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ReveNews

Maryland tax information ♦ Louis L. Goldstein ♦ State Comptroller

Production exemptions expanded

Effective July 1

In a change that will bring Maryland's sales and use tax treatment of manufacturers in line with that of other states, the definition of property used in the manufacturing process has been broadened. The change, which is phased in over three years beginning July 1, 1998, results from legislation enacted by the 1997 session of the Maryland General Assembly.

Under the new law, all existing exemptions for manufacturing and production equipment remain in effect.

The new credit is phased in over two years and is fully implemented in the third year. The purchase of qualifying machinery and equipment made on or after July 1, 1998, but before July 1, 1999, will be entitled to a credit of one-third of the taxes paid on equipment and machinery newly exempt under this law. Purchases of qualifying machinery and equipment made on or after July 1, 1999, but before June 30, 2000, will be entitled to a credit of two-thirds of the taxes paid. Beginning July 1, 2000, purchases of machinery and equipment covered by the legislation become totally exempt from the sales and use tax, and businesses won't need to claim the credit or file for a refund. For more information on production exemptions, call Taxpayer Metro at 410-767-1300 in Baltimore metro area or toll free 1-800-492-1751.

Inside

- Trust fund taxes
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Purchasing cards will save state millions

When you're one of the biggest purchasers of goods and services in the state, cutting down on the cost of issuing checks can mean big savings.

To achieve those savings, the Comptroller's Office is already processing and issuing 3,000 fewer checks a month through Maryland's purchasing card pilot program. This program, implemented through a contract with NationsBank, pays for small purchases made by state agencies with just one monthly check.

When the program is fully extended to all state agencies this summer, it is

expected to save the state millions of dollars a year by eliminating the cost of issuing and processing thousands of purchase orders and processing more than 150,000 checks a year.

The Maryland Board of Public Works, consisting of Comptroller Louis L. Goldstein, Governor Parris Glendening, and State Treasurer Richard Dixon, approved regulations that require all state agencies to use purchasing cards effective July 1, 1998.

Maryland became one of the first east coast states to authorize the use of the VISA purchasing card when the

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FYI

Service with "PEP" is priority

In the Comptroller's Office, we pride ourselves on providing service with P-E-P, by which we mean service that is prompt, efficient, and personal. The recent income tax filing season provides many examples of how our PEP formula worked.

Prompt. Almost 34,000 taxpayers who filed their returns electronically and elected to use our new direct deposit feature for refunds had their money in the bank within 48 hours of filing. The total number of electronic filers was 220,000, up 41 percent over last year, thanks in large part to Maryland's tax professionals.

Efficient. Tax professionals and taxpayers downloaded 210,000 forms from our Internet site between January 1 and April 15. They got the forms they needed when they needed them, 24 hours a day, seven days a week, while the state saved substantial paper and postage costs. In April, Maryland became only the fourth state to allow taxpayers to check the status of their refund checks on line, another way we're using technology to make our service more efficient.

Personal. Not everyone wants to use a computer when they need help. Through April 25, our tax experts answered more than 236,000 tax help calls. Even on April 15 - our busiest day of the year - callers waited less than a minute to get real answers, real fast, from real people.

I look forward to building on what we have already achieved to expand our services to the taxpayers and tax professionals of Maryland. Future issues of *ReveNews* will preview new services that will be available during the 1999 filing season.

Louis L. Goldstein

Comptroller of Maryland

Briefly noted

New, improved Maryland estate tax return

Maryland's estate tax return has been revised to include expanded instructions and space at the bottom of the computation page to request a refund of previously paid Maryland estate tax. Using the new version of the form (which replaces a version revised 4/96) eliminates the requirement to file Form MET2, Application for Refund, when requesting a refund. There are no procedural changes in filing the return or paying the tax; the return is still filed with the local register of wills, and the tax is paid directly to the Comptroller's Office with the remittance form included with the form.

The new form and instructions are available from any of the comptroller's taxpayer service offices or by calling our Forms-by-Fax system at 410-974-FAXX (974-3299). The form is document 2701 and the instructions document 2702 on Index 1. You may also request tax tip #42, *Maryland's estate tax and you*. It is document 2703 on Index 1.

