

ReveNews



Fall 2003

Maryland Tax Information

William Donald Schaefer
Comptroller of Maryland

www.marylandtaxes.com

Online Sales and Use Tax Filing Now Available

Businesses can now file their sales and use tax returns online for free. State Comptroller William Donald Schaefer recently announced that the returns may be filed at www.marylandtaxes.com. This new service, called bFile, is also available for withholding tax returns.

By filing online, businesses eliminate the hassle of preparing and submitting paper returns. In addition, businesses that use bFile can schedule their payments right up until the due date and have them debited directly from their bank accounts.

Businesses that must make payments electronically can use bFile to

meet this requirement. A new law calls for businesses to make payments of \$10,000 or more electronically.

To use the service, businesses must have a federal employer identification number and Maryland central registration number. For information, call 410-767-1300 or 1-800-638-2937.

Comptroller's Comments

Looking beyond the numbers



You may have heard that the state actually finished this fiscal year in the black – \$122.6 million to be exact. Unfortunately, this is not the good news it appears to be, because it's the result primarily of a one-time influx of federal funds from the latest tax cut bill.

It's good news for the short term, but it does not mean that the state's financial picture has improved. In fact, it actually masks a \$94 million decline in revenues. Our major revenue sources – income and sales taxes and the lottery – fell \$42 million below estimates.

Much of the sales tax shortfall was the result of lack of business activity during the February blizzard and the wet spring. Income tax receipts are down because of stagnant employment and little increase in salaries.

State spending has been cut, but revenues are still about \$1 billion below expenditures. The state budget has a serious structural problem, which means difficult decisions are coming. As I have said before, I will do everything I can in working with the governor and the General Assembly to ensure that needed services for people take the very highest priority.

William Donald Schaefer
Comptroller of Maryland

Taxes Verified for License Renewals

Six state agencies must now verify that an applicant for a license renewal has paid or satisfactorily arranged for payment of state taxes renewal, as a result of HB 935, which was passed during the 2003 legislative session.

The licenses involved are renewed at various times at one- to two-year cycles. The match is done by computer and when a liability is found, the agency is notified not to renew until a clearance is given. Clearances are made each night when the taxpayer has resolved the tax problem.

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Sales Tax Deadline Extended for Businesses Affected by Hurricane Isabel

Concerned about the devastating impacts of Hurricane Isabel on Maryland businesses, Comptroller William Donald Schaefer has extended a state tax deadline for companies affected by the storm. Sales and use tax returns for revenue collected in August, normally due September 20, will be due by October 20 for affected businesses.

"Business owners have enough to worry about right now, without having to be concerned about making their business tax payments in the next few weeks," said Schaefer. "We want to help them as much as we can to get through this difficult time."

Taxpayers entitled to participate in the extension program should add the following designa-

tion in blue ink at the top of the returns filed: "Isabel." For more information, call the Comptroller's Office at 410-260-7980 or 1-800-MD-TAXES.



—Taxpayers entitled to participate in the extension program should write "Isabel" in blue ink at the top of their returns.



Scenes of the aftermath of Hurricane Isabel in Annapolis, Md.



**Save Time,
File Online!**

Use bFile – Free Internet filing for businesses at www.marylandtaxes.com

Md. State Fairgoers Find Unclaimed Property

This summer, 524 people at the Maryland State Fair found a financial four-leaf clover. More than 5,620 visitors stopped by the Comptroller's unclaimed

property booth and walked away with claims to \$300,000 in lost money. The largest amount was \$28,069.

Comptroller's representatives were on hand in

Timonium to help find owners of lost wages, bank accounts, insurance benefits, and stock dividends that have been unclaimed at financial institutions after four years.

The Comptroller's Office has records on approximately 420,000 accounts worth more than \$205 million. For more information, call 410-767-1700 or 1-800-782-7383.

REGULATION ROSTER

03.05.01.02

Service Charges

The regulation raises the maximum service amount a bank or financial institution may charge per year against an account presumed abandoned under Commercial Law Article, Title 17, Annotated Code of Maryland. The charge is now \$10 per year for accounts that do not exceed \$50, and \$20 per year for accounts that exceed \$50. Previously, the fees had been \$5 and \$10 respectively and had been in place since the 1970s.

The regulation was also amended to reflect the statutory change, where an account shall be considered abandoned if the owner for a period of one year has taken none of the actions set forth in section 17-301 of the Commercial Law Article. The previous time frame was two years before an account was

considered abandoned. Amendments to the Abandoned Property regulation took effect Sept. 1.

