

## Fifty of state's largest tax scofflaws "Caught in the Web"

The Comptroller's Web site now has 50 new names on it as part of the ongoing campaign to encourage payment from some of the state's largest tax delinquents. The tax cheats listed owe more than \$5.5 million in overdue taxes, penalties and interest.

All of the liabilities listed were incurred by 25 individuals and 25 businesses, and are considered part of the public record because tax liens have been filed in circuit court for each case. None of the tax delinquents listed on the "Caught in the Web" page on [marylandtaxes.com](http://marylandtaxes.com) have responded to repeated payment requests from the Comptroller's Office.

"The targets on the current list are the ones who owe the most and have no good excuse not to pay," said Comptroller William Donald Schaefer. "Once they pay up, or arrange a reasonable payment agreement with us, we'll take them off the list."

The agency has collected approximately \$4 million from some of the state's largest tax delinquents since the "Caught in the Web" initiative launched in June 2000.

*Continued on page 2*

### *Comptroller's Comments*

## Bond sale attracts lowest interest rate ever!

While we have some serious budget problems, something is going right on the state's financial front. Maryland just sold \$516 million in bonds at the lowest rate the state has ever received – just 3.5%. That means a savings of millions of dollars for Maryland taxpayers.

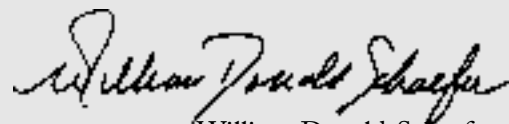
About one-half of the \$516 million is for refinancing of bonds previously issued and the other half will fund capital projects. The refunding alone saved taxpayers \$16 million, which will pay for a lot of programs that people depend on.

Of the \$225 million earmarked for capital projects, we targeted \$74 million for higher education, \$46 million for general state

construction, \$11 million for public safety, and \$8.5 million for water quality projects. The remainder will go to cultural, educational and economic development projects.

Maryland once again received a Triple A bond rating from the major rating agencies, making it one of only nine states in the nation to be in this enviable position.

This marks the 62<sup>nd</sup> year that we have received a Triple A rating.



William Donald Schaefer  
Comptroller of Maryland

# Maryland's purchasing card program earns \$1.4 million rebate for state treasury

Maryland received a \$1.4 million rebate from U.S. Bank Corporate Payment Systems for purchasing \$173 million in goods and services through the state's VISA corporate purchasing card program. The purchases occurred during April 2001 to April 2002.

The program is used to pay for small purchases made by state agencies with just one monthly payment - eliminating the cost of issuing and processing thousands of purchase orders and checks annually.

Businesses benefit from the program because they get paid quickly; government benefits because of reduced paperwork; and taxpayers benefit because tax dollars go further in supporting services citizens count on.

State agencies can use the cards to make purchases of up to \$2,500 per transaction, from specific types of merchants.



Comptroller William Donald Schaefer accepts the \$1.4 million rebate which U.S. Bank officials Marlene Nuskey and Brian Balmer awarded to Maryland for the state's successful purchasing card program.

The merchants are paid directly by VISA, and the Comptroller's Office issues one monthly payment to U.S. Bank Corporate Payment Systems.

The state pays no bank fees or interest charges. U.S. Bank awards the state a rebate when the purchasing activity reaches a certain volume.

Maryland became one of the first states to authorize the use of the purchasing card when the pilot program started in March 1997. Since then, the state has used corporate purchasing cards to purchase approximately \$540 million worth of goods and services, while earning \$ 2.5 million in rebates.

## "Caught in the Web" *Continued from page 1*

"Sometimes, the mere threat of seeing their names on our Web site is motivation enough to get many of these tax delinquents to pay," said Comptroller Schaefer.

The current list includes the owners or responsible officers of businesses who owe some of the largest Maryland tax liabilities for sales and use tax, employer withholding and corporate income taxes, as well as individuals who

owe delinquent personal income taxes. None of the accounts listed are in bankruptcy and none are on active payment plans.

Normally, the Comptroller's Office notifies a taxpayer or business owing overdue taxes by mailing a Statement of Account to the delinquent party, listing the incurred charges for taxes, interest and penalties.

A late sales and use tax return or an underpayment is subject to a 10% penalty and interest tabulated at a monthly rate of 1.08%. A late withholding return or underpayment is subject to an initial 5% penalty, followed by an additional 10% after 30 days, plus interest. An underpayment of personal income tax is subject to a penalty of up to 25%, plus interest.

