

## Comptroller cracks down on after-hours clubs

October 28 pre-dawn raids on two Baltimore after-hours clubs were the most recent offensive in Comptroller William Donald Schaefer's stepped-up enforcement campaign against tax and licensing fraud. These clubs, which operate without liquor licenses, are typically open from 2 a.m. to 6 a.m., when it is illegal to serve alcohol in Maryland.

"We're cracking down on illegal operations to protect legitimate businesses that play by the rules from unfair competition as well as to protect state revenues," said Comptroller Schaefer,

whose office enforces state liquor laws.

Both of the illegal clubs raided on October 28, the 007 Social Club and Club 454, were located in high-crime neighborhoods in West Baltimore. Although the 007 Social Club claims to be a members-only, bring-your-own-beverage establishment, an undercover agent was able to buy drinks there. The other club featured an extensive bar.

During the raids, the comptroller's agents seized 1,263 bottles of distilled spirits and wine and 1,266 containers of beer. Agents also charged Bobby Ray Anderson, owner of the 007, and

Club 454 owner Roland Aljourney Tyner, as well Tyner's daughters and business partners, Valerie Marie Tyner and Rosalind Tyner, with operating without a liquor license. That misdemeanor charge carries a penalty of two years in jail and/or a \$1,000 fine.

Other after-hours clubs recently raided by the comptroller's agents include the Korean Club, in Glen Burnie, on October 21, and the Giant Social Club, in Baltimore, on June 29. During the raids, agents seized distilled spirits, wine, beer, and, at the Korean Club, Virginia-stamped cigarettes.

## Economic outlook for continued growth

On November 13, representatives from the Board of Revenue Estimates, of which I am chairman, and state economists met with the board's Business Advisory Panel to discuss the outlook for Maryland's economy. I am pleased to report that panel members were positive about the prospects for Maryland. While the red-hot economy of the past two years will slow down, we still expect better than average economic growth.

Panel members represent businesses and industries across Maryland, including financial services, construction, health services, utilities, and retail sectors. These people aren't in an ivory tower but rather on the front lines of our state's economy, and I greatly value their judgment.

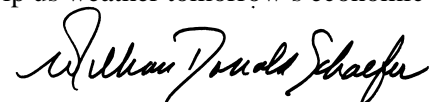
Growth is expected to slow in 2001, although it should accelerate again in 2002. In some of the most successful

sectors of the economy performance has been held back only by a labor shortage. This is particularly true for construction, one of the

fastest growing sectors in the state, but businesses of all types continue to grow, requiring more employees and more space. Maryland's economy is once again growing faster than that of the nation.

The strongest areas of the state are near the Baltimore-Washington International Airport and the Washington suburbs, where high-tech and bio-tech, distribution and retail, and everything in between are contributing to economic growth. While a recession is *not* on the horizon, two possible risks cloud the economic forecast: sustained high energy prices and a downturn of the stock market. Either of these events would reduce consumer spending, which has been one of the state's engines of growth.

The most likely path for the economy, panel members concurred, is continued growth. It must now be a priority to make sure that the wealth and jobs created by this strong economy make their way to all parts of the state, so we use today's prosperity to help us weather tomorrow's economic challenges.



William Donald Schaefer  
Comptroller of Maryland

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# Compliance news

## Update on federal offset program

A new federal program that allows states to offset federal tax refunds to satisfy delinquent state income tax liabilities, first reported in the Summer 2000 issue of *ReveNews*, has generated more than \$4.1 million from almost 3,500 notices sent from January 1 through mid-November. Last year, the Comptroller's Office certified 7,132 names to the federal agency handling the program.

This year, the agency sent notices to 32,000 delinquent taxpayers giving them the opportunity to resolve the liability. Those who do not will be certified to the federal agency handling the program. Delinquent taxpayers who have active payment plans with the comptroller are not included in the program.

