

Computer-assisted auditing questions are answered

The Comptroller's Office has implemented a new audit tool designed to make sales and use tax audits easier for taxpayers and the comptroller's auditors alike. This technique, computer-assisted auditing, is also used by the federal government and a number of other states and provides a fast and accurate means of auditing businesses which maintain computerized records.

Following are answers to some commonly asked questions about Maryland's computer-assisted audit program.

What is computer-assisted auditing?

Computer-assisted auditing has two advantages over traditional audits. One is the ability to extract information

needed for the audit faster and more efficiently. The other is the enhanced use of statistical sampling to perform the audit. In a computer-assisted audit, the use of computerized data extraction and statistical sampling are tools the revenue auditor uses to perform the audit.

Are all sales tax audits performed using this technique?

No. Businesses are selected for computer assisted auditing based on several factors, including the complexity of the taxpayer's business, electronic commerce activities, the volume of records, types of records, and computer record retention. Many businesses are still audited using traditional audit techniques.

Please turn to "Questions" on page 2.

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Comptroller's Column

Electronic filing grows in popularity

Maryland's electronic filing program has had another banner year. More than 524,600, or 24 percent, of the 2.2 million Maryland income tax returns filed by the April 16th deadline were filed electronically - surpassing electronic returns received by last year's deadline by 31 percent.

Once again this year, the vast majority of electronic filers - more

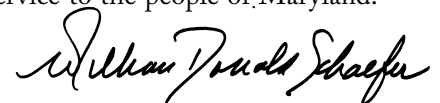
than 400,000 - choose to file through a tax professional. Maryland's tax professionals remain crucial to the success and growth of electronic filing.

By the filing deadline, more than 100,800 taxpayers had filed online through personal computers using commercial software or through a software developer's Web site. For the first time, taxpayers using Maryland short Form 503 or Form 123 could file online free of charge when visiting the comptroller's Web site, and more than 18,000 taxpayers used that option.

Maryland's tax professionals also helped promote another service - direct deposit. More than 193,000 of the

electronic filers asked to have their refunds deposited directly into their bank accounts - 53 percent more than last year. And by the filing deadline, more than 4,400 taxpayers had taken advantage of a new service and used credit cards to pay \$3.6 million in additional tax due.

I thank Maryland's tax professionals for helping make this one of our smoothest filing seasons ever. We in the Comptroller's Office will continue to work with you to provide the best possible service to the people of Maryland.



William Donald Schaefer
Comptroller of Maryland

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Computer-assisted auditing questions are answered

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Can I elect not to have a computer-assisted audit?

No. Maryland law allows the comptroller to examine any records or data pertaining to information included in tax returns. It also authorizes random scientific sampling techniques.

How will the Comptroller's Office access my records, and what data format will I need to use?

Taxpayers can choose one of three ways to make the data available. The Comptroller's Office can extract the data from the taxpayer's data system. The taxpayer can extract it and give it to the Comptroller's Office. Or, the taxpayer can choose to send the data to a third party to be extracted. While the Comptroller's Office prefers to receive the data in Microsoft Excel format, the comptroller's software can read almost all record file types and can convert other file types.

What kind of data does the auditor want? Will everything on my computer be reviewed?

No. A computer-assisted audit isn't a fishing expedition through a business's computer systems. The auditor will ask only for records relevant to the audit, such as records of total sales, taxable sales, and non-taxable sales.

Is statistical sampling accurate and fair?

Yes, it's both accurate and fair. Statistical sampling performed as part of the computer audit is more accurate than traditional sampling methods. The samples include overpayments by the taxpayer as well as underpayments, so information favorable to the taxpayer isn't excluded.

To insure taxpayers fully understand how the sampling is done and what statistics are used, the auditor will ask them to sign a sampling

agreement, which explains what the auditors are sampling. Examples include capital assets, expense purchases, or sales for the entire period or part of the period for certain stores within Maryland. The agreement specifies what will be used to determine the sample population, such as capital assets by asset identification, payment vouchers, or invoices. Records to be examined are specified and in most cases will be actual invoices. Other factors defined by the agreement include population size and definition, the sample selection method used, and sample projection methods.

Although taxpayers aren't required to sign that agreement, it helps protect the interests of both the taxpayer and the state.

What are the benefits of computer-assisted auditing?

