within 3 years from the time the [original] return was filed or 2 years from the time the tax was paid, whichever of such periods expires the later." Treas. Reg. § 301.7502-1 provides an administrative interpretation regarding how to determine if documents were timely filed pursuant to I.R.C. § 6511 and I.R.C. § 7502. These federal provisions are "inextricably keyed" to interpretation of timely filing pursuant to TG § 13-1104(c). Accordingly, the Comptroller and the Tax Court were required to follow federal law in this regard.

The Court of Special Appeals held "in a situation where a taxpayer mails a claim for a refund, but the Comptroller does not receive the claim within the limitations period, the taxpayer can show timely filing only by a receipt of registered mail or other proof permitted pursuant to Treas. Reg. § 301.7502-1 and I.R.C. § 7502."

The Myers testified they did not have evidence of timely filing based on a receipt of registered mail. The Court of Special Appeals found that the Tax Court erred by accepting the Myers testimony as

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sufficient and relying on the common-law mailbox rule to find that the amended returns were timely filed. In so ruling, the Tax Court erred as a matter of law.

E. Comptroller of Maryland v. FC-GEN Operations Investments LLC

On September 1, 2021, the Court of Special Appeals heard oral argument in the case of *Comptroller of Maryland v. FC-GEN Operations Investments LLC*, Sept. Term 2020, No. 0946. The appeal involves the process by which pass-through entities (PTE) may submit refund claims on behalf of their members and the consequences of failing to comply with that process.

FC-GEN Operations Investments, LLC (“FC-GEN”) submitted a refund claim for tax year 2012 in the amount of \$598,131, which the Comptroller denied after determining that the claim did not comply with the governing regulations.

FC-GEN overpaid estimated pass-through entity tax for tax year 2012. FC-GEN filed its 2012 information return along with copies of the Schedules K-1 it issued to its members. The information return showed a loss. The Schedules K-1 did not inform the members of their distributive share of the loss.

In January 2016, within the statute of limitations for filing refund claims, the Comptroller received a composite tax return from FC-GEN. Through the composite return, FC-GEN claimed a refund of \$598,131 for itself. The composite return listed only two members, both of whom were ineligible to be listed on a composite return. Their share of the loss together came to 1.297% of the \$598,131 or \$7,757.76.

The Comptroller’s records reflect that in February 2016, with more than eight months remaining before the statute of limitations to claim a refund expired, the Comptroller mailed a notice to FC-GEN indicating it could not approve the refund.

In March 2017, the Comptroller issued an income tax computation notice denying the refund. FC-GEN requested an informal hearing, held in October 2017. In July 2018, the Comptroller issued a notice of final determination. The hearing officer denied the refund because the claim was defective and did not comply with the statutory and regulatory requirements. Specifically, the claim was defective because the members listed on the composite return were ineligible.

FC-GEN appealed to the Tax Court in August 2018. In April 2020, the Tax Court issued its decision granting FC-GEN the refund. The Tax Court decision made the following conclusions:

- A PTE can claim an income tax refund for itself.
- When a PTE loses money, it should issue Schedules K-1 leaving the member’s share blank.
- FC-GEN properly followed the tax form instructions, even though they explicitly state that a PTE cannot claim a refund for itself.
- The Tax Court limited the application of the voluntary payment rule.

The Tax Court ordered the refund but denied interest. The Comptroller requested judicial review, and, on October 19, 2020, the Circuit Court for Anne Arundel County affirmed the Tax Court. The Comptroller appealed to the Court of Special Appeals.

Before the Court of Special Appeals, the Comptroller made several arguments. First the Tax-General Article precludes a PTE from claiming an overpayment for itself. The members must claim the refund, either on their own return or through a composite return they qualify for. Here the members did qualify.

Tax-General Article § 13-901(a) provides that “a claim for refund may be filed by a *claimant* who erroneously *pays* to the State a greater amount of tax than is properly and legally payable.” TG § 10-102.1(c) and COMAR 03.04.07.03D(1) provide that PTE tax is treated as imposed on members that is paid on behalf of members by the PTE. Thus, the only authorized “claimant” for overpayment of income tax was a member, not the entity itself. The regulations and tax form instructions reflect that the members must be the claimants of a refund. COMAR 03.04.07.03D(2) states that a member must claim an overpayment. COMAR 03.04.07.03D(4)(a) expressly states that a PTE may not claim an overpayment: “Overpayments of tax shown on annual return may not be . . . refunded to the pass-through entity.” Similarly, the Form 510 instructions emphasize through bold print that **“Note: Overpayments will not be refunded to any PTE that has any members that are nonresident individuals or nonresident entities.”**

By requiring the member to claim its share of an overpayment and refusing to refund to the PTE, the

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process ensures that the proper amount of taxes is paid and collected.

Second, the Comptroller argued that the voluntary payment rule bars the refund of overpaid income taxes when the applicable legal requirements are not complied with. In this matter, those requirements were not complied with.

Under the voluntary payment rule, a general rule dating back to the mid-1800s and long applied to taxes, a taxpayer must claim a refund in the form the Comptroller requires. Applied to taxes, the rule states that a taxpayer has no common law right, outside that granted by statute, to sue for an overpayment of taxes. Overpayments are deemed to be a gift without consideration to the State.

With no common law rights to sue, the statutory refund procedure offers the only relief to a taxpayer. That process is exclusive. TG § 13-902(a) provides that a taxpayer must claim a refund under oath and support the claim with “documents that the tax collector requires.” TG § 10-102.1(g) authorizes the Comptroller to provide regulations for the filing of a composite return by a PTE on behalf of its members. COMAR 03.04.07.03D(2) provides the only means for a nonresident individual member to claim its share of overpaid income tax. Together, TG § 13-902(a) and § 10-102.1(g) act as a jurisdictional limitation with no exceptions.

Third, the Comptroller argued that, to the extent the Tax Court may have relied on the federal informal claim doctrine, that doctrine does not apply in Maryland and cannot excuse the deficiencies in claiming the overpayment. The informal claim doctrine requires processing of technically deficient refund claims that nevertheless provide all the information necessary for the IRS to do so. It cures an otherwise untimely claim.

Maryland law does not recognize the informal claim doctrine. In contrast, the General Assembly delegated authority to the Comptroller to establish requirements for refund claims (TG § 13-902). The voluntary payment rule makes those requirements mandatory.

In response to FC-GEN’s argument that the Comptroller misled it and delayed until the refund claim was barred by the limitations period, the Comptroller has argued that doctrine of equitable estoppel does not apply to the Comptroller when collecting taxes, an act of the Comptroller in its governmental capacity.

FC-GEN has also argued that the Abandoned Property Act applies here requiring the Comptroller to hold the overpaid income taxes until it could be returned to its rightful owner. But the voluntary payment rule establishes that overpaid taxes are owned by the State, not the taxpayer, unless and until the taxpayer makes a compliant refund claim. So, when FC-GEN overpaid the income tax, that overpayment, without proper adjudication as a refund, belonged to the State. Thus, the Comptroller was never a “holder . . . in possession of property subject to [the Abandoned Property Act] belonging to another.” Com. Law §17-101(i)(1).

FC-GEN also argued that the remittance of estimated taxes is a “deposit,” not a “payment.” Although Maryland courts have not considered the nature of estimated payments, the federal Circuit Courts of Appeal – 2d, 9th, 10th, 11th – hold that federal estimated payments are payments, not deposits. Also, TG § 10-902(a) refers to paying estimated income tax, not making deposits. And, FC-GEN never indicated nor is there any evidence in record that the payments were deposits.

