



COMPTROLLER  
*of* MARYLAND  
*Serving the People*

2013  
TAX & LEGISLATIVE  
UPDATE

Peter Franchot  
Comptroller of Maryland





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**Comptroller of Maryland  
Revenue Administration Division**

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**Legal**

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<b>James Pasko</b> , Manager	<a href="mailto:jpasko@comp.state.md.us">jpasko@comp.state.md.us</a>	410-260-7440
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**Taxpayer Accounting**

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**Forms & Web Content**

<b>Chris Kolb</b> , Manager	<a href="mailto:ckolb@comp.state.md.us">ckolb@comp.state.md.us</a>	410-260-7755
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**Taxpayer Communications**

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**Branch Operations**

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<b>For Information About</b>	<b>Contact</b>	<b>Local No.</b>	<b>Toll-Free No.</b>
Taxpayer Information	Taxpayer Service	410-260-7980	800-638-2937
Tax Practitioner Hotline	Taxpayer Media & Education	410-260-7424	
Automated Refund Inquiry		410-260-7701	800-218-8160
Tax Forms	Taxpayer Service	410-260-7951	
Telefile Zero Tax Due Businesses		410-260-7225	
Telefile Individual Extensions		410-260-7829	
Electronic Filing Help	Electronic Filing	410-260-7753	
Business Taxpayer Assistance	Taxpayer Service	410-260-7980	800-638-2937



## TAX INFORMATION AND ASSISTANCE

Visit our web site at [www.marylandtaxes.com](http://www.marylandtaxes.com)  
or call 410-260-7980 from Central Maryland or  
800-638-2937 from Elsewhere

### 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 Martin Luther King Jr. Day, Monday, January 20, 2014 and Presidents' Day, Monday, February 17, 2014.

### 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. . . . . 1-800-638-2937

## BRANCH OFFICES

### Annapolis

Revenue Administration Center  
110 Carroll St.  
Annapolis, MD 21411

### Baltimore

State Office Building  
301 W. Preston St., Rm. 206  
Baltimore, MD 21201-2384

### Cumberland

112 Baltimore St., 2nd Fl.  
Cumberland, MD 21502-2302  
Allegany & Garrett County Residents

### Elkton

Upper Chesapeake Corporate Center  
103 Chesapeake Blvd., Ste. D  
Elkton, MD 21921-6313

### Frederick

Courthouse/Multiservice Center  
100 West Patrick St., Rm. 2110  
Frederick, MD 21701-5646

### TELEPHONE SERVICE

Telephone service is available 8:00 a.m. until 5:00 p.m., Monday through Friday. The Comptroller of Maryland offers extended hours for telephone assistance from February 3 - April 15, 2014. During this period, telephone assistance is available from 8:00 a.m. until 7:00 p.m., Monday through Friday except for Martin Luther King Jr. Day, Monday, January 20, 2014 and Presidents' Day, Monday, February 17, 2014.

### EMAIL SERVICE

Email to: [taxhelp@comp.state.md.us](mailto: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

### Hagerstown

Professional Arts Building  
1 South Potomac Street  
Hagerstown, MD 21740-5512

### Landover

Treetops Building  
8181 Professional Pl., Ste 101  
Landover, MD 20785-2226

### Salisbury

Sea Gull Square  
1306 South Salisbury Blvd., Ste. 182  
Salisbury, MD 21801

### Towson

Hampton Plaza  
300 East Joppa Rd., Ste. PL 1A  
Towson, MD 21286

### Upper Marlboro

Prince George's County Courthouse  
14735 Main St., Rm. 083B  
Upper Marlboro, MD 20772-9978

### Waldorf

1036 St. Nicholas Dr., Ste. 202  
Waldorf, MD 20603

### Wheaton

Westfield Wheaton South Building  
11002 Veirs Mill Road, Ste. 408  
Wheaton, MD 20902

## Comptroller of Maryland Compliance Division

### ADMINISTRATION

Toll-Free Number: 888-674-0020

<b>Sharonne R. Bonardi</b> , Director	<a href="mailto:sbonardi@comp.state.md.us">sbonardi@comp.state.md.us</a>	410-767-1556
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<b>Vacant</b> , Assistant Director	-----	-----
<b>Robert R. Scheerer</b> , Assistant Director	<a href="mailto:rscheerer@comp.state.md.us">rscheerer@comp.state.md.us</a>	410-767-1557
<b>Benjamin Miller, Jr.</b> , Assistant to Director	<a href="mailto:bmiller@comp.state.md.us">bmiller@comp.state.md.us</a>	410-767-1570

### COLLECTIONS

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

<b>Sylvia J. Brokos</b> , Manager, Business Tax Collections	<a href="mailto:sbrokos@comp.state.md.us">sbrokos@comp.state.md.us</a>	410-767-1562
<b>James Cross</b> , Asst. Mgr., Business Tax Collections	<a href="mailto:jcross@comp.state.md.us">jcross@comp.state.md.us</a>	410-767-1312
<b>Edward F. Wykowski III</b> , Asst. Mgr., Business Tax Collections	<a href="mailto:ewykowski@comp.state.md.us">ewykowski@comp.state.md.us</a>	410-767-1603
<b>Charlene Eyster</b> , Manager, Individual Income Tax Collections	<a href="mailto:ceyster@comp.state.md.us">ceyster@comp.state.md.us</a>	410-260-7057
<b>Sherray Miller</b> , Asst. Mgr., Individual Income Tax Collections	<a href="mailto:smiller@comp.state.md.us">smiller@comp.state.md.us</a>	410-260-7757

### COMPLIANCE PROGRAMS

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

<b>Kimberly G. Cordish</b> , Manager	<a href="mailto:kcordish@comp.state.md.us">kcordish@comp.state.md.us</a>	410-767-1322
<b>Barbara Esker</b> , Assistant Manager, Business Nexus	<a href="mailto:besker@comp.state.md.us">besker@comp.state.md.us</a>	410-767-1578
<b>Tamara Talley</b> , Assistant Manager, Individual Nexus	<a href="mailto:ttalley@comp.state.md.us">ttalley@comp.state.md.us</a>	410-767-1484

### FIELD AUDIT

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

<b>Thomas W. Tartal</b> , Chief Auditor	<a href="mailto:ttartal@comp.state.md.us">ttartal@comp.state.md.us</a>	410-767-1504
<b>Jerome Watkins</b> , Assistant Chief Auditor	<a href="mailto:jwatkins@comp.state.md.us">jwatkins@comp.state.md.us</a>	410-767-1536
<b>Tamarra Eaton</b> , Assistant Chief Auditor	<a href="mailto:teaton@comp.state.md.us">teaton@comp.state.md.us</a>	410-767-1526

### HEARINGS & APPEALS

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

<b>Charles Zephir</b> , Manager	<a href="mailto:czephir@comp.state.md.us">czephir@comp.state.md.us</a>	410-767-4362
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<b>Sasha Vazquez-Gonzalez</b> , Assistant Manager	<a href="mailto:svazquez@comp.state.md.us">svazquez@comp.state.md.us</a>	410-767-1506

### UNCLAIMED PROPERTY

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

<b>Deborah Vulcan</b> , Acting Manager	<a href="mailto:dvulcan@comp.state.md.us">dvulcan@comp.state.md.us</a>	410-767-1705
<b>Vacant</b> , Assistant Manager	.....	.....

For Information About	Contact	Local No.	Toll-Free No.
Bulk Sales	Deborah Cremen	410-767-1941	888-615-0369
Collections Attorneys	Kimberly Stephens, Sylvia Brokos	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
MVA Hotline–Individual	Alicia Henderson	.....	855-213-6669
Mobile Homes	Isadora Ellis	410-767-1324	888-674-0020
Offers in Compromise	Benjamin Miller, Jr.	410-767-1570	888-674-0020
Refunds, <i>Sales and Use</i> & <i>Admissions &amp; Amusement Taxes</i>	Miriam Kilerlane	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	Benjamin Miller, Jr.	410-767-1570	888-674-0020

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## I. 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
Rhea R. Reed, Director .....	(410) 260-7445
Wallace A. Eddleman, Legislation .....	(410) 260-6621
Rhea Reed, Statistics.....	(410) 260-7445
Christopher Kolb, Forms and Procedures ..	(410) 260-7755

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## II. Legislation

### Tax Legislation Enacted in 2012

#### INCOME TAX

**A. Senate Bill 234 (Chapter 3, Acts of 2012) – Maryland Health Improvement and Disparities Reduction Act of 2012** The Act establishes a process for designation of “Health Enterprise Zones” (HEZs) to target State resources to reduce health disparities, improve health outcomes, and reduce health costs and hospital admissions and readmissions in specific areas of the State. The Act authorizes specified incentives for “Health Enterprise Zone practitioners” who practice in an HEZ, including tax credits against the State income tax.

The Act adds a new income tax credit under Title 10, Subtitle 7 of the Tax-General Article, which provides that a HEZ practitioner who practices health care in a Health Enterprise Zone may be eligible for a tax credit against the State income tax in accordance with a proposal approved by the Secretary of Health and Mental Hygiene, if the individual: (1) Demonstrates competency in cultural, linguistic, and health literacy in a manner determined by the Department of Health and Mental Hygiene (“DHMH”); (2) Accepts and provides care for patients enrolled in the Maryland Medical Assistance Program and for uninsured patients; and (3) Meets any other criteria established by DHMH.

A “Health Enterprise Zone practitioner” (HEZ practitioner) is defined in Health-General Article, § 20-1401, to mean a health care practitioner who is

licensed or certified under the Health Occupations Article and who provides: (1) primary care, including obstetrics, gynecological services, pediatric services, or geriatric services; (2) behavioral health services, including mental health or alcohol and substance abuse services; or (3) dental services. Generally, per Health Occupations Article, §§ 1-208, 1-219, a “health care practitioner” means a physician or any other person licensed or certified under the Article; or, in other words, an individual.

The credit has two parts; both require DHMH’s certification. The first is a nonrefundable tax credit against the State income tax in an amount certified by DHMH for the tax year, which is equal to 100% of the amount of the State income tax expected to be due from the HEZ practitioner from income to be derived from practice in the HEZ.

The second is a refundable, subject to recapture, tax credit of \$10,000 against the State income tax for hiring a qualified employee for a “qualified position” in the Health Enterprise Zone, as certified by DHMH for the taxable year. A HEZ practitioner may create one or more qualified positions during any 24-month period, and the refundable credit is taken over two taxable years, with one-half allowed in each year, beginning with the first taxable year in which the credit is certified.

A qualified position, among other things, is full time and of indefinite duration. It does not include a position that is filled for a period of less than 12 months. In addition, if the position is filled for a period of less than 24 months, the tax credit shall be recaptured in an amount as determined by DHMH and reported to the Comptroller.

A nonprofit community-based organization or a local government agency shall apply to the Secretary of Health and Mental Hygiene, under the new Subtitle 14 of Title 20 of the Health-General Article to designate an area as a HEZ. A nonprofit community-based organization or local government agency may also submit to DHMH for a request for certification for certain income tax credits on behalf of a HEZ practitioner practicing or seeking to practice in a HEZ.

The amount of credit that DHMH may certify is limited by availability of budgeted funds for this

purpose, as determined by DHMH, and is issued on a first-come-first-served basis, as determined by DHMH in its sole discretion.

The Community Health Resources Commission (the Commission) shall administer the Fund, and shall use it for the State income tax credits, and for any authorized HEZ activities. On or before December 15 of each year, the Secretary and the Commission shall report to the General Assembly evidence and impact of the incentives granted under each HEZ.

Effective Date: This Act takes effect July 1, 2012, and shall be applicable to all taxable years beginning after December 31, 2012 but before January 1, 2016. The tax provision abrogates after four years on June 30, 2016.

**B. Senate Bill 296 (Chapter 478, Acts of 2012) – Security Clearances – Employer Costs**

The Act creates a tax credit under Title 10, Subtitle 7, Tax-General Article (TG) for individuals and corporations against State income tax for: 1) qualifying security clearance administrative expenses incurred with regard to an employee in the State; and 2) construction and equipment costs incurred to construct or renovate sensitive compartmented information facilities located in Maryland. The credit for security clearance administrative expenses may not exceed \$100,000. The credit for sensitive compartmented information facilities is equal to 50% of those expenses, not to exceed \$100,000 for a single qualifying facility or \$250,000 for multiple qualifying facilities. Although the credit is only available to be claimed for tax years 2013 through 2016, any excess may be carried over until the credit is fully used.

To claim the credit, an individual or a corporation must submit an application for the credit to the Department of Business and Economic Development by September 15 of the calendar year following the end of the taxable year in which the costs occurred. The credit may then be claimed on an amended tax return for the year in which the costs were incurred.

If a credit is claimed, there is an addback under subsections of TG § 10-204 and TG § 10-305 for any costs from security clearance administrative expenses or expenses in constructing or

renovating a sensitive compartmented information facility to the extent those costs are deducted in computing federal adjusted gross income.

Effective Date: This Act shall take effect July 1, 2012, without a termination date. However, the credit is only available for tax years 2013 through 2016.

**C. Senate Bill 1086 (Chapter 344, Acts of 2012) and House Bill 1456 (Chapter 345, Acts of 2012) – Income Tax – Tax Credits – Electronic Filing Requirements**

These Acts authorize the Comptroller's Office to require by regulation that a taxpayer claiming the Job Creation tax credit, the One Maryland tax credit, the Biotechnology Investment Incentive tax credit, and the Enterprise Zone Income tax credit, to submit a claim for the credit by electronic means as required by the Comptroller's regulation.

These Acts allow the Comptroller's Office to require by regulation any other tax credit claim to be submitted electronically, if the Comptroller's Office determines this requirement does not have a material adverse impact or undue administrative burden on the Comptroller's Office.

Effective Date: These Acts will take effect July 1, 2012, and will be applicable to all taxable years beginning after December 31, 2012.

**Tax Legislation Enacted in 2013**

**ADMINISTRATION**

**A. Senate Bill 243 (Chapter 213, Acts of 2013) – Maryland Income Tax Refund – Anne Arundel County Warrant Intercept Program - Extension**

These Acts were cross-filed and extend the termination date of the Anne Arundel County Warrant Intercept Program by five years from September 30, 2013 to September 30, 2018.