03.01.01.06

Nonresident Contractor

The regulation clarifies the provisions of HB935, which became Chapter 203, Acts of 2003. Persons who contract with a nonresident contractor for the improvement of real property where the contract is \$500,000 or more are required to withhold 3 percent of the contract price until 30 days after the Comptroller has received a written request for a tax clearance from the contractor.

In addition, anyone doing business with a subcontractor where the total value of the improvements is \$50,000 on a contract of \$500,000 or more, shall withhold 3 percent of the price in the same fashion.

This emergency regulation is retroactive to July 1,



A Cool Way to Help the Hungry

Comptroller of Maryland employees wait in line to purchase ice cream sundaes to benefit the Maryland Food Bank. Annapolis-based Storm Brothers Ice Cream Factory donated the ice cream for 250 employees, which helped raise more than \$500 for the food bank.

2003, to coincide with the statutory enactment and remains in effect through Dec. 31, 2003. It is the Comptroller's intention to formally adopt this regulation.

03.06.03.03

Returns

The regulation was amended to take effect Oct. 1 in accordance with a statutory change. The purpose of the amendment

is to alter the due date for future sales and use tax returns by one day – to the 20th of the month following the report month. Previously, sales tax returns were due by the 21st of the month. This change was made to keep Maryland in contention for the streamlined sales tax project should the state elect to adopt the program.

Comptroller of Maryland Phone Numbers for Tax Professionals

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

LICENSES,

Continued From Page 1

When the program has been through a full two-year cycle, almost a half million applicants will have been checked for compliance.

To resolve a problem, returns must be filed along with any tax, penalty and interest paid. If the amount cannot be paid in full, a

release can be issued if arrangements are made.

This requirement applies to all taxes administered by the Comptroller and the unemployment tax administered by the Department of Labor, Licensing and Regulation.

In addition to penalties and interest for non-payment and late filing of taxes, there are usually serious consequences for operating without a license.

Individual Payment Agreements Offered Online

Comptroller William Donald Schaefer has announced a free service that allows people who owe Maryland income taxes to set up payment plans online. To use the new service, taxpayers can go to www.marylandtaxes.com and click on the "Individual Payment Agreement Request" link. A Social Security number, as well as the notice number from a recent state income tax bill, will be required.

"Online payment agreements are

available for periods up to 12 months," said Schaefer. "However, it's a good idea to select a plan period that's as short as possible, since interest will continue to accrue."

Under Maryland law, an interest rate of 13 percent must be added to any unpaid state tax. If the taxpayer fails to commit to making regular payments, the Comptroller's Office can file a lien, attach assets, garnish wages or take other legal actions.

During fiscal year 2003, which

ended on June 30, the agency collected more than \$120 million in overdue income tax liabilities from taxpayers, including those who set up thousands of payment plans with the agency.

The office sends notices to taxpayers if they paid an incorrect amount of tax due, or their state income tax is affected by adjustments the IRS makes on federal tax returns. Taxpayers who fail to respond to the first notice will receive an assessment notice and a bill for penalty and interest.



Reaching Out with Crafts

Comptroller of Maryland employee Jeanette Hyre purchases crafts from a vendor at the Comptroller's "Christmas in July" Craft Fair. The event, which was held to benefit the Comptroller's Outreach Committee and its charitable activities, raised more than \$225. The money will go to help 23 different charities supported by the agency.

Tax Compliance Checks Done on Lottery Agents

Agents who receive commissions for selling state lottery products also must be in compliance with tax laws or they may lose their licenses. Each quarter, an automated match is done comparing agent records with the state lottery and the Comptroller's tax roles. Anyone not in compliance receives notice from the Comptroller and if the problem is not resolved, the license will be suspended, resulting in the loss of commissions and other business.

There are 3,700 lottery agents in Maryland. This law is not related to the new requirement for several state agencies to check tax compliance before issuing such licenses. For information, call 410-767-1557.

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State's Fuel Quality Improves

Aggressive efforts kept millions of gallons of poor fuel out of Maryland pumps in FY 2003. Comptroller field enforcement agents inspected more than 4,700 service stations and other fuel suppliers, 5 percent more than the 4,500 inspected in the previous year. Out of 842 million gallons that were sampled, about 5 million failed to meet quality specifications. The findings showed that the failure rate for gasoline dropped to 0.5 percent, compared to last year's 2 percent failure rate.

Diesel fuel inspections revealed a failure rate of 1 percent – twice that of gasoline – based on 4.8 million gallons of diesel that failed out of 463 million gallons sampled.

The problems dealt mostly with improper octane ratings. The results prompted the agents to issue 221 "stop sale" notices ordering station owners to remove the failed product from the marketplace.