To avoid having their federal income tax refunds offset, taxpayers must promptly pay the tax due or prove the debt is not past due or not legally enforceable. If you or your clients have questions about this program, please contact the Compliance Division at 410-974-2432 or toll-free at 1-888-674-0016.

## U.S. Customs project expanded

A project that uses information supplied by the United States Customs Service to assess use tax due Maryland has been expanded to include a review of declarations made by Marylanders at Baltimore-Washington International Airport and at the Customs House at the Dundalk Marine Terminal.

When the project was launched earlier this year, it focused on Marylanders who purchased goods outside of the country and had them shipped into the state. Maryland law requires the five percent use tax be paid on the sales price of items brought into and

used in Maryland, no matter where they were purchased, unless the goods are for resale and the buyer has a valid resale certificate.

Since September, Compliance Division auditors have been examining customs declarations at the airport and marine terminal. They are notifying Marylanders of their use tax obligations, based on the value of items listed directly on the customs declaration.

The customs project has generated \$210,000 in use tax revenue this year. For more information on this project, contact the Business Nexus Unit at 410-767-1582 or toll-free at 1-800-648-9638.

## Personal liability for the tax debts of corporations, LLCs and LLPs

Your client's corporation, limited liability company (LLC), or limited liability partnership (LLP) has not been successful, and it's time to close the doors—whether voluntarily or involuntarily. But the end of the business may not mean the end of your client's state tax liability. Withholding taxes, admissions and amusement taxes, and sales and use taxes may all carry personal liability for officers, owners, members and partners.

**Withholding, admissions and amusement.** Any officer of a corporation who exercises direct control over its fiscal management is personally liable for both employer withholding and admissions and amusement taxes. For an LLC or LLP, this liability extends to *any person who exercises such control*. What is "direct control over its fiscal management"? It includes signing checks or returns, authorizing purchases of equipment or making strategic business decisions. For withholding tax, liability may also be imposed on any agent of the corpora-

tion, LLC or LLP, who is required to withhold and pay the income tax.

**Sales and use.** Personal liability for sales and use taxes is determined differently. The president, vice president, and treasurer of a corporation are, by definition, liable for the tax. Personal liability may also extend to any officer who directly or indirectly owns more than 20 percent of the corporate stock. This means that if an officer and his or her non-officer spouse together own more than 20 percent of the corporate stock, then that officer is personally liable regardless of the office held.

If a limited liability company has a written operating agreement or if a limited liability partnership has a written partnership agreement, then personal liability extends to individuals who manage the business and affairs of the entity. This includes signing checks or returns, authorizing purchases, or making strategic business decisions. If the entity does not have a written agreement, then personal liability may be imposed on all members of the LLC or all general partners of the LLP.

The comptroller routinely assesses and files liens against responsible parties for non-filing and non-payment of these taxes. The penalty for willful failure to file an admissions and amusement tax return is a fine of up to \$500 and/or six months in jail. For withholding and sales and use tax, the penalty is a fine of up to \$5,000 and/or five years in jail.

The best way to avoid the personal consequences which result from failure to pay these taxes is to be fully aware of your responsibility, to be sure you personally know what the company's tax status is, and to play an active role in ensuring that the company meets its tax obligations. Corporate officers or individuals who manage the business and affairs of an LLC or LLP should carefully document any change in duties or resignation and support that documentation, if possible, by corporate minutes.

# The courts decide...

## Estate tax

**Discretion to waive interest.** On October 25, 2000, the Maryland Tax Court agreed that the comptroller had properly exercised his discretion in not waiving interest on Maryland estate tax paid late by the Estate of James W. Smith.

Maryland law grants the comptroller discretion to waive interest when the circumstances warrant but provides no further guidance. The estate offered two reasons for the late payment. First, its major asset was unimproved land in Prince George's County that the estate's personal representative found difficult to develop and sell. Second, the son of the decedent, a beneficiary of the estate, was seriously ill and had significant medical needs that were properly paid for from the estate.