The program authorizes any federal, State, or local government official charged with serving a criminal arrest warrant to certify to the Comptroller the existence of an outstanding warrant for an individual who is a resident of Anne Arundel County or an individual with an outstanding warrant from Anne Arundel County. The official may request the Comptroller withhold any refund to which the individual is entitled. For any

individual for which a certification of an outstanding warrant is received, the Comptroller is required to withhold the individual's income tax and notify the individual of the outstanding warrant. The Comptroller may not withhold a refund if the individual is an active duty member of the U.S. Armed Forces or files a joint income tax return.

The Acts also requires the Comptroller to report on the implementation of the program to the House Ways and Means Committee and the Senate Budget and Taxation Committee by December 1st of each year.

Effective Date: The Acts will take effect on July 1, 2013.

**B. Senate Bill 613 (Chapter 506, Acts of 2013) and House Bill 644 (Chapter 507, Acts of 2013) – Income Tax – Electronic Filing – Designation to Purchase Federal Savings Bonds** These Acts were cross-filed and create a new Tax-General Article Section 10-804(k), which allows an individual who files an income tax return electronically to use all or a portion of his refund to purchase U.S. Series I Savings Bonds. The individual may elect to purchase bonds in increments of \$ 50, and the Comptroller must issue the portion of the refund that remains after the purchase of the bonds to the individual. The Comptroller must adopt regulations to implement this subsection.

These Acts apply to all taxable years beginning after December 31, 2014.

Effective Date: These Acts will take effect July 1, 2013.

**C. Senate Bill 715 (Chapter 309, Acts of 2013) – Maryland Highway Safety Act of 2013** This Act expands the Motor Vehicle Administration (MVA) authority to issue or renew an identification card, a moped operator's permit, or a license to drive to individuals not having a Social Security number or lawful status by repealing a limitation that the individual must have held one of those documents on April 18, 2009. However, individuals that are newly eligible to be issued one of these documents under the bill must provide documentary evidence that they filed a Maryland income tax return, or that the individual resided in

Maryland and was claimed as a dependent by an individual who has filed a Maryland income tax return, for each of the preceding two years. The bill also repeals the termination date of July 1, 2015, for the authority for MVA to issue or renew the identification card, moped operator's permit, or license to drive to an applicant without lawful status or a Social Security number. The identification card, moped operator's permit, or license to drive must contain a statement that the document may not be used to purchase a firearm.

Effective Date: This Act will take effect January 1, 2014.

**D. Senate Bill 1068 (Chapter 344, Acts of 2013) – Commission to Study the Regulation of Payroll Services**

This Act creates a Commission to study the regulation of payroll services companies in Maryland. The Act provides for the members of the commission. It provides that the Comptroller or Comptroller's designee shall chair the commission and that the Office of the Comptroller shall provide staff for the Commission. The Act provides that the Commission shall study the function, size, and structure of the payroll services industry in the State; the role of the payroll services industry in the tax payment system at the State and federal level; and the nature, oversight, and regulation of payroll services companies in other jurisdictions, including bonding, permitting, or licensing requirements. The Act provides that the Commission must make recommendations for regulating payroll services companies in the State, including the best practices for preventing fraud in tax payments and collections and the feasibility and cost of establishing State licensure or registration requirements and potential benefits of such.

Effective Date: This Act shall take effect on June 1, 2013 and abrogate on June 30, 2014.

**E. House Bill 380 (Chapter 617, Acts of 2013) – Income Tax – Joint Returns – Married Couples**

This Act amends Tax-General Article Section 10-807 to presume that a married couple who does not file a joint or married filing separately federal income tax return did file a joint or married filing separately federal income tax return for the purposes of determining their Maryland filing status. This Act allows a married individual to use

the head of household filing status on a Maryland income tax return if the individual meets certain requirements under federal law. Effectively, this Act requires that married persons file their Maryland income tax returns using either the married filing joint, married filing separately, or head of household filing statuses, regardless of whether their marriage is recognized by the federal government.

This Act contains alternate provisions that will go into effect in the event that the federal government recognizes same-sex marriage for purposes of federal income tax. It requires that the Comptroller notify the Department of Legislative Services within five days after the federal recognition of same-sex marriage for federal income tax purposes.

A. This Act amends Tax-General Article Section 10-105 to replace the phrase “husband and wife” with “married couple.”

B. This Act applies to all taxable years beginning after December 31, 2012.

C. Effective Date: This Act will take effect July 1, 2013.

**F. House Bill 1513 (Chapter 420, Acts of 2013) – Public Safety – Response to a State Disaster or Emergency – Licensing and Taxes**

The Act establishes that an out-of-state business that performs disaster- or emergency-related work during a disaster period does not establish a level of presence that would require the out-of-state business or its out-of-state employees to be subject to: 1) State or local licensing or registration requirements; 2) State or county income taxes; 3) unemployment insurance contributions; 4) personal property tax; or 5) any requirement to collect and remit Maryland sales and use tax. An out-of-state employee may not be required to pay State or county income taxes or be subject to income tax withholding requirements. An out-of-state business that employs an out-of-state employee may not be required to pay State or county income taxes or be subject to income tax withholding requirements with respect to any out-of-state employees.

“Out-of-state business” means a business entity that: 1) has no registration, nexus, or tax filings in

Maryland prior to the declared state disaster or emergency; and 2) is requested by the State, a local government, or a registered business to perform disaster or emergency related work during a disaster period. “Out-of-state employee” means an employee who does not work in the State, except during a declared state disaster or emergency.

“Disaster period” means a period that begins 10 days before the first day of a declared state disaster or emergency and extends for a period of 60 calendar days after the end of the declared state disaster or emergency. “Declared state disaster or emergency” means any disaster or emergency event for which: 1) the Governor proclaims a state of emergency; 2) a presidential declaration of a federal major disaster or emergency is issued; or 3) a widespread utility outage occurs. “Disaster- or emergency-related work” means repairing, renovating, installing, building, rendering services or other business activities that relate to infrastructure that is damaged, impaired, or destroyed by the declared state disaster or emergency.

An out-of-state business shall provide to the Comptroller a statement that the out-of-state business is in the State solely for purposes related to performing disaster or emergency-related work. That statement shall also include for the out-of-state business: 1) the name; 2) the state or domicile; 3) the principal address; 4) the federal tax identification number; 5) the date of entry into the State; and 6) contact information.

Effective Date: The Act will take effect on June 1, 2013.

**INCOME TAX-SUBTRACTIONS**

**G. Senate Bill 404 (Chapter 257, Acts of 2013) and House Bill 408 (Chapter 258, Acts of 2013) – Income Tax – Subtraction Modification – Enhanced Agricultural Management Equipment**

These Acts were cross-filed and amend the existing conservation tillage equipment subtraction modification in Tax-General Article Section 10-208(d) to include qualified purchases of specified manure spreading equipment, vertical tillage equipment, global positioning system devices used for the management of agricultural nutrient applications, and integrated optical

sensing and nutrient application systems. The defined term “conservation tillage equipment” is now “enhanced agricultural management equipment.” The subtraction modification allowed under this subsection is equal to 50% of eligible expenses for qualifying purchases of vertical tillage equipment. The subtraction modification is 100% of eligible expenses for all other types of qualifying enhanced agricultural management equipment.

These Acts apply to all taxable years beginning after December 31, 2012.

Effective Date: These Acts will take effect July 1, 2013.

**H. Senate Bill 639 (Chapter 513, Acts of 2013) – Civil Rights Tax Relief Act** This Act amends Tax-General Article Section 10-207 to create a subtraction modification that includes any amount received by a claimant for noneconomic damages as a result of a claim of unlawful discrimination. Noneconomic damages are all amounts received other than compensation for lost pay or punitive damages. This subtraction applies whether the damages are received by judgment, order, or settlement. It applies to all payments for noneconomic damages, whether received in lump sum or period payments.

This Act applies to all taxable years beginning after December 31, 2012.

Effective Date: These Acts will take effect July 1, 2013.

**I. Senate Bill 658 (Chapter 517, Acts of 2013) and House Bill 1031 (Chapter 518, Acts of 2013) – Estate Tax and Income Tax – Marital Deduction and Subtraction Modification for Health Insurance** These Acts were cross-filed and create a marital deduction for estate tax purposes and a new subtraction modification for health insurance for married couples.

The Act provides that notwithstanding any contrary definition of “marriage” and “spouse” under any applicable provision of federal law, for the purpose of calculation Maryland estate tax under this subsection, the surviving spouse of a decedent shall include any individual to whom, at the time of the decedent’s death, the decedent

was lawfully married as determined under the law of the State.

The Act also provides for a new subtraction modification under Section 10-208 of the Tax – General Article. The Act provides for a subtraction modification from federal adjusted gross income for 100% of the amount of the costs of health insurance and other medical expenses that an individual incurs on behalf of another individual if the other individual and the taxpayer are recognized by the state as lawfully married. The Act provides that the subtraction may not exceed the cost of a health insurance premium that (1) is paid by the taxpayer or the employer of the taxpayer to provide coverage for the taxpayer’s spouse and (2) is subject to federal income tax under the Internal Revenue Code.

Effective Date: This Act will take effect July 1, 2013. This Act shall be applicable to decedents dying after December 31, 2012 for the estate tax portion. This Act shall be applicable to all taxable years beginning after December 31, 2012 for the subtraction modification.

**J. Senate Bill 774 (Chapter 546, Acts of 2013) – Income Tax – Subtraction Modification – Maryland Civil Air Patrol** This Act expands the resident individual subtraction modification for qualifying volunteer fire, rescue, or emergency medical services members under Tax-General Article Section 10-208(i-1) to apply to active members of the Maryland Civil Air Patrol.

This Act applies to all taxable years beginning after December 31, 2014.

Effective Date: This Act will take effect July 1, 2014.

**K. House Bill 706 (Chapter 384, Acts of 2013) – Natural Resources - Forest Preservation Act of 2013** This Act expands Section 10-208(i), Tax-General Article, an income tax subtraction modification for reforestation or timber stand improvement. The Act makes the income tax subtraction modification available for land ranging from 3 to 1,000 acres (instead of 10 to 100 acres) of commercial forest land and allowing for a broader range of timber stand improvement activities.

Effective Date: This Act will take effect October 1, 2013.

### **INCOME TAX-CREDITS**

**L. Senate Bill 124 (Chapter 443, Acts of 2013) – Income Tax Credit for Qualifying Employees – Sunset Repeal** This Act removes the termination date of the Qualifying Employees with Disabilities Tax Credit under § 10-704.7 of the Tax-General Article. This Act extends the Qualifying Employees with Disabilities Tax Credit to apply to all employees hired on or after October 1, 1997. The credit can now be claimed in all tax years beginning after December 31, 1996.

Effective Date: The Act will take effect June 1, 2013.

**M. Senate Bill 183 (Chapter 28, Acts of 2013) – Income Tax – Business and Economic Development – Film Production Activity Tax Credit** This Act increases the aggregate dollar amount of film production activity tax credit certificates that the Secretary of Business and Economic Development may grant each year under Tax-General Article § 10-730(f). The Act also extends the Secretary's authority to issue film production activity tax credit certificates until June 30, 2016. The new aggregate film production activity tax credits allowable are: for fiscal year 2014, \$25 million; and for fiscal years 2015 and 2016, \$7.5 million. The Act also provides that if the aggregate credit amounts under the tax credit certificates issued by the Secretary total less than the maximum provided under the subsection in any fiscal year, any excess amount may be carried forward and issued under tax credit certificates in a subsequent fiscal year.

Effective Date: This Act will take effect immediately from the date of enactment.

**N. Senate Bill 482 (Chapter 482, Acts of 2013) – Income Tax Credit – Security Clearances – Employer Costs** This Act expands the employer security clearance costs tax credit in Tax-General Article Section 10-732 by increasing to \$200,000 the maximum credit allowed for security clearance administrative expenses or construction and equipment costs incurred in the construction or renovation of a single sensitive compartmented

information facility (SCIF) and raising to \$500,000 the maximum credit allowed for the construction or renovation of multiple SCIFs. This Act also extends the credit to certain rental payments incurred by a small business that performs security-based contracting.

Effective Date: This Act will take effect July 1, 2013.

### **O. Senate Bill 484 (Chapter 278, Acts of 2013) and House Bill 184 (Chapter 279, Acts of 2013) – Income Tax Credit – Oyster Shell Recycling**

These Acts were cross-filed and create Tax-General Article Section 10-724.1 which allows individuals and corporations to claim a credit equal to \$ 1 for each bushel of oyster shells recycled during the taxable year. The maximum credit allowed per taxable year is the lesser of \$ 750 or the total State income tax calculated without regard to the credit and withholding for that year. This credit is non-refundable and cannot be carried forward or back. To claim this credit, an individual or corporation must provide verification of the amount of oyster shells recycled with the individual or corporation tax return. The Department of Natural Resources and the Comptroller must jointly adopt regulations, which must establish eligibility criteria and provide for the certification of businesses, landfills, and nonprofit organizations to verify the amount of oyster shells recycled.

Effective Date: These Acts will take effect July 1, 2013. These Acts apply to all tax years beginning after December 31, 2012 and shall remain effective for five years, before abrogating on June 30, 2018.

### **P. Senate Bill 779 (Chapter 75, Acts of 2013) and House Bill 328 (Chapter 76, Acts of 2013) – Biotechnology Investment Tax Credit – Qualified Maryland Biotechnology Company – Definition**

These Acts were cross-filed and expand the definition of "Qualified Maryland biotechnology company" under Tax-General Article Section 10-725(a)(7) to include a company that has been in active business no longer than 10 years from the date the company first received a qualified investment.

These Acts apply to all initial tax credit certificates issued after June 30, 2013.

Effective Date: These Acts will take effect July 1, 2013.

**Q. House Bill 102 (Chapter 425, Acts of 2013) – Budget Reconciliation and Financing Act of 2013** This Act provides for a couple income tax credit changes. It amends a current credit and adds a new credit.