Lastly, FC-GEN argues that the Tax Court can apply equity to order the refund the overpayment. In response, the Comptroller has argued that the Court of Appeals has consistently held that the voluntary payment rule, which operates without allowing equity, prohibits a refund unless a taxpayer follows exclusive statutory and regulatory remedies. Also, the Comptroller argued that the Tax Court is a statutory administrative body limited in its jurisdiction and does not have equitable powers.

F. *Broadway Services, Inc v. Comptroller*, 250 Md. App. 102 (2021)

In *Broadway Services, Inc. v. Comptroller*, the Court of Special Appeals reversed the Tax Court’s determination that Broadway Services, Inc. (“Broadway”) was the agent for three tax-exempt hospitals and, therefore, entitled to purchase its cleaning supplies using the hospitals’ tax-exempt certificates.

Broadway is a for-profit company that provides security, parking, housekeeping, transportation, and facilities and property management services to its clients both inside and outside of the Johns Hopkins Health System (“JHHS”). Broadway is a subsidiary of DOME Corporation, which is owned in equal shares by The Johns Hopkins University and JHHS. The case involves services that Broadway provided between 2007 and 2011 to three non-profit hospitals within the JHHS system: Johns Hopkins

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Hospital, Johns Hopkins Bayview Medical Center, and Howard Co. General Hospital (collectively the “Hospitals”). Broadway provided, under a separate contract with each of the Hospitals, management of the cleaning services at the Hospitals. The actual cleaning was performed by the respective hospital’s employees. Under the contracts, Broadway was to supervise, evaluate, and train janitorial staff.

Broadway was also required to provide the cleaning supplies, which it purchased from its vendors. Broadway generally paid tax to its vendors on its taxable purchases. The vendor invoices were issued to and paid by Broadway. The cleaning supplies, which were shipped to the Hospitals, were subject to approval by the Hospitals to ensure compliance with their infectious disease protocols.

Under the contracts, the Hospitals were required to pay Broadway a fixed annual fee for its services, which was paid in equal monthly amounts over the contract year. This fee covered Broadway’s labor and other costs, including cleaning supplies, plus an overhead fee. The fixed fee was based on Broadway’s annual budget for such costs. The Hospitals did not review Broadway’s detailed budgets or a breakdown of the expenses nor did the monthly invoices issued by Broadway contain separately itemized charges for the cleaning supplies. The invoices merely indicated “housekeeping monthly fee,” which amounted to 1/12 of the total estimated costs for management and supplies, plus a fixed profit percentage. The fixed fee generally remained the same even if the prices of cleaning supplies fluctuated during the contract year. If Broadway’s expenses increased, the parties would adjust the cost estimates in the contract for the next year.

Broadway filed a refund claim for sales-and-use tax it paid on its purchases of cleaning supplies used in its management of the cleaning services at various hospitals, each of which is itself a tax-exempt non-profit charitable organization. Broadway’s sole theory for the refund claim was resale, that is that it purchased the cleaning supplies for resale to the hospitals and, thus, was entitled to purchase the supplies without paying sales tax. The Comptroller denied the refund claim, concluding that the supplies were not purchased solely for resale because Broadway used the cleaning supplies in the performance of its management services.

Broadway appealed the refund claim denial to the Maryland Tax Court, once again exclusively raising the resale theory. The Comptroller filed a motion for

summary judgment on the resale issue and in its motion noted that Broadway was also not an agent for the Hospitals. In its response to the motion, Broadway criticized the Comptroller’s reference to agency as being entirely irrelevant because it only argued resale. In the merits hearing before the Maryland Tax Court a few weeks later, Broadway pressed its original resale theory and raised for the first time an agency theory as a basis for exemption. The Tax Court rejected the resale theory but found that Broadway acted as an agent of JHHS, a non-profit charitable organization and was, therefore entitled to the exemption. On appeal to the circuit court, the Circuit Court for Anne Arundel County affirmed the Tax Court decision. On appeal to the Court of Special Appeals, the Court reversed the Tax Court’s agency finding and remanded the case to the Tax Court to issue a new order denying the refund claim on the reseller theory.

In reversing the Tax Court, the Court of Special Appeals noted preliminarily that the Tax Court initially erred in conflating Johns Hopkins with each of the three hospitals, which it deemed factually and legally incorrect, because each of the hospitals qualified independently for a tax-exemption certificate, each had its own board of directors, and each was separately managed and operated in accordance with their respective stated purposes. Thus, the Court concluded that both legally and in practice each hospital was distinct from the others. The Court further noted that under Maryland law, corporations are separate and distinct from their stockholders and subsidiaries are generally distinct from parent corporations. After noting that courts have considered (for income tax purposes) whether a subsidiary is a separate business entity from its parent by assessing four factors, the Court stated that the Tax Court erroneously “blurred the distinction between Broadway, the Hospitals, and JHHS without assessing these four factors and lacked an adequate record to do so.” Slip Op. at 12.

The Court concluded that the contracts between Broadway and each hospital evidenced an intention to create an arms-length transaction and not a confidential relationship. In so concluding, the Court relied on testimony that the contracts between Broadway and each of the hospitals mirrored the contracts of more well-known national competitors. It deemed the requirement that Broadway “provide” cleaning equipment incompatible with an intent to confer a purchasing agent status on Broadway, noting that Broadway alone was responsible for payment for the products and had no duty to disclose pricing information to the Hospitals. The

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Court also pointed out that no-integration and no-oral - modifications clauses in the contracts indicated the parties intended to “cabin the terms of their business relationship to the four corners of the contracts and preclude any unwritten modifications.

Finally, based on its review of the Tax Court’s analysis of the three factors for agency set forth in *Green v. H&R Block, Inc.*, 355 Md. 488, 503 (1999): (1) the agent’s power to alter the legal relations of the principal; (2) the agent’s duty to act primarily for the benefit of the principal; and (3) the principal’s right to control the agent, the Court concluded the Tax Court misunderstood and therefore misapplied these factors and made at least one key factual finding that lacked evidentiary support.

The Court opined that the Tax Court’s conclusion on the first factor—the power to alter the principal’s legal relations—was incorrect because the Tax Court relied entirely on the lack of a change in the cleaning chemicals used in any given year, a point the Court considered to miss the mark. The focus should be, the Court wrote, on whether Broadway could alter the legal relations of the Hospitals with third parties, and no evidence showed that Broadway (or a third party) could require the hospitals to pay for its liabilities for the purchase of cleaning supplies. The Court also rejected the Tax Court’s conclusion that Hopkins told Broadway what to buy, a conclusion it found to be unsupported by the record. The Court distinguished between Broadway having to acquire cleaning supplies that meet certain infectious control standards and the Hospitals’ requiring Broadway to use a particular product.

The Court next concluded that the Tax Court misunderstood the second factor—the agent’s duty to act primarily for the principal’s benefit. The Tax Court had simply concluded that the products were used for the hospital’s benefit, a conclusion the Court dismissed as true of every service contract and not the proper focus, which should be on whether the provider had a duty to place the interests of its client above its own interests. Noting that the Tax Court made no finding on this issue, the Court went on to conclude that the contracts demonstrated no such duty existed. The Court viewed the contracts not to require Broadway to put the Hospitals’ interests before its own. The Court also rejected Broadway’s arguments on the issue—first, that because of the Hospitals’ and Broadway’s common ownership, Broadway’s interests are the Hospitals’ interests, and second, that whether Broadway or the Hospitals benefited from savings

if, for example, the product prices went down is immaterial because, by virtue of their common ownership, any profits were returned to JHHS—as unsupported by the record.