## Briefly noted

### Businesses can pay sales, withholding taxes by credit card

Businesses can now pay Maryland sales and use tax liabilities and employer income tax withholding payments by credit card, using American Express, Discover, MasterCard or VISA. The credit card payments can be made on [officialpayments.com](http://officialpayments.com), or by telephone at 1-800-PAYTAX.

The service affects tens of thousands of Maryland businesses who pay \$2.6 billion in sales and use taxes and \$7.1 billion in employer withholding to the Comptroller's Office annually. Official Payments Corporation charges a 2.5% fee for each credit card transaction.

Sales tax and withholding payments can also be remitted using electronic funds transfer, which is required for payments of \$20,000 or more.

### Excellence in financial reporting for 22 years

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

The Certificate of Achievement for Excellence in Financial Reporting, which recognized Comptroller William Donald Schaefer's Comprehensive Annual Financial Report (CAFR) for fiscal year 2001, is the highest form of recognition in governmental accounting and reporting and has been awarded to Maryland for 22 consecutive years.

Maryland was one of the first states in the nation to receive the award. The fiscal year 2001 CAFR is available for viewing on [marylandtaxes.com](http://marylandtaxes.com).



### Dormancy time reduced for unclaimed funds

New legislation shortened the holding period that banks and other institutions provide for unclaimed assets from five to four years. The change affects reporting periods for those institutions that began on or after June 30, 2002.

The dormancy period will be reduced to three years on June 1, 2003.

### Maryland uses IRS data to reunite 3,000 with unclaimed funds



More than 3,000 individuals recently discovered that they were the owners of unclaimed funds, thanks to an information-sharing program the Comptroller's Office conducts with the IRS.

In April 2002, the Comptroller's Office provided the IRS with Social Security numbers linked to 24,000 unclaimed property accounts that were recently added to the state

agency's files. After detecting matches in its federal files, the IRS sent claim forms to the qualifying taxpayers, urging them to contact the Maryland Comptroller's Office.

During fiscal year 2002, the Comptroller's Office has honored more than 11,000 claims, totaling \$10.4 million. The agency has records on 365,000 unclaimed accounts, worth \$135 million.

# Briefly noted

## New sales & use tax exemption certificates issued to qualifying organizations

The Comptroller's Office has mailed new sales and use tax exemption certificates to qualifying non-profit organizations who filed their renewal applications by the July 1, 2002, due date.

The new exemption certificates, which go into effect on October 1, are white cards with green printing, bearing the 8-digit exemption number and a September 30, 2007, expiration date.

Businesses should not honor the old white cards with red printing after September 30, 2002. Sales tax should be charged on all sales made on or after October 1, 2002, to any organization that does not present a new certificate at the time of sale.

The white card certificates without an expiration date, that were issued to qualifying governmental entities, will remain valid. They will not be re-issued.

New certificates will be issued to organizations who filed their renewal applications after the July 1 deadline, as soon as qualifications are verified.

The agency issues exemption certificates to qualifying non-profit charitable, educational and



religious organizations, volunteer fire companies and rescue squads, and non-profit cemetery companies. Federal, Maryland state, and Maryland local government agencies and credit unions also qualify.

The certificates are used by qualifying groups to make tax-free purchases of materials and supplies.

Exemption certificate numbers can be verified on the Comptroller's Office Web site, [marylandtaxes.com](http://marylandtaxes.com), or by calling the Taxpayer Services Section at 410-767-1300 in the Baltimore area or 800-492-1751 from elsewhere in Maryland.

## Local income tax withholding rates remain unchanged

The Comptroller's Office has not received a resolution from any of the 23 counties or Baltimore City regarding a change to local income tax rates for 2003. Employers should continue to use withholding guides and rates received in 2002. The decrease in the state income tax withholding rate to 4.75% was accounted for in the 2002 rate charts.

Online withholding tables will remain unchanged and print versions of the Employer Withholding Guide will not be reprinted or mailed to businesses and payroll companies for 2003. Businesses and payroll companies need not modify software to accommodate the state or local income tax withholding rates for 2003.

For more information, contact the Comptroller's Taxpayer Services Section at 410-260-7980 in Central Maryland or 1-800-MD TAXES from elsewhere.