Coupon books

Sales and use tax coupon books are being mailed in July 1998 for the period July 1998 through June 1999. Included with the books are the 1998 Sales and Use Tax law change bulletin and the 1998 issue of *Maryland sales and use tax facts*. If you haven't received your coupon book by August 10, call 410-767-1300 in the Baltimore metro area or toll free 1-800-492-1751 elsewhere in Maryland.

Westminster office moves

The Westminster branch office, previously located at 700 Corporate Center Court, has moved. The new address is: State of Maryland Comptroller of the Treasury, 532 Baltimore Boulevard, Suite 306, Westminster, MD 21157.

The office left its previous location because of building engineering

problems. The office telephone number is still 410-848-4699.

Maryland to host National Unclaimed Property Administrators

Maryland has been selected to host the annual conference of the National Association of Unclaimed Property Administrators (NAUPA) in 2000. Pennsylvania and New Jersey were the other states competing for the conference, which will be held in Baltimore.

The mid-year holder seminar that NAUPA held in Annapolis April 22-24 was their largest holder seminar ever. 164 of the participants were from out-of-state.

Business-only unclaimed ad property

The first business-only unclaimed property advertisement was published as a supplement to *The Daily Record* newspaper on June 10.

The supplement listed 2,300 unclaimed property accounts worth approximately \$2 million that appear to belong to Maryland businesses. It also featured articles on how to claim property, on businesses' unclaimed property reporting requirements, on how to start a new business in Maryland, and more. To find out if we have unclaimed property belonging to your business, call 410-767-1700 in Central Maryland or toll-free 1-800-782-7383 from elsewhere.

Charter revocation project

Through August, approximately 2,000 corporations will be notified of a Maryland tax liability that, if not cleared up, will result in the revocation of their corporate charters. The notices started to go out in June as part of a new annual charter revocation project being done in cooperation with the State Department of Assessments and Taxation (SDAT). Under the program, the Comptroller's Office certifies that corporations haven't paid their taxes in full. In turn, SDAT

revokes the corporate charter. The notices now being mailed are designed to give delinquent corporations the opportunity to resolve the problem before the Comptroller's Office certifies the delinquency to SDAT in October. Businesses should respond to the notices as quickly as possible, as it is easier to resolve the problem at this stage than after a charter is revoked.

Wisconsin tax amnesty

The Wisconsin tax amnesty program began on June 15, and runs through August 14. The program offers taxpayers a chance to clear up their past due Wisconsin taxes at a reduced cost.

For more information, call the toll-free amnesty line at 1-888-317-8808.

Focus (continued from back page)

The transient vendor license requirement is vigorously enforced, and all of Maryland's major police departments assist the Comptroller's Office in issuing citations for making sales without a license. Penalties for non-compliance include a \$500 fine. In addition, agents may seize goods offered for sale by a transient vendor not displaying the license.

For more information on the transient vendor license, call the State License Bureau of the Comptroller's Office at 410-767-1300 in the Baltimore Metro area or toll-free 1-800-492-1751, ext. 1300 from elsewhere in Maryland. You can e-mail your questions to lichelp@comp.state.md.us.

For a copy of the free business tax tip, *Transient vendor license*, visit the comptroller's website or call our Forms-by-Fax system at 410-974-3299, where the tip is item 4037 on Index 2. The business license tip, *Exhibitor's affidavit*, is item 4035 on Index 2. You can also visit any of the comptroller's 20 taxpayer service offices for a copy.

www.comp.state.md.us

New laws at a glance

Following are brief descriptions of legislation enacted by the 1998 session of the Maryland General Assembly that will have the greatest impact on laws administered by the Comptroller's Office.