Finally, as to the third element, the principal’s right to control, the Court noted that the level of control necessary to support a finding of agency, “though not susceptible to a formulaic articulation,” means a “principal must have ultimate responsibility to control the result of his or her agent’s actions,” which can be “exercised by prescribing the agents’ obligations or duties before or after the agent acts, or both.” *Green*, 355 Md. at 510. The Court observed that the only factor the Tax Court relied on—that the Hospitals told Broadway what to buy—was factually incorrect because the Hospitals merely had to approve that the cleaning supplies complied with infectious disease control guidelines. Thus, in the Court’s view, the control factor, which did not weigh heavily into the Tax Court’s analysis, militated against an agency finding.

The Court did not address the resale issue, because Broadway did not appeal the issue. It did, however, direct the Tax Court to enter a new order denying Broadway’s petition for a tax refund based on the Tax Court’s prior rejection of Broadway’s reseller theory, thereby paving the way for Broadway to appeal this issue. Neither did the Court address the issue of where tangible personal property is purchased by an intermediary contractor for the use of a non-profit charitable institution in carrying on its exempt purpose, are those purchases exempt from Maryland sales and use tax under *John McShain, Inc.*

The Maryland Court of Appeals has granted certiorari to answer two questions, only one of which—the agency issue—was opined on by the lower courts: The first question is whether tangible personal property purchased by an intermediary contractor for the use of a non-profit charitable institution in carrying on its exempt purpose, are exempt from Maryland sales-and-use tax under *John McShain, Inc. v. Comptroller*, 252 Md. 68 (1953) (“*John McShain*”) and Tax-Gen., § 11-204. The second question is whether the Maryland Tax Court’s conclusion that Broadway Services, Inc. (“Broadway”) acted as an agent for various hospitals was supported by substantial evidence. Oral argument is scheduled in the Maryland Court of Appeals for November 1, 2021.

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G. *Comptroller v. William Atwood*

In *Comptroller v. Atwood*, the Maryland Court of Special Appeals held that to qualify for the sales-and-use-tax exemption under Tax-Gen., § 11-208(c)(1), the airplane must be used for a commercial purpose to transport passengers or goods across state lines.

This case arose from an assessment of sales-and-use tax on William Atwood's use of an aircraft in Maryland, where he resides.

¹ Mr. Atwood claimed his use was exempt from tax under Tax-Gen., § 11-208(c)(1), which provides "[t]he sales and use tax does not apply to a sale of an aircraft that is used principally to cross state lines in interstate commerce." ² Mr. Atwood used his aircraft principally to cross state lines to teach his son to fly or for commuting to his workplace in New York. The Comptroller, who has long maintained that this exemption only applies when the aircraft is used principally to cross state lines in the transport of passengers or freight for a business purpose, concluded that the use of the aircraft did not qualify for the exemption. On appeal to the Maryland Tax Court, Mr. Atwood argued that the Comptroller's interpretation of § 11-208(c)(1) was incorrect because nothing in the statutory language expressly requires that the aircraft be used to transport passengers or freight for a business purpose. He contended that because he used his aircraft principally to cross state lines, he was engaged in interstate commerce and entitled to the exemption. The Tax Court—without considering explicitly whether the exemption required the transport of passengers or freight—reversed the assessment, concluding that instructing his son to fly the aircraft was a commercial activity for which the aircraft was used principally to cross state lines in interstate commerce. The circuit court affirmed the Tax Court's decision.

In reversing the decision of the Tax Court, the Court of Special Appeals held that the exemption did not apply because Mr. Atwood used the aircraft to cross state lines for purely personal reasons and not, as the exemption requires, to transport passengers or freight for a business or commercial purpose. In so holding, the Court relied primarily on the history of the predecessor statute, Md. Ann. Code, art. 81 § 326(gg) (1977), the regulatory framework that

¹ Mr. Atwood purchased the airplane in Ohio, but he did not pay sales-and-use tax on his purchase. If he had, he would have been entitled to a credit against his Maryland tax assessment for any taxes paid on the purchase.

existed prior to code revision (and on which Article 81 § 326(gg) was based), and subsequent court decisions. This combined history demonstrated that "the Legislature intended the exemption to the sales and use tax to apply to aircraft used to transport goods or passengers in interstate commerce." In tracing this history, this Court noted that when § 326(gg) of Article 81 was originally codified, it explicitly exempted from sales-and-use tax sales aircraft "used principally in the movement of passengers or freight, or both in interstate or foreign commerce," but in a 1988 code revision of the tax laws, the phrase "in the movement of passengers or freight, or both" was removed as superfluous, with no substantive change intended.

H. *A+ Governmental Solutions, LLC, et al. v. Comptroller*

The above-captioned cases involve revision claims by six, foreign limited liability companies owned—ultimately—by the Chickasaw Nation, a federally recognized Indian tribe resident in Oklahoma. The Comptroller assessed pass-through entity income taxes against the six LLCs for the 2012 tax year. In the Tax Court, the Comptroller prevailed on all issues on summary judgment. The six LLCs filed a petition for judicial review to the Anne Arundel County Circuit Court, which resulted in a remand for additional factual findings. The Tax Court made additional findings and conclusions, after which the LLCs filed a second petition for judicial review, again to the Anne Arundel court. The Comptroller prevailed on the second petition, and the LLCs noted an appeal to the Court of Special Appeals on June 4, 2021.

The Chickasaw Nation owns all of the stock of Chickasaw Nation Industries, Inc. (hereinafter "CNI"), a federally chartered corporation created in 1996 under the Oklahoma Indian Welfare Act, 25 U.S.C. § 503. CNI is a for-profit holding company, authorized to pay dividends, and registered to do business in Oklahoma. As a federally chartered Indian corporation under 25 U.S.C. § 503, CNI is not subject to federal income taxes and is not required by federal law to file federal income tax returns.

CNI owns several limited liability companies. One such LLC, 100% owned by CNI, is CNI Government, LLC. CNI Government, LLC is an

² Whether an aircraft is used principally in interstate commerce is generally determined based on its first year of use in the State. See COMAR 03.06.01.26(B).

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Oklahoma limited liability company and a holding company like its corporate parent. Some of CNI Government, LLC's wholly owned subsidiaries conducted business in Maryland in 2012. The CNI Government, LLC subsidiaries that conducted business in 2012 in Maryland include CNI Professional Services, LLC; CNI Ancillary Services, LLC; CNI Technical Services, LLC; CNI Federal Services, LLC (f/k/a CNI Information Technology, LLC); Chickasaw Advisory Services, LLC; and A+ Government Solutions, LLC (hereinafter the "CNI Subsidiaries"), the appellants herein. The Chickasaw entity relationships, though multi-layered, are simply linear and may be visualized as follows:

Chickasaw Nation (Indian Tribe)
|
Chickasaw Nation Industries, Inc. (federal corporation)
|
CNI Government, LLC (Okla. LLC)
|
CNI Technical Services, LLC (Okla. LLC)
CNI Ancillary Services, LLC (Okla. LLC)
CNI Advisory Services, LLC (Okla. LLC)
CNI Federal Services, LLC (Okla. LLC)
A+ Government Solutions, LLC (Del. LLC)
CNI Professional Services, LLC (Tex. LLC).