The Act amends previously repealed Section 5-801 of Article 83B – Department of Housing and Community Development to provide for amendments to the Heritage Structure Rehabilitation Income Tax Credit. The Act provides that on or after July 1, 2004, the tax credit authorized under this Section for a commercial rehabilitation project expires on July 1, 2014, unless on or before June 30, 2014, the applicant demonstrates to the Director that the commercial rehabilitation project has a valid unexpired building permit for the rehabilitation project. The Act provides that the Director shall notify, in writing, the owner or developer that received approval of a plan of proposed rehabilitation for a commercial rehabilitation project of the requirements of this section. The Act also provides that the Director shall report to the Comptroller the number of tax credits and the amount of tax credits that have expired in accordance with this section.

The Act creates Tax-General Article, Section 10-734 to provide a new income tax credit applicable to all taxable years beginning after December 31, 2013, but before January 1, 2017, that allows an individual or corporation to claim a credit against the State income tax for the expense of registering a qualified vehicle in the State. A qualified vehicle is a Class F (Tractor) Vehicle described under § 13-923 of the Transportation Article that is titled and registered in the state. For any taxable year, the credit allowed under this section may not exceed the lesser of \$400 for each qualified vehicle or the State income tax for that year. The tax credit may not be carried over to any other taxable year.

Effective Date: This Act shall take effect for the amended credit on July 1, 2013. This Act will take effect September 1, 2013 for the new income tax credit.

**R. House Bill 108 (Chapter 82, Acts of 2013) – Housing and Community Development – Neighborhood and Community Assistance Program – Project Proposals** This Act increases the maximum sum of contributions eligible for a tax credit offered under the Department of Housing and Community Development’s Neighborhood and Community Assistance Program from \$2.0 million to \$3.5 million each fiscal year. The Act also authorizes the department to give preference to a neighborhood conservation district that is locally designated in coordination with the program when considering approval or disapproval of a proposal for a project under the program and in determining the maximum sum of contributions eligible for the tax credit.

Effective Date: This Act will take effect on October 1, 2013.

**S. House Bill 386 (Chapter 109, Acts of 2013) – Income Tax Credit – Qualified Research and Development Expenses – Credit Amounts and Small Business Refund** This Act expands the existing Research and Development tax credit by increasing to \$8 million the aggregate amount of credits that DBED can approve in each calendar year. The amount of basic credits that can be awarded annually is increased from \$3 million to \$4 million and the amount of growth credits that can be awarded is also increased from \$3 million to \$4 million.

The bill allows the credit to be refundable if the business claiming the credit is a small business. It defines a “small business” to mean a for-profit corporation, limited liability company, partnership, or sole proprietorship with net book value assets totaling, at the beginning or end of the taxable year in which the eligible R&D expenses are incurred, less than \$5 million.

Effective Date: This Act will take effect June 1, 2013, and shall be applicable to all Maryland research and development tax credits certified after December 15, 2012.

**T. House Bill 791 (Chapter 389, Acts of 2013) – Tax Credits - Electric Vehicles - Extensions**

This Act extends the credit against the State income tax for qualified electric vehicle recharging

equipment through tax year 2016. The Act provides the maximum authorized amount of tax credit certificates that may be issued by the Maryland Energy Administration are \$600,000 in recharging equipment credits annually for tax years 2013 through 2016. The Act establishes that the credit is subject to available funding.

Effective Date: This Act will take effect July 1, 2013.

**U. House Bill 803 (Chapter 390, Acts of 2013) – Income Tax – Business and Economic Development – Cybersecurity Investment Incentive Tax Credit**

The Act creates an income tax credit to be claimed by certain Maryland cybersecurity companies for tax years 2014 through 2018. The tax credit allowed in an initial tax credit certificate is equal to 33% of the investment in a qualified Maryland cybersecurity company, not to exceed \$250,000.00. If the allowed credit in any taxable year exceeds the State income tax for that taxable year, an individual or corporation may claim a refund in the amount of the excess. Qualified Maryland cybersecurity companies must apply to the Department of Business and Economic Development (DBED) for the credit. The amount of credits that DBED can award each year cannot exceed the credit amount appropriated to a reserve fund for that fiscal year as established by the Act.

A qualified Maryland cybersecurity company is defined as a for-profit entity that is primarily engaged in the development of innovative and proprietary cybersecurity technology and meets specified criteria including requirements that the company (1) has been in business for no more than five years; (2) has less than 50 full-time employees; (3) has its headquarters and base of operations in Maryland; (4) is not publicly traded on any exchange; (5) has not participated in the tax credit program for more than one prior fiscal year; (6) owns or has properly licensed any proprietary technology; and (7) has an aggregate capitalization of at least \$100,000.

Effective Date: The Act will take effect on July 1, 2013.

**V. House Bill 1017 (Chapter 659, Acts of 2013) – Income Tax Credit – Wineries and Vineyards**

This Act adds a new income tax credit in Section 10-735, Tax-General Article, Annotated Code of Maryland that allows an individual or corporation to claim a credit against State income tax in an amount equal to 25% of the qualified capital expenses made in connection with the establishment of new wineries or vineyards or the capital improvements made to existing wineries or vineyards.

An individual or corporation must apply to the Department of Business and Economic Development (DBED) by September 15 of the calendar year following the end of the taxable year in which the qualified capital expenses were paid or incurred. DBED shall then certify the amount of the tax credit approved. The total amount of credit certificates approved may not exceed \$500,000.

To claim the credit, the individual or corporation must file an amended return for the taxable year in which the qualified capital expenses were paid or incurred and attach a copy of the certification issued by DBED. If the credit allowed exceeds the total tax otherwise payable by the individual or corporation for that taxable year, the individual or corporation may apply the excess as a credit for succeeding taxable years until the full amount of excess is used or the expiration of the 15<sup>th</sup> taxable year after the taxable year in which the qualified capital expenses were paid or incurred.

The Act provides DBED and the Comptroller shall adopt certain regulations.

Effective Date: This Act will take effect July 1, 2013 and shall be applicable to all taxable years after December 31, 2012. This Act will remain in effect for five years and abrogate June 30, 2018.

**SALES AND USE TAX**

**W. Senate Bill 481 (Chapter 481, Acts of 2013) – Task Force on the Implementation of Tax Benefits for Emergency Preparedness Equipment**

The Act establishes The Task Force to Study Tax Benefits for Emergency Preparedness Equipment. The Task Force is to study the benefits from the

implementation of an income tax credit to purchase electric generators and a tax-free period for emergency preparedness equipment. The Task Force is then to make recommendations to the Governor and General Assembly by December 1, 2013, including qualifications for the credit, the amount of credit to be granted, and the length of a tax-free period for emergency preparedness equipment. Members of the Task Force include the Comptroller, the Director of the Maryland Emergency Management Agency, and the Director of the Governor's Office of Homeland Security. The Director of the Maryland Emergency Management Agency and the Director of the Governor's Office of Homeland Security shall provide staff for the Task Force.

Effective Date: The Act will take effect on June 1, 2013. It shall remain effective for a period of 1 year and 1 month, and at the end of June 30, 2014, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

**X. Senate Bill 486 (Chapter 483, Acts of 2013) and House Bill 523 (Chapter 484, Acts of 2013) – Short-Term Rental of Motorcycles – Sales and Use Tax and Motor Vehicle Law** These Acts were cross-filed and amend the definition of "short-term vehicle rental" to include motorcycle rentals for purposes of the State sales and use tax so that they are subject to the 11.5% sales tax rate applicable to short-term vehicle rentals.

Effective Date: This Act will take effect July 1, 2013.

**Y. Senate Bill 745 (Chapter 313, Acts of 2013) – Public Safety – 9-1-1 Emergency Telephone Systems – Collection of Surcharge**

This Act creates a "Prepaid Wireless E 9-1-1 Fee" for prepaid wireless telecommunications services. "Prepaid wireless telecommunications" services means a commercial mobile radio service that: 1) allows a consumer to dial or access 9-1-1; 2) must be paid in advance; and 3) is sold in predetermined units that decline with use in a known amount. The Prepaid Wireless E 9-1-1 Fee is collected by the seller from the consumer for each retail transaction in Maryland. A retail transaction occurs in Maryland if: 1) the sale or recharge takes place at the seller's place of business located in Maryland; 2) the consumer's

shipping address is in Maryland; or 3) no item is shipped, but the consumer's billing address or the location associated with the consumer's mobile telephone is in Maryland. The Prepaid Wireless E 9-1-1 Fee is 60 cents per retail transaction. The Prepaid Wireless E 9-1-1 Fee is not subject to Maryland sales and use tax.

Sellers of prepaid wireless telecommunications services are required to report and remit to the Comptroller all Prepaid Wireless E 9-1-1 Fees collected by the seller. The Comptroller is to deposit all reported and remitted Prepaid Wireless E 9-1-1 Fees into the 9-1-1 Trust Fund within 30 days of receipt. The 9-1-1 Trust Fund has already been established and currently consists of 9-1-1 fees collected on retail transactions involving other telecommunications services. The Comptroller shall adopt regulations to carry out the collection and remittance of the Prepaid Wireless E 9-1-1 Fees.

Money collected from Prepaid Wireless E 9-1-1 Fees may be used as follows: 1) 25% to reimburse counties for the cost of enhancing a 9-1-1 system and pay contractors in accordance with Public Safety Article of the Annotated Code of Maryland § 1-306(b)(12); 2) 75% for additional charges used by counties for the maintenance and operation costs of the 9-1-1 system, prorated on the basis of the total fees collected in each county.

Effective Date: The Act will take effect on July 1, 2013.

**Z. House Bill 232 (Chapter 609, Acts of 2013) – Sales and Use Tax – Exemptions – Parent-Teacher Organization Fundraisers**

This Act adds a new exemption from sales and use tax for sales by a parent-teacher organization or other organization within an elementary or secondary school in the state or within a school system in the state.

Effective Date: This Act will take effect July 1, 2013.

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### III. Administrative Releases

#### A. Administrative Release No.2

**Subject: Interstate Commerce Tax Act. Domestic and Foreign Corporations. Nexus Requirements. Apportionment of Corporate Net Income.** Amended to include a nexus exception under House Bill 1513 (Chapter 420, Acts of 2013) to Maryland income tax filing requirements. Under that legislation, an out-of-state business that performs disaster or emergency related work during a disaster period does not establish a level of presence that would require the out-of-state business or its out-of-state employees to be subject to Maryland income tax. "Out-of-state employee" means an employee who does not work in the state, except during a declared states disaster or emergency. "Out of state business" means a business entity that: 1) has no registrations, nexus, or tax filings in the state prior to the declared state disaster or emergency; and 2) is requested by a registered business, state government, or local government to perform disaster or emergency related work during a disaster period.

#### B. Administrative Release No. 14

**Subject: Interest Rates for Refunds and Delinquent Taxes**

This release was revised to add calendar year 2014 interest rates for refunds and delinquent taxes.

#### C. Administrative Release No. 21

**Subject: Income Tax Treatment of Employee Contributions under the Maryland Pension Pickup Program.** This release was revised to reflect the law changes imposed by House Bill 72 (Chapter 397, Acts of 2011), which restructured retirement eligibility, member contributions, and pension benefits for almost all current and future members of the Retirement Systems. Revisions also include updated line and box references to Maryland Form 502 and federal Form 1099-R with regards to reporting State Pickup amounts on periodic distributions. This release was revised to incorporate the list of governmental units participating in the Employees' Retirement and Pension Systems as of June 30, 2012.

#### D. Administrative Release No. 32

**Subject: Maryland College Savings Plans Tax Benefits.** This release was revised to reflect the College Savings Plans of Maryland Board's approval

at an August 22, 2013 meeting to increase the maximum account balances for the College Investment Plan. Contributions up to a maximum aggregate account balance of \$350,000 can be made for each beneficiary.

#### E. Administrative Release No. 33

**Subject: Tax Credits for Hiring Individuals with Disabilities.** This release was revised to reflect the legislature enacted under Senate Bill 124 (Chapter 443, Acts of 2013) which repealed the termination provisions for the Maryland Disability Employment Tax Credit. The credit may now be claimed for employees with disabilities hired after June 30, 2013

#### F. Administrative Release No. 34

**Subject: Credit Against Withholding Taxes for Tax-Exempt Organizations.** This release was revised to reflect the legislature enacted under Senate Bill 124 (Chapter 443, Acts of 2013) which repealed the termination provisions for the Maryland Disability Employment Tax Credit. Non-profit organizations may now claim a credit for employees with disabilities hired after June 30, 2013.

#### G. Administrative Release No. 39

**Subject: Long-Term Employment of Qualified Ex-Felons Tax Credit.** This release was revised to reflect the law's repeal effective July 1, 2012. However, excess credits earned while this law was in effect can be carried forward for up to five years beginning January 1, 2012.

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### IV. Regulations

#### A. Proposed Action on Regulations:

##### INCOME TAX

#### 03.04.01 – General Regulations

**.01 Withholding Tax at Source** – Amended to include an additional exception under House Bill 1513 (Chapter 420, Acts of 2013) to Maryland income withholding requirements. Under that legislation, an out-of-state business that performs disaster or emergency related work during a disaster period does not establish a level of presence that would require the out-of-state business or its out-of-state employees to be subject to Maryland income tax withholding requirements. "Out-of-state employee" means an employee who does not work in the state, except during a declared states disaster

or emergency. "Out of state business" means a business entity that: 1) has no registrations, nexus, or tax filings in the state prior to the declared state disaster or emergency; and 2) is requested by a registered business, state government, or local government to perform disaster or emergency related work during a disaster period.

#### **03.04.02 – Individual**

.02 Resident Filing Status, .03 Nonresident Filing Status, .06 Maryland Adjusted Gross Income of a Nonresident Individual, .15 Maryland College Investment Plan, and .16 Limitation for Resident – Regulation is amended to reflect the recognition of same sex marriage at the federal and State level.

#### **03.01.02 – Tax Payments – Immediately Available Funds**

.02 **Requirements for Payment by Immediately Available Funds.** Regulation is amended to change the location where the Comptroller accepts cash payments. Cash payments are now accepted only at 301 West Preston Street, Baltimore, MD 21201.

.05 **Miscellaneous Filing and Reporting Provisions.** Regulation is amended to update form numbers.

#### **03.04.10 – Maryland Research and Development Tax Credit**

.01 **Definitions.** Regulation is amended to add the definition of "small business" as provided in House Bill 386 (Chapter 386, Acts of 2013).