Income tax

Tax reduction accelerated. The individual income tax reduction enacted by the 1997 General Assembly has been accelerated. The chart below illustrates the change in the implementation. The law also requires that the Spending Affordability Committee notify the General Assembly in its 1999 report whether increasing the total amount of the reduction above the current 10% would be fiscally prudent. Effective beginning with tax year 1998. (Chapter 4, Acts of 1998)

Two checks not required. Last year's tax reduction act required separate income tax payments for the state and the local income tax. This emergency measure removed that provision, so that it will not be a requirement of the law to make separate payments for these taxes. Effective April 28, 1998. (Chapter 147, Acts of 1998)

Water quality management subtraction. Taxpayers, primarily farmers, who are required under this law to implement nutrient management plans designed to improve water quality in Maryland qualify for tax benefits. Taxpayers who buy poultry or livestock manure-spreading equipment to conform to a nutrient management plan are entitled to a subtraction modification of 100% of the cost of the equipment. They must have purchased the equipment after December 31, 1997 and own it for at least three (3) years after the taxable year in which the subtraction is taken.

An individual or corporation may also claim a credit equal to 50% of certified additional commercial fertilizer costs necessary to convert agricultural production to a nutrient management plan. The Maryland Department of Agriculture will certify whether the taxpayer qualified and the amount of the expense. This credit may only be claimed for up to three (3) consecutive taxable years and may not exceed \$4,500 in any taxable year. There are

provisions for carryover if the credit exceeds the total tax due in any taxable year.

The subtraction modification is effective *beginning with tax year 1998*. The credit is effective *beginning tax year 1999* and expires after tax year 2008. For more information, contact John Rhoderick or Louise Lawrence, Maryland Department of Agriculture, 410-841-5865. (Chapters 324 and 325, Acts of 1998)

Refundable earned income credit. Qualified taxpayers will be entitled to an earned income credit on their Maryland tax return that will be refundable, similar to the federal refundable earned income taken on the federal return. Previously, the earned income credit reduced or eliminated the state tax liability to zero but could not generate a refund. The amount of the refund is determined by using a percentage for the specified tax year, multiplying it by the federal earned income credit, and comparing it to the state income tax for the taxable year. To the extent that the amount exceeds the state income tax liability, it will be refunded to the taxpayer. Applicable percentage rates to be used as a multiplier are:

- 10% for tax years 1998 and 1999
- 12.5% for tax year 2000, and
- 15% for tax years 2001 and after.

The earned income credit may reduce the local income tax to zero (0)

but not below zero (0), meaning that tax is not refundable.

This legislation also replaces the Poverty Level Income subtraction modification and instead provides for a credit for eligible low-income taxpayers equal to the lesser of (a) the state tax determined after subtracting 50% of the federal earned income credit or (b) an amount equal to 5% of the eligible low-income taxpayer's earned income as defined under section 32(C)(2) of the Internal Revenue Code. Both the earned income credit and the poverty credit are prorated for part-year and nonresidents. Effective beginning with tax year 1998. (Chapter 5, Acts of 1998)

Higher education investment program. Two state tax breaks have been created in conjunction with the new Maryland Pre-paid College Trust program. The first allows a Maryland-only subtraction modification of up to \$2,500 per year for each year that the purchaser contributes to the plan. The maximum subtraction modification is \$2,500 whether the taxpayer files a single or joint tax return, even though each individual spouse may have contributed. Taxpayers who contribute more than \$2,500 in a year will not be able to carry forward those excess contributions into the following year for tax purposes. The second tax break exempts the investment's earnings from Maryland state and local income taxes at the time the beneficiary uses the contract benefits to pay for college tuition. Effective beginning with tax year 1998. (Chapters 571 and 572, Acts of 1998)

Refunds and offsets. This law provides for reciprocity of refund intercepts to satisfy state tax obligations between Maryland and other states which allow refunds to be intercepted for another

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Accelerated Income Tax Reduction

Calendar year	Maximum rate	Exemption value
1998 revised	4.875%	\$1,750
<i>(1998 original)</i>	<i>4.95%</i>	<i>\$1,400</i>
1999 revised	4.85%	\$1,850
<i>(1999 original)</i>	<i>4.90%</i>	<i>\$1,600</i>
2000	4.85%	\$1,850
2001	4.80%	\$2,100
2002	4.75%	\$2,400