All six of the CNI Subsidiaries are single member LLCs, with CNI Government, LLC as the sole, nonresident entity member. The CNI Subsidiaries derive all, or substantially all of their income from the performance of various services contracts with the federal government.

Appellants in this case—the six, foreign, CNI Subsidiaries, all of which did business in Maryland during 2012, all of which have a single, nonresident member, and all of which had substantial Maryland taxable income in 2012—contend that they have no Maryland income tax liability and are not required to file Maryland income tax returns. As grounds for this assertion, the CNI Subsidiaries reason that: (1) CNI has no federal *tax liability*; (2) the six CNI subsidiaries are disregarded entities under State income tax law; (3) Maryland income tax law is inextricably intertwined with federal income tax law and uses federal *taxable income* as the starting point for Maryland *taxable income*; and (4) therefore, the six CNI subsidiaries have no Maryland income *tax liability*.

On cross-motions for summary judgment, the Tax Court determined that the CNI Subsidiaries were liable for Maryland's pass-through entity income taxes in the amounts assessed by the Comptroller. The CNI Subsidiaries disagreed and filed a petition for judicial review with the Anne Arundel County Circuit Court. The circuit court received briefing and held the required hearing, after which it remanded the case to the Tax Court for additional findings and conclusions related to perceived deficiencies in summary judgment procedures.

On remand, the Tax Court found additional facts as stipulated by the parties and drew legal conclusions therefrom. The Tax Court determined that while it is true that CNI has no federal income *tax liability* and that Maryland income tax law does use the Internal Revenue Code as the measure for calculating and determining Maryland *taxable income*, it does not follow, logically or as a matter of law, that because CNI has no federal *tax liability*, its indirectly owned subsidiary LLCs have no State income *tax liability*. Instead, the Tax Court determined that the six CNI Subsidiaries were liable for Maryland PTE income taxes under Tax-Gen. § 10-102.1, as asserted by the Comptroller. More specifically, the Tax Court determined that:

Under Md. Code Ann., Tax General § 10-102.1(b), Maryland imposes an income tax on "each pass-through entity that has any member who is a nonresident of the State or is a nonresident entity" and "any nonresident taxable income for the taxable year." Each of the CNI subsidiaries in 2012 is a nonresident pass-through entity and each has a single member (CNI Gov't) that was neither registered to do business in Maryland nor a resident of Maryland. Thus, an income tax at the rate of 8.25% is imposed on the CNI subsidiaries' nonresident taxable income for 2012. The tax so imposed is treated as a tax on the nonresident entity member that is paid on behalf of the nonresident by the pass-through entity. See, Mem. & Order of Oct. 8, 2020.

The CNI Subsidiaries disagreed with the Tax Court's determination on remand and filed a second petition for judicial review in Anne Arundel County. The circuit court again received briefing and held the required hearing, after which it affirmed the Tax Court in all respects.

The six CNI Subsidiaries noted an appeal to the Court of Special Appeals on June 4, 2021, and the Clerk of that court has ordered that the case proceed to briefing on the customary schedule.

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Court proceedings related to the decision in:

***Comptroller v. Wynne*, 135 S.Ct. 1785 (2015) [*Wynne I*] and 2014 Senate Bill 172**

In anticipation of a decision by the U.S. Supreme Court that would uphold the decision that Maryland's credit scheme for taxes paid to other states was unconstitutional, the General Assembly, in 2014, enacted legislation to ease the financial burden and uncertainty that the counties would face. Specifically, the legislation (Section 16 of SB 172, 2014 Budget Reconciliation and Financing Act) provided that any interest due on a refund claim based on the final decision in *Wynne I* case would, to the extent interest was due, be payable at the prime interest rate between banks in 2015 (approximately 3%) rather than the rate specified in Tax General Art. 13-603.

A. Class Action

On November 13, 2015, a class action lawsuit was filed in the Circuit Court for Baltimore City, *Michael J. Holzheid, et al., v. Comptroller of the Treasury, et al.*, Case No. 24-C-15-005700. The Complaint is filed on behalf of the named plaintiffs and all others who did not receive the full credit, filed amended returns claiming the credit, received refunds, but only received interest on those refunds at the lower rate. The Complaint alleges that Section 16: 1) violates the 14th Amendment as an unconstitutional taking of private property without due process and just compensation; 2) violates the Commerce Clause of the U.S. Constitution; 3) is an unconstitutional retroactive law; and 4) violates 42 U.S.C. § 1983.

The defendants moved to dismiss, arguing that the plaintiffs, who had not filed administrative appeals pursuant to the Tax General Article, had not exhausted all available administrative remedies. The court denied the Motion to Dismiss.

Subsequently, both sides filed motions for summary judgment. Among the issues presented in the motions for summary judgment, the defendants renewed the argument that the plaintiffs had not exhausted their administrative remedies.

On January 16, 2018, the circuit court issued its decision. The court dismissed the case on the grounds that the plaintiffs had not exhausted their administrative remedies. The court found that no exception existed in this case that would permit the plaintiffs to seek relief directly in the circuit court, bypassing the administrative remedies available to a taxpayer whose refund claim has been denied.

Despite this ruling, and its finding that the motion for class certification and motions for summary judgment were moot, the circuit court proceeded to opine on the underlying issues. In doing so the court stated that had it issued a substantive ruling on class certification, it would not have certified the class. But, on the issue of whether the Section 16 of the 2014 BRFA was constitutional, the court expressed its view that Section 16 was probably unconstitutional for the same reasons as stated by the Supreme Court in *Wynne I*. The circuit court did not opine any of the other constitutional grounds raised by the plaintiffs.

The plaintiffs noted an appeal to the Court of Special Appeals. On March 20, 2019, the Court of Special Appeals, in a reported decision (240 Md. App. 371), affirmed the decision of the circuit court that the plaintiffs had failed to exhaust administrative remedies. Maryland has provided a plain, adequate, and complete remedy for filing and adjudicating a refund claim, including interest on that claim. This exclusive remedy precludes pursuing a refund claim in the circuit court.

The appellate court found that the constitutional exception to exhaustion of administrative remedies did not apply here because this was not a constitutional attack on the statute as a whole, but only on a particular provision and how it applied in a particular circumstance. Such an exception does not apply if the Legislature intended that the administrative remedy be exclusive, there is no statutorily provided alternative, and the remedy is subject to judicial review. The court also rejected the assertion there is an exception when the matter arises in a § 1983 claim. Principles of comity and federalism portend a hands-off to claims arising from state tax administration, especially where there is a plain, adequate and complete remedy.

The Plaintiffs petition for writ of certiorari to the Court of Appeals was denied on July 13, 2020.

B. Maryland Tax Court

Brian and Karen Wynne, the same parties from the Supreme Court case, also appealed the denial of payment of interest at the 13% rate, *Brian and Karen Wynne v. Comptroller*, MTC No. 16-IN-OO-0216.