.04 **Maximum Annual Credits.** Regulation is amended to increase the maximum amount of the research and development tax credits that may be issued by the Department of Business and Economic Development annually to \$4,000,000 pursuant to House Bill 386 (Chapter 386, Acts of 2013).

.08 **Carryover of Tax Credits.** Regulation is amended to make the research and development tax credit refundable to small businesses pursuant to House Bill 386 (Chapter 386, Acts of 2013).

## **B. Regulations Submitted to Department of State Documents:**

### **MISCELLANEOUS ADMINISTRATION**

#### **03.04.**

.15 **Electronic Filing Requirements for Business Tax Credits** - This new regulation provides that taxpayers claiming any business tax credit, excess carryover of a business tax credit, or a recapture of a business tax credit shall claim the credit on an electronically filed Maryland return. Required certification for the credit must also be electronically filed. Taxpayers claiming a business tax credit against fiduciary income tax and non-profit organizations are exempt from this filing requirement. The Sustainable Communities Tax Credit does not need to be claimed on an electronically filed return.

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## **V. Court Cases**

### **A. Brian and Karen Wynne v. Comptroller of the Treasury**

Assessment affirmed by Maryland Tax Court. On appeal by Petitioners to the Circuit Court for Howard County reversed. Comptroller noted appeal to the Maryland Court of Special Appeals. Taxpayer filed a Petition for Writ of Certiorari to the Court of Appeals which was granted. The matter was argued in May 2012.

On January 28, 2013, in a 5-2 decision, the Maryland Court of Appeals affirmed the decision of the Circuit Court for Howard County.

Taxpayers, Maryland residents, appealed to the Maryland Tax Court from the Comptroller's Notice of Final Determination affirming an assessment against them for income tax owed for the tax year 2006. In their appeal, the taxpayers raised two issues. First, they contested the applicability of Tax-Gen. Art. § 10-703(c)(1) for calculating a credit for taxes paid by the taxpayers or an S-corporation, in which they owned shares to other states on the income earned by them as 2.4% shareholders of the Maryland S-corporation. The second issue, raised in an amended Petition of Appeal, argued that Tax-Gen. Art., § 10-703 violates the Commerce Clause of the United States Constitution by "not allowing the credit against local income taxes."

The S-corporation operated in 39 states, some of which recognized its status as an S-corporation and some which did not. Consequently, in some states the taxpayer paid a tax on his income, whereas in other states the corporation paid a tax on its income apportioned to that state. Recognizing this situation, Tax-Gen. Art., § 10-703(c)(2) still allows a taxpayer to take a credit for taxes paid even though the tax was actually paid by the S-corporation in which he is a shareholder.

The taxpayers' Commerce Clause argument asserts that the failure to allow a credit against the local (county) tax fails the fair apportionment prong (specifically the "internal consistency test") of the *Complete Auto Transit* test. The Maryland Tax Court affirmed the assessment on December 10, 2009. The taxpayers appealed. On appeal they are only pursuing the Commerce Clause issue.

The Court of Appeals found that Tax-Gen. Art., § 10-703(a) was unconstitutional, violating the dormant Commerce Clause of the U.S. Constitution.

**B. Nordstrom, Inc v. Comptroller of the Treasury; NIHC, Inc. v. Comptroller of the Treasury; N2HC, Inc. v. Comptroller of the Treasury**

On April 8, 2013, the Court of Special Appeals, in an unreported decision affirmed the decision of the Maryland Tax Court. The only issue on appeal was whether or not Maryland's requirement for related entities to file separate corporate income tax returns prevented Maryland from taxing the gain income that NIHC had reported on its Maryland return as Maryland taxable income. NIHC did not appeal the questions of nexus and whether the gain income was taxable by Maryland. The Court of Special Appeals, agreed with the Tax Court that Maryland's separate reporting requirements did not prevent the taxing of Maryland income reported by NIHC.

NIHC has filed a petition for writ of certiorari to the Maryland Court of Appeals. That petition is pending.

The Tax Court affirmed the assessments against Nordstrom's two subsidiaries, NIHC and N2HC. The alternative assessment against Nordstrom was rescinded. Nordstrom and NIHC noted appeals to the Circuit Court for Baltimore County. The Comptroller filed a cross-petition in the Nordstrom case. N2HC did not appeal.

In August, 2009, the Circuit Court issued an order and memorandum opinion remanding the cases back to the Tax Court. The Circuit Court directed the Tax Court to decide: 1) whether or not the IRC § 311(b) gain of NIHC, or any part thereof, constituted Maryland taxable income; 2) if so, whether the Maryland requirement of separate entity income tax returns prohibited taxing the § 311(b) deferred gain; and 3) whether Nordstrom's royalty payment deductions were ordinary and necessary business expenses.

The Tax Court initially affirmed the assessment against NIHC, but failed to answer the second question. On request of the Petitioner, the Tax Court revisited the matter and, on July 15, 2010, again affirmed the assessment. The Tax Court unequivocally determined that the income, characterized as § 311(b) gain was Maryland taxable income: "In the instant case, it is clear to this Court that but for the activities of Nordstrom and its use of the trademarks in Maryland, the gain of NIHC would not have been recognized...One cannot separate the value of the trademarks, the licensing of the trademarks and the gain recognized by NIHC from the Nordstrom activity in Maryland."

On the second question, the Court found that there is no prohibition arising from the separate reporting requirements when the income is attributed to the activity of the parent and its use of the marks in Maryland.

NIHC again noted an appeal to the Circuit Court.

On December 7, 2011, the Circuit Court affirmed in part and reversed in part the decision of the Maryland Tax Court. The circuit court affirmed the Tax Court's finding that constitutional nexus existed because of the lack of economic substance of the affiliates and that "Nordstrom's business activities and use of the trademarks in Maryland produced the gain reported by NIHC and therefore sufficient nexus exists between NIHC and Maryland so that imposition of the Maryland income tax on the I.R.C. § 311(b) gain does not violate the Due Process or Commerce Clause of the Constitution." The court further held that the §311(b) gain was reasonably attributable to NIHC's trade or business in Maryland and, therefore, Maryland taxable income.

The Circuit Court however reversed the Tax Court's decision with regard to the use of §311(b), holding that Maryland's requirement of separate reporting required the affiliate to have restated its income, thus reporting the entire gain in 1999.

### **C. Gore Enterprise Holdings v. Comptroller; Future Value, Inc. v. Comptroller**

On November 9, 2010, the Tax Court affirmed the Comptroller's assessment against two Delaware holding company ("DHC") subsidiaries of W.L. Gore & Associates. One subsidiary earned patent royalties based on a percentage of sales made by the unitary parent; the second earned interest income from loans made out of accumulated royalty profits that were transferred to it from the DHC that owned the patents. The Tax Court held that the companies were engaged in a unitary business; that they had no real economic substance as separate business entities; that they depended on the operating parent company for their assets and income; and that there were direct connections between Maryland activity and the royalty and interest income.

On August 26, 2011, the Circuit Court for Cecil County (Judge Daniels, Retired, sitting by designation) reversed the Tax Court in the case of the patent royalty subsidiary, Gore Enterprise Holdings. He ruled from the bench that the company was not taxable by Maryland because patent royalties were different from trademark royalties under the Commerce Clause, and the conduct of a unitary business by the holding company and its operating parent does not create nexus or connection between Maryland and the DHC, because under the Commerce Clause nexus must exist independently of the unitary business.

On September 30, 2011, the circuit court reversed the Tax Court decision on the interest subsidiary (Future Value, Inc.) as well.

The Comptroller appealed from the adverse decisions of the Circuit Court. On January 24, 2013, the Court of Special Appeals reversed the Circuit Court in a strongly worded and broadly reaching opinion. 209Md.App.524. The taxpayers filed a single petition for a writ of certiorari, supported by six amici curiae. The Court of Appeals granted certiorari on May 17, 2013. 431 Md.444. The case is currently undergoing briefing

and is scheduled for oral arguments the first week of December.

### **D. The Duffie Trust Cases**

These are eight consolidated income tax cases in which eight separate trusts seek refunds of taxes for various tax years ranging from 1999 through and including 2005. Petitioners are eight trusts ("Duffie Trusts") created by Ralph J. Duffie and his son, Jonathan C. Duffie, for the benefit of Jonathan's children. Each of the Duffie Trusts opted for status under 26 U.S.C. section 1361 as an "electing small business trust" (ESBT). ESBT status permits each trust to own stock of a subchapter S corporation, without disqualifying the corporation under the Internal Revenue Code. Each trust owns stock in RJ Duffie, Inc. a subchapter S corporation owned by the Duffie family.

Under the Internal Revenue Code, ESBTs are treated as two separate trusts and receive special tax treatment as a result of such bifurcated status. 26 U.S.C. Section 641(c); 26 C.F.R. Section 1.641©-1(a). Section 641 (c) and applicable regulations provide that an ESBT's income from a subchapter S corporation is taxed at the highest rate imposed on estates and trusts. Fiduciaries reporting gross income of ESBT's make separate computations of the subchapter S income and other income of the ESBT. 26C.F.R. Section 1.641(c)-1(a). IN tax years before 2013, this permitted a portion of an ESBT's income to receive favorable tax treatment under both the federal and State income tax law.<sup>2</sup> During the years 1999 through and including 2008, the Duffie Trusts filed timely Maryland fiduciary tax returns and paid the taxes shown due thereon.

In these consolidated cases, the Duffie Trusts assert that they inadvertently and/or erroneously overpaid their State income taxes during the years 1999 through and including 2005 by including in Maryland adjusted income amounts that should have been excluded as a result of the federal ESBT income bifurcation calculation. The Duffie Trusts further explain that their overpayment errors in these and other years were caused by ignorance on the part of the trusts themselves and the trusts' tax return preparers. And although the trusts complain that the "Comptroller breached its affirmative statutory duty set forth in Section 2-103 of the Tax [-

General] Article, to ‘adopt reasonable regulations to administer the provisions of the” Maryland income tax laws, they do not allege any affirmative misconduct on the part of the Comptroller or his agents or employees.3

The consolidated cases were tried to the Tax Court, largely on stipulated facts, on March 20, 2013. In the post-trial briefing phase, the petitioners finally settled on supporting legal theories of equitable estoppel and equitable tolling. Briefing has been completed and the cases remain under submission.

Beginning with the current tax year, Maryland began requiring that all ESBT income be added back to the trust’s Maryland adjusted gross income. See Md.Code Ann. Tax-Gen section 10-204(k) ( 2010 Repl. Vol. 2013 Supp.)

Nor do the trusts appear to dispute the Comptroller’s legal conclusion that subchapter S corporation income of an ESBT was not included as part of an ESBT’s Maryland adjusted gross income in years prior to 2013.

#### **E. Annapolis Accommodations**

This case involves Annapolis Accommodations, a business that specializes in renting residential homes in the Annapolis area to out-of-town guests. Many of the leases were for people who wanted to spend a week in Annapolis, usually for the Naval Academy’s “Commissioning Week” or the Annapolis Boat Show. The taxpayer did not collect or remit sales tax on rentals of less than thirty days. The taxpayer was assessed \$67,190.47 for unpaid sales tax for the period January 1, 2005 to December 31, 2008, plus interest and a penalty of \$6,719.07

This case was tried before Judge Silberg on April 25, 2012. The taxpayer did not contest the manner in which the audit was conducted. The taxpayer objected to the assessment on two grounds: first, that the meaning of the phrase “room or lodgings” as applied to the taxpayer’s business was ambiguous; and second, that the taxpayer and her employee had contacted the Comptroller’s Office on a number of occasions and were told that no tax was due on the weekly rentals. The Comptroller took the position that advice given by an employee of the Comptroller’s Office could not relieve a taxpayer from a lawful tax obligation. The judge agreed with the Comptroller and found the taxpayer liable for the tax, and abated the interest and penalty. The judge said he waived the penalty and interest because he

believed the taxpayer did all she could reasonably do to determine whether any tax was owed.

The taxpayer appealed the Tax Court’s ruling, and the Comptroller appealed the Court’s waiver of interest and penalty. The appeal was heard on January 7, 2013 in the Circuit Court for Anne Arundel County. The court affirmed the ruling of the Tax Court in its entirety.

#### **F. Gray & Son v. Comptroller**

This case involves a refund request by Gray & Son, a contractor that constructs stormwater management systems and sanitary sewer systems, among other projects. The Petitioner claimed that it was entitled to a refund for the sales tax it paid on materials that it included in a number of stormwater and sewer projects between 2004 and 2007. The refund claimed was \$392,000.

The Petitioner argued that its purchases of material for these projects were exempt from sales tax under Tax-Gen. § 11-210, which is entitled “Machinery and equipment.” Specifically, the Petitioner cited § 11-210(b)(3) as justifying the exemption. That subsection applies the exemption to: “a foundation to support other machinery or equipment or an item required to conform to an air or water pollution law and normally considered part of real property.” This subsection appears under the heading “Production generally,” and the exemption has always been limited to property used in a manufacturing operation. The Petitioner presented evidence that the stormwater and sewer systems were constructed in accordance with water pollution laws, and relied on two cases, Fletcher Construction, Inc. v. Comptroller of the Treasury [Maryland Tax Court, Sales Tax No. 93, November 26, 1982] and Gray Concrete Pipe Co., Inc. v. Comptroller [Maryland Tax Court, Sales Tax No. 120, March 9, 1984] for the proposition that the second phrase of § 11-210(b)(3), concerning items required to conform to pollution laws, was intended to be a stand alone exemption that was not limited to manufacturing operations.

The Comptroller presented evidence that the statute at issue was always intended to be limited to manufacturing operations, and that the wording of the statute through various enactments clearly demonstrated this intent. The Comptroller also demonstrated that counsel for the Petitioner had misread both the Fletcher and Gray cases and the statutes that were involved in those cases.

The Court ruled in favor of the Comptroller on the grounds of the legislative history of the statute, the wording of the current statute, including the fact that the subsection is under the heading "Production generally," and the fact that there was no proof that the phrase in question was ever intended to be a "stand alone" exemption.

The Petitioner appealed this decision to the Circuit Court for Baltimore County. The appeal was heard on September 25, 2012. The court affirmed the ruling of the Tax Court in its entirety.

