

## From the Desk of the Comptroller

Let me start by thanking you for your hard work and dedication during the busiest part of the tax season. Together, we helped bring in nearly \$3.8 billion this tax season, including more than \$2.8 billion in individual income taxes. This revenue is instrumental in funding our state's education programs, healthcare initiatives, environmental plans and many other top priorities that contribute to our overall high quality of living.

I am also happy to report that the number of preparers and taxpayers using electronic filing grew again this year. In fact, the agency saw a 10 percent increase in e-filing. That is important because each return filed electronically saves money for Maryland. Since the program began in 1991, more than \$16 million has been returned to state coffers in saved processing costs.

Along with these successes, we also netted several key legislative victories on behalf

of Maryland taxpayers this past session. Among the initiatives that will benefit and protect Marylanders include the passage of the Maryland Tax Preparers Act, crucial corporate income tax reform, funding for an innovative new tax compliance program and the repeal of the computer services tax.

As your Comptroller, I strongly supported each of these bills as they will collectively strengthen Maryland's quality of life in a time of growing economic uncertainty.

As we move forward, let me remind you that my door is always open and that the 1,100 public servants here in the Comptroller's Office are ready and eager to assist you in any way possible. Thank you for your part in helping make this year's tax season a success.



## Comptroller Legal Brief

In May, attorneys representing Comptroller Franchot began their defense of the state's tax assessments against two holding companies controlled by department store giant Nordstrom. This case, one of several pending in the Maryland Tax Court, continues the Comptroller's vigorous effort to crack down on corporations avoiding taxes using Delaware Holding Company tax schemes, with four additional cases against other high profile companies scheduled to go to court later in the year.

The Comptroller is seeking assessed taxes totaling more than \$1 million for the

companies, along with interest and penalties in excess of \$1 million. In April, the Comptroller's Office won a similar case against Classics Chicago, a subsidiary of Talbots, Inc. Classics was ordered to pay the state nearly \$1 million in back taxes, along with interest and 10 percent in penalties.

The corporate relationships and transactions in the Talbots case were very similar to those found in the 2003 case against SYL, Inc. In that case, the court found the company liable based on the presence of the parent within Maryland and the fact that the subsidiary had no economic substance.

*(See 'Legal,' continued on Page 2)*

(*'Legal,' continued from Page 1*)

Originally tried in 1998, the SYL case was one of the original Delaware Holding Company actions, ultimately decided in 2003 when the Court of Appeals upheld Maryland's contention that the holding company which received millions in royalty payments from its parent company and had minimal expenses, was doing business in Maryland where its parent did business.

In 2004, the General Assembly passed an amnesty bill that disposed of 50 pending cases plus numerous other open investigations. The amnesty bill did bring in approximately \$200 million to the state. Since the end of the amnesty in November 2004, the Comptroller's Office has collected an additional \$67

million in taxes through Delaware Holding Company cases, and currently is pursuing an additional \$145 million in outstanding assessments against corporations using this tax-avoidance system.



In addition to the on-going case against Nordstrom, four other high profile companies are facing like charges and will go to trial later this year: Gore in July, Cytec in August, RR Donnelly Receivables in September and Recot, an affiliate of Frito Lay, in December.

*The Comptroller is seeking assessed taxes totaling over \$1 million from the holding companies, along with interest and penalties in excess of \$1 million.*

## Franchot Applauds Passage of Maryland Individual Tax Preparers Act

The Maryland Individual Tax Preparers Act was one of Comptroller Peter Franchot's top legislative priorities during the 2008 session. The bill, signed into law by the governor, creates a State Board of Individual Tax Preparers that would help protect taxpayers against unscrupulous tax preparers and allows the state to track problem preparers. Throughout the session, Franchot worked with consumer advocates, non-profit financial literacy groups including Maryland CASH Campaign and the lead sponsors, Senator Joan Carter Conway and Delegate Carolyn Krysiak to get the legislation passed.

"Marylanders deserve the highest quality of tax preparation services possible and they deserve to be protected from fraudulent preparers who seek only to enrich themselves at the expense of working families," Comptroller Franchot said. "With this new law, we are making clear that Maryland will no longer allow this kind of deceitful business practice."