The Wynnes received a refund of the taxes they paid on the initial assessment made against them. They were paid interest at the rate provided for in Section 16. They requested interest at the rate provided for in TG § 13-603. The Comptroller

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denied that request. They requested an administrative hearing. A Notice of Final Determination was issued affirming the denial of interest at the higher rate. The Wynnes appealed that decision to the Maryland Tax Court, raising the same arguments as were raised in the class action lawsuit.

In a short opinion dated May 23, 2018, the Maryland Tax Court reversed the decision of the Comptroller, ordering that interest be paid at the 13% rate rather than rate dictated by the General Assembly in Section 16. The decision simply stated that for the same reasons expressed by the Supreme Court in *Wynne I* regarding the Commerce Clause, Section 16 of the BRFA was unconstitutional. The Maryland Tax Court did not address any other constitutional grounds raised by the Wynnes.

The Comptroller appealed the decision to the Circuit Court for Anne Arundel County. On December 21, 2018, the circuit court reversed the decision of the Maryland Tax Court.

The Wynnes appealed the circuit court decision to the Court of Special Appeals and then sought bypass certiorari to the Court of Appeals. That request was granted.

On June 5, 2020, in a unanimous opinion authored by the same judge, Judge McDonald, who authored the majority opinion in *Wynne I*, the Court of Appeals reversed the decision of the Maryland Tax Court concluding that the effect of change in the rate of interest on a tax refund was too attenuated from interstate commerce to substantially affect or interfere with the decision making that directs the flow of capital or location of a transaction.

Even though it found that the State's action did not substantially affect interstate commerce and, thus, did not have to address the issue of discrimination, the Court nonetheless did so, concluding that the action did not discriminate. The Court stated that even if one were to accept the premise that the rate change had a constitutional effect on interstate commerce and the premise that all or most taxpayers entitled to refunds as a result of *Wynne I* derived the pertinent income from interstate commerce, that does not mean the statute discriminated. "Rather, it reflects the remedial nature" of the two BRFA provisions.

The Court of Appeals decision did not bring the matter to a close. The matter was remanded back to the Tax Court to address the other arguments advanced by the Wynnes.

On March 31, 2021, the Maryland Tax Court affirmed the Comptroller's denial of additional interest. The Tax Court rejected the Wynnes' arguments that the BRFA provisions constituted unlawful retroactive provisions depriving them of a vested right to interest at a certain rate. The Tax Court concluded that the Wynnes had no vested right to interest at 13%, as such a right is vested only when it is fixed and not contingent on a future act, contingency or decision.

Similarly, the Tax Court rejected the Wynnes' argument that there was an unconstitutional taking of private property without just compensation.

The Wynnes have appealed the Tax Court's most recent decision to the Circuit Court for Anne Arundel County. Argument is scheduled for September 27, 2021.

C. Tax General Art., §13-1104(j)

In related matters, several taxpayers have filed petitions with the Maryland Tax Court asserting that the Comptroller's determination that they had not filed amended returns requesting refunds based on the *Wynne I* decision within the applicable statute of limitations. These taxpayers are asserting that they had one-year from the date of the Supreme Court's decision to file their amended returns under Tax Gen. § 13-1104(j), not the 3-years from the date of the return as required by Tax Gen. § 13-1104(c). There are 40 such cases currently pending in the Maryland Tax Court, as well as similar appeals pending before the Comptroller's Hearings & Appeals section. Of the 40, 39 have been stayed pending the outcome in the first of these to have gone to trial, *Jonathan & Beatriz Maizel v. Comptroller*, MTC Nos. 16-IN-OO-1100 and 17-IN-OO-0011.

The *Maizel* cases went to trial on September 19, 2017. On October 11, 2017, the Maryland Tax Court issued a decision rejecting all of the petitioners' arguments, holding that §13-1104(j) did not pertain to all persons in general, but only to the taxpayer who was party to the proceedings in the other forum. The Maizels appealed the decision to the Circuit Court for Montgomery County, which upheld the decision of the Maryland Tax Court.

The Maizels appealed to the Court of Special Appeals. On April 29, 2021, in a reported opinion, the Court of Special Appeals affirmed the decision of the Maryland Tax Court.

Comptroller of Maryland Changes in Tax Forms

Changes in Tax Forms

Tax forms will continue to be available through various sources this year. Fill-in forms will be available on the Comptroller's Web site at www.marylandtaxes.gov. Paper forms will be available upon request. A limited number of paper tax booklets have been made available to libraries which have requested them.

A. Resident Returns

Form 502 – Maryland Resident Return

- **Page #1** Line added in address section after Current Mail Address for the name of a Foreign Country, Province/State/County and Foreign Postal Code.
- **Page 2, Line 1e** The Investment Income amount has been updated from \$3,600 to \$10,000.
- **Page #3, Line 22** There is a new Check Box for claiming the Maryland Earned Income Credit with a qualifying child.

Form 502 – Standard Deduction

Beginning in tax year 2019, the value of the standard deduction is indexed on the annual change in the cost of living. For Tax Year 2021, the below are indexed standard deduction for Worksheet 1 and Worksheet 2.

- **Worksheet 1 and 2**

STANDARD DEDUCTION WORKSHEET (16A)	
If your filing status is:	
Single, Married filing separately or Dependent taxpayer	Married filing jointly, Head of household or Qualifying widow(er)
Worksheet 1	Worksheet 2
Enter your income from line 16 of Form 502 \$ _____	Enter your income from line 16 of Form 502 \$ _____
If your income is:	If your income is:
\$10,333 or less	\$20,666 or less
Your standard deduction is: 1,550	Your standard deduction is: 3,100
If your income is between \$10,333 - \$15,667	If your income is between \$20,666 - \$31,333
Enter your income from above: \$ _____	Enter your income from above: \$ _____
Multiply by 15 percent (.15) X .15	Multiply by 15 percent (.15) X .15
This is your standard deduction \$ _____	This is your standard deduction \$ _____
or	or
If your income is:	If your income is:
\$15,667 or over	\$31,333 or over
Your standard deduction is: 2,350	Your standard deduction is: 4,700
Enter your standard deduction on line 17 of Form 502.	Enter your standard deduction on line 17 of Form 502.

Form 502 – Additions to Income for Individuals

- **Instruction 12** ADDITIONS TO INCOME: To determine which additions to income apply to you, write the correct amounts on Lines 2 – 5 of Form 502
- **Line 5** OTHER ADDITIONS TO INCOME: If one or more of these apply to you, enter the total amount on line 5 and identify each item using the code letter.
- **502CR, Part CC, Line 9** Members of pass-through entities that elected to make payments attributable to members' share of the pass-through entity taxable income: If you received a credit for tax paid by the pass-through entity on your distributive to prorate share of income on Maryland Schedule K-1 (510), part D, enter the amount of the credit claimed on Form 502CR part CC line 9.

Form 502SU – Subtractions From Income for Individuals

- **Pension Exclusion, Line 2** The maximum allowable pension exclusion is \$34,300.
- **Instruction 22** The annual interest rate is 9.5% annually per month for any month or part of a month the tax is paid after the original due date of the 2021 return but before January 1, 2023.
- **Instruction 12, Code letter va** Increases the value of the existing subtraction in phases:
 - \$6,500 for tax year 2021
 - \$7,000 after December 21, 2021

Comptroller of Maryland Changes in Tax Forms

Form 502SU – Subtractions From Income for Individuals

- **Instruction 13** New Subtraction Modifications: There are two subtraction modifications that have been updated and four new subtraction modifications.