**G. Timothy Hudak v. Comptroller** (two cases), This is an officer withholding tax assessment case. Mr. Hudak was the president and majority owner of two companies. Those companies had significant outstanding withholding tax liabilities. Mr. Hudak did not deny that he was an officer, that he had direct control over the fiscal affairs of the companies or the amount of the outstanding liabilities. Mr. Hudak's argument was that the companies did not "negligently" fail to pay the income tax withheld to the Comptroller. See Tax General §10-906(d). He argued that the federal willful neglect standard for imposing a penalty for failure to pay over withholding taxes (26 U.S.C. §§ 6656, 6651, and 6672) applies. Per Hudak's argument, the failure to pay over the taxes was not negligent but a willful and conscious act of the companies. In support he presented evidence that the taxes were not paid because a customer had failed to pay the companies a significant amount of money on a major project. He further argued that he was not culpable because the chief financial officer, whom he hired and supervised, failed to pay the taxes unbeknownst to Mr. Hudak.

The Maryland Tax Court rejected Mr. Hudak's argument. The court found that the federal standard of willful neglect was not applicable. The court further found that a responsible officer can be found liable for the negligent acts of the company despite the alleged intentional actions of a company employee. On appeal to the Circuit Court for Baltimore County, the decision of the Maryland Tax Court was affirmed.

**H. William J. McDermond III v. Comptroller of the Treasury**

On July 25, 2013, the Tax Court affirmed the assessment of individual income tax and interest against William J. McDermond III. Domicile was the central issue. Petitioner was an original stakeholder and executive with Baltimore based Under Armour,

Inc. He was transferred to Amsterdam, The Netherlands in 2006, when the corporation began European operations. McDermond didn't file a 2007 Maryland return and was subsequently assessed.

The Comptroller argued that McDermond never abandoned his Maryland domicile and alternatively that he was domiciled in Maryland as of the last day of 2007. The Tax Court found that McDermond never abandoned his Maryland domicile in 2006 and therefore was a domicile of Maryland in 2007 under Tax-General §10-101(k)(i). Among the factors given weight by the Court were: McDermond maintained, renewed and used a Maryland driver's license; McDermond didn't cancel his Maryland voter's registration despite being provided with a letter to do so; McDermond made no attempt to become culturally assimilated in The Netherlands; McDermond's assignment was changed from two years to indefinite after his assignment began and only for tax purposes; and Under Armour, Inc. paid for the majority of the expenses related to the transfer. To date, the Tax Court has not issued a written order. An appeal to a circuit court is anticipated.

**I. Dennis Putnam v. Comptroller of the Treasury**

Petitioner is a tax protester, who was assessed after multiple years of being a non-filer. After numerous motions and being faced with the possibility of a six figure fraud penalty, Petitioner moved to withdraw his petition. The Tax Court granted the withdrawal, and the assessment is final. Petitioner was assisted in his efforts against the Comptroller by Marc Stevens, an anti-government advocate and founder of the No State Project.

**J. Kirwan Dewan v. Comptroller of the Treasury**

Petitioner was one of three individuals assessed for the withholding tax liability of Advanced Dental Care Maryland LLC, a dental practice. The Comptroller contends that Petitioner is a member of Renner Dental Management LLC, which owned 100% of Advanced Dental Care Maryland LLC. At issue is whether or not the structured organization of the two LLCs effectively shields the members of the holding company LLC from the withholding tax liability of the wholly owned LLC. Two of the members were assessed and had consolidated appeals in the Maryland Tax Court. Both of those LLC members settled their appeals. Kiran Dewan, an attorney and CPA, has appealed his assessment to the Maryland Tax Court. His case is still pending before the court.

**K. Jai Sik Shin, as Officer of BDG Associates of MD, Inc. v Comptroller**

This case involves an assessment against Jai Sik Shin, the officer of a corporation that operated a bar/restaurant. He was in the process of selling the business, but the new owner was not a resident of Prince George's County, so Mr. Shin continued to apply for the liquor license and remained the majority owner and president of the corporation during the audit period. He was assessed tax in the amount of \$74,769.00, penalty of \$7,831.00 and interest of \$23,802.00 which continued to accrue.

The case was tried before Judge Silberg in the Tax Court on November 8, 2012, resulting in an affirmation of the tax assessment. Judge Silberg, however, decided to waive the interest on the assessment because he did not like the statute (TG sect. 11-601) that imposes officer liability. The Comptroller appealed this aspect of the court's ruling to the Circuit Court for Prince George's County in an effort to limit the circumstances under which interest may be abated by the Tax Court.

The appeal was heard in the Circuit Court for Prince George's County on June 14, 2013. The court agreed with the Comptroller that the Tax Court may not abate interest on tax assessments for any reason it sees fit, and instead must require the taxpayer to present "affirmative evidence of reasonable cause" to abate the tax, as required by Frey v. Comptroller. The court ordered the Tax Court to reinstate the interest on the assessment

**L. John Zorzit/Nick's Amusements, Inc. v. Comptroller**

This case involves an illegal gambling operation conducted by Nick's Amusements, Inc. John Zorzit was the President and sole shareholder of Nick's. A joint investigation into Nick's operations conducted by the Baltimore County Police Department and the IRS determined that illegal payouts were being made to customers who played the video poker machines that Nick's rented to various establishments. The investigation culminated in a raid on Nick's office and twenty nine establishments that rented video poker machines from Nick's. The raid on Nick's Office uncovered cash totaling more than \$40,000 stashed in various locations throughout the office, including the ceiling of Mr. Zorzit's bathroom. Sixty three video poker machines were confiscated from the establishments that were raided.

Although Nick's reported and paid Admissions & Amusement tax on the net revenue generated by the

video poker machines, no tax was paid on the money paid out to customers. The Comptroller used data obtained by the BCPD from the confiscated machines to determine a "payout percentage": the percentage of gross receipts paid out to customers. The A&A tax was then applied to the payouts, and an assessment, including a fraud penalty, was issued to Nick's Amusements, Inc. and John Zorzit, individually, as the President of Nick's.

Nick's appealed the assessment on the grounds that the calculation of the tax was incorrect because the data obtained from the video poker machines did not provide a reliable basis for calculating the payout percentage. Nick's also contended that the calculation of tax was incorrect because the payout percentage was applied to all of the income reported by Nick's on its A&A returns, when some of the money reported came from non-video poker machines, such as pool tables and video games. The court found that, to the extent there were inaccuracies in the calculations, these were due to the taxpayers' failure to maintain adequate and necessary records, and the tax assessment was affirmed.

Zorzit appealed the fraud penalty on the grounds that, having not read the Rossville Vending v. Comptroller case, he could not have known that illegal payouts were taxable. The Court found sufficient evidence to establish four badges of fraud, following the Genie & Company v. Comptroller case, and the fraud penalty. The court did reduce the fraud penalty to 50%, however, in recognition of the deficiencies in the audit calculations. The final assessment affirmed by the court on July 8, 2013, including tax, penalty and accruing interest, was \$5,770,353.18.

The taxpayers have filed an appeal in the Circuit Court for Baltimore County.

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**VI. 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.com](http://www.marylandtaxes.com). Paper forms will be available upon request. A limited number of paper tax booklets have been made available to libraries which have requested them.

We will continue to provide forms in Spanish that can be downloaded from our Web site. While we have done our best to provide for an

accurate translation into Spanish, where questions arise as to the meaning of these instructions, the English version will be deemed to be the accurate version. A list of this year's tax forms can be found on pages 39 and 40.

## **Resident Returns**

### **Form 502 – Maryland Resident Return**

We have added **Attachment Sequence Numbers** to the major Resident tax returns. We hope this will help taxpayers place paper tax returns in the order which will permit the most efficient processing of their tax returns.

**Line 1b of Form 502** – This is a new line to report the amount of “earned income” reported on your federal income tax return.

**Line 17 of Form 502** – We now refer taxpayers to Instruction 14 for the amount of state and local income taxes as there is a worksheet which many taxpayers will need to complete.

**Line 25 of Form 502** – We have updated our reference from Part G of Form 502CR to Part H to account for a new tax credit.

**Line 26 of Form 502** – We have removed the entry line from the paper version of Form 502, and included the following text: **You must file this return electronically to claim business tax credits on Form 500CR.**

**Line 42 of Form 502** – We have changed the line reference from Part H of Form 502CR to Part I.

We relocated the Identity Protection PIN Box on the return to a location under the spouse's signature.

We added an additional line in the preparer's area to separate the address and telephone number of the preparer.

### **Form 503 – Resident Short Form**

**Line 1b of Form 503** – This is a new line to report the amount of “earned income” reported on your federal income tax return.

#### **Instructions to 502 and 503**

- **Instruction 1** – The minimum filing requirements have changed. The new

amount for a single person under 65 is \$10,000.

- **Instruction 2** – We updated the Web page address for 1040NR filers, Nonresident Aliens.
- **Instruction 11** – We include instructions for the new line 1b to report earned income from the federal return.
- **Instruction 12** – Letter code “e” has been updated to include additions related to two new tax credits.
- **Instruction 12** – Letter code “p” is used to report Maryland's decoupling with the federal itemized deduction limitation threshold.
- **Instruction 13** – Maximum allowable pension exclusion is \$27,800.
- **Instruction 13** – Letter code “I” is now used for the purchase and installation of enhanced agricultural management equipment.
- **Instruction 13** – Letter code “w” is not being used. Agricultural expenses previously claimed under code letter “w” have been moved to “I” to the extent approved by the Department of the Agriculture.
- **Instruction 13** – letter code “mm” is used for the new subtraction for amount received by a claimant for noneconomic damages as a result of a claim for unlawful discrimination.
- We also have added Worksheet Numbers to tie them to the most relevant instructions (e.g. Military Overseas Income Worksheet (13B) is related to Instruction 13.)
- **Instruction 14** – We have created the three-part Itemized Deduction Worksheet (14A) to be used by all taxpayers itemizing deductions with federal AGI greater than \$178,150 (or \$89,075 for Married Filing separately). Part I is used to calculate what the federal itemized deductions would have been had the US Congress made no change to the threshold amount in 2013. Part II is used to calculate the amount of income of

the required decoupling addition modification (see code letter “p” above. Part III is used to calculate the amount of state and local income tax deduction that was limited on the federal income tax return.

- **Instruction 18** – Line 25 instructions introduce the new Health Enterprise Zone Practitioner Tax Credit.
- **Instruction 18** – Line 26 instructions inform taxpayers they must file their returns electronically to claim business tax credits from Form 500CR.
- **Instruction 18** – Line 26 instructions also enumerate four new business non-refundable tax credits.
- **Instruction 18** – We have updated the Poverty Income Guidelines, which begin at \$11,490.
- **Instruction 19** – Three counties have changed their 2013 local tax rates. Anne Arundel County returned to 2.56%. Talbot County has increased its rate to 2.4%. Wicomico County has increased its rate to 3.2%.
- **Instruction 21** – We have modified the language of the Neighborhood Stabilization Tax Credit to remove reference to Baltimore City. This credit was taken over ten years.
- **Instruction 21** – There are two new refundable business tax credits which may be carried over from Form 500CR.
- **Instruction 23** – We reference the use of Attachment Sequence Numbers in this area of the instructions.

#### **Form 502B – Dependents’ Information**

We have added **Attachment Sequence Number 6** to the Form 502B.

#### **Form 502CR – Income Tax Credits for Individuals**

We have added **Attachment Sequence Number 12** to the Form 502CR.

**PART E** – The maximum amount of credit that can be claimed for long-term care premiums in

Part E has been increased to \$360 for those insured who are age 40 or less. This change also has been made to the related instructions.

**PART F** – Instructions have been updated to be more inclusive to reference “married couple.”

**PART G** – We have updated Part H to reflect the new Health Enterprise Zone Practitioner Tax Credit, which permits a credit for qualified wages earned in a Health Enterprise Zone. Also, we have removed the reference to the nonrefundable portion of the Maryland Heritage Structure Rehabilitation Tax Credit from Form 502H.

**PART I** – We have updated line 1 instructions to remove reference to Baltimore City from the instructional text about the Neighborhood Stabilization Tax Credit. We have updated line 3 to advise taxpayers that they must file electronically to claim a refundable business tax credit from Form 500CR.

#### **Form 502D – Declaration of Individual Estimated Tax**

We have changed our text to inclusive language under **Who must file a declaration** in light of Maryland’s recognition of same-sex marriage.

Form 502D has been updated to reflect new **2014** local rates as follows:

Caroline County increased its tax rate to 2.73%.  
Carroll County decreased its tax rate to 3.04%.  
Charles County increased its tax rate to 3.03%.

#### **Form 502H -- Heritage Structure Rehabilitation Tax Credit -- Discontinued**

We have discontinued Form 502H. All rehabilitation tax credits that have been certified by the Maryland Historical Trust as having been completed in 2013 are still eligible credits, but are claimed on the Sustainable Communities Tax Credit Form 502S.

#### **Form 502INJ**

We have added **Attachment Sequence Number 1** to the Form 502INJ.

**Line 9 instructions** – We tell taxpayers they must file their individual tax return electronically if they have any business tax credits to be allocated on line 9.

## **Form 502S – Sustainable Communities Tax Credit**

Form 502S is used to claim a tax credit for certified rehabilitations completed during 2013.

Beginning with Tax Year 2013, corporations and pass-through entities no longer may claim or pass on a credit using the paper version of Form 502S. They must file electronically to claim the Sustainable Communities Tax Credit.

Form 502S is still carried over to Form 502CR for individual filers, and to Form 504 for fiduciary taxpayers.

## **Form 502SU – Subtractions from Income**

Letter code “l” was changed to “Purchase and installation costs of certain enhanced agricultural management equipment.”

Letter code “w” has been removed for 2013. The poultry and manure spreading equipment subtractions previously claimed under “w” are now accounted for in “l.”

Letter code “mm” is for the amount received by a claimant for noneconomic damages as a result of a claim of unlawful discrimination.

The text for letter code “xb” has been changed to clarify that a taxpayer must be an **account holder** to claim a subtraction for College Investment Plan contributions.

## **Form 502UP**

We have removed the special 2012 language which referenced an alternative method of calculating the underpayment interest calculation to avoid being subjected to interest on a mid-year increase in tax rates.