The act also helps protect taxpayers from fraudulent and misleading marketing schemes that target the most vulnerable taxpayers in our state. While Maryland tax attorneys, CPAs and enrolled agents who prepare tax returns are licensed, many people continue to advertise themselves as tax preparers when they are not.

Prior to the passage of this legislation, Maryland law had no regulations for tax preparation. Anyone could acknowledge themselves a tax preparer - whether they were qualified or not. As a result of unqualified tax preparers, thousands of taxpayers have been left without assistance to deal with the consequences of filing fraudulent tax returns, which entail intimidating audits and the payment of fines with exorbitant interest rates and fees.

An individual who provides tax preparation services has until June 1, 2010 to meet the new registration requirements.

# 2008 Legislative Summary

The following summary includes legislation passed by the Maryland General Assembly during the 2008 legislative session and signed into law by the governor. The summary addresses alcoholic beverage, tobacco, income, corporate reporting, sales & use and boxing & wrestling tax laws. A brief synopsis of the bills is provided, along with the effective date and chapter number.

## ALCOHOL BEVERAGE LEGISLATION

### STATEWIDE LEGISLATION

#### **Senate Bill 9 - Chapter 343 – Beer Keg Sales – Registration Form**

This bill was introduced as a statewide bill, but then amended to apply only to Prince George's County. Requires a person who sells beer in kegs at retail locations in Prince George's County to complete a specified registration form and to record on the copy of the registration form the purchaser's identification number and the date the number was issued. EFFECTIVE JULY 1, 2008

#### **Senate Bill 118 – Chapter 369 & House Bill 205 – Chapter 370 – Beer Manufacturing & Distributor Agreements**

Requires a successor beer manufacturer who terminates an agreement with a beer distributor to give notice and to renumerate the beer distributor a sum equal to the fair market value for the sale of the brands of beer calculated from the date of termination. If an agreement cannot be reached within 30 days, nonbinding mediation with a Maryland mediator must be sought, and if an agreement is not reached within 45 days of mediation, the surviving beer distributor shall bring an action in court within 90 days. Until agreement is reached, the surviving beer distributor will continue to distribute the brand. EFFECTIVE OCTOBER 1, 2008

#### **Senate Bill 745 – Chapter 702 - Definitions – Beer**

Alters the definition of beer as used in Article 2B of the Code and Title 5 of the Tax - General Article, Annotated Code of Maryland to include "flavored malt beverages" in conformity with the United States Alcohol and Tobacco Tax and Trade Bureau's regulations. EFFECTIVE OCTOBER 1, 2008

#### **House Bill 76, Chapter 566 & Senate Bill 166 – Chapter 565 - Furnishing an Alcoholic Beverage to Underage Individual – Penalty**

Increases the penalty for furnishing an alcoholic beverage

for consumption to an individual under the age of 21 years under certain circumstances by imposing a fine not exceeding \$2,500 for a first offense and a fine not exceeding \$5,000 for a subsequent violation. EFFECTIVE OCTOBER 1, 2008

#### **House Bill 703 – Chapter 86 - Special Brewery Promotional Event Permit**

Establishes a special brewery promotional event permit to be issued by the Comptroller to a holder of a Class 5 manufacturer's license. Permit holder may provide samples to consumers limited to 2 fluid ounces per brand, and sell beer by the glass for consumption on-premises to those attending the event. The promotional event may not last longer than three consecutive days. The permit fee is \$25 per event, and limited to four permits in a calendar year. EFFECTIVE JUNE 1, 2008

## COUNTY LEGISLATION

### Baltimore City

#### **Senate Bill 496 – Chapter 184 - Alcoholic Beverages Licenses – Restaurants in Business Planned Unit Development**

Authorizes the board to issue special one-day licenses or Class B beer, wine and liquor restaurant licenses for not more than three restaurants in a business planned development in Ward 24, Precinct 5, 46th Alcoholic Beverages District. EFFECTIVE JULY 1, 2008