The comptroller argued that the personal representative made numerous choices while administering the estate which all involved putting other expenses before the Maryland estate tax liability. The estate owned numerous rental properties it chose not to sell. It also chose not to borrow money that could have been used to pay the estate tax, notwithstanding its ownership of assets that could serve as collateral for a commercial loan.

In addition, the comptroller noted that when the personal representative chose to expend money for the care of his brother he was making a conscious decision to delay payment of the Maryland estate tax; interest is intended to compensate the state for such delayed

payment. Accordingly, the tax court held that, under the circumstances presented, the comptroller was justified in refusing to waive interest.

## Income tax

**Tax protest rejected.** The Court of Special Appeals, affirming a lower court decision, rejected the claims of a tax protestor who maintained that he didn't have to pay Maryland income tax on his state salary (*Mwamba v. Schaefer*, October 24, 2000).

In the words of the court, the employee, "believes, or professes to believe, that he does not have to pay Maryland income tax on the salary he receives as a State employee." Mr. Mwamba, aggrieved when the comptroller said he did in fact owe tax and thereafter attached his state salary to satisfy the unpaid tax liability, filed suit against the comptroller and the director of the Central Payroll Bureau.

The court rejected his several standard tax protestor arguments that wages are not income and that the state of Maryland has no authority to impose an income tax. The court also held that because Mr. Mwamba had not appealed the dismissal of an earlier suit he had filed making the same assertions, he was precluded, under the legal principle of *res judicata*, from litigating the same issue a second time. Mr. Mwamba has petitioned for a writ of certiorari with the Court of Appeals asking that it review the decision of the Court of Special Appeals.

## Unclaimed property amnesty program a success

Maryland's participation in a nationwide voluntary compliance program, which ended on October 31, 2000, resulted in more than 1,000 businesses reporting accounts worth approximately \$1 million.

Under the program, businesses holding unclaimed assets could turn them over to participating states and be exempted from penalties, interest, and/or fines, depending on what the state levied. Maryland waived penalties.

## New guide to business tax credits available

**T**he Comptroller's Office has published a new guide to tax credits for Maryland businesses, the first comprehensive guide to 17 state tax credits potentially worth millions of dollars to Maryland businesses.

"This new booklet can be an excellent resource for Maryland's business community and tax professionals," said Comptroller Schaefer. "It fills the need for a single source of business tax credit information that many business leaders in Maryland have long requested."

The guide briefly summarizes 17 tax credits, many of which became effective on July 1, 2000, including credits for research and development, clean energy, new job creation, historic preservation, and more. It also explains how each credit is calculated and lists appropriate government agencies taxpayers may have to contact for more information or to seek any necessary certification.

Businesses and tax professionals can download the guide from the comptroller's Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com). Or, they can contact the Comptroller's Office at [schaeferservice@comp.state.md.us](mailto:schaeferservice@comp.state.md.us) or by calling 410-260-7300 from Central Maryland or toll-free 1-877-708-8866 from elsewhere.

### ReveNews....

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# Income tax filing season preview

*A new way to file online, expanded e-filing, and a new, convenient way to pay are among the changes taxpayers and tax preparers will see during the upcoming filing season. These changes are summarized below and will be covered in greater detail in the joint fed/state tax newsletter published in January.*

## Credit card payments

For the first time this year, taxpayers can pay the balance of taxes due on the Maryland return using a Discover card, American Express card, or MasterCard. They can pay over the Internet by visiting [www.officialpayments.com](http://www.officialpayments.com).

Taxpayers can also pay by telephone by calling 1-800-2PAYTAX if they filed a 1999 Maryland tax return. The company handling the transactions, Official Payments Corp., will charge a 2.5 percent convenience fee.



## I-File

This year for the first time, Maryland will offer free filing of short forms 503 and 123 on the comptroller's Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com).