Computer-assisted auditing saves time for both the taxpayer and auditor. Because of the use of statistical sampling and computer analysis, the auditor doesn't need to review as many records, so the taxpayer's staff isn't tied up as long pulling records. Using statistical sampling methods in one audit, for example, reduced the number of invoices reviewed from 45,000 to 1,200. The auditor doesn't need to comb through thousands of items to find the ones he or she needs because the computer audit process locates them automatically. This helps cut down the total time of the audit, and that places fewer demands on the businesses being audited.

The taxpayer can review a list prepared by the computer audit specialist of exactly which records have been reviewed. The statistical sampling used in computer-assisted audit is more accurate than traditional sampling methods.

"Shop Maryland Week" info, new sales tax licenses mailed in June

In June, Maryland sales tax licensees will receive packets containing an updated Maryland sales tax license and information on the tax-free week for apparel and footwear, being promoted as "Shop Maryland Week - More Clothes, Less Tax" and scheduled for August 10 through 16, 2001 (see *ReveNews* Vol. 22, No. 2, Spring, 2001). The information is being sent to the licensees' business locations.

Representatives from the Comptroller's Office are giving Shop Maryland Week presentations to retailers' groups and organizations throughout the state. For a schedule of presentations, please contact Christine Collins at ccollins@comp.state.md.us, at 410-767-1500, or toll-free at 800-492-1752. To request more information, including the bulletin and a comprehensive list of tax-exempt and taxable items, visit the comptroller's Web site at www.marylandtaxes.com, contact shopmaryland@comp.state.md.us, or call 410-260-7980 in Central Maryland or toll-free 800-MD TAXES from elsewhere.

Sales of pre-paid telephone calling cards are taxable

Sales of pre-paid telephone calling cards and other pre-paid telephone calling arrangements have been subject to Maryland's five percent sales and use tax since January 1, 2000. A variety of retailers such as gasoline service stations, department stores, pharmacies, etc., as well as local and long distance telephone companies sell pre-paid telephone calling cards. These sellers must collect the tax on the retail selling price of the card. Both the initial selling price of the card and any cost to "recharge" the card are subject to the tax if one of the following conditions exist:

- the sale or recharge takes place at the vendor's place of business in Maryland;
- the buyer's shipping address is in Maryland; or
- if there are no items shipped, the buyer's billing address or the location associated with the buyer's telephone number is in Maryland.

For more information about tax on pre-paid telephone calling arrangements, taxpayers can contact the Comptroller's Taxpayer Service Section at 410-767-1300 from the Baltimore area or 1-800-492-1751 from elsewhere in Maryland.

Briefly noted

Cigarettes seizures top last year's total

So far during fiscal year 2001, which began July 1, 2000, enforcement agents for the Maryland Comptroller's Office have arrested 72 cigarette smugglers and seized 209,015 packs of cigarettes valued at \$721,100 and representing a tax loss to Maryland of \$137,950.

These enforcement results have already surpassed the previous year's results. During fiscal year 2000, which ended June 30, 2000, the comptroller's enforcement agents made 31 arrests and seized 183,162 packs of cigarettes valued at \$590,014 and representing a tax loss to Maryland of \$120,886.

Redesigned Web site offers more to tax pros, businesses

The comptroller's home page has been redesigned featuring Web sites developed specifically for the comptroller's three main audiences – tax professionals, businesses, and individuals.

Additional content sections for each audience include references for seniors, business tax credits, various tax professional guides, and fill-in forms.

A new bulletin board on the tax professionals page lists approved software vendors, notifies preparers of any processing problems or recurring taxpayer errors, and keeps tax pros

current on other developments that may affect them. Additional sites accessible through the home page are being developed so specific audiences can find information on alcohol and tobacco taxes and licensing, motor fuel taxes and registration, procurement opportunities, and tax compliance. America Online's Government Guide lists the comptroller's Web site as one of the "hot" state and local government sites "among the best in the nation when it comes to online government services."

Fifty more scofflaws "caught in the Web"

Fifty new names were recently added to the comptroller's Web site as part of an ongoing effort to obtain payments from some of Maryland's largest tax delinquents. The 25

individuals and 25 businesses newly "caught in the Web" have failed to respond to repeated payment requests and owe almost \$6 million in overdue taxes, penalties, and interest. None of the accounts listed are in bankruptcy, and none are on active payment plans to resolve their debts.

Since the "caught in the Web" program started last summer, the Comptroller's Office has collected approximately \$1.5 million from taxpayers who were warned that they would be listed on the site if they didn't pay up.

Correction

The Spring issue of *ReveNews* contained an incorrect telephone number for telefiling sales and use tax reports when no tax is due. The correct number is 410-260-7225. *ReveNews* regrets the error.