#### **Senate Bill 584 – Chapter 425 - Alcoholic Beverages Act of 2008**

Alters annual license fees for various classes of licenses, prohibits the board from issuing new licenses in various legislative districts and other geographic areas, and provides exceptions for the 46th district. Requires criminal records check from state and federal governments. Adds requirements for a bottle club registration. EFFECTIVE JUNE 1, 2008

# Tax Changes Legislated by the 2008 Maryland General Assembly

## Carroll County

### House Bill 899 – Chapter 96 - Special Class C License - Arts Center

Authorizes the board to issue a special Class C beer, wine and liquor license to an arts center on West Main Street in Westminster. EFFECTIVE JULY 1, 2008

### House Bill 902 – Chapter 674 - Sunday Sales

Specifies the Sunday sales hours for various licensees. EFFECTIVE JULY 1, 2008

### Senate Bill 987 – Chapter 246 - Special Beer Festival – License Fee

Alters the fee for a special beer festival license for a one or two-day festival. EFFECTIVE JUNE 1, 2008

## Cecil County

### House Bill 382 - Chapter 269 - Restaurants – Percentage of Receipts from Food Sales

Alters the minimum percentage of average annual receipts from the sale of food required of a restaurant licensed to sell alcoholic beverages. EFFECTIVE JULY 1, 2008

## Dorchester County

### Senate Bill 154 – Chapter 564 - Alcoholic Beverages Act of 2008

Repeals the off-sale privilege of a Class B beer and light wine license on July 1, 2008. Repeals a requirement that a holder of a Class B (on-sale) beer and light wine license for hotels and restaurants must purchase wine from Dorchester County Liquor Control Board Dispensaries. Provides for penalties of a certain violation, and changes Sunday sales hours for various licensees. EFFECTIVE JULY 1, 2008

## Garrett County

### House Bill 276 – Chapter 655 - Referendum on Sunday Sales

Authorizes Sunday on-premises sales of alcoholic beverages by various licensees in those election districts of Garrett County in which voters approve by a majority vote in a local referendum at the general election in November 2008. EFFECTIVE JULY 1, 2008

### Senate Bill 221 – Chapter 569 - Class B Beer & Light Wine License

Establishes a Class B beer and light wine license for use in a hotel, motel, or inn with or without a catering option. EFFECTIVE JULY 1, 2008

## Harford County

### House Bill 428 – Chapter 501 - Cafe License

Authorizes a Class B Cafe beer and wine license, which is a seven-day license with an on-premises wine tasting privilege for every day of the year. May not be used for off-premises catering. EFFECTIVE JUNE 1, 2008

### Senate Bill 62 - Chapter 358 - Repeal of Class BDR Licenses

Repeals the Class BDR (deluxe restaurant) beer, wine and liquor license. Defines an indirect ownership interest for purposes of determining whether more than one license exists. Increases the maximum number of Class B licenses from two to nine. EFFECTIVE JULY 1, 2008

## Howard County

### House Bill 163 – Chapter 46 - Appointed Alcoholic Beverage Hearing Board

Prohibits a member of the board from being employed by the Howard County government or from holding public office. EFFECTIVE JULY 1, 2008

## Kent County

### House Bill 5 – Chapter 249 – Class A Light Wine License

Authorizes a Class A light wine license to be issued to a holder of a Class 3 manufacturer's license or a Class 4 manufacturer's license. EFFECTIVE JULY 1, 2008

## Montgomery County

### House Bill 823 – Chapter 295 - Performing Arts Facility

Alters the minimum capacity requirement to 1,000 persons by a performing arts facility before a special Class B-BWL alcoholic beverages license may be issued. EFFECTIVE JULY 1, 2008

### House Bill 827 – Chapter 92 – Department of Liquor Control – Sale of Items at Dispensaries and Retail Outlets

Permits the retail dispensary stores and retail outlets under contract with the Department of Liquor Control to sell items commonly associated with the serving or consumption of alcoholic beverages, such as bottle openers, corkscrews, drink mixes, and lime juice. At these same locations, the sale of snack foods and soft drinks is prohibited. EFFECTIVE JUNE 1, 2008