The agents also check to make sure the stations are supplied with summer-grade gasoline, as required by law. Federal and state laws

Comptroller's Office Clamps Down on Misuse of Diesel Fuel

Field agents have discovered 10 violations since the state's first enforcement law regulating the taxability of dyed diesel fuel began in October 2002. Each violation could result in several thousands of dollars in penalties, fines and tax assessments.

Under Maryland law, diesel fuel that is dyed red is reserved for off-highway use on farms, construction sites and home heating and is exempt from the state's motor fuel tax.

Federal regulations require untaxed

aimed at reducing harmful emissions and protecting air quality require all distributors, retailers and consumers in Maryland to use gasoline with lower vapor pressure from June 1 until September 15.

A recent survey found substandard fuel in Maryland at a fraction of the rate discovered during the early years of the testing program, when the failure rate in the mid-1970s reached as high as 9.6 percent.

The Comptroller's Office is responsible for establishing quality standards for motor fuel sold and used in Maryland, based on requirements set by the U.S. Environmental Protection Agency, the Internal Revenue Service, and the American Society for Testing and Materials.

Maryland motorists purchase nearly three billion gallons of gasoline, diesel and other fuel each year, generating about \$710 million in taxes. Most of the revenue goes to the state's Transportation Trust Fund to pay for roads, bridges and other transportation projects.

diesel fuel to be injected with a red color dye to indicate the fuel's tax-exempt status and its high sulfur content, which can harm the environment. Only clear, low-sulfur diesel fuel is to be used for highway travel with a few exceptions.

Anyone who uses, sells, transports or stores dyed fuel illegally is subject to a state or federal fine of up to \$1,000 or up to one year imprisonment, or both.

See FUEL, Page 8

Unclaimed Property Claims Have Doubled

The number of claims processed by the Unclaimed Property unit has doubled in the past year. In fiscal year 2003, the agency returned \$16 million to 20,228 individuals compared to 9,619 claims in the previous year. Officials attribute the increase in part to a new information-sharing program with the Motor Vehicle Administration.

Claims are also up due to a change in the dormancy period, which was reduced from five years to four years, effective June 1, 2002, and further reduced to three years, effective June 1, 2003. As a result of this reduction, holders had more property to report.

Businesses are required to file with the Comptroller reports of property considered abandoned under Title 17 of the Commercial Law Article.

In another change, effective July 1, 2003, all holders of property subject to the abandoned property law are required to send a written notice by first-class mail to the owner at a last known address informing him or her that the property will be considered abandoned unless the owner responds within 30 days. The notice must be sent not more than 120 days or less than 30 days before filing the required report with the Comptroller's Office.

Save Time, File Online!

Use bFile – Free Internet
filing for businesses at
www.marylandtaxes.com

Courts decide

Comptroller v. SYL, Inc., Court of Appeals of Maryland, Case No. 76, 2000 Term

In a long awaited decision, the Court of Appeals of Maryland on June 9, 2003, reversed lower court decisions and held that two Delaware holding companies were engaged in business in Maryland and thus subject to the Maryland corporation income tax (Comptroller v. SYL and Comptroller v. Crown Cork & Seal [Delaware] Company).

SYL and Crown Delaware were subsidiaries of Syms Corp., a clothing retailer doing business in Maryland, and Crown Cork & Seal Company, a bottle closure manufacturer doing business in Maryland, respectively. In both cases, the parent corporation incorporated the subsidiary in Delaware and transferred to the respective subsidiary valuable intellectual property (such as trademarks, slogans, patents and copyrights).

The subsidiary then licensed back to the parent the right to use the intellectual property, upon payment by the parent of a royalty. Each parent, in the preparation of its Maryland tax return, took a deduction for the royalty paid (in amounts that averaged millions of dollars annually).

The Delaware subsidiary, however, took the position that it did no business in Maryland and, therefore, filed no Maryland tax return. The royalty escaped all state taxation because the State of Delaware has chosen not to tax such income. The Comptroller's argument that the subsidiary existed only on paper, could not act on its own but could only act through its parent and thus did business in those states in which the par-



Anne Arundel County Court House, Annapolis, Md. ent did business, including Maryland, had been rejected by the Maryland Tax Court and the Circuit Court for Baltimore City.

In a unanimous decision, the Court of Appeals disagreed. The Court endorsed the holding of the Supreme Court of South Carolina in *Geoffrey v. Tax Commission*, in which a Delaware holding company's nexus with the State in which the operating parent did business was held established by the use in the taxing state of the intellectual property owned by the subsidiary.