Federal offset continues to produce revenue

A federal program that allows states to offset federal tax refunds to satisfy delinquent state income tax liabilities has generated more than \$12 million for Maryland's coffers from almost 14,000 offsets since it started in January 2000.

Congress passed legislation in 1998 authorizing the federal government to offset federal tax refunds to satisfy state tax delinquencies. Sixteen states are participating in the program, while offsets for several others will begin shortly. To participate in the program,

the Comptroller's Office sends notices to delinquent taxpayers, giving them the opportunity to resolve the liability.

Taxpayers who have active payment plans with the comptroller are not included in the program, nor are taxpayers who have declared bankruptcy.

If you have questions about this program, please contact the Compliance Division at 410-974-2432 from Central Maryland or toll-free 888-674-0016 from elsewhere.

General Assembly enacts laws which will impact the Comptroller's Office

Following are brief descriptions of legislation enacted by the 2001 session of the Maryland General Assembly that will have the greatest effect on laws administered by the Comptroller's Office.

Sales & Use Tax

Simplified sales and use tax. The General Assembly has authorized the comptroller to enter into an agreement with one or more states to simplify and modernize sales and use tax administration to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. Under the Simplified Sales and Use Tax Administration Act, the comptroller may act jointly with other states that are members of the agreement to establish standards for a certified service provider (also known as a trusted third party) and certified automated system and to establish performance standards for all multi-state sellers.

The act, which is effective for two years, provides certain requirements that must be met before the comptroller may enter into the agreement and provides that the comptroller shall give semiannual reports to the General Assembly on the progress of the multi-state discussions. *Effective July 1, 2001. (HB 1390, Chapter 727, Acts of 2001)*

Energy for residential condominiums. An exemption has been created for the sale of electricity, steam, or artificial or natural gas for use in residential condominiums. Before July 1, 2001, only the fuel rate adjustment charge imposed on the sale of electricity, steam or artificial or natural gas used in residential condominiums was excluded from the tax. *Effective July 1, 2001. (SB 14, Chapter 571, Acts of 2001)*

Supplies supporting breast feeding. A sales and use tax exemption has been created for tangible personal property manufactured for the purpose of initiating, supporting, or sustaining breast-feeding. Items now exempt from the tax include breast pumps, breast pump kits, nipple enhancers, breast shields, breast shells, supplemental nursing systems, softcup feeders, feeding tubes, breast milk storage bags, periodontal syringes, finger feeders, haberman feeders, and purified lanolin. *Effective July 1, 2001. (SB 252, Chapter 137, Acts of 2001)*

Resale certificate. The requirements regarding the use and acceptance of resale certificates have been altered for sales of antiques and used collectibles.

Vendors may accept from purchasers of an antique or used collectible a resale certificate with the sales and use tax registration number of another state if the purchaser does not engage in the business of an out-of-state vendor as defined in Section 11-701 of the Tax General Article. Purchasers using a registration number issued by another state on a Maryland resale certificate must also provide the seller with a copy of the sales and use tax registration license issued to the purchaser from the other state. Purchasers from states without a sales and use tax must provide the seller with a copy of a trader's license or comparable type of identification from that state. *Effective July 1, 2001. (HB 284, Chapter 461, Acts of 2001)*

Alcohol & Tobacco Tax

Alcohol in confectioneries. The amount of alcohol that may be added to confectioneries is increased from one half of one percent to five percent.

Presently, under the Health-General Article, a confectionery product is considered adulterated, and therefore illegal, if it contains more than one half of one percent alcohol. Under this new law, individuals over 21 will be able to purchase liquor-laced bon bons at their favorite gourmet candy shops. *Effective October 1, 2001. (HB 1097, Chapter 704, Acts of 2001)*

Alcohol-related driving offenses. The blood alcohol concentration level required to determine a violation of driving under the influence of alcohol is increased from .10 grams to .08 grams of alcohol per 100 millimeters of blood, or per 210 liters of breath at the time of testing. The law also alters the terms used for alcohol-related driving offenses. "Driving under the influence of alcohol" replaces the existing standard of "driving while intoxicated."