New laws *(continued from page 3)*

state's liability. The comptroller may enter into agreements with such states in which the other state(s) would intercept refunds from their taxpayers and forward them to Maryland if the taxpayer had an outstanding liability owed to the state of Maryland. In turn, Maryland would intercept a taxpayer's Maryland refund and forward it to the reciprocal state if the taxpayer had a liability in that state. The comptroller must notify Maryland taxpayers of a claim by another state and notify them of their right to request a hearing to challenge that claim. In the case of joint returns, the refund cannot be paid to the other state unless the claim from the other state includes the names of both spouses jointly owing income tax to the other state. Effective October 1, 1998, applicable beginning with tax year 1998. (Chapter 19, Acts of 1998)

Volunteer police, fire, rescue tax break increased. The current subtraction modification for individual income taxes allowed to volunteer police, fire, rescue, and emergency medical services personnel is increased from \$3,000 to \$3,500. Effective beginning with tax year 1999. (Chapter 384, Acts of 1998)

Local income tax. The counties are authorized to change their local income tax rates by increments of two (2) percentage points throughout the 20% to 60% range of authorized rates, rather than only between 50% and 60%. For the tax year 1998, counties may *decrease* their county income tax rate in increments of two (2) percentage points or 5 (five) percentage points by notifying the comptroller on or before June 1, 1998. For years other than 1998, the county can make rate changes only by notifying the comptroller of the rate change and the effective date of the change on or before the July 1 prior to the effective date (for example, July 1, 1998, for tax year 1999). The comptroller is not required to issue new withholding tables reflecting any rate decreases for calendar year 1998 implemented under this bill. Effective May 12, 1998. (Chapter 399, Acts of 1998)

Enterprise zone expansion. Political subdivisions may apply to the secretary of the Department of Business and Economic Development to expand an existing

enterprise zone. Businesses located in enterprise zones expanded under this law qualify for income tax credits provided under existing law for businesses located in an enterprise zone. Effective June 1, 1998. For more information, contact Jerry Wade of the Department of Business and Economic Development at 410-767-6438 or 1-800-811-0051, ext. 6438. (Chapters 582 and 583, Acts of 1998)

Job creation tax credits. The sunset provision of the law that authorizes local governments to grant property tax credits for businesses that create new jobs has been extended from December 31, 2000, to December 31, 2002. For a business to qualify for this tax credit, its new or expanded premises must be located in a priority funding area. Effective October 1, 1998, applicable to tax years 1998 through 2007. (Chapter 623, Acts of 1998)

In addition, the definition of "state priority funding area," for the purposes of the job creation credit tax, has been expanded to include no more than one area in each county designated by the local government as a priority funding area for "Smart Growth." Effective July 1, 1998, for tax years beginning with 1998. For more information, contact Jerry Wade of the Department of Business and Economic Development at 410-767-6438 or 1-800-0051, ext. 6438. (Chapter 438, Acts of 1998)

Neighborhood and community assistance program. The income tax credit for contributions from certain corporations made to non-profit organizations providing certain services in designated revitalization areas has been extended to individuals. However, the individual making the contribution must do so as a business entity; individuals who are not in business are not eligible for a tax credit for their contributions. Effective July 1, 1998. For newly qualifying contributors, the credit is available only for contributions made after July 1, 1998. For more information, contact Glenda Keel of the Department of Housing and Community Development at 410-514-7241. (Chapter 578, Acts of 1998)

Work not welfare tax credit expanded. The "work, not welfare" tax credit has been amended to include transportation costs businesses incur to hire qualified

employees and to change the credits allowed for child care costs and wages. The third year of the child care and wage credits are eliminated, while a "super credit" is created for employees who had received aid under certain state programs. The amount of the credit will be fully described in the 1998 500CR instruction packet. The sunset date for this program is extended from June 30, 1998, to June 30, 2001. Effective June 1, 1998, and applicable to all employees hired after June 1, 1998. For further information on qualified individuals and the requirements businesses must meet to qualify, contact the Maryland Department of Labor, Licensing and Regulation at 410-767-2047. (Chapters 598 and 599, Acts of 1998)