### ReveNews...

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# Courts decide

## Sales & use tax

**Resale status.** On July 23, 2002, the Circuit Court for Montgomery County affirmed a decision of the Maryland Tax Court holding that inventory used for multiple purposes, including product demonstrations to potential customers, training and lending to educational institutions, is not entitled to the resale exemption.

In *FOSS NIRSystems, Inc. v. Comptroller*, FOSS contended that the use of its “demonstration” inventory, they also maintained a distinct “inventory” account, was only an incidental use, that “demonstration” inventory was primarily intended for resale, and, therefore, that those items were entitled to the resale exclusion. The Circuit Court agreed with the Comptroller and the Maryland Tax Court that the primary purpose was to demonstrate the capabilities of FOSS’s products rather than to sell the specific piece of equipment being demonstrated, and that the use of that equipment was not incidental and, therefore, was taxable.

FOSS also argued that the inventory should not be subject to the use tax because the actual use did not occur in Maryland. The Maryland Tax Court had rejected this argument, finding a fact that FOSS exercised the right or power to use, consume, and store the inventory at its Maryland headquarters, thus, that the “resale status” was terminated at the time

the item was removed from the resale inventory by executives in Maryland.

The Circuit Court quoted the factual finding of the Maryland Tax Court on this issue and found no reason to reverse the decision of the Tax Court.

**Sales tax liability.** On July 17, 2002, the Circuit Court for Montgomery County affirmed the sales tax assessments, including a 100% fraud penalty. The taxpayers had appealed the March 29, 2001, decisions of the Maryland Tax Court.

*Continued on page 6*

## Cigarette smuggler loses appeal

On July 19, 2002, the Maryland Court of Appeals affirmed the January 10, 2001, conviction of Zi Qiang Chen, of Cary, North Carolina, for the illegal possession and transportation of 7,190 packs of untaxed cigarettes after an investigation by enforcement agents for Comptroller William Donald Schaefer.

Mr. Chen, who lost both of his appeals introduced in the Court of Special Appeals and the Court of Appeals, was ordered by the Court to pay \$3,595 in fines and \$705 in court costs and legal fees.

In denying Chen’s appeal, the Court of Appeals stated that Chen’s actions were not inadvertent or accidental, and any knowing possession or transportation of unstamped cigarettes is considered a violation of Maryland law – whether or not an individual is familiar with the Tax-General Article.

The Court also affirmed that Maryland’s statutory prohibitions concerning the possession and transportation of unstamped cigarettes were “clear, constitutional and accessible by persons of common intelligence.”

The Chen case marked the first case in more than 30 years that a cigarette smuggler tried to appeal a conviction in Maryland.



## Courts *Continued from page 5*

Bomic Enterprises, Inc., t/a Park Florist, is owned by Robert and Janet Crump. Since at least 1988, the Crumps significantly understated and underreported the gross and taxable sales for Park Florist. As a result, they remitted to the state less than half of the actual sales tax they had collected from their customers. Furthermore, for the last several years they had remitted none of the sales tax they had collected. The company and the Crumps were assessed for the unremitted sales tax and a 100% fraud penalty. The Crumps appealed this assessment.

While the Crumps appeal was pending, they effectuated a bulk transfer of Park Florist to Marilyn Rahnama, an employee and close personal friend. With the assistance of the Crumps' attorney, Kenneth Wahl, Ms. Rahnama created M.C. Rahnama, Inc. and purchased most of the assets of Park Florist. The Comptroller was not notified of this bulk transfer, as required by the law. Consequently, M.C. Rahnama, Inc. was also assessed for the tax, interest and penalty owed by Bomic Enterprises, Inc.

At trial, the taxpayers argued that the methodology used by the Comptroller for calculating the tax due was incorrect and inadequate. The Circuit Court affirmed the decision of the Maryland Tax Court affirming the tax due as calculated by the Comptroller. The Circuit Court found it particularly telling that the taxpayers failed to have their own expert, whom they called

as a witness at trial, perform an audit of their books and that the taxpayers objected to the introduction of their own business records into evidence. The Circuit Court stated "(t)he burden is on the Petitioners (taxpayers) to present affirmative evidence to support their position and the relief they sought: they never fulfilled this obligation."

The Circuit Court also rejected the taxpayers' argument that there was insufficient evidence to support a finding of fraud. The Circuit Court stated "the facts and circumstances of this case do support the existence of at least three (3) of the seven badges of fraud, and this Court cannot agree with the Petitioners' contention that the conclusion of the Maryland Tax Court was unsupported by substantial evidence in the record." The Circuit Court also dismissed the continuing argument of Janet Crump that she was not an officer, thus also affirming the assessment, in all its parts, against her.

