

Tax Alert



COMPTROLLER
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80 Calvert Street
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Annapolis, Maryland 21411

For General Inquires:
Call: 1-800-MD-TAXES
TTY: Maryland Relay 711
Email: taxhelp@marylandtaxes.gov

For Information on This Alert:
Call: 410-767-1557
Email: Whistleblower@marylandtaxes.gov

Whistleblower Reward Program 9/30/2021

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What's New?

This alert addresses the new Whistleblower Reward Program operated by the Comptroller of Maryland. It advises taxpayers and their representatives on how to file claims, what information must be included, and how to check the status of filed claims.

The full text of the bill can be found on the Maryland General Assembly's [website](#).

Introduction

The Whistleblower Reward Program (“the Program”) provides a financial incentive for whistleblowers who provide original information leading to the assessment of a significant Maryland tax liability. This Tax Alert describes eligibility for the program, the method for filing claims, and the criteria used to evaluate the amount of the award issued to a qualifying whistleblower.

Any individual filing a claim under the Program is strongly encouraged to review the full text of the law, which can be found in the Annotated Code of Maryland, Tax-General Article § 1-401 and following.

Potential whistleblowers should be aware that while their identities are protected to the fullest extent provided for by law—and are not subject to disclosure under the Public Information Act—the Comptroller may share their information as required by court order or with appropriate government authorities.

The guidance provided in this Tax Alert should be considered secondary to both statute and any tax forms, filing instructions, or regulations promulgated by the Comptroller of Maryland.

Eligibility

Whistleblowers may be entitled to an award if they provide original information leading to a recovery by the Comptroller under a covered enforcement action. These key terms are described below:

Whistleblower

A whistleblower is an individual or entity who provides information—in a sworn affidavit—relating to a violation of State tax law, rule, or regulation. The violation may have already occurred, be occurring, or is about to occur. A whistleblower may provide the information to a law enforcement agency before providing it to the Comptroller.

Original Information

Original information is information which is:

- Derived from the whistleblower’s independent knowledge or analysis;
- Not known to the Comptroller from any source other than the whistleblower;
- Not exclusively derived from an allegation made in the media or a government hearing, report, audit, or investigation, unless the whistleblower was the original source; AND
- Provided to the Comptroller in a sworn affidavit for the first time on or after October 1, 2021.

Covered Enforcement Action

A covered enforcement action is one brought by the Comptroller with taxes in dispute exceeding \$250,000 and which concerns:

- The State and county income tax liability of an individual or a married couple filing jointly whose federal adjusted gross income is at least \$250,000; OR
- The State and county tax liability of a business—including anyone liable for the business' State taxes—whose annual gross receipts or sales are at least \$2,000,000.

Method of Filing

To participate in the Program, a whistleblower must provide their information in a sworn affidavit. Providing information to the Comptroller in any other manner may make a whistleblower ineligible to participate in the Program. Whistleblowers must submit their sworn affidavits in the following manner:

By mail to: Comptroller of Maryland
 Attn.: Tax Whistleblower Program
 301 W. Preston Street
 Room 203
 Baltimore, MD 21201

By email to: Whistleblower@marylandtaxes.com

The Comptroller will contact whistleblowers—or their attorney if they are represented—and provide written notice within fifteen (15) days confirming receipt of the information and identifying an agency employee as a point of contact.

Questions about the Program should be submitted to the addresses above or by phone at (410) 767-1557. Potential whistleblowers may not enter into the Program via phone, and disclosing original information via phone may disqualify a whistleblower from eligibility for an award under the Program.

Award Criteria

To be eligible for a reward, a whistleblower must provide original information which results in final assessment or another successful outcome. The amount of the reward shall be at least 15% but not more than 30% of the taxes, penalties, and interest collected as a result. When determining the amount of the award within those bounds, the Comptroller will consider:

- The significance of the information provided;
- The degree of assistance provided by the whistleblower or their representative;
- The amount of unpaid taxes owed to the State that may be recovered;
- The interest of the State in deterring violations of the law and encouraging whistleblowers; AND
- Any additional factors which may be established by regulation.

If multiple whistleblowers are eligible for an award arising out of the same action, the agency will determine the allocation of the award among them. Subsequent whistleblowers reporting the same underlying violation of law will only be entitled to a reward if their information adds significantly to that previously received.

Award Exclusions

An award may not be provided if the Comptroller determines that the whistleblower:

- Acquired the information through their position with a law enforcement or regulatory agency;
- Was convicted of a criminal violation related to the enforcement action or related action;
- Could have been convicted of a criminal violation had the original information been provided prior to the expiration of any applicable statute of limitations; OR
- Submitted information containing knowingly false, fictitious, or fraudulent statements, documents, or data.

Challenging an Award

A whistleblower may challenge the Comptroller's determination of an award within 45 days of the determination's date.¹ In this action, the whistleblower may not challenge:

- The decision to conduct or the method of conducting an investigation arising from the information received;
- The amount of unpaid taxes, penalties, or interest due as a result of the investigation;
- The result of a covered enforcement action or related action; OR
- Any settlement between the State and a person having a tax liability arising from the information received.

FAQ

Does every submission by a whistleblower trigger an enforcement action?

No. The Comptroller will independently evaluate every submission and determine whether an assessment or other enforcement action is warranted under the laws of Maryland.

Is a reward issued through the Program taxable income?

Yes. Any monetary reward issued in connection with the Program is taxable income for both federal and Maryland purposes.

Can I submit my whistleblower complaint anonymously?

Yes, but you must be represented by a Maryland-licensed attorney to file anonymously. You may be required to disclose your name—and any other information the Comptroller requires—prior to receiving a reward under the Program.

I participated in the Program. Will I be compensated for my expenses or attorney's fees incurred?

¹ Annotated Code of Maryland, Tax-General Article § 1-403(C).

No. You will not receive compensation for any costs or attorney's fees incurred to claim an award under the Program.

What is a sworn affidavit?

A sworn affidavit is a written statement the contents of which are affirmed under the penalties of perjury to be true to the best of the whistleblower's knowledge, information, and belief.²

Change Log

Date	Description
9/28/2021	Original document.

² Annotated Code of Maryland, Maryland Rules, Rule 1-202(b).