Tax credit for certain hiring - tax exempt organizations. Tax credits for qualified employment opportunity employees ("work, not welfare") and for qualifying employees with disabilities have been extended to tax exempt organizations. These organizations may apply the credits against payments for income tax withheld from employees' wages. Effective July 1, 1998; credits can only be claimed against the withholding taxes for qualified employees hired on or after that date. (Chapter 730, Acts of 1998)

Tax credits - persons with disabilities. The sunset date for the tax credit for employment of individuals with disabilities is extended from December 31, 2000, to December 31, 2002. The credit is available for qualified employees hired before January 1, 2003 rather than before January 1, 2001. Effective October 1, 1997. For information on qualified employees contact Trish Alvey, Department of Education, 410-554-9401. (Chapter 614, Acts of 1998)

Employer-provided long-term care insurance credit. A tax credit is created for employers for 5% of the cost of providing long-term care insurance to employees. The credit may not exceed the lesser of \$5,000 or \$100 for each employee covered by the insurance. The credit can be claimed against one, but not more than one, of the following: individual and corporate income taxes, the public service company franchise tax, the financial insti-

New laws *(continued from page 4)*

tution franchise tax, and the insurance premiums tax. Effective beginning with tax year 1999. (Chapter 7, Acts of 1998)

Worked-based learning credit. A credit of 15% of a qualifying student employee's wages is created for employers who establish a structured employer-supervised learning program approved by the Maryland State Department of Education. The credit is limited to \$1,500 for each qualified student employee while the student is employed by the same business. Effective beginning with tax year 1999; expires June 30, 2001. For more information on qualified employees, contact Jeanne-Marie Holly at the Maryland State Department of Education at 410-333-4454. (Chapter 660, Acts of 1998)

Alternative-fuel vehicle credit. The sunset date for income tax credits for vehicles using alternative fuel (clean-fuel vehicles) has been extended from June 30, 1998, to June 30, 2000. Effective July 1, 1998. (Chapter 705, Acts of 1998)

Heritage structure rehabilitation credit. The percentage of a taxpayer's qualified rehabilitation expenditures that may be claimed as a tax credit for a certified rehabilitation of certified heritage structure is increased from 15% to 25%. Effective beginning with tax year 1999. For information on certification, contact the Maryland Historical Trust at 410-514-7627 or 7628. (Chapter 735, Acts of 1998)

Sales and use tax

Nonprofit organizations. The exemption for sales to certain charitable, educational, or religious nonprofit organizations has been expanded to include nonprofits located in adjacent jurisdictions not only if they provide their services within Maryland on a routine and regular basis, as is the case under current law, but also if one of the following conditions is met:

- That jurisdiction does not impose a sales or use tax on a sale to a nonprofit made to carry on its work or
- If the adjacent jurisdiction has a reciprocal exemption from the sales and use tax for sales to nonprofits

located in adjacent jurisdictions similar to Maryland's exemption.

Effective July 1, 1998. (Chapter 612, Acts of 1998)

Taxable Price. Separately stated charges for admissions and amusement tax are excluded from the taxable price for the purposes of computing the sales and use tax. For example, the sales and use tax might both apply to rental of athletic equipment and sales of refreshments and merchandise in places to which an admission is charged. The admissions and amusement tax is imposed on gross receipts derived from admissions and amusement charges, and when that tax is *not* separately stated, it remains part of the taxable price. Effective July 1, 1998. (Chapter 670, Acts of 1998)

Short term vehicle rentals. Effective July 1, 1999, the purchase of a rental vehicle (as defined in Section 11-718 of the Transportation Article) will be exempt from the titling tax, and therefore, the credit against sales and use tax liability for titling tax paid on these vehicles is also eliminated. Short term vehicle rental businesses may continue to claim credits on sales and use tax reports for the titling tax paid on qualifying vehicles purchased before July 1, 1999. Effective July 1, 1999. (Chapter 706, Acts of 1998)

Admissions & amusement tax

Enterprise zones. Montgomery County may not impose the admissions and amusement tax on gross receipts derived within an area designed as an enterprise zone (under Article 83, Section 5-402) on the following charges:

- admission to a nightclub or room in a hotel, restaurant, hall, or other place where dancing privileges, music, or other entertainment is provided, or
- merchandise, refreshment, or a service sold or served in connection with entertainment provided at the establishments listed above.