In a part of the *Geoffrey* opinion quoted with approval in SYL, the Court had held that the subsidiary "purposefully sought the benefit of economic contact with those states" in which its parent utilized the licensed intellectual property. The Court of Appeals in SYL also noted the virtual total absence of any operating costs of the two subsidiaries. The Court observed that neither had a full time employee; wages paid to employees were "minuscule;" "so-called offices in Delaware," typically shared with hundreds of other similar Delaware holding companies, were dismissed as "little more than mail drops;" and the subsidiaries, in general, "had no real economic substance."

The Court described the efforts undertaken by the parents to cloak the holding companies with the ap-

pearance of economic substance as little more than "window dressing designed to create an illusion of substance." Because both subsidiaries were present in Maryland through the intellectual property licensed to their operating parents, had no economic substance of their own and were able to operate only through the efforts of their respective parents, the Court held that the Comptroller properly viewed the subsidiaries as doing business in Maryland and thus subject to Maryland's corporation income tax.

In a second issue raised by the taxpayers and also accepted by the lower courts, the Court of Appeals again agreed with the Comptroller that it was not necessary for the Comptroller to adopt a new regulation as a prerequisite for taxing these entities. Crown Delaware, but not SYL, asked the Court of Appeals to reconsider its decision; the Court of Appeals declined to do so. SYL has asked the Supreme Court of the United States to review the decision of the Court of Appeals.

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ReveNews...

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UPCOMING EVENTS FOR TAX PROFESSIONALS

Federal and State Tax Institutes

The Internal Revenue Service and the Comptroller of Maryland are sponsoring the 29th annual Federal and State Tax Institutes to update tax preparers on tax law reporting developments.

Wye Mills, Md.

Chesapeake College
November 14, 2003

Greenbelt, Md.

Martin's Crosswinds
November 25, 2003

Dover, Del.

Dover Downs Hotel Conference Center
December 10, 2003

Frederick, Md.

Holiday Inn
November 20, 2003

Baltimore, Md.

Martin's West
December 5, 2003

Wilmington, Del.

Doubletree Hotel
December 12, 2003

Electronic Filing Seminars

Another round of free seminars to update e-file practitioners is available this fall. Pre-registration is not required.

Frederick, Md.

Frederick County Library
Community Room
110 East Patrick Street
Thursday, October 2, 2003
10:00 a.m. – 5:30 p.m.

Bear, Del.

Bear Public Library
Governor Square Shopping Center
101 Governor's Place
Tuesday, October 14, 2003
8:30 a.m. – 5:00 p.m.

Fairfax, Va.

Fairfax County Government Center
Board Auditorium
12000 Government Center Parkway
Wednesday, October 22, 2003
7:30 a.m. – 4:00 p.m.

Baltimore, Md.

Life Resource Center
Harbor Hospital Auditorium
2990 South Hanover Street
Tuesday, October 7, 2003
8:00 a.m. – 4:30 p.m.

Dover, Del.

Delaware Dept. of Agriculture
2320 South Dupont Highway
Tuesday, October 16, 2003
8:00 a.m. – 4:30 p.m.

Baltimore, Md.

Life Resource Center
Harbor Hospital Auditorium
2990 South Hanover Street
Saturday, October 25, 2003
9:00 a.m. – 3:00 p.m.

Beltsville, Md.

USDA Agricultural Building 003
10300 Baltimore Avenue
Thursday, October 9, 2003
8:00 a.m. – 4:30 p.m.

Salisbury, Md.

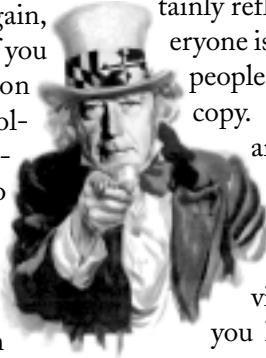
Wicomico County Library
Meeting Room #1
122 South Division Street
Tuesday, October 21, 2003
10:00 a.m. – 5:30 p.m.

Read ReveNews online at www.marylandtaxes.com/revenews

YOUR TWO CENTS

We're back at you again, this time asking if you have any ideas on improvements to the Comptroller Office services. Or, specifically, improvements to ReveNews or other publications.

Several months ago, we asked for your thoughts on continuing ReveNews as both a mailed and online publication.



Your comments were useful and certainly reflected the fact that not everyone is "online" and that there are people who still prefer the printed copy. On the other hand, there are indications that online-only may be a thing of the future.

So, please lend us your views on some other topics, if you have them. E-mail comments to revenews@comp.state.md.us.

FUEL, Continued From Page 5

Maryland's diesel fuel law allows the state to go after the violators directly and get faster results, without having to rely on the federal government to take action. Maryland's diesel fuel law is similar to a federal law that has been enforced by the U.S. Environmental Protection Agency and the Internal Revenue Service since 1994.

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