Similarly, the term "driving while impaired" replaces "driving under the influence" of alcohol, drugs, or a controlled dangerous substance. The new terms include in their meanings all conduct prohibited by current law. Additionally, the bill provides for the admissibility of evidence of the amount of alcohol in a person's breath or blood and the evidentiary effects in juvenile and civil proceedings. *Effective September 30, 2001. (SB 108, Chapter 4 & HB 3, Chapter 5, Acts of 2001)*

Motor Fuel Tax

Below-cost sales. Motor fuel marketers may not sell motor fuel below cost, except when the sale is:

- made in good faith to meet competition;

- made as part of a final liquidation or closing of a retail service station dealer's business;
- made as part of a *bona fide* charitable promotion lasting no longer than two days; or
- made under the direction or order of a court or government entity.

This law is designed to prohibit certain marketers from selling below cost and forcing competing neighborhood service station dealers out of business. In some parts of the country where there is no below-cost selling law, many independent service stations have been forced to close, unable to compete with large discount retailers that sell motor fuel as a loss leader. Then after the competition is gone, prices go up.

As a result, the neighborhood loses a service station that provides traditional vehicle maintenance and repair services, in addition to losing another place to buy motor fuel. This law helps to maintain traditional service stations and preserves competition among motor fuel retailers. *Effective October 1, 2001. (SB 687, Chapter 616, Acts of 2001)*

Advertising signs – grades of motor fuel. Signs advertising gasoline prices must describe the three grades (regular, mid-grade or plus, and premium) of gasoline the same as they are required to be described on dispensing pumps. For example, a sign advertising 87 – 88 octane gasoline must call the gasoline “Regular.” Signs advertising 89 – 90 octane gasoline must call the gasoline “Mid-grade or Plus,” and if the octane rating is 91 and above, the gasoline is called “Premium.”

If an 89 octane gasoline were allowed to be marketed as premium, then consumers could be misled into thinking they are buying a higher grade of gasoline than they are actually getting. For some luxury cars, the vehicle manufacturers recommend premium gasoline (at least 91 octane). If an uninformed consumer decided to fill up with a gasoline advertised as premium that was in fact less than 91 octane, the

performance of the car could be adversely affected. *Effective October 1, 2001. (HB 1186, Chapter 308, Acts of 2001)*

Admissions & Amusement Tax

Harford County. Harford County may not impose the tax on gross receipts derived from any admissions and amusement charge for golf entertainment or any admissions and amusement charge in connection with a business that provides drive-in movie entertainment.

For the purposes of this provision, golf entertainment includes receipts received from golf greens fees, golf cart rentals, driving ranges, miniature golf, and the rental of golf equipment. *Effective July 1, 2001. (HB 210, Chapter 647, Acts of 2001)*

Smart Growth - Arts and Entertainment Districts. The Department of Business and Economic Development may designate “Arts and Entertainments Districts.” Counties and municipalities *may* exempt the amounts charged by an enterprise or qualifying artist in these districts from the admissions and amusement tax. *Effective July 1, 2001. (SB 586, Chapter 608, Acts of 2001)*

Income Tax

Credit for long-term care insurance. This law clarifies that the credit allowed to individuals for premiums paid for long-term care insurance may not exceed the Maryland tax after credits (other than withholding and estimated taxes) and that any excess may not be refunded. *Effective July 1, 2001, for tax years 2000 and later. (HB 280, Chapter 459, Acts of 2001)*

Earned income credit. The percentage of the federal earned income tax credit used to calculate Maryland's refundable earned income credit will

gradually increase from 15 percent to 20 percent by tax year 2005. *Effective July 1, 2001, for tax years 2001 and later. (SB 166, Chapter 581, Acts of 2001)*

Public safety officer survivor benefits. This law creates a new subtraction for individuals for the amount of a death benefit paid from a pension system to a survivor of a police officer or fire fighter who is killed in the line of duty. *Effective July 1, 2001, for tax years 2001 and later. (SB 224, Chapter 584, Acts of 2001)*

Research and development tax credit - addition modification for corporations.

This law requires a new addition modification for the amount claimed against the corporate income tax for research and development tax credits. This addition is already required on personal income tax returns. *Effective July 1, 2001, for tax years 2000 and later. (SB 232, Chapter 364, Acts of 2001)*

Research and development tax credit - maximum approved credit. This bill modifies the existing maximum credit amounts. If the total amount of the credits requested under the three percent credit does not equal or exceed the \$3,000,000 maximum, the amount by which the maximum exceeds the requested credit amounts may increase the maximum amount available for the 10 percent credit. Likewise, to the extent that the maximum amount allowed under the 10 percent credit exceeds the requested credit amounts, the excess may be added to the maximum amount allowed for the three percent credit. *Effective July 1, 2001, for tax years 2000 and later. (SB 456, Chapter 152, Acts of 2001)*