Effective July 1, 1998. (Chapter 523, Acts of 1998)

Unclaimed property

Credit balances and checks. The definition of personal property subject to the abandoned property requirements has been amended to exclude the following business transactions:

- outstanding checks or credits and account credit balances issued to vendors or commercial customers in the ordinary course of business, and
- purchase price rebates issued to customers in the ordinary course of business.

In addition, the time that may be covered by an unclaimed property audit is limited to five years from the date the report was filed, and the penalty imposed for failing to pay or deliver abandoned property to the state is reduced from 25% to 15%. Effective June 1, 1998. (Chapter 663, Acts of 1998)

Alcohol & tobacco tax

Statewide caterer's license. A new statewide caterer's license issued by the comptroller will be required of current retail license holders who cross jurisdictional lines within Maryland to serve alcoholic beverages at catered events and for anyone else who caters events where alcoholic beverages are provided. Current retail licensees who only cater in their home jurisdiction need not obtain a statewide caterer's license but must comply with any requirements of the local Board of License Commissioners. The new license will be issued as a general license or as a limited license. The general license is valid throughout Maryland, while the limited license is only valid in three contiguous political subdivisions as designated by the applicant. License fees will range from \$750 to \$2,000, depending on the type of license and, in the case of a limited license, the total population of the designated jurisdiction. Retailers who already have a separate caterer's license from their local board, or who pay an additional fee for catering in their home jurisdiction, are entitled to a credit for the fee paid. While the requirement for the license is *effective October 1, 1998*, applicants need to submit applications by *August 1, 1998*, to insure they

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New laws (continued from page 5)

receive their licences by the deadline. For an application packet, call 410-974-3323 or e-mail us at att@comp.state.md.us. (Chapter 757, Acts of 1998)

Beer solicitor's permit. The requirement for a Maryland solicitor's permit for wine and distilled spirits representatives of a supplier, nonresident dealer, or wholesaler who sells or promotes wine or distilled spirits is expanded to include individuals who act in these capacities for malt beverage (beer) products. For a copy of Administrative Bulletin No. AB-18, describing this requirement, call 410-974-3313 or the comptroller's Forms-by-Fax system at 410-974-3299 or visit our website at www.comp.state.md.us. Effective October 1, 1998. (Chapter 235, Acts of 1998)

Winery sampling. Class 3 and Class 4 wine manufacturer licensees are now permitted to serve not more than six ounces of product made at their facilities to persons of legal drinking age who tour that facility. Effective April 28, 1998. (Chapter 279, Acts of 1998)

Wine festival licensees. Wine and beer purchased for display or sale by a beer and wine festival licensee must meet specified conditions in Anne Arundel, Dorchester, Charles, Queen Anne's, and Worcester counties. Effective October 1, 1998. (Chapter 303, Acts of 1998)

Micro-brewery license. The holder of a Class 7 micro-brewery license may enter into a temporary agreement with a distributor for delivery of beer to beer or wine and beer festivals and, new under this law, for the return of any unused beer. Effective October 1, 1998. (Chapter 641, Acts of 1998)

Sales by minors. Persons under the age of 18 are prohibited from selling alcoholic beverages. Effective October 1, 1998. (Chapter 301, Acts of 1998)

License restrictions. This legislation clarifies that the comptroller may not issue a non-resident dealer's permit to a licensed wholesaler, licensed retailer, or person with an interest in a licensed wholesaler or licensed retailer. In addition, a provision allowing a wholesale license holder to obtain one alcoholic beverage retail license

The courts decide...