## Electronic filing

Maryland will accept three additional forms this year for electronic filing this year: Form 502CR – Personal Income Tax Credits for Individuals; Form 502UP – Underpayment of Estimated Income Tax by Individuals; and Form 1099G/MD – for reflecting taxable Maryland unemployment payments. Previously,



taxpayers who had to submit these forms couldn't file electronically.

For the first time, taxpayers who did not file the previous year's Maryland return (1999) will be able to file electronically, through a personal computer, using an online tax service or software. Because these taxpayers will not have a Maryland PIN (federal adjusted gross income from line 1 of the 1999 Maryland return) they must mail in the signature form, Form 502OL.

## Telefile business extensions

Corporations may telefile extension requests if they filed a prior year Maryland return; line 5 of Form 510E is zero; and they are requesting an automatic six-month extension.

Pass-through entities may telefile their extension requests if they filed a prior year Maryland Pass-through Entity Return and if line 5 of Form 510E is zero. Specifically, S corporations may telefile for an automatic six-month extension while business trusts, partnerships, and limited liability companies may telefile for an automatic three-month extension. To telefile for a business extension, call 410-260-7829 or toll-free at 1-800-260-3664.

## Other tax year 2000 changes

- **Maryland refundable earned income credit.** The percentage multiplied by the federal earned income tax credit and compared to the state income tax will increase from 10 percent to 15 percent.
- **Child and dependent care credit.** There is a new credit against the state income tax for expenses paid by an eligible individual during tax year 2000 for the care of a qualifying dependent.
- **Quality teacher incentive credit.** A new credit of up to \$1,500 against the state income tax for tuition paid by qualifying classroom teachers will be available for tax year 2000.
- **Long-term care insurance credit.** Individuals may claim a credit against the state income tax for eligible long-term care premiums.
- **Subtraction modification for adoption expenses.** The current subtraction modification for adoption expenses is increased from \$3,000 to \$6,000 for the adoption of a child with a special need and from \$2,000 to \$5,000 for the adoption of a child without a special need.

## For tax year 2001

Marylanders may notice slightly larger paychecks, thanks to a state income tax cut for tax year 2001.

The state tax rate will drop from 4.85 percent to 4.80 percent, and the personal exemption amount will increase from \$1,850 to \$2,100 for 2001. The tax cut for 2001 is part of the Tax Reduction Act of 1997.

# **Briefly noted...**

## **Tax forms now online**

Maryland state and local income tax forms for tax year 2000 became available on the comptroller's Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com) on December 15.

Taxpayers and tax preparers can download a variety of individual and corporate forms as well as the resident, nonresident, corporate, and pass-through tax booklets complete with forms and instructions. Resident and nonresident tax tables are also available on the site. Tax forms and instructions are also available through the comptroller's Forms-by-Fax system by calling 410-974-FAXX (3299).

## **State closes fiscal year 2000 in black**

Maryland closed fiscal year 2000 with a \$936.2 million surplus, with \$151.7 million actually available after the General Assembly appropriated \$784.4 million for spending in the current fiscal year 2001 budget.

In announcing the surplus, Comptroller William Donald Schaefer stated that nearly all of the revenue sources in fiscal year 2000 exceeded official estimates. "State income taxes came in strong, interest earnings were great, and we saw the best growth in sales and use tax revenue since the recession ended several years ago," the comptroller said.

The \$5.1 billion collected in state income tax revenue reflected a ten percent increase over the previous fiscal year and exceeded estimates by \$83 million. "Personal income tax revenues alone rose \$450 million to nearly \$4.7 billion, thanks to boosts in jobs, wages, and stock options," said Comptroller Schaefer.

Sales and use tax revenue amounted to \$2.4 billion, about 7.8 percent higher than last year's and slightly above estimates. Strong spending by consumers who were apparently undeterred by the stock market's volatile year fueled the growth. State law requires the governor to appropriate all surplus funds that exceed \$10 million into the Revenue Stabilization Account, also known as the state's "Rainy Day" fund.