## **Form 502V**

We have changed the Form 502V to reflect the new charitable travel expenses modification. For the travel expenses incurred during 2013, the rate is 56.5 cents per mile.

## **Form 502X – Maryland Amended Return**

**Line 10a** – We have blocked entries in the Business Credit box on the paper version of Form 502X.

**Line 19** – We have removed reference to Forms 502H and 500CR.

## **Form 502X Instructions – Maryland Amended Return**

- In the first paragraph of the instructions, we state that you must file your Maryland Amended Form 502X **electronically** to claim, or change information related to, business income tax credits from Form 500CR.
- **Instruction 4** – Special Note for 2013 under Part II references the Itemized Deduction Worksheet to be used by itemizers with income greater than \$178,150 ( \$89,075 if Married Filing Separately).
- **Instruction 6** – New language appears advising taxpayers that they must file their amended return electronically to claim or modify a Business Income tax Credit from Maryland Form 500CR.
- **Instruction 7** Reflects updated local tax amounts.
- **Instruction 9** Updated text on Neighborhood Stabilization Tax Credit from Form 502CR, as well as placing a reminder that taxpayers must file their amended return electronically to claim or modify any refundable Business Income Tax Credits from Form 500CR.

## **Form 588 – Direct Deposit**

- We have added **Attachment Sequence Number 09** to Form 588.

## **Form 505**

**Line 26c** – We now refer taxpayers to Instruction 16 rather than a specific line number on the federal Schedule A to obtain the amount of state and local income taxes to report on this line.

**Line 35** – We have updated our reference from Part G of Form 502CR to Part H to account for a new tax credit.

**Line 36** – We have removed the entry line from the paper version of Form 505, and included the

following text: **You must file this return electronically to claim business tax credits on Form 500CR.**

We relocated the Identity Protection PIN Box on the return to a location under the spouse's signature.

We added an additional line in the preparer's area to separate the address and telephone number of the preparer.

### Instructions to Form 505

- **Instruction 4** – The minimum filing requirements have changed. The new amount for a single person under 65 is \$10,000.
- **Instruction 29** – We have clarified in our instructions that single-member entities may not file a composite return.
- **Instruction 12** – Letter code “c” has been updated to include additions related to three new tax credits.
- **Instruction 12** – Letter code “p” is used to report Maryland's decoupling with the federal itemized deduction limitation threshold.
- **Instruction 13** – Letter code “l” was changed to “Purchase and installation costs of certain enhanced agricultural management equipment.”
- **Instruction 13** – Letter code “mm” is used for the new subtraction for amount received by a claimant for noneconomic damages as a result of a claim for unlawful discrimination.
- **Instruction 16** – We have created the three-part Itemized Deduction Worksheet (16A) to be used by all taxpayers itemizing deductions with federal AGI greater than \$178,150 (or \$89,075 for Married Filing separately). Part I is used to calculate what the federal itemized deductions would have been had the US Congress made no change to the threshold amount in 2013. Part II is used to calculate the amount of income of the required decoupling addition modification (see code letter “p” above. Part

III is used to calculate the amount of state and local income tax deduction that was limited on the federal income tax return.

- **Instruction 20** – Line 35 instructions introduce the new Health Enterprise Zone Practitioner Tax Credit.
- **Instruction 20** – Line 36 instructions also enumerate four new business non-refundable tax credits.
- **Instruction 22** – Line 47 instructions have been updated. We have modified the language of the Neighborhood Stabilization Tax Credit to remove reference to Baltimore City. This credit was taken over ten years.
- **Instruction 22** – We have also introduced two new refundable tax credits on the in the line 47 instructions.

### Form 505NR

**Line 3a** -- This is a new line to report the amount of “earned income” reported on your federal income tax return.

### Form 505SU – Nonresident Subtractions from Income

#### Part I Subtractions

Letter code “mm” is a new subtraction for the amount received by a claimant for noneconomic damages as a result of a claim of unlawful discrimination.

#### Part II Subtractions

Letter code “l” was changed to “Purchase and installation costs of certain enhanced agricultural management equipment.”

The text for letter code “xb” has been changed to clarify that a taxpayer must be an **account holder** to claim a subtraction for College Investment Plan contributions

### Form 505X

**Line 12a** – We have blocked entries in the Business Credit box on the paper version of Form 505X.

**Line 19** – We have removed reference to Form 502H, and also have removed reference to the Form 500CR from the paper version.

### Instructions to Form 505X

- In the first paragraph of the instructions, we state that you must file your Maryland Amended Form 505X **electronically** to claim, or change information related to, business income tax credits from Form 500CR.
- **Instruction 4** – Special Note for 2013 under Part II references the Itemized Deduction Worksheet to be used by itemizers with income greater than \$178,150 (\$89,075 if Married Filing Separately).
- **Instruction 6** – New language appears advising taxpayers they must file their amended return electronically to claim or modify a Business Income Tax Credit from Maryland Form 500CR.
- **Instruction 9** – Updated text on Neighborhood Stabilization Tax Credit from Form 502CR, as well as placing a reminder that taxpayers must file their amended return electronically to claim or modify any refundable Business Income Tax Credits from Form 500CR.

### Form 515 – Nonresident Local Income Tax Return

**Line 36** – We have updated our reference from Part G of Form 502CR to Part H to account for a new tax credit.

**Line 37** – We have removed the entry line from the paper version of Form 505, and included the following text: **You must file this return electronically to claim business tax credits on Form 500CR.**  
text: **You must file this return electronically to claim business tax credits on Form 500CR.**

### Instructions to Form 515

- **Instruction 2** – The minimum filing requirements have changed. The new amount for a single person under 65 is \$10,000.

- **Instruction 11** – Code letter “p” is used to reflect Maryland’s decoupling with the federal itemized deduction limitation threshold.
- **Instruction 15** – Contains new worksheet for taxpayers with incomes of \$178,150 or more (\$89,075 if Married Filing Separately) to calculate Maryland’s decoupling with the federal itemized deduction limitation threshold as well as to calculate the amount of state and local deduction that is limited at the federal level.
- **Instruction 18** – We now request the earned income from the federal income tax return. This amount is entered on line 3a of Form 505NR.
- **Instruction 19** – Mentions the new tax credit for health practitioners who work in a Health Enterprise Zone.
- **Instruction 19** – Reminds 515 filers they must file Form 505 electronically to claim a business tax credit from Form 500CR.
- **Instruction 19** – We have updated the Poverty Income Guidelines, which begin at \$11,490.
- **Instruction 20** -- Reflect the new 2013 local rates. Anne Arundel County returns to 2.56%; Talbot County increases to 2.4%; and Wicomico County increases to 3.2%.

### C. Corporation Returns

#### Form 500 – Corporation Income Tax Return

**Lines 5** – We have added the word “Adjusted” before the words, “Federal NOL” to clarify that the return is referencing the pro forma calculated amount.

**Line 15c** We have added the word “Adjusted” before the words, “Federal NOL” to clarify that the return is referencing the pro forma calculated amount.

**Lines 15c and 15d** – We have removed the entry box on the paper version of Form 500 and added the text informing the user that the return must be filed electronically to claim a business tax credit from Form 500CR.

**Line 15e** – We have removed the entry box for the Sustainable Communities Tax Credit on the paper version of Form 500 and added the text informing the user that the Form 502S must be claimed on Form 500CR and that the return must be filed electronically to claim a business tax credit from Form 500CR.

**Line 15e** now consists of a checkbox to indicate that the filer is a nonprofit corporation.

Signature area – We have added space immediately below the officer's signature for the officer's name.

### Instructions to Form 500

On page 1, under General Instructions, Filing Form 500, we inform taxpayers that Form 500 must be filed electronically if the corporation plans to claim a business income tax credit from Form 500CR or a Sustainable Communities Tax Credit from Form 502S.

We have provided Instruction numbers to assist in finding and referencing information.

Instructions previously on page 1 that explained where and when to file a corporation tax return have been moved to Instruction 2.

Instructions previously on page 1 pertaining to required signatures have been moved to Instruction 3.

- **Instruction 1** – On page 1, in the second column, where we tell taxpayers that fiduciary taxpayers must file Form 504, we inform them that Maryland taxes Electing Small Business Trusts (ESBTs).
- **Instruction 4** – Under Maryland Business Income Tax Credits, we remind taxpayers that they must file electronically to claim Business Income Tax Credits from Form 500CR.
- **Instruction 5** – Under the Amended Returns section we advise taxpayers that they must file Form 500X electronically when the change is related to a business income tax credit.
- **Instruction 5** – Under the Substitute Forms section we advise tax preparers that the fact that a software package is available for retail

purchase does not guarantee that it has been approved for use.

- **Instruction 8** – Line 5 instructions have been updated to clarify that the amount of NOL Carryforward to be reported is the Adjusted (or pro forma) Federal Carryover available from previous years and not the actual federal NOL deduction.
- **Instruction 8** – Line 7f instructions have been updated for letter code “B.” The additional tax credits requiring addition modifications are: Small Business Research & Development Tax Credits and Maryland Employer Security Clearance Costs Tax Credit.
- **Instruction 8** – Line 8b instructions have been updated for letter code “E.” The purchase and installation costs for certain enhanced agricultural management equipment has expanded this year. This has resulted in the removal of another related subtraction. Code letter “H” is not being used this year.
- **Instruction 8** – Line 8b instructions have been updated for letter code “F.” The Reforestation or Timberstand Improvement Subtraction has expanded.
- **Instruction 8** – Line 15c instructions have been updated to reflect the new electronic filing requirement for corporations claiming nonrefundable business tax credits from Form 500CR.
- In addition, all of the nonrefundable credits are listed in this section of Instruction 8. We have listed the nonrefundable credits into two sections: those requiring an addition modification and those which do not.
- **Instruction 8** – Line 15d instructions have been updated to reflect the new electronic filing requirement for corporations claiming refundable business tax credits from Form 500CR. We have listed the Small Business R&D Tax Credit last as that one also requires an addition modification.
- **Instruction 8** – Line 15e instructions have been updated to reflect the new electronic filing requirement for corporations claiming a Sustainable Communities Tax Credit from Form 502S. The tax credit from Form 502S

is now reported on line 1 of Part Z of Form 500CR. We remind non-profit corporations to check the box provided on Form 500.

### **Form 500CR – Maryland Business Income Tax Credits- Paper version has been discontinued**

#### **Form 500CR – Maryland Business Income Tax Credits – Paper version has been discontinued.**

Here are some of the changes from last year's form which you will see in the electronic version.

**Part A** – The Enterprise Zone Tax Credit now requires certification to be included by taxpayers who wish to claim that tax credit.

**Part B** – A new refundable Health Enterprise Zone Hiring Tax Credit is available in Part B.

**Part C** – The General Assembly has removed the expiration provisions from the Maryland Disability Employment Tax Credit, and has made this credit permanent. We have removed all references to dates on the form.

**Part G** – The Long-Term Employment of Qualified Ex-Felons Credit has been allowed to expire; however, employers who have a qualified ex-felon in their second year of employment may claim a 20% credit on the first \$6,000 of wages, provided that employee was hired on or before December 31, **2011**.

**Part H** – The Work-Based Learning Tax Credit expired at the end of 2012.

**Parts J** – A new Maryland Employer Security Clearance Costs Tax Credit is provided for in Part J.

**Part J-I** – This portion of the tax credit consists of two different components. On line 1, a qualified employer can claim those costs incurred to construct, renovate Sensitive Compartmented Information Facilities (SCIFs) that have been certified by DBED. On line 2, an employer may claim the Security Clearance Administrative Expenses approved by DBED, not to exceed \$200,000.

**Part J-II** – Small businesses that perform security-based contracting may be eligible for a tax credit against their first-year leasing costs, not to exceed \$200,000. DBED has special rules in place for 2013.

**Part K-II** – Businesses certified as small businesses by DBED may be entitled to a refund of their R&D tax credit.

**Part Q** – The Green Building Tax Credit has expired. A new Oyster Shell Recycling Tax Credit is available in this Part of Form 500CR.

**Part T** – A new Wineries and Vineyards Tax Credit is available in Part T.

**Part Y** – We have expanded the Refundable Business Tax Credits enumerated on Form 500CR to include the Health Enterprise Zone Hiring Tax Credit and the Small Business R&D Tax Credit. Corporations and PTEs are referred to Part Z.

#### **Part Z – Corporation and PTE Refundable Tax Credit Summary**

- **Line 1** – This line is used to report the tax credit from Form 502S.
- **Line 2** – This line is used to enter the total of refundable business tax credits from Part y.
- **Line 3** – The sum of lines 1 and line 2 is entered here and on line 15d of the electronic Corporation income tax return.
- We have added a reminder that PTEs will report the distributive or pro rata share of **each** credit on its members' Maryland Form 510 Schedule K-1.

#### **Instructions to Form 500CR**

In the **General Instruction** section we inform taxpayers that the paper version of the Business Tax Credit Form 500CR has been discontinued. Taxpayers must file their return electronically to claim business tax credits, The Instructions are still available and may be downloaded from our Web site.

Tax-exempt organizations who qualify for business tax credits against their withholding tax, will now use Form MW508CR to claim the tax credit on Form MW508.

We have updated our language for PTEs and PTE members, as PTEs must file their returns

electronically to pass on any business tax credit to their members.

Also, we have added cautionary language for some entities that are certified by various State agencies. The entity being certified often will be a consolidated corporation which may not file a Form 500CR. Subsidiaries will need to identify the parent's FEIN on the Form 500CR section of their electronic return. If a company fails to do so, the processing of a valid claim for a business tax credit may be delayed.

For any Tax Year after 2012, taxpayers who must file an amended return to claim or change a business tax credit must file an electronic amended return.

We have added line-by-line text to the instructions.

**Parts A** – We have updated our instructions to advise taxpayers who wish to claim this credit that they must include certification with the return which shows the business is located in a Maryland enterprise zone.

**Part B** – We have updated Form 500CR to provide for the new Health Enterprise Zone Hiring Tax Credit.

**Part C** – We have modified the instructions to remove all sunset language from this credit. The General Assembly has made the Maryland Disability Tax Credit permanent.

**Part G** – We have removed the instructions for the first year of this tax credit. The Long-Term Employment of Ex-Felons Tax Credit has expired. It is still available to those who hired a qualified ex-felon on or before December 31, 2011, if that employee is in their second year of employment.