### House Bill 828 – Chapter 93 – Additional Class B Licenses MC 818-08

Repeals certain requirements for obtaining an additional Class B beer, wine and liquor (on-sale) license for certain premises. EFFECTIVE JULY 1, 2008

### House Bill 1225 – Chapter 115 – Licenses Held by Revenue Authority for Public Golf Courses

Authorizes the executive director, or a designee, of the revenue authority to hold more than one (1) Class H beer (on-sale) license or Class H beer and light wine (on-sale) license for the limited use of public golf courses under the jurisdiction of the revenue authority. EFFECTIVE JULY 1, 2008

# Tax Changes Legislated by the 2008 Maryland General Assembly

## Prince George's County

### House Bill 1013 – Chapter 676 - Class B–DD Alcoholic Beverages Licenses – Greenbelt Station

Alters the Class BH “on-sale” license annual fee. Specifies that more than one Class B-DD (Development District) seven-day beer, wine and liquor license may be issued for a restaurant within “any single” area designated in §9-217(f)(7).

EFFECTIVE JULY 1, 2008

### House Bill 1021 – Chapter 110 - Theme Park License

Establishes a Class B (TP) beer, wine and liquor theme park license. The annual fee is \$3,900 for this seven-day license, and may be exercised only at a theme park in Mitchellville.

EFFECTIVE JUNE 1, 2008

### House Bill 1479 – Chapter 546 - Convention Center License

(This is an Emergency Bill necessary for the immediate preservation of the public health or safety, and has been passed by a ye and nay vote supported by 3/5th of all the members elected to the House of Delegates and the Senate. As such, this bill becomes effective when signed by the governor)

Establishes a Class B-CC (Convention Center) beer, wine and liquor license issued to a hotel. The annual license fee is \$ 20,000.

EFFECTIVE MAY 13, 2008

## Somerset County

### House Bill 173 – Chapter 50 - Death of Licensee

Authorizes that on the death of a married licensee, or of a licensee for the benefit of a partnership or corporation, application for a new license may be made. EFFECTIVE JULY 1, 2008

### House Bill 198 – Chapter 52 - Licenses, Fees, and Fines

Authorizes Class D beer and light wine license to sell beer and wine for both on and off–sale consumption. EFFECTIVE JUNE 1, 2008

## Washington County

### House Bill 1087 – Chapter 531 - Catering, Stadium, and Sidewalk Café Licenses

Establishes a caterer's license for a holder of a pouring license

or a Class B restaurant or hotel (on and off-sale) beer, wine and liquor license. Establishes a stadium (on-sale) license to the owner of a professional baseball team franchise. Establishes a sidewalk café license which may be issued to a Class B or Class P “pouring” licensee. EFFECTIVE JULY 1, 2008

## Wicomico County

### House Bill 203 – Chapter 647 - Alcoholic Beverages Act of 2008

Authorizes Class 6 pub–brewery license to sell malt beverages for off–premises consumption in sealed refillable containers. Creates a Class B special wine license (B-SWL) for the sale of wine for consumption off the premises. Creates a special Class C beer, beer and wine, or beer, wine and liquor license for an entertainment event held by a fire department.

EFFECTIVE JULY 1, 2008

## Worcester County

### House Bill 170 – Chapter 48 - Service of Notice of Charges

Requires that a notice of complaint related to alcoholic beverages be given by personal service to the licensee or any adult employee of the licensee or any other method of service of notice as provided in Maryland Rules 2-121 and 2-122.