## **IFTA decal fee eliminated**

A change from red to gold isn't the only thing new about the 2001 International Fuel Tax Agreement (IFTA) decals issued beginning in December 2000. Thanks to legislation proposed by Comptroller Schaefer, Maryland-based motor carriers no longer have to pay a \$7.00 decal fee to be licensed for interstate operations through IFTA.

The comptroller saw the decal fee as a potential disincentive for motor carriers to obtain IFTA credentials electronically because of the costs associated with electronic payment of a relatively small fee. Eliminating the

fee will greatly facilitate processing and issuing IFTA credentials electronically, increasing efficiency for Maryland-based truckers and the Comptroller's Office. The red 2000 IFTA decals will not be valid after February 28, 2001.

## **Bureau offers variety of topics**

The Comptroller's Office Speakers Bureau has expanded to offer more services to business or community associations, tax professionals, schools, and clubs. The bureau taps professional resources within the agency to provide experts on all of the taxes collected by the Comptroller's Office. Among the most frequently requested topics are:

- Personal and corporation income tax;
- Sales and use tax involving out-of-state purchases, food, contractors, and more;
- Admissions and amusement tax;
- Maryland estate tax;
- Motor carrier and motor fuel taxes; and
- Unclaimed property.

For more information or to request a speaker, contact Marge Kirk at [mkirk@comp.state.md.us](mailto:mkirk@comp.state.md.us) or at 410-260-7159.

## **State's tax CDs and forms on way earlier than last year's**

- **For tax preparers.** Tax preparers who ordered 2000 tax forms and instructions on CD ROM or paper will see them start to arrive more than a week earlier than last year. This year's free CD contains Maryland income tax forms, instructions, and booklets for tax years 2000, 1999, 1998, 1997, and 1996, as well as Maryland's Combined Business Registration Application.
- **New income tax withholding guides.** State and local income tax withholding guides were mailed to employers on November 1, almost three weeks earlier than they were last year.
- **Employer withholding coupon books.** To be mailed the week of December 18.
- **Individual estimated coupon books.** To be mailed the week of January 15.
- **Maryland personal income tax booklets.** To be mailed between Christmas and New Year's Day.



## Fortuneteller ad helps hundreds find missing money

Lured by the sight of Maryland Comptroller William Donald Schaefer in a fortuneteller costume, 3,600 readers responded to a statewide newspaper campaign seeking owners of unclaimed funds. More than 1,500 of the fortune hunters who browsed the comptroller's eight-page advertising supplement were reunited with almost \$761 thousand. The largest single claim was for more than \$72 thousand.

Financial institutions, utilities, insurance companies, and other corporations are required to report to the state comptroller any bank accounts, security deposits, wages, insurance benefits, and contents of safe deposit boxes that have been unclaimed after five years.

The comptroller advertises recently reported names of unclaimed property owners each spring and fall. Approximately 80 days after the publication of the ad, businesses holding accounts that remain unclaimed will turn the money over to the state. However, the money remains the property

of the owners or their legitimate heirs, and they can claim the funds any time.

To view a list of the state's unclaimed property owners, visit the comptroller's Web site at [www.marylandtaxes.com](http://www.marylandtaxes.com) or call 410-767-1700 in Central Maryland or 1-800-782-7383 from elsewhere. The Comptroller's Office has records on approximately 324,000 accounts, and more than 40,000 recently reported names are listed on the Web site. The office has records on approximately 324,000 accounts worth more than \$123 million. The Comptroller's Office also participates in a national database service on the World Wide Web that offers individuals a free online search of unclaimed accounts worth \$14 billion.

Visitors to [www.missingmoney.com](http://www.missingmoney.com) can enter their name and find out for free if they have unclaimed money in 26 states, including Maryland.

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Economic outlook is positive *See Page 1*

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