**Part H** – The Work-Based Learning Tax Credit has expired and is no longer available.

**Part J-I** – We have provided instructions for claiming the Credits for Sensitive Compartmented Information Facilities (SCIFs) and/or Security Clearance Administrative Expenses.

**Part J-II** – Instructions provide guidance to small businesses that perform security-based contracting may be eligible for a tax credit

against their first-year leasing costs, not to exceed \$200,000. DBED has special rules in place for 2013.

**Part K-II** – Our instructions inform qualified small businesses which are eligible to claim the R&D Tax Credit, that they are now entitled to a refund of that credit.

**Part L** – We have updated some of the instructional eligibility language for a qualified Maryland biotechnology tax company (QMBC).

**Part Q** – We have removed the Green Building Tax Credit from the Form 500CR as it had expired.

**Part Q** – The Oyster Shell Recycling Tax Credit is a new credit in Part Q.

**Part T** – We have removed the Job Creation and Recovery Tax Credit from Form 500CR.

**Part T** – We have updated Form 500CR to provide for the new Wineries and Vineyards Tax Credit.

**Part W** – We have updated the instruction for the summary of Form 500CR to provide for the listing of those credits to which Maryland addition modification applies.

**Part Y** – We have updated the instruction for the listing of the refundable tax credits. The Health Enterprise Zone Hiring Tax Credit, as well as the Small Business R&D Tax Credit has been added. We also have provided text for corporations and PTEs to continue to Part Z.

**Part Z** – We have added instructions to the Corporation and PTE Refundable Tax Credit Summary. In line 1, these entities will enter the Sustainable Communities Tax Credit. In line 2, the other refundable tax credits are entered. On line 3, the instructions state that lines 1 and 2 are added together. Corporations will use this figure as the total refundable tax credit to be claimed on the electronic return.

PTEs are reminded to report the distributive or pro rata share of each credit on the Maryland Form 510, Schedule K-1.

On the last page of the instructions, we have updated the chart reflecting carryovers. We have added to the chart those credits which

have expired that still have excess carryover provisions.

#### **Form 500DM – Decoupling Modification**

We have updated the instructional language for line 2 to be consistent with Administrative Release 18.

Also, we have tried to eliminate some of the confusion with the Other Changes line 5, by removing the text from the instructions and providing scenarios in Administrative Release 38.

#### **Form 500UP—Calculation of Underpayment of Estimated Tax**

We have removed reference to the Maryland Heritage Rehabilitation Tax Credit from this form.

#### **Form 500X—Corporation Amended Tax Return**

- **Line 10c** – On the paper version, we have removed line and replaced with text that the corporation must file an electronic amended tax return to claim a business tax credit from Part W of Form 500CR.
- **Line 10d**– On the paper version, we have removed line and replaced with text that the corporation must file an electronic amended tax return to claim a business tax credit from Part Z of Form 500CR.
- **Line 10e** – We have removed the references to Forms 502H and 502S.

#### **Form 500X – Amended Corporation Return Instructions**

- In the first paragraph of the instructions, we state that you must file your Maryland Amended Corporation Tax Form 500X **electronically** to claim, or change information related to, business income tax credits from Form 500CR or 502S.
- In the first paragraph of the instructions on page 2, we reiterate that you must file your Maryland Amended Corporation Tax Form 500X **electronically** to claim, or change information related to, business income tax credits from Form 500CR or 502S.

- In the instructions on What to Attach on page 2, we state you must file your Maryland Amended Corporation Tax Form 500X **electronically** to claim, or change information on lines 10c or 10d related to, business income tax credits from Form 500CR or 502S.
- In the instructions on **What to Attach** on page 2, we have removed reference to Form 502H, as well as a reference to Form 502S, line 10d.

### **D. Pass-Through Entities (PTEs)**

#### **Form 510—Schedule B**

We have modified the **paper** version of Schedule B, Form 510, Maryland Pass-Through Entity Income Tax Return, to prevent entries into the column that reflect the distributive or pro rata share of a business tax credit. PTEs must file Form 510 electronically to pass on business tax credits from Form 500CR or 502S to its members.

#### **Instructions to Form 510**

On page 1, under General Instructions, Filing Form 500, we inform taxpayers that Form 500 must be filed electronically if the corporation plans to claim a business income tax credit from Form 500CR or a Sustainable Communities Tax Credit from Form 502S.

We have provided Instruction numbers to assist in finding and referencing information.

- **Instruction 5** – Under Maryland Business Income Tax Credits, we remind taxpayers they must file electronically to claim Business Income Tax Credits from Form 500CR.
- **Instruction 5** – We again remind taxpayers they must file electronically to claim Business Income Tax Credits from Form 500CR or the Sustainable Communities tax Credit form Form 502S in the section on allocation of credits.

#### **Instructions for Schedule B – Members' Information**

- Schedule B instructions provide guidance for tax credit information; however, a PTE must

file the Form 510 electronically to be able to pass on a tax credit from Form 500CR or 502S.

### **Form 510C – Maryland Composite Tax Return**

We have added a note to the General instructions that a single-member entity cannot file a composite return.

In the second column under Schedule A, Column F Instructions, we state that a PTE filing a composite return may not offset one member's income by a loss from another member.

### **Schedule K-1 (Form 510)**

We have updated the list of nonrefundable tax credits to reflect the removal of the Work-Based Learning Tax Credit, the Green Building Tax Credit, and the Maryland Heritage Structure Rehabilitation Tax Credit. We have added the Security Clearance Costs, Small Business First-Year Leasing Security Clearance Costs, Oyster Shell Recycling and Wineries and Vineyards tax credits.

We have updated the list of refundable tax credits to reflect the removal of the Jobs Creation and Recovery Tax Credit and the Maryland Heritage Structure Rehabilitation Tax Credit, as well as the addition of the Health Enterprise Zone Hiring Tax Credit and the Small Business Research & Development Tax Credit.

In the Instructions for Section E, we tell PTEs that the information for the business tax credits will come from the Form 500CR section of their electronically-filed return. We also tell fiduciary taxpayers who are PTE members that they will report their business tax credits on Form 504CR.

At the bottom of page 3, we state that all taxpayers, other than fiduciaries, must file their return electronically to claim or pass on a business income tax credit from Form 500CR.

We go on to state that corporations and PTEs must file their tax returns electronically to claim or pass on a Sustainable Communities Tax Credit from Form 502S.

## **E. Fiduciaries**

### **Form 504 – Fiduciary Tax Return**

On the front of Form 504, under **Type of Entity**, we tell users to check the box or boxes corresponding to the federal return.

We have added Electing a Small Business Trust (ESBT) as a new entity type. See Entity Type 7.

On page two of the Form 504, under Fiduciary's Share of Modifications, we have updated the text. Unless the fiduciary is an ESBT, do not complete lines 1 through 10g if the fiduciary distributes all of the income for the tax year.

**Line 3** – On line 3, we have the new addition modification for Electing Small Business Trust (ESBT).

**Line 3a** – This line is used for "Other additions to income."

### **Instructions to 504**

We have updated **Purposes of Form** section to state that Maryland will begin to tax the portion of an Electing Small Business Trust (ESBT) consisting of stock in one or more S corporations that is subject to special taxing rules on federal Form 1041.

- **Instruction 4** – We have updated our text to allow for the possibility of multiple entity types to be checked on the Form 504.
- **Instruction 4** – Text has been added to provide for the ESBT as Entity Type 7.
- **Instruction 7** – We have rewritten the instructions on modifications to be consistent with the changes in Form 504. We explain that a fiduciary taxpayer generally does not need to complete lines 1 through 10g if it is not an ESBT and has distributed all of its Distributable Net Income(DNI).
- **Instruction 7** – We also clarify that an ESBT may generally not use the Formula Method to allocate Maryland modifications to beneficiaries; and an ESBT may not distribute any of its S-portion of income to its beneficiaries.

- **Instruction 7** – We also have updated our instructions to say that except for an ESBT, the additions and subtractions are the same as those for individuals.
- **Instruction 7** – The new addition for resident fiduciaries is the S-portion of income of an ESBT. For a nonresident fiduciary, the addition is the amount of S-portion of income attributable to Maryland sources. We ask for a statement to be attached to Form 504 showing how the income was calculated.
- **Instruction 8** – We have added a note to the Instructions for completing Form 504NR, informing users that the sum of Columns (B) through (D) must equal Column (A) on line 14.
- **Instruction 8** – We have added a sentence in Line 16b Instructions telling nonresident fiduciaries of ESBTs that they not apply the non-Maryland factor to Line 16b of Form 504NR if they have reported only the S-portion of income attributable to Maryland on line 3 of Form 504.
- **Instruction 15** -- Reflect the new 2013 local rates. Anne Arundel County returns to 2.56%; Talbot County increases to 2.4%; and Wicomico County increases to 3.2%.
- **Instruction 17** – We have updated some references to the summary of Form 502CR from Part G to Part H.
- **Instruction 17** – We have new instructions for a fiduciary taxpayer who is eligible to claim a business tax credit. Fiduciaries will use the Fiduciary's Business Tax Credit Form 504CR.

#### **Form 504—Schedule K-1**

We have added a Box 6 for a Fiduciary taxpayer to reflect the distribution to the beneficiary a Business Tax Credit from Form 504NR or a Sustainable Communities Tax Credit from Form 502S.

Box 7 is a new box to reflect the distribution of a One Maryland Economic Tax Credit from Form 504CR.

#### **Form 504CR – Fiduciary Business Income Tax Credits – New Form**

Because we do not yet have an electronic Fiduciary Form 504, we have exempted them from the electronic filing requirement.

We have created Form 504CR to provide a way for fiduciary taxpayers who may have credits passed on to them from PTEs to claim the appropriate tax credit. Most of these changes follow the flow of Form 500CR.

#### **Form 504D – Declaration of Fiduciary Estimated tax**

We have updated the Form 504D, net modifications instructions to explain the handling of ESBT income.

Form 504D has been updated to reflect new **2014** local rates as follows:

Caroline County increased its tax rate to 2.73%.  
Carroll County decreased its tax rate to 3.04%.  
Charles County increased its tax rate to 3.03%.

#### **Form 504NR – Nonresident Fiduciary Tax Calculation**

We have added clarifying language under Part I -- Reconciliation of Maryland and Federal Income (Loss) that the sum of Columns B through E must equal A. In other words, the income from Maryland-source income plus the income from non-Maryland source income must equal federal income.

### **G. Electronic Filing**

#### **Form EL101**

We have modified Form EL101 by adding the following in Part I of the form: "Direct deposit or direct debit options are not eligible for Amended returns."

## **H. Withholding**

### **Withholding Tax Guide**

We have provided guidance to taxpayers that certain out-of-state entities providing disaster-related assistance that are not currently registered with Maryland, are not required to register in the event of a disaster or declaration of emergency.

#### **Form MW507—Employee Exemption Certificate**

We have updated our Form MW507 to provide clearer language to employers who are impacted by local tax questions pertaining to Pennsylvania.

#### **Form MW508 – Annual Employer Withholding Tax Reconciliation Return**

**Line 3b** – updated to reflect reference to new Form **MW508CR**.

#### **Form MW508CR – Business Tax Credit Form for Tax-Exempt Entities – New Form**

Since the paper version of Form 500CR has been discontinued, we have provided tax-exempt organizations that are eligible to claim business tax credits, a new Form MW508CR, Business Tax Credits, to use as an attachment to Form MW508.

## **I. Business Registration**

### **Combined Business Registration Application**

We have provided guidance to taxpayers that certain out-of-state entities providing disaster-related assistance that are not currently registered with Maryland are not required to register in the event of a disaster or declaration of emergency.

## **J. Other Forms**

### **Form 130 – Request for Certification of Tax Filings – New Form**

We have created Form 130. This form allows applicants to request certification of tax filings from the Comptroller of Maryland for use with the Maryland Highway Safety Act of 2013.

### **Form 202 – Sales and Use Tax Return**

On lines 17a through 17 c of Sales and Use Tax

On Return Form 202 we have provided a new section for sellers of prepaid wireless telecommunication services to report and remit Prepaid Wireless E 9-1-1 fees collected that they have collected. The fee is calculated at \$.60 per transaction.

### **Motor Fuel Tax Form 779 – Inventory – Tax Adjustment – New Form**

Form 779 was created to assist in the proper reporting and remittance of any taxes due on motor fuel inventory as detailed in the Transportation Infrastructure Investment Act of 2013. The General Assembly has tied increases in the Maryland Motor Fuel Tax to the Consumer Price Index, as well as creating a Sales and Use Tax Equivalent.

### **Alcohol Tax Form 367 – Application for Manufacturer’s and Wholesaler’s Licenses**

The Application for Manufacturer’s and Wholesaler’s License, Form 367 was updated to include Alcoholic Beverages - Class 7 – Limited Beer Wholesaler’s License.