EFFECTIVE JULY 1, 2008

### House Bill 171 – Chapter 49 - Fines for Late Renewals

Permits the board to receive late applications for alcoholic beverages license renewals during April and to impose a late fine up to \$50. EFFECTIVE JULY 1, 2008

## TOBACCO LEGISLATION

### Senate Bill 188 – Chapter 568 - Comptroller – Cigarette Business Licenses – Grounds for Disciplinary Action

Clarifying that applicants for cigarette business licenses and licensees must buy cigarettes for resale from a licensed cigarette manufacturer in order to be in compliance with specified provisions of law and not subject to disciplinary action by the Comptroller. EFFECTIVE OCTOBER 1, 2008

# Tax Changes Legislated by the 2008 Maryland General Assembly

## INCOME TAX

### **Senate Bill 12 (Chapter 344, Acts of 2008) – Income Tax – Subtraction Modification – United States Coast Guard Auxiliary – Requirements**

This act expands the existing subtraction from Maryland taxable income for qualifying volunteer fire, rescue, or emergency medical services personnel, by decreasing the length of time an individual must have been an active member of the United States Coast Guard Auxiliary to be eligible for the subtraction, from 72 months to 36 months within the previous 10 calendar years. This change equalizes the length of service requirement for members of all qualifying volunteer organizations. The United States Coast Guard Auxiliary is responsible for providing the Comptroller with a report of which members qualify for the subtraction on or before October 1 of each year. The member must attach a copy of this report to his or her income tax return to qualify for the subtraction from Maryland taxable income.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2007.

### **Senate Bill 46 (Chapter 10, Acts of 2008) – Budget Financing Act**

This act repeals the sales and use tax on computer services, and adds a new 6.25 percent personal income tax bracket for Maryland taxable income in excess of \$1 million.

This act provides that for a tax year beginning after December 31, 2007, but before January 1, 2011, the state income tax for an individual, including spouses filing a joint return or a surviving spouse or a head of household, includes a new bracket of 6.25 percent of Maryland taxable income in excess of \$1 million.

Because the new 6.25 percent rate applies retroactively to income for the tax year beginning January 1, 2008, this Act also pro-

vides that the Comptroller shall waive any interest or penalty imposed on an individual for underpayment of estimated income tax for calendar year 2008, to the extent that the Comptroller determines that the interest or penalty was incurred because of the new 6.25 percent rate.

This act provides that the rate for withholding by a pass-through entity for each nonresident individual's distributive share or pro-rate share of the pass-through entity's nonresident taxable income is the sum of the 1.25 percent special nonresident tax and the new 6.25 percent individual rate, for a total of 7.5 percent.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2007.

### **Senate Bill 297 (Acts of 2008) – Tax Credit for Employer Established Work-Based Learning Programs for Students**

This act reestablishes an income tax credit program for approved work-based learning programs for students. For tax years beginning after December 31, 2008, an employer may claim an income tax credit based on the wages paid to secondary or postsecondary students between 16 and 23 years of age who are participating in a work-based learning program approved by the Maryland State Department of Education.

This income tax credit will be available to both individuals and corporations and may be claimed against only the state income tax and not the local tax. An insurance company may claim a credit against the premium tax.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2008.

### **Senate Bill 314 (Chapter 391, Acts of 2008) – State Employment Opportunity Credit – Sunset Extension**

This act extends by one year the termination provisions and dates of applicability of

the State Employment Opportunity Credit allowed to employers for certain wages and child care or transportation expenses of qualified employment opportunity employees. The termination provisions are extended to June 30, 2009. The dates of applicability are extended to all tax years beginning after December 31, 1994 but before January 1, 2012.

EFFECTIVE JULY 1, 2008

### **Senate Bill 565 (Chapter 140, Acts of 2008) – Income Tax Credit – Bio-Heating Oil**

This act establishes a credit against the State income tax for an individual or corporation in the amount of three cents for each gallon of bio-heating oil purchased for space or water heating. For purposes of this credit, bio-heating oil means heating oil with a blend of at least 5 percent biodiesel oil.

The credit cannot exceed the lesser of \$500 or the state income tax for the tax year. An individual may not carry forward any excess credit.

The taxpayer must apply to the Maryland Energy Administration (MEA) for an initial credit certificate. The initial credit certificate shall be issued for number of gallons purchased by the taxpayer and must contain the maximum amount of credit that the taxpayer may claim. By January 1, 2009 and each year after, MEA is required to provide the Comptroller with a list of each taxpayer that has been issued an initial credit certificate and the maximum amount of credit allowed for each taxpayer.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2007, BUT BEFORE JANUARY 1, 2013.