- **Line 13** Code Letters: va, ss, ww, xx, and zz
 - **Code letter va:** amount increased from \$6,000 to \$6,500.
 - **Code letter ss:** amount increased from \$7,500 to \$10,000.
 - **Code letter ww:** A qualified individual may be allowed a subtraction up to \$5,000 of the amount contributed to a newly established First-Time Homebuyer Savings Account and the earnings, including interest and other income on the principal, on such account.
 - **Code letter xx:** Amount up to \$1,000 of donations of certain disposable diapers, certain hygiene products, and certain monetary gifts made by a taxpayer during the taxable year to certain qualified charitable entities that are registered with the Comptroller. To qualify for this subtraction, you must file with the return documentation showing the name of each qualified charitable entity to which a donation was made; proof of the value of the donation; and any other information that the Comptroller requires.
 - **Code letter yy:** Amount of unemployment compensation reported on 1099-G, Box 1, that was included in your FAGI for qualified taxpayer.
 - **Code letter zz:** Amount of Coronavirus relief grant payment, relief loan, and any portion of the loan that was forgiven.

- **Line ww** First Time Homebuyer Saving Account authorized first time homebuyers to allow a subtraction up to \$5,000 of the amount contributed to such an account and the earnings on the account

Form 502LU – Legislative Updates Addition/Subtraction Modifications

Form 502LU has been eliminated for Tax Year 2021.

Form 502CR — Income Tax Credits for Individuals

- **Part E** Maximum amount of credit that can be claimed for long-term care premiums has not changed. It is \$450 for insured age 40 or less.
 - \$450 for those insured who are 40 or less, as of 12/31/2021
 - \$500 for those insured who are over age 40, as of 12/31/2021

- **Page 4, Part J, Line 3** Physician Assistant Preceptorship Tax Credit” an expansion of the current two qualified individuals (#1 & #2). Part J was redesigned showing each tax credit as separate line.

- **Page 4, Part CC, Line 5** New for 2021 is #5 “Catalytic Revitalization Projects and Historic Revitalization Tax Credit was added to 2020 forms due to the 2021 Relief Act

- **Page 4, Part CC, Line 8** Refundable credit for Child with disability was added to 2020 forms due to the 2021 Relief Act

- **Page 4, Part CC, Line 9** PTE Tax paid on members’ distributive or pro rata shares of income was added to 2020 forms due to the 2021 Relief Act

Form 502V — Use of Vehicle for Charity Purposes

- **Line 2** Mileage rate is 56.0 cents for 2021

Comptroller of Maryland Changes in Tax Forms

B. Sales and Use Tax Forms

Form 202 – Sales and Use Tax Return

Form 202 has been redesigned to give it a cleaner look.

- **Line 5** Sales subject to 6% rate (Digital products) is a new item.
- **Line 6** Sales subject to 12% rate (ESDs, Tobacco Pipes) is a new item
- **Line 7** Sales subject to 60% rate (Vaping Liquid) is a new item
- **Line 14** Tax Credit – Qualified Job Training is a new item
- **Line 20** Taxable purchases of ESDs and tobacco pipes subject to the 12% rate is a new item
- **Line 21** Taxable purchases of vaping liquid subject to the 60% rate is a new item

Form 202F – Sales and Use Tax Return for Marketplace Facilitators

- **Line 3** Sales subject to 6% rate (Digital products) is a new item
- **Line 4** Sales subject to 12% rate (ESDs, Tobacco Pipes) is a new item
- **Line 5** Sales subject to 60% rate (Vaping Liquid) is a new item

C. Corporation Returns

Form 500 – Corporation Income Tax Return

Line added in address section after Current Mail Address for the name of a Foreign Country, Province/State/County and Foreign Postal Code.

- **Line 7g & Line 8b.1** Reference to Form 500LU has been removed

Form 500LU – Corporation Income Tax Return

This form was created as a result of the 2021 legislative update that affected 2020 tax forms. For 2021, we will incorporate the items on the Form 500 Instructions

D. Pass-Through Entities

Form 510 & 511 – Pass-Through Entity

- **Form 510** This form was modified to address alterations of pass-through entity election established in SB496 Relief Act
- **Form 511** This form was newly created for pass-through entities that make an election to pay the tax on members' distributive or pro rata shares of income.

E. Fiduciaries

No changes for 2021

Comptroller of Maryland 2021 Tax Year Procedures

A. Electronic Filing Program (eFile)

1. Electronic Filing Statistics (as of 8/31/21)

This past filing season, we received 2,771,103 electronically-filed returns.

- Of the 2,771,103 returns filed, 69% requested refunds.
- 80% of refunds were issued via direct deposit.

Taxpayers may file electronically or print tax forms or instructions at www.marylandtaxes.gov or contact the nearest branch office for assistance.

2. Electronic Filing Mandate for Business Tax Credits

For returns filed for Tax Years beginning after December 31, 2012, taxpayers must file their tax returns electronically to claim certain business tax credits. If you wish to claim credits filed on Form 500CR, you generally must file using software which supports the electronic filing of the Form 500CR. We track this information at www.marylandtaxes.gov under Tax Professionals > Vendors and Developers > Approved Vendors > Approved eFile Software Vendors (select individual or business).

However, pursuant to SB 36 of the Acts of 2017 of the Maryland General Assembly, the Comptroller of Maryland may grant a taxpayer a waiver of the requirement to file for certain tax credit(s) by electronic means. Form 500CRW, Request for a Waiver, must be submitted with the Form 500CR that establishes a reasonable cause for not filing by electronic means or that there is no feasible means of filing electronically creating an undue hardship.

3. Electronic filers must submit documentation electronically to claim out-of-state or Schedule K-1 credits

Returns claiming out of state credits on Form 502CR must submit the other state(s) returns with the electronic return or the credit will be disallowed. Returns claiming credits from Schedule K-1s must include the Schedule K-1 with the electronic return. In both cases, a binary attachment (PDF) will suffice. Be sure that the software you use supports the electronic filing of the Form 500CR **unless** the Form 500CRW Request for a Waiver is submitted with the Form 500CR. We track this information at www.marylandtaxes.gov under Tax Professionals > Vendors and Developers > Approved Vendors > Approved eFile Software Vendors (select individual or business).

B. Updates and Reminders for Next Filing Season

1. Reminder

The **Form 548** is a power of attorney form developed in 2016 for Maryland tax purposes. The **Form 548P** is a reporting agent authorization form developed in 2016 that replaces federal Form 8655 for Maryland tax purposes. Both forms are required to be used beginning January 1, 2017.

The **Sales and Use Tax Exemption Certificate Application** was developed in 2016 to streamline the application process for Maryland Sales and Use Tax Exemption Certificates. The application for these certificates was previously incorporated into the Combined Registration Application.

Sales and Use Tax **Form 202F** is a supplementary schedule that must be filed by marketplace facilitators, along with Form 202, for periods beginning October 1, 2019 to report sales and use tax collected on facilitated sales into Maryland.

2. Income tax returns are due April 18, 2021

If the return is for a fiscal year taxpayer, it is due on the 15th day of the fourth month following the close of the fiscal year. If any due date falls on a Saturday, Sunday or legal holiday, the return must be filed by the next business day.

If you both file and pay electronically (credit card, direct debit/electronic funds withdrawal), your return is due by April 15th. However, you will have until April 30, 2021 to make your payment.