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**VII. 2013 RAD Fiscal Year Statistics**

A. Total 2012 personal tax returns (received through 6/30/13)	2,692,330
B. Total number of refund returns (does not include Amended)	2,139,245
C. Total refunds issued on above returns	\$2,350,472,230
D. Amount paid with returns	\$488,289,737
E. Amount of refunds applied to 2013 estimated tax (52,563)	\$88,869,370
F. Amount of refunds transferred to DHR (33 <sup>rd</sup> year – 11,113 returns)	\$6,580,519
G. Amount of refunds transferred to CCU (29 <sup>th</sup> year – 103,075 returns)	\$46,744,377
H. Amount of refunds applied to business taxes (24 <sup>th</sup> year – 953 returns)	\$684,491
I. Amount of refunds transferred to other states	\$2,168,503
• Connecticut (7 <sup>th</sup> year – 78 returns)	\$ 42,835
• Delaware (15 <sup>th</sup> year – 790 returns)	\$ 269,461
• New Jersey (8 <sup>th</sup> year – 312 returns)	\$ 134,133
• New York (7 <sup>th</sup> year – 440 returns)	\$ 212,814
• District of Columbia (2 <sup>nd</sup> year – 2,276 returns)	\$1,509,260
J. Employer withholding receipts	\$11,345,394,286
K. Personal estimated tax	\$1,710,633,310
L. Amount of local tax distributed	\$4,646,101,307
M. Amount of corporate tax distributed	\$133,871,336
N. Amount of earned income credit claimed	\$84,795,442
O. Amount of refundable earned income credit claimed	\$155,453,763
P. Amount of poverty level credit claimed	\$5,055,125
Q. Chesapeake Bay Endangered Species Fund contributions	\$937,337
R. Developmental Disabilities Waiting List Equity Fund	\$192,015
S. Maryland Cancer Fund	\$393,391

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**VIII. 2013 Compliance Fiscal Year Statistics**

A. Number of active delinquent individual income tax cases as of 6/30	237,960
B. Number of active delinquent business tax cases as of 6/30	36,511
C. Number of payment agreements entered	88,164
D. Number of cases certified to IRS for offset	105,926
E. Number of tax liens filed	66,587
F. Number of salary garnishments filed	2,316
G. Number of bank attachments filed	10,461
H. Dollars collected on delinquent income tax cases	\$300,729,047
I. Dollars collected on delinquent business tax cases	\$251,952,131

J. Dollars collected from MITS activities .....	\$48,238,842
K. Estimated number of business tax accounts as of 6/30 .....	449,152
L. Number of 1st notices sent for individual income tax .....	126,614
M. Number of business tax discovery notices sent .....	13,488
N. Number of business tax audits and investigations .....	1,283
O. Dollars assessed for business tax audits (millions) .....	\$105.0
P. Percent of auditors (employed at least 18 months) cross-trained .....	64%
Q. Dollars assessed on business tax discovery activities .....	\$1,609,151
R. Dollars assessed for individual income tax (millions) .....	\$211.8
S. Percent of business tax accounts audited or investigated .....	0.29%
T. Number of unclaimed property holder reports received .....	15,030
U. Number of notices sent to owners .....	17,751
V. Number of unclaimed property claims paid .....	47,021
W. Dollars of unclaimed property reported (millions) .....	\$159.9
X. Dollars of unclaimed property paid to owners (millions) .....	\$56.5
Y. Percent of names added to system within 90 days .....	100%

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## IX. 2013 Tax Year Procedures

### A. Electronic Filing Program (eFile)

This past filing season, we received 2,201,366 electronically-filed returns. This represents a 3.86% increase over the prior year.

Of the 2,201,366 returns filed, 1,723,425 taxpayers. Taxpayers may file electronically or print tax forms or instructions from our Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com) 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 a (78%) were refund returns; 358,121 (16%) were balance due returns; and 119,820 (5%) were balance out returns.

- 1,351,103, or about 78% of refund electronic returns, requested a direct deposit of their refunds.
- 112,902, or 32% of balance due electronic returns, requested a direct debit of their balance due.
- The 2,201,366 returns were filed via the following methods:

- Professionally prepared – 1,331,926
- Online or tax software – 721,341
- Maryland iFile – 148,099

### B. New for the next filing season:

#### 1. Resident Tax Booklets

For tax year 2013, Resident tax booklets again will be available at local libraries.

The Comptroller of Maryland does not mail Resident tax booklets automatically to business tax credit from Form 500CR. The paper version of Form 500CR has been discontinued. More information is available in our Form 500CR instructions which may be downloaded at [www.marylandtaxes.com](http://www.marylandtaxes.com).

Eligible non-profit tax-exempt employers may continue to claim certain business income tax credits against their withholding taxes (if they have no unrelated business income) using new Form MW508CR.

Fiduciary taxpayers who qualify for a business income tax credit may claim a credit on new Form 504CR.

**3. Amended Returns Go Electronic** – New for this tax season will be the opportunity to file amended returns electronically. Filing electronically will speed the transmission of the return, although it will still be processed manually.

**4. New Software Designations** – We are improving the way we review and approve vendor software for Maryland taxes.

Software approved as Basic Maryland software (Individual and/or Business) will be able to complete simple returns and perhaps some returns which are more complex.

Software approved as Comprehensive Maryland software (Individual and/or Business) will be able to complete complex returns such as amended returns, Form 500CR, and provide binary attachments (PDFs) of certifications, returns and schedules needed to claim deductions and credits.

These new designations will help taxpayers and tax professionals determine which software is best suited to meet their needs. We will provide a list of software vendors approved for each designation, updated throughout the tax season. This list, and more information, will be found on our website at [www.marylandtaxes.com](http://www.marylandtaxes.com) under Tax Professionals.

Given the new requirements to file electronically to claim tax credits on Form 500CR, and to include required certifications via binary attachment (PDF), it is important to carefully consider which software provider you will use.

**5. Documentation Required for Out of State Credits for Electronically Filed Returns** – Taxpayers claiming credits for taxes paid to other states will have those credits disallowed unless we receive a copy of the return submitted to the other state(s) with the return.

**6. Threshold for W-2 Submissions** – For calendar year 2012 and beyond, employers/ payors with 25 or more Forms W-2/1099 with wages/payments subject to Maryland withholding are required to file these statements and the annual withholding reconciliation (Form MW508) electronically. These forms can be filed either by inputting the data to our free bFile application, or by creating a file in the approved format and uploading the file in bFile or on a CD or diskette. Please note: There are no waivers for calendar year 2013 and beyond.

**7. Taxation of S-Portion of Income from ESBT** – For Tax Years beginning after December 31, 2012, Maryland will begin to tax the S-portion of income of an Electing Small Business Trust (ESBT). This income is taxed on the federal Form 1041 as an additional tax, rather than flowing through to the adjusted gross income. Maryland now has an addition modification on Fiduciary Form 504 for the amount of S-portion of income which gave rise to the tax on the federal return.

**8. Form 130 - Request for Certification of Tax Filings** - This form allows applicants to request certification of tax filings from the Comptroller of Maryland for use with the Maryland Highway Safety Act of 2013.

### **C. Updates and reminders for next filing season**

**1. Income tax returns are due April 15, 2014.** – 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 30th to make your payment. (If you file electronically and pay by check, your payment is due by April 15th.)

**2. Electronic Filing Mandate** – Preparers who completed 100 or more original Maryland income tax returns for Tax Year 2012 are required to file all original individual income tax returns electronically for Tax Year 2013.

The exception to this is if the taxpayer specifically requests the preparer to file by paper or when a preparer has asked for and received a written waiver from the Comptroller.

For those filing paper returns in excess of these thresholds, the Comptroller may impose a \$50 per return penalty not to exceed \$500 per preparer.

A taxpayer may opt out of the eFile requirement by checking the box on the return. These returns will not be counted as returns prepared for penalty purposes.

**3. Going Green** – We continue to encourage taxpayers to file electronically to help us reduce costs and process tax returns more efficiently.

We have developed a Sales & Use Tax Return form on our Web site at bFile at [www.marylandtaxes.com](http://www.marylandtaxes.com). That form may be completed, filed electronically or printed and mailed. We also are developing a Withholding form for future downloading from our Web site.

We have discontinued the mailing of the Employer Withholding and Sales and Use Tax coupon booklets unless a taxpayer elects to continue to receive it. To continue to receive Sales and Use Tax booklets, a taxpayer may send a request via email to: [IwantmySUTreturns@comp.state.md.us](mailto:IwantmySUTreturns@comp.state.md.us).

In 2013, we had some success "Going Green" for Withholding Tax coupon booklets. We will have mailed approximately 15,000 coupon booklets as compared to 2010 when we mailed 85,000. To continue to receive Withholding coupon booklets, taxpayers may send an e-mail to: [IwantmyWHcoupons@comp.state.md.us](mailto:IwantmyWHcoupons@comp.state.md.us).

New accounts will not receive coupons unless it is requested on the Combined Registration Application.

**4. Tax Preparer's Website** – The Comptroller's Office pServices is designed to assist tax preparers access through the Comptroller's Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com). It allows tax preparers who have been authorized by their clients to view those clients' Forms 1099-G. Future enhancements to pServices are being developed to include the ability to view clients' estimated payments, tax liabilities and prior returns, and to bulk-file extensions for their clients. As these enhancements become available, they will be announced on the Comptroller's Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com).

**5. Social Security Number Validation** – All taxpayers' primary and secondary 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).

If you have contacted the IRS concerning identity theft and received a 6-digit Identity Protection Personal Identification Number (IP PIN), you should

enter it in the box near the signature area of the return.

**6. 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.

A mailing to employers in October of this year included a Withholding Tax Alert along with the Withholding Tax Facts.

**7. 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.

**8. 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 1099G, etc.

**9. Tax Returns submitted without W-2s or 1099s** – Tax returns received with a withholding amount and without a wage statement, W-2 or 1099, will be returned to the taxpayer.

**10. 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.

**11. Direct Debit for Online Bill Payments** – Taxpayers are able to set up bill payments for individual and business liabilities. We also plan to include business extensions and estimated payments.

**12. 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 page 6.

#### **D. Free Internet Filing for Individuals (iFile)**

1. Beginning in 2014, taxpayers may file their Resident and Nonresident returns for the current year (Tax Year 2013) and two prior years (Tax Years 2011 and 2012) on our Web site.

2. Residents also may file amended returns, provided the taxpayer has iFiled the original return. You may access our web site at [www.marylandtaxes.com](http://www.marylandtaxes.com)

3. Personal extension requests, estimated payments, pay a bill, set-up a payment plan and sign up to electronically receive your 1099G may be made through iFile.

#### E. 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 Web site and pay by direct debit or credit card. Employers also may upload wage data files or key up to 250 W-2s and their MW508s, directly to our Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com)

#### 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 new capability was implemented for Fiscal Year 2014 SUT returns and for calendar year 2013 Withholding returns.
- 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.

#### F. 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. Sales and use tax returns.
6. Personal and business bill payments via Bill Pay.

#### G. Alternative Payment Methods

For alternative methods of payment, such as a credit card, visit the Comptroller's website at [www.marylandtaxes.com](http://www.marylandtaxes.com).

**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 15th.

#### For Fiscal Year 2013, we received the following credit card payments:

43,023	2012 Personal Tax Returns:	\$15,508,713
82,016	Delinquent Tax:	\$18,230,684
3,369	Estimated: Tax:	\$3,814,052
2,752	Extension:	\$1,373,119
1,256	Sales and Use Tax:	\$2,810,558
1,051	Employer Withholding:	\$1,382,550

#### H. 2D Barcodes

We continue to have the ability to process tax returns by reading a 2D barcode that contains all of the tax return data. Through June 30, 2013, we received 313,008 returns containing a 2D barcode and 211,312 (67.5%) that were read successfully. If your software does not produce a 2D barcode, please contact your software company and request it since it provides for a more accurate and efficient processing of the return.

Our Web site version of Form 502 with 2D barcode includes data from Form 502B (as an attachment or a third page).

If the Form 502 has all of the required data in the 2D barcode and all three pages are submitted, the form should process without encountering problems.

If the Form 502 has all of the required data in the 2D barcode but the third page, Form 502B, is not attached, the data will not be picked up. The dependent deduction will be disallowed just like when a non-2D paper return is received.

Please switch your 2D barcode default to "ON" if your software supports 2D technology. Remember, if you use 2D, we cannot read any hand written changes on the form (i.e., direct deposit information).

### **I. Mailing of Forms**

1. Tax booklets will be mailed to taxpayers upon request only.
2. Spanish forms and instructions are available only on our Web site.
3. Employer withholding coupon books will be mailed by the end of December except for accelerated filers whose booklets will be mailed mid-November.
4. Personal estimated tax vouchers will be mailed mid-January.

### **J. 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 and 504CR 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.

### **K. 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 Martin Luther King Jr. Day, Monday, January 20, 2014 and Presidents' Day, Monday, February 17, 2014. 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 3 - April 15, 2014. During this period, telephone assistance is available from 8:00 a.m. until 7:00 p.m., Monday through Friday except for Martin Luther King Jr. Day, Monday, January 20, 2014 and Presidents' Day, Monday, February 17, 2014.

#### **EMAIL SERVICE**

Email to: [taxhelp@comp.state.md.us](mailto: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

### **L. Important Information**

Web site address: [www.marylandtaxes.com](http://www.marylandtaxes.com)

Tax Practitioner hotline: 410-260-7424

Tax Practitioner e-mail address:  
[taxprohelp@comp.state.md.us](mailto:taxprohelp@comp.state.md.us)

eFile Tax Pro hotline: 410-260-7753

eFile Tax Pro e-mail address:  
[efile@comp.state.md.us](mailto:efile@comp.state.md.us)

Tax Forms e-mail address:  
[taxforms@comp.state.md.us](mailto:taxforms@comp.state.md.us)

**Guide to Business Tax Credits** is available on our Web site. You may go directly to that page by entering the following Web address:  
[http://taxes.marylandtaxes.com/Business\\_Taxes/General\\_Information/Business\\_Tax\\_Credits/](http://taxes.marylandtaxes.com/Business_Taxes/General_Information/Business_Tax_Credits/)

## 2013 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.com](http://www.marylandtaxes.com)

### 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
500MC	Report of Maryland Multistate Manufacturing Corporation
500UP	Underpayment of 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
503	Maryland Tax Return (Resident Individual) Short 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
502D	Maryland Personal Declaration of Estimated Income Tax
502E	Automatic Extension Payment for Maryland Personal Income Tax
502H	Heritage Structure Rehabilitation Tax Credit
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 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
504E	Application for Extension of Time to File Fiduciary Income Tax Return
504UP	Underpayment of Estimated Income Tax by Fiduciaries
505	Maryland Tax Return (Nonresident Individual)
505 NR	Maryland Nonresident Income Tax Calculation
505SU	Maryland Nonresident Subtractions
505X	Nonresident Amended Maryland Tax Return
510	Pass-Through Entity Income Tax Return
	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)
588	Direct Deposit of Maryland Income Tax Refund to More Than One Account.

## 2013 Maryland Income Tax Forms

(List Continued from Previous Page)

MW507	Employee's Maryland Withholding Exemption Certificate ☞
MW507M	Military Spouse Withholding Exemption Certificate
MW507P	Request for Maryland Withholding for Annuitant, Sick Pay and Retirement Distributions
MW508CR	Business Income Tax Credits for 501(c)(3) Organization Use Only ☞
COM/ST-118A/B	Consumer Use Tax Return for Out-of-State Purchases
CRA	Combined Registration Application ☞

☞ Denotes Form is included in Appendix