# Tax Changes Legislated by the 2008 Maryland General Assembly

## **Senate Bill 817 (Acts of 2008) – Maryland Individual Tax Preparer Act**

This act creates the eight-member State Board of Individual Tax Preparers in the Department of Labor, Licensing, and Regulation to administer a new registration program that requires qualified individuals to register to provide individual tax preparation services. The governor shall appoint the board members with the advice of the Department's Secretary, the Comptroller, and the Maryland Attorney General.

The board shall adopt rules of professional conduct as appropriate to ensure a high standard for the practice of individual tax preparation; select and administer examinations; establish fees; maintain a list of all authorized individual tax preparers; maintain a record of its proceedings; and maintain records of all complaints regarding individual tax preparers in Maryland. The board may also adopt any bylaw and regulation necessary to carry out this act.

An individual who provides tax preparation services has until June 1, 2010 to meet registration requirements. Persons licensed by the State Board of Public Accountancy or a licensing authority in another state, persons admitted to practice law in Maryland or another state, persons employed by government in performance of official duties, persons enrolled to practice before the Internal Revenue Service under Circular 230, and persons serving as an assistant to an individual tax preparer or exempted professional are exempted from registration requirements.

EFFECTIVE JUNE 1, 2008

## **House Bill 140 (Chapter 139, Acts of 2008) – Income Tax – Credit for Cellulosic Ethanol Technology Research and Development**

This act provides for a new Maryland income tax credit for cellulosic ethanol technology qualified research and development expenses incurred in Maryland by an individual or corporation. Cellulosic ethanol technology produces ethanol from agricultural plant waste such as stalks and husks, and industrial plant waste such as sawdust and paper pulp, instead of producing ethanol from grains such as corn. The total of all such credits cannot exceed \$250,000 per year.

EFFECTIVE JULY 1, 2008, FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2007.

## **House Bill 280 (Acts of 2008) – Tax Credits for Qualifying Employees with Disabilities – Sunset Extension**

This Act extends by one year the termination provision and dates of applicability of the tax credit that an employer may claim for wages, child care and transportation expenses for qualified employees with disabilities. The new termination date for this Qualifying Employees with Disability Tax Credit is June 30, 2009. EFFECTIVE JULY 1, 2008

## **House Bill 680 (Chapter 290, Acts of 2008) – Arts and Entertainment Districts – Tax Benefits – Jewelry and Clothing Designers**

This act expands the existing subtraction from Maryland taxable income for income derived from a sale in an arts and entertainment district. The subtraction modification is expanded to include income derived from the sale in an arts and entertainment district of original jewelry, clothing, or clothing design created by a qualifying artist. However, the subtraction does not include income from tailoring, clothing alteration or jewelry repair.

EFFECTIVE JULY 1, 2008

## **House Bill 721 (Chapter 517, Acts of 2008) – Job Creation Tax Credit – Termination Provisions**

This act extends the termination date and the dates of applicability of the tax credits for the Job Creation Tax Credit. The termination date is extended from January 1, 2010 to January 1, 2014. The dates of applicability are extended to all tax years beginning before January 1, 2014 and may only be claimed for qualified positions at a newly established or expanded business facility that commences operations before January 1, 2013.

EFFECTIVE OCTOBER 1, 2008

## **House Bill 723 (Chapter 518, Acts of 2008) – Business and Economic Development – Biotechnology Investment Incentive Act**

This act changes the eligibility standards and the amounts that can be claimed for the Biotechnology Investment Incentive Tax Credit.

# Tax Changes Legislated by the 2008 Maryland General Assembly

This act changes the eligibility standards for the credit so that eligibility is no longer restricted only to an individual, a corporation, or a qualified Maryland venture capital firm. Eligibility is expanded by amending the definition of “qualified investor” to include an individual or any other entity that:

- (i) invests at least \$25,000 in a qualified Maryland biotechnology company, and
- (ii) is required to file an income tax return in any jurisdiction.

The definition of “qualified investor” is also amended to provide that the term “qualified investor” does not include a qualified pension plan, individual retirement account, or other qualified retirement plan under the Employee Retirement Income Security Act of 1974, as amended, or fiduciaries or custodians under such plans, or similar tax-favored plans or entities under the laws of other countries.