Sales & use tax

Jurisdiction. The Circuit Court for Anne Arundel County has ruled, in a case concerning the collection of the Maryland sales and use tax by a North Carolina furniture dealer, that the court was not required to stay its proceedings pending a decision by the United States Surface Transportation Board. The comptroller filed suit last year urging the court to require Furnitureland South to collect the tax when it delivers furniture to Maryland residents through its carrier, Royal Transport, Inc. (*Comptroller of the Treasury v. Furnitureland South*; see "Suit seeks level playing field for MD furniture dealers," Vol. 18, No. 3, Summer 1997).

Furnitureland South had urged the court to stay the case and allow the United States Surface Transportation Board to decide the nature of the relationship between it and its carrier, Royal Transport. Circuit Court Judge Ronald A. Silkworth rejected this argument and ruled on May 26, 1998, that determining the nature of this relation-

ship "is the sort of thing that courts do in every contract dispute."

The comptroller will now ask the court to make that determination and to rule that Furnitureland South must collect the tax on its sales of furniture to Maryland residents that are delivered by Royal Transport.

The Comptroller's Office notified Furnitureland South of its obligation to register and collect the tax under Maryland law on April 29, 1997, also citing Furnitureland's use of local Maryland furniture repair service dealers to provide warranty repair services to Maryland customers as a basis for company's responsibility for collecting the tax. When the company refused to comply, the Comptroller's Office filed suit on May 21, 1997.

Corporate officer liability. In *Fox v. Comptroller of the Treasury*, decided May 6, 1998, the Circuit Court for Baltimore City affirmed the decision of the Maryland Tax Court in a case involving the personal liability of a corporate vice president for

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is repealed. Effective October 1, 1998. (Chapter 296, Acts of 1998)

Successor beer manufacturer. This legislation clarifies how the comptroller determines who a beer manufacturer is for purposes of taking over existing franchises. Effective October 1, 1998. (Chapter 770, Acts of 1998)

Discounts. Suppliers, non-resident dealers, and wholesalers are prohibited from giving discounts to anyone to whom the product is sold on the condition that the discounts be passed along. Effective October 1, 1998. (Chapter 305, Acts of 1998)

Direct shipment of alcoholic beverages. House Joint Resolution 18 affirmed Maryland's policy prohibiting out-of-state businesses from directly shipping alcoholic beverages to Maryland consumers; urged the president and congress of the United States to support and enact federal legislation to resolve the issue of mail order alcohol sales; and required the

Department of Legislative Services to study and report on the issue by a certain date. Effective May 21, 1998.

Motor fuel tax

Games of chance. Certain refiners and other suppliers of motor fuel may sponsor, promote, advertise, or otherwise perform or participate in games of chance offered to the public as long as the game of chance is not offered at a retail service station. Additionally, the suppliers may not require a retail service station dealer to pay for any costs related to a game of chance. Effective October 1, 1998. (Chapter 409, Acts of 1998)

Sales of gasoline products. From July 1, 1998, to October 1, 2000, the temporary voluntary allowance provision of the divorce law is suspended. During that period, a producer, refiner, or wholesaler who supplies motor fuel to retail service station dealers will not be required to extend all voluntary

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The courts decide

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unpaid sales and use taxes. The taxpayer argued that Section 11-601(d) of the Tax-General Article, which imposes personal liability for sales and use tax on corporate presidents, vice presidents, and treasurers, violates the Due Process Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights by creating an irrefutable presumption that the taxpayer, as vice president, had the authority to pay those taxes.

In rejecting the taxpayer's argument, the circuit court relied on *Rucker v. Comptroller of the Treasury*. In *Rucker*, the Court of Appeals of Maryland held that a statute imposing liability for sales and use taxes on any corporate officer did not violate the Due Process Clause. Due process only requires that there be a rational relationship

to a legitimate government end, and the statute, in the Court of Appeals' view, bore a rational relationship to the collection of taxes that might otherwise go unpaid. In *Fox*, the circuit court held that the rational relationship identified in *Rucker* also applies to the current, narrower version of Section 11-601(d) which imposes liability just on certain corporate officers.