Credit for preservation and conservation easements. A new credit for individuals is created for certain easements that are donated or sold to the Maryland Environmental Trust or the Maryland Agricultural

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Maryland General Assembly enacts laws

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Land Preservation Foundation. The donation or sale must have been approved by the Board of Public Works before a credit can be claimed. *Effective July 1, 2001, for tax years 2001 and later. (HB 681, Chapter 676, Acts of 2001)*

Heritage structure rehabilitation credit. The amount of any credit that exceeds the state income tax may now be refunded if the structure is located in Maryland, and the credit can now be claimed by a non-taxable, non-profit entity (501(c)(3)). In addition, a credit may not be claimed for a structure owned by any government, unless the structure is located on the Hippodrome site. *Effective July 1, 2001, for rehabilitations certified on or after that date, and for tax years 2001 and later. (SB 523, Chapter 160 & HB 1109, Chapter 161, Acts of 2001)*

Smart Growth - Arts and Entertainment Districts. The Department of Business and Economic Development may designate "Arts and Entertainments Districts." Qualified artists who live in these districts can take a new subtraction modification for income earned by publishing, producing, or selling their artistic works within these districts. *Effective July 1, 2001. (SB 586, Chapter 608, Acts of 2001)*

Maryland Health and Higher Educational Facilities Authority – community colleges – tax exempt financing. This bill will allow a community college board of trustees to finance or refinance bonds, leases, and purchase agreements through the Maryland Health and Higher Educational Facilities Authority (MHHEFA). It provides that the principal and interest paid on a loan financed through MHHEFA is exempt from taxation by the state and by a county or municipality. *Effective October 1, 2001. (SB 588, Chapter 165, Acts of 2001)*

Credit for employer-established paid work-based learning. The termination date for the credit is extended by three years to June 30, 2004. Unused credits may be carried forward to later tax years. *Effective June 1, 2001. (SB 613, Chapter 611, Acts of 2001)*

Single sales factor apportionment for manufacturing corporations. The apportionment factor for manufacturing corporations is changed to a single-factor formula of sales only. Previously, a three-factor formula of property, payroll, and double-weighted sales was required. *Effective July 1, 2001, for tax years 2001 and later. (HB 11, Chapter 633, Acts of 2001)*

Credit for green buildings. A new credit is created for a portion of the costs to construct or rehabilitate buildings using specified materials and equipment that may reduce the harmful effects from the building and its occupants on the environment. *Effective July 1, 2001, for tax years 2003 and later. (SB 745, Chapter 620, Acts of 2001)*

Subtraction modification for volunteer fire, rescue, and emergency medical services personnel - ladies' auxiliary. This law adds qualifying members of an auxiliary organization of a fire, rescue, or emergency medical services organization for purposes of the subtraction modification (up to \$3,500) allowed to qualifying volunteer members of these service organizations. *Effective July 1, 2001, for tax years 2001 and later. (SB 850, Chapter 436 & HB 1095, Chapter 437, Acts of 2001)*

Honorable Louis L. Goldstein volunteer police, fire, rescue, and emergency services personnel subtraction modification program. The subtraction modification of up to \$3,500 for qualifying members of a

volunteer police, fire, rescue, and emergency services organization is named the Honorable Louis L. Goldstein Volunteer Police, Fire, Rescue, and Emergency Services Personnel Subtraction Modification Program. *Effective July 1, 2001. (HB 46, Chapter 442, Acts of 2001)*

Credit for child and dependent care expenses - phase-out correction. This bill increases from \$40,000 to \$41,000 (\$20,000 to \$20,500 for married filing separately) the income level above which a phase-out is required for the state child and dependent care income tax credit. This is a corrective measure to ensure that taxpayers will be entitled to a partial credit until their federal adjusted gross income reaches \$50,000 (\$25,000 for married filing separately). *Effective July 1, 2001, for tax years 2001 and later. (HB 979, Chapter 515, Acts of 2001)*

Enterprise zones - tax credits. The amounts allowed as a credit for employees located in a focus area is increased by 150 percent. For all others, the credit amounts are doubled. In addition, all employees must now be paid at least 150 percent of the federal minimum wage and work at least 35 hours each week for at least six months before or during the tax year in which the credit is claimed. *Effective July 1, 2001, for tax years 2001 and later. (HB 1155, Chapter 305, Acts of 2001)*

Death Taxes

Intestate succession - failure to support child. A parent who abandoned or willfully

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Maryland General Assembly enacts laws