This act changes the maximum tax credit allowed in an initial tax credit certificate to \$250,000 for any qualified investor. It also provides that during any fiscal year, the secretary of the Department of Business and Economic Development (DBED) cannot certify eligibility for tax credits for investments in a single qualified Maryland biotechnology company that in the aggregate exceed 15 percent of the total appropriations to the Maryland Biotechnology Investment Tax Credit Reserve Fund for that fiscal year.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2008.

## **House Bill 1534 (Chapter 548, Acts of 2008) – College Savings Plans of Maryland**

This act authorizes the College Savings Plans of Maryland Board to establish a new Maryland Broker-Dealer College Investment Plan, the purpose of which is to provide for a college savings plan distributed by brokers and dealers that allows Maryland taxpayers to deduct contributions to the plan from their state and local taxable income beginning with tax year 2008.

A Maryland resident or, at the discretion of the board, a nonresident of Maryland may participate in and benefit from the broker-dealer plan, the assets and income of which are exempt from State and local taxation. Contributions to this plan may only be made in cash and cash equivalents, and may not exceed the maximum amount set by the board in accordance with §529 of the Internal Revenue Code.

This act provides that an account holder of an investment account maintained in the Maryland College Investment Plan and the Maryland Broker-Dealer College Investment Plan may subtract up to \$2,500 for each tax year from their Maryland

taxable income for contributions made for each qualified designated beneficiary. Excess contributions may be carried over to 10 successive tax years. For purposes of this subtraction limitation, each spouse is treated separately on a joint return such that up to a \$5,000 subtraction is allowed per couple per qualified designated beneficiary. On distribution, the distributed amount, including earnings from contributions, used on behalf of the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses are not subject to state taxes.  
EFFECTIVE OCTOBER 1, 2008

## **CORPORATE REPORTING**

### **House Bill 664 (Chapter 178, Acts of 2008) and Senate Bill 444 (Chapter 177, Acts of 2008) – Corporate Income Tax – Reporting and Study**

This act amends four sections of Maryland tax law that were enacted during the 2007 special session.

This act expands the Maryland Business Tax Reform Commission from 17 to 19 members. One of the new members must be a representative of the Greater Baltimore Committee. The other new member must be “a representative of an organization that represents Maryland manufacturers, appointed by the Governor.”

This act provides for a cut-off date of January 1, 2011, after which manufacturing corporations no longer have to submit reports on the difference in tax owed under the single sales factor apportionment method.

This act removes the requirement that a copy of the federal income tax return must be filed with the Comptroller each year by every individual who reports income or loss on Schedule C or Schedule E of Form 1040. The Comptroller still has the power to make a specific request to an individual for a copy of the federal return.

This act significantly reduces the scope of the corporate combined reporting requirements by changing who must report and what information must be reported.

The biggest change in who must report is that the law passed by the special session required corporations which do not have nexus with Maryland to comply with the combined reporting requirements, whereas this act changes the law to provide that only corporations which have nexus with Maryland are to required comply with the combined reporting requirements. The change in the nexus requirement is accomplished by providing that the combined reporting requirements only apply to



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corporations that are required to file a Maryland income tax return.

Also, this act limits who must report by changing the definition of “corporate group” to specify that a corporate group does not include (1) any corporation that, for any reason, is not subject to U.S. federal income tax, (2) an insurer as defined in Section 1-101 of the Insurance Article, or (3) a regulated investment company, as defined in Section 851(a) of the Internal Revenue Code.

This Act significantly reduces the information that a corporate group must report by eliminating all of the information required in the law passed by the special session, and replacing all that with the following requirements:

- 1. A pro forma “water’s edge” combined corporate income tax return filed in accordance with regulations adopted by the Comptroller; and
- 2. In a format specified by the Comptroller, specific information on the state income tax differences if Maryland had a throwback rule, and also if Maryland required allocation to Maryland of 100 percent of income that is nonoperational and therefore not apportionable.