(If you file electronically and pay by check, your payment is due by April 15th.)

3. Social Security Number Validation

All taxpayers' primary, secondary and dependent Social Security Numbers will be validated through the Internal Revenue Service before the processing of the return is completed. Filings with an invalid Social Security Number(s) may result in processing delays and denial of any credits.

If you have a dependent that was placed with you for legal adoption and you do not know his/her Social Security Number, you must apply for an Adoption Taxpayer Identification Number (ATIN) from the Internal Revenue Service (IRS).

4. Earned Income Credit

The Comptroller will publish the maximum income eligibility for State earned income credit (EIC) on or before January 1 of each calendar year.

Beginning with Tax Year 2015, nonresidents are no longer eligible for the earned income credit, the local

Comptroller of Maryland

2021 Tax Year Procedures

earned income credit, or the refundable earned income credit.

Beginning with Tax Year 2018, for an individual without a qualifying child the Maryland earned income tax credit allowable for a taxable year is calculated without regard to the minimum age requirement under the Internal Revenue Code.

A mailing to employers in November of this year will include a Withholding Tax Alert along with the Withholding Tax Facts.

The rate to be used for the refundable earned income credit is to 45% of the federal earned income credit for Tax Year 2021.

5. Electronic Returns, with Balance Due

As we have done previously, Revised Income Tax Notices for balance due returns that did not request direct debit will not be mailed until after the payment due date and all payments received have been posted.

6. Quick Response Codes

On select forms we are continuing the use of Quick Response (QR) codes which smartphone and tablet users can scan to go straight to our web pages to iFile, to see estimated payments history, to check a refund status, to review Form 1099-G, etc.

7. Tax Returns Submitted Without Form W-2s or Form 1099s

Tax returns received with a withholding amount and without a wage statement, Form W-2 or Form 1099 will have the unsubstantiated withholding denied.

8. Direct Debit for Payment Plans

Maryland has online direct debit payment plans for personal income tax liabilities. Taxpayers may use this online service by completing a registration application online and setting up a payment plan within the guidelines of the program.

9. Direct Debit for Online Bill Payments

Taxpayers are able to set up bill payments for individual and business liabilities.

10. Certification Requirement for Electronically Filed Returns

Returns requiring certification will have those credits disallowed unless we receive a copy of the certification with the return. The eFile Handbook lists the credits requiring certification on pages 16 through 19.

C. Free Internet Filing for Businesses (bFile)

1. bFile allows businesses to file their employer withholding, Sales and Use Tax (SUT), and Admissions and Amusement Tax returns on our website and pay by direct debit or credit card. Employers also may upload wage data files or key up to 250 Form W-2s and their Form MW508s, directly to our website at www.marylandtaxes.gov

2. bFile Advantages

- bFile allows registered users to view the history of past filings 24/7.
- bFile allows the user to schedule a payment in advance up to the due date.
- bFile provides a written confirmation the user can print.
- bFile registration allows the user to save their FEIN, CRN and bank information, so it will pre-fill for future filings thus eliminating keying errors.
- bFile allows the user to edit previously submitted filings up to 2 days before the debit date.
- bFile allows nones (zero filings) to be filed.
- bFile allows a return to be filed without a payment for balance-due Withholding and SUT returns This capability was implemented in 2013.
- bFile allows the registered user to file their annual withholding reconciliation and report their W-2s.
- bFile allows the user to file current year filings as well as two previous years.
- bFile calculates the discount on timely filed SUT filings when applicable.
- Multiple accounts may be accessed by a single registration.

D. Electronic Funds Withdrawal (Direct Debit) is Available for the Following

1. Electronically filed returns can have a withdrawal date up to April 30th.
2. Personal extension payments via iFile.
3. Personal estimated payments via iFile.
4. Employer withholding returns.
5. Personal and business bill payments via Bill Pay.

Comptroller of Maryland 2021 Tax Year Procedures

E. Alternative Payment Methods

For alternative methods of payment, such as a credit card, visit the Comptroller's website at www.marylandtaxes.gov

NOTE: Credit card payments are considered electronic payments for the purpose of the April 30th extended due date if you filed your return electronically by April 18th.

F. Mailing of Forms

1. Tax booklets will be mailed to taxpayers upon request only.
2. Employer withholding coupon books will be mailed by the end of December except for accelerated filers whose booklets will be mailed in early December.
3. The mailing of personal estimated tax vouchers (Form 502DEP) has been discontinued for tax year 2017. The Form 502DEP will be available online or by request from the Taxpayer Service Section of the Comptroller's Office.

G. Most Common Errors

1. Incorrect banking account and routing numbers for direct deposit of refunds.
2. Calculation of local income tax / no local tax calculated.
3. State and local earned income credit.
4. Forms 505NR and 504NR not included with the return.
5. Poverty level credit.
6. Forms 502CR, 500CR and MW508CR are incomplete without required documentation.
7. Special nonresident tax not computed.
8. Personal tax returns claiming Maryland withholding submitted without wage statements (W-2s or 1099s).
9. Standard and Itemized Deduction box not checked.
10. Total Exemption box not completed.
11. Nonresident tax paid by a pass-through entity on wrong line or documentation (Maryland Schedule K-1) not attached.
12. Business income tax credits and required certification(s) not electronically filed.
13. IRC Section 1341 (Claim of Right) Credit and Neighborhood Stabilization Tax Credit being claimed erroneously on Form 502CR.
14. Most nonresident fiduciary returns lack the proper or complete reconciliation of Maryland income to the federal income.

15. Earned income credit being entered in line requesting the amount of earned income. This results in a reduced EIC or poverty level credit.

H. Taxpayer Service

WALK-IN SERVICE

Free, in person tax assistance is provided at our taxpayer service offices. Please bring a completed copy of your federal return and all W-2 statements. Offices are open Monday – Friday, 8:30 a.m. – 4:30 p.m. except for State holidays. For accommodations for a disability, please call 410-260-7980 from Central Maryland or 800-638-2937 from elsewhere before your visit.

TELEPHONE SERVICE

The Comptroller of Maryland offers extended hours for free telephone assistance from February 1 – April 15, 2021. During this period, telephone assistance is available from 8:30 a.m. until 7:00 p.m., Monday through Friday except for State holidays.

EMAIL SERVICE

Email to: taxhelp@comp.state.md.us. Please include your name, address and the last four digits of your Social Security Number in your email message. This will help us generate a quick response to your inquiry.