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purposely did not pay child support for a child will no longer be able to inherit from the estate of that child. *In effect for probate proceedings that begin on or after October 1, 2001. (SB 173, Chapter 582, Acts of 2001)*

Other

Tax amnesty. The General Assembly has enacted a tax amnesty period for delinquent taxpayers from September 1, 2001 through October 31, 2001. The amnesty is applicable to individual income tax, both state and

local, corporate income tax, employer withholding tax, sales and use tax, and admissions and amusement tax for amounts payable on returns due on or before December 31, 2000. The comptroller will waive all civil penalties, except previously assessed fraud penalties, attributable to taxes paid during the amnesty period if the taxpayer files delinquent returns and pays the tax and interest due on the return or pays the tax plus all interest due on a previously filed return.

A taxpayer will not be charged with a criminal tax offense arising out of any return filed and tax paid during

the amnesty period unless:

1. there are criminal charges pending in the courts of the state, or
2. there are criminal charges under investigation by an office with the constitutional authority to prosecute a person for violation of criminal charges.

Effective November 1, 2001, certain criminal fines are increased from \$5,000 to \$10,000. More detailed information on the implementation of tax amnesty will be available in future publications. *Effective June 1, 2001. (HB 828, Chapter 275, Acts of 2001)*

The courts decide...

Sales & use tax

Resale status. The Maryland Tax Court has agreed with the comptroller that inventory used to demonstrate products to potential customers is not entitled to the resale exemption.

In *FOSS Nirsystems, Inc. v. Comptroller* (March 15, 2001), FOSS contended that the use of its "demonstration" inventory was only an incidental use, that the demonstration inventory was primarily intended for resale, and, therefore, that those items were entitled to the resale exclusion. The tax court agreed with the comptroller 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.

The court also rejected FOSS's other argument that the inventory should not be subject to the use tax because the actual use did not occur in Maryland. The court found as a fact that FOSS exercised the right or power to use, consume, and store the inventory at its Maryland headquarters and thus,

that the "resale status" was terminated at the time the item was removed from the resale inventory by the executives in Maryland. Foss has appealed to the Circuit Court for Montgomery County.

Out-of-state furniture dealer. In 1997, after Furnitureland South, a North Carolina furniture dealer, refused to produce records and submit to a sales and use tax audit, the comptroller filed a complaint for declaratory and injunctive relief, seeking a determination as to whether, on a prospective basis, Furnitureland and its carrier, Royal Transport, have nexus in Maryland and are required to collect and remit Maryland sales and use tax. (*See ReveNews, Vol. 18, No. 3, Summer 1997.*)

In 1999, following a trial, the Anne Arundel County Circuit Court agreed with the comptroller, finding that Furnitureland and Royal were obligated to register as vendors and collect and remit Maryland sales and use taxes (*see ReveNews, Vol. 20, No. 4, Autumn 1999*). Furnitureland and Royal appealed to the Court of Special Appeals, but the Court of Appeals issued a writ of *certiorari* on its own motion before argument.

Although no party ever raised any question regarding the propriety of a declaratory judgment action, the Court of Appeals raised the issue *sua sponte*.

In its decision issued May 9, 2001, in *Furnitureland South, Inc. et al. v. Comptroller*, the Court of Appeals vacated the circuit court ruling on the grounds that the comptroller was required to pursue certain administrative and judicial remedies provided for by statute, such as issuing a subpoena for records, demanding the taxpayers file a sales and use tax return, and/or issuing an assessment for back taxes, rather than filing an action for declaratory and injunctive relief.

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The courts decide...

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Admissions & amusement tax

Redskins' stadium seat prices.

On April 5, 2001, in *JKC Stadium, Inc. v. Comptroller*, the Maryland Tax Court upheld the calculation the Comptroller's Office used to assess the tax on premium seating and ordered the taxpayer to pay \$485,558 in admissions and amusement tax. The taxpayer, JKC Stadium, Inc.,

the former owner of the Redskins' stadium in Prince George's County had remitted tax on its premium seats – club, lodge, and executive suite seats – based on the same price it charged for the highest priced general admission seats rather than the price it actually charged for the premium seats.

Based on the 1987 Maryland Court of Appeals decision in *Washington National Arena v. Comptroller*, the comptroller based its calculation of the

tax due on premium seating on 133 percent of the highest priced general admission seats to take into account at least some of the additional charges and amenities of the premium seating. The tax court rejected the taxpayer's arguments that the assessment was based on a "secret and unpublished policy," that it was "arbitrary and capricious," and that the Washington National Arena case did not apply.

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