This act removes the criminal penalties for failure to comply and requires the Comptroller to develop and implement a penalty system.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2005 BUT BEFORE JANUARY 1, 2011. The reports required for a tax year beginning before January 1, 2007 shall be submitted as part of a corporation’s tax return for the corporation’s next tax year beginning after December 31, 2006.

## SALES AND USE TAX

**Senate Bill 46 (Chapter 10, Acts of 2008) – Budget Financing Act [See Income Tax section for full Summary - pg 6, 1B]**

This Act repeals the sales and use tax on computer services that was enacted during the 2007 special session. It also restores the previous sales and use tax exemptions for sales of custom computer software services and optional computer software maintenance contracts.

EFFECTIVE JULY 1, 2008 FOR TAX YEARS BEGINNING AFTER DECEMBER 31, 2007.

**House Bill 377 (Chapter 132, Acts of 2008) – Solar and Geothermal Tax Incentive and Grant Program**

This act increases specified grant limits under the Solar Energy and Geothermal Heat Pump grant programs, ex-

empts the sale of specified solar energy and geothermal equipment from the state sales and use tax, and exempts specified solar energy property from the state and local real property taxes.

“Geothermal equipment” means equipment that uses ground loop technology to heat and cool a structure. “Solar energy equipment” means equipment that uses solar energy to heat or cool a structure, generate electricity to be used in a structure, or provide hot water for use in a structure. Solar energy equipment does not include equipment that is part of a nonsolar energy system or that uses any type of recreational facility or equipment as a storage medium, such as a swimming pool or hot tub.

EFFECTIVE JULY 1, 2008

**House Bill 985 (Chapter 180, Acts of 2008) and Senate Bill 456 (Chapter 179, Acts of 2008) – Sales and Use Tax – Energy Star Product Exemptions – Boilers**

This bill expands the definition of “Energy Star product” to include boilers, for the purpose of excluding sales of boilers from the sales and use tax during the tax-free weekend in February of each year, beginning in calendar year 2011.

EFFECTIVE JULY 1, 2008

## BOXING AND WRESTLING TAX

**House Bill 795 (Acts of 2008) and Senate Bill 649 (Acts of 2008) Athletics – Mixed Martial Arts – Regulation by State Athletic Commission – Boxing and Wrestling Tax**

These acts require an individual to be licensed by the State Athletic Commission in order to participate in a contest as a mixed martial arts contestant. The commission shall adopt regulations to ensure the safety of individuals who participate in amateur or professional mixed martial arts contests.

These acts provide for the inclusion of a “mixed martial arts contest” in the definition of “boxing or wrestling contest.” The boxing and wrestling tax is now extended to gross receipts derived from a charge for admission to mixed martial arts contests in Maryland, and from charges to view the telecast of mixed martial arts contests in Maryland regardless of the origin of the telecast.

EFFECTIVE OCTOBER 1, 2008

## Comptroller's Office Names New Top Cop

Comptroller Franchot recently named Jeffrey Kelly, 46, of Pasadena, Md., the new head of the agency's Field Enforcement Division. Kelly had previously served as the deputy director of this specialized group of law enforcement officials.

"Jeff's vast knowledge of the agency, strong background in public service and great relationships he forged in the law enforcement community made his selection a natural one," said Comptroller Franchot.

The Field Enforcement Division is responsible for enforcing the state's revenue laws relating to alcoholic beverages, tobacco, motor fuel, business licenses and the sales and use tax. Enforcement agents combat the proliferation of illegal cigarettes and liquor by conducting investigations, arresting violators and making sure retail businesses are licensed properly and complying with record-keeping regulations.

Additionally, field inspectors monitor the transportation and storage of motor fuel, and verify that retail locations are complying with regulations governing pricing, labeling and registration. To ensure quality, fuel samples are collected and tested for octane levels and other factors at the division's motor fuel testing laboratory in Jessup. Any sub-standard product is removed from the marketplace until the problem is corrected.

During fiscal year 2007, personnel made nearly 150 arrests, issued more than 2,600 criminal citations and collected \$1.4 million in sales and use tax. So far this fiscal year, agents have made more than 100