REFUND INFORMATION

Central Maryland	410-260-7701
Elsewhere	1-800-218-8160

Special Assistance

Hearing impaired individuals may call:

Maryland Relay Service (MRS)	711
Larger format tax forms	410-260-7951

I. Important Information

Website address: www.marylandtaxes.gov

Tax Practitioner hotline: 410-260-7424

Tax Practitioner e-mail address:

taxprohelp@comp.state.md.us

eFile Tax Pro hotline: 410-260-7753

eFile Tax Pro e-mail address:

efil@comp.state.md.us

Tax Forms e-mail address:

taxforms@comp.state.md.us

List of Business Tax Credits is available on our website. You may go directly to that page by entering the following Web address: http://taxes.marylandtaxes.gov/Business_Taxes/General_Information/Business_Tax_Credits/

Comptroller of Maryland Statistics

RAD Statistics

2020 Personal Tax Return Processing as of June 30, 2021

A.	Total 2020 personal tax returns (received through 8/31/21).....	3,092,351
	Electronic 2,771,103 Paper 321,248	
B.	Total number of refund returns (through 8/31/21)(does not include Amended).....	2,165,907
	Paper Checks 430,995 Direct Deposits 1,734,912	
		(dollars)
C.	Total refunds issued on above returns.....	\$ 1,967,941,032
D.	Amount paid with returns.....	774,025,930
E.	Amount of refunds applied to 2021 estimated tax (48,357).....	119,534,972
F.	Amount of refunds transferred to DHR (8,794 returns).....	5,681,472
G.	Amount of refunds transferred to CCU (100,016 returns).....	54,809,505
H.	Amount of refunds applied to business taxes (722 returns).....	630,562
I.	Amount of refunds transferred to other states.....	0
	• Connecticut (0 returns) \$ 0	
	• Delaware (0 returns) \$ 0	
	• New Jersey (0 returns) \$ 0	
	• New York (0 returns) \$ 0	
	• Washington, DC (0 returns) \$ 0	

Fiscal Year Ended June 30, 2021

(dollars)

J.	Employer withholding receipts.....	\$16,039,026,960
K.	Personal estimated tax.....	3,290,676,931
L.	Amount of local tax distributed to counties and cities and towns.....	7,034,357,948
M.	Amount of corporate tax distributed.....	379,041,770
N.	Amount of earned income credit claimed.....	103,092,332
O.	Amount of refundable earned income credit claimed.....	164,393,073
P.	Amount of poverty level credit claimed.....	2,599,207
Q.	Contributions to Chesapeake Bay Endangered Species Fund.....	876,708
R.	Contributions to Developmental Disabilities Service and Support Fund.....	342,699
S.	Contributions to Maryland Cancer Fund.....	433,470

Comptroller of Maryland Statistics

Compliance Statistics – Fiscal Year End 6/30/2021

A. Number of active delinquent individual income tax cases as of 6/30/2021	274,198
B. Number of active delinquent business tax cases as of 6/30/2021	57,494
C. Number of payment agreements entered	60,785
D. Number of cases certified to IRS for offset	25,048
E. Number of tax liens filed	3,451
F. Number of salary garnishments filed	664
G. Number of bank attachments filed	0
H. Estimated number of business tax accounts as of 6/30/2021	478,500
I. Number of 1st notices sent for individual income tax cases as of 6/30/2021	0
J. Number of business tax discovery notices sent	0
K. Number of business tax audits and investigations	100
L. Number of unclaimed property holder reports received	22,238
M. Number of notices sent to owners	132,423
N. Number of unclaimed property claims paid	33,746
O. Percent of auditors (employed at least 18 months) cross-trained	60 %
P. Percent of business tax accounts audited or investigated	0.02 %
Q. Percent of names added to system within 90 days	100 %
	(dollars)
R. Dollars collected on delinquent income tax cases as of 6/30/2021	262,687,687
S. Dollars collected on delinquent business tax cases	172,780,058
T. Dollars collected from MITS activities	45,149,099
U. Dollars assessed on business tax discovery activities	60,000
V. Dollars assessed for business tax audits (millions)	.2
W. Dollars assessed for individual income tax (millions)	0
X. Dollars of unclaimed property reported (millions)	246.7
Y. Dollars of unclaimed property paid to owners (millions)	61.3

Comptroller of Maryland

2021 Maryland Income Tax Forms

Availability

We strongly encourage you to electronically file your income tax returns. Individual Maryland income tax forms are available upon request at any of our taxpayer service locations throughout Maryland. In addition, many public libraries have small quantities of the resident tax booklet as a courtesy to patrons at no charge. To download forms from the Internet and for other electronic services, visit us at www.marylandtaxes.gov

Reproducible forms

You may photocopy these forms in black and white when you need only a few copies. However, you may not use these **facsimiles as camera-ready copy for printing, nor may you change their graphic design. The Maryland Revenue Administration Division has a procedure concerning photocopying income tax forms. See Administrative Release No. 26.**

Form Number	Description
500	Corporation Income Tax Return
500D	Maryland Corporation Declaration of Estimated Income Tax
500DM	Decoupling Modification
500E	Application for Extension of Time to File Corporation Income Tax Return
500UP	Underpayment for Maryland Income Tax by Corporations and Pass-Through Entities
500X	Amended Corporation Income Tax Return
EL 101B	Maryland Income Tax Declaration for Business Electronic Filing
EL 102B	Maryland Income Tax Payment Voucher for Business Electronic Filers
502	Maryland Tax Return (Resident Individual) Long Form
502AC	Subtraction for Contribution of Artwork
502AE	Subtraction for Income Derived Within an Arts and Entertainment District
502B	Maryland Dependents' Information
502CR	Income Tax Credits for Individuals and Instructions
PV	Personal Tax Payment Voucher for Form 502/505, Estimated Tax and Extensions
502INJ	Injured Spouse Claim Form
502S	Sustainable Communities Tax Credit
502SU	Maryland Resident Subtractions
502TP	Computation of Tax Preference Income
502UP	Underpayment of Estimated Maryland Income Tax by Individuals
502V	Use of Vehicle for Charitable Purposes
502X	Amended Maryland Tax Return
EL 101	Maryland Income Tax Declaration for Electronic Filing
EL 102	Maryland Income Tax Payment Voucher for Electronic Filers
504	Fiduciary Income Tax Return
504CR	Business Income Tax Credits for Fiduciaries
504K-1	Maryland Schedule K-1 (Form 504) – Beneficiary Information
504NR	Maryland Nonresident Fiduciary Income Tax Calculation
504D	Maryland Fiduciary Declaration of Estimated Income Tax

Comptroller of Maryland 2021 Maryland Income Tax Forms

Form Number	Description
504E	Application for Extension of Time to File Fiduciary Income Tax Return
504UP	Underpayment of Estimated Income Tax by Fiduciaries
504 Sch A	Fiduciary Income Tax Return Schedule A
504NBD	Nonresident Beneficiary Deduction Summary Sheet
505	Maryland Tax Return (Nonresident Individual)
505NR	Maryland Nonresident Income Tax Calculation
505SU	Maryland Nonresident Subtractions
505X	Nonresident Amended Maryland Tax Return
510	Pass-Through Entity Income Tax Return and Schedule B: Pass-Through Entity Members' Information
510C	Maryland Composite Pass-Through Entity Income Tax Return
510D	Declaration of Estimated Pass-Through Entity Nonresident Tax
510E	Application for Extension of Time to File Pass-Through Entity Income Tax Return
510 K-1	Maryland Schedule K-1 (Form 510) – Member Information
515	Maryland Tax Return (Nonresident Local Tax)
548	Maryland Power of Attorney
548P	Maryland Limited Power of Attorney and Tax Authorization.
588	Direct Deposit of Maryland Income Tax Refund to More Than One Account.
MW507	Employee's Maryland Withholding Exemption Certificate
MW507M	Military Spouse Withholding Exemption Certificate
MW507P	Request for Maryland Withholding for Annuity, Sick Pay and Retirement Distributions
MW508	Annual Employer Withholding Reconciliation Return
MW508CR	Business Income Tax Credits for 501(c)(3) Organization Use Only
COMST-118AB	Consumer Use Tax Return for Out-of-State Purchases
CRA	CRA Combined Registration Application
SUTEC	Sales & Use Tax Exemption Application