Detective services. On March 23, 1998, the Maryland Tax Court affirmed the comptroller's definition of detective services in *Property Owners Exchange v. Comptroller of the Treasury*. The court agreed that the background investigations the taxpayer conducted on prospective tenants and prospective employees are detective or security services subject to the sales and use tax, even though the prospective tenants or employees often authorize the investigation, some information is obtained from public sources, and computers are often used, at least in part, to conduct the investigations.

Purchasing cards...

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pilot program was implemented in March 1997. Since then, the state has used purchasing cards to purchase more than \$2.7 million worth of goods and services. The state pays no bank fees or interest charges.

The small purchases the cards are designed to be used for account for 80% of the state's purchase transactions but only 2% of the dollars spent. Under the program, the comptroller issues one payment each month to NationsBank for all purchases made with the cards during the previous billing cycle.

Merchants are paid directly by NationsBank, usually within two days of the purchase, much sooner than the normal 30 day payment cycle. Businesses also save the cost of billing the state, while state agencies can obtain goods and services more quickly and conveniently.

Trust funds

(continued from back page)

suspended from the practice of law by the Maryland Court of Appeals. The Comptroller's Office had filed a complaint with the Attorney Grievance Commission. While the court found that Post did not intend to defraud the state, his use of trust fund taxes to cover business expenses illustrates a basic and widespread misunderstanding of the nature of trust fund taxes.

Trust fund taxes are held by businesspeople in trust for the benefit of employees or customers and of the regulating agency, such as the Comptroller's Office. When businesses assume responsibility for these moneys, they are, in effect promising to remit them to the government on behalf of others. This is a greater obligation than that incurred from regular business debts. Because a fiduciary duty entails a promise of fidelity, the willful failure to comply with a fiduciary duty can amount to the commission of fraud.

Businesses should take all of the steps needed to insure that they meet their fiduciary responsibilities and maintain the trust of their employees and their customers.

**1998
Tax
Filing**

Season at a Glance

Website hits
3.5 million - up 133%

Website hits
April 1-15
1.2 million

E-mail
4,861 - up 102%

**Phone/online
extensions**
28,200

Electronic filing
220,000 - up 41%

New laws

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allowances uniformly to all the dealers they supply. Therefore, suppliers can help a retail service station dealer meet competition by temporarily reducing the wholesale price of motor fuel to one dealer without reducing the price to other dealers. Effective July 1, 1998. (Chapter 772, Acts of 1998)

ReveNews.....

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Focus on

A business license tip - Transient vendor license

In Maryland, roadside vendors are as sure a sign of summer as a back-up at the bay bridges. Unfortunately, it's just as sure that a few of those vendors won't have an important license they need to do business, even though that license is free and easy to obtain.

The business license tip, *Transient vendor license*, answers the most commonly asked questions about this license requirement. If you make sales subject to the Maryland sales and use tax from a roadside or temporary location or from a motor vehicle, you need a transient vendor license. If you sell items that are *not* subject to sales and use tax, such as produce or seafood, you do not need the

license. Exhibitors at fairs, trade shows, and flea markets don't need a transient vendor license but may need an exhibitor's affidavit (for more information on that requirement, refer to the business license tip, *Exhibitor's affidavit*).

A good example of transient vendors are the sidewalk vendors who sell souvenir merchandise at sports events. On average, Comptroller's Office investigative services agents check the compliance of more than 100 vendors at a typical major league baseball game. Because of a stepped-up compliance initiative, the non-compliance rate at the games has dropped from almost 40 percent to less than three percent.

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Trust funds are special

All tax obligations are important, but taxes that businesses withhold or collect for others entail special fiduciary responsibilities. Two good examples of these "trust fund" taxes are the taxes employers withhold from their employees' wages and sales and use taxes they collect from their customers.

Recently, a Maryland attorney violated that trust when he used cash flow problems as an excuse to use funds withheld from his employees' wages to pay his firm's business expenses. In the case of *Attorney Grievance Commission of Maryland v. Alan Franklyn Post*, the attorney, who had also failed to file his state income tax returns on time, was

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