Finally, the Circuit Court affirmed the decision of the Maryland Tax Court that M.C. Rahnama, Inc.'s failure to comply with the notice provisions related to bulk transfers as contained in



the Tax-General Article imposes liability for the sales and use tax, statutory interest and penalty owed by Bomic Enterprises, Inc.

As a side note, part of the decision of the Maryland Tax Court remanded to the Comptroller for recalculation the tax due for the period of October 1, 1988, to July 31, 1994. The Maryland Tax Court required this recalculation to be done based on additional records to be provided by the taxpayers or, if they provided no such additional documents, on those records in the possession of the Comptroller. The taxpayers provided no documents and, consequently, the Comptroller recalculated the tax using those records it already had. The Comptroller submitted the revised order to the Maryland Tax Court.

## Federal-state tax institutes scheduled

Tax professionals who want to get a jump on the income tax filing season will want to attend the 28<sup>th</sup> annual Maryland Federal and State Tax Institutes, sponsored by the IRS and the Maryland Comptroller's Office.

The state portion of the program will cover tax law changes as well as the latest regulations, administrative releases and changes in Maryland tax forms.

Attendees will earn seven continuing professional credits from the State Board of Public Accountancy. The \$75 registration fee includes materials, lunch, refreshment breaks and a certificate of completion.

For registration information, call 410-260-6213 or visit [marylandtaxes.com](http://marylandtaxes.com).

The Comptroller's Office will also participate in two additional

Federal and State Tax Institutes this year, sponsored by the state of Delaware and IRS. For more information about the Delaware tax institutes, call 1-302-577-8209.

### Maryland Federal-State Tax Institutes

**November 14, 2002**  
Holiday Inn  
Frederick, Maryland

**November 20, 2002**  
Comfort Inn  
Easton, Maryland

**November 26, 2002**  
Martin's Crosswinds  
Greenbelt, Maryland

**December 6, 2002**  
Martin's West  
Baltimore, Maryland

### Delaware Federal-State Tax Institutes

**December 12, 2002**  
Wilmington, Delaware

**December 13, 2002**  
Dover, Delaware

## Electronic filing seminars coming in October

The Maryland Comptroller's Office, the IRS, the District of Columbia Office of Tax Revenue, and the Delaware Division of Revenue are sponsoring seven free electronic filing seminars for e-file practitioners in October.

IRS officials will be available at every location. Maryland state officials will attend every session, except the one in Bear, Delaware. D.C. tax officials will be at the Baltimore, Hagerstown and Beltsville seminars. Delaware state tax officials will attend the sessions in Delaware and Salisbury.

The seminars are free, but lunch is not provided. Although pre-registration is not required, participants are urged to call ahead to ensure seating choice.

**October 1, 2002**  
Harbor Hospital Auditorium  
Baltimore, Maryland  
Contact: Roseanne Nuss  
410-962-2647  
[Roseanne.M.Nuss2@irs.gov](mailto:Roseanne.M.Nuss2@irs.gov)

**October 8, 2002**  
Salisbury State University  
Salisbury, Maryland  
Contact: Jeane Olson  
410-260-7617  
[jlolson@comp.state.md.us](mailto:jlolson@comp.state.md.us)

**October 10, 2002**  
USDA Agricultural Research Center  
Beltsville, Maryland  
Contact: Sonja Peterson  
202-442-6461  
[sonjap@orttax.dcgov.org](mailto:sonjap@orttax.dcgov.org)

**October 16, 2002**  
Bear Public Library  
Governor Square Shopping Center  
Bear, Delaware  
Contact: Lisa Jones  
302-577-8171  
[lljones@state.de.us](mailto:lljones@state.de.us)

**October 17, 2002**  
Dover Department of Agriculture  
Dover, Delaware  
Contact: Lisa Jones  
302-577-8171  
[lljones@state.de.us](mailto:lljones@state.de.us)

**October 24, 2002**  
Hagerstown Community College  
Hagerstown, Maryland  
Contact: Roseanne Nuss  
410-962-2647  
[Roseanne.M.Nuss2@irs.gov](mailto:Roseanne.M.Nuss2@irs.gov)

**October 26, 2002**  
Harbor Hospital Auditorium  
Baltimore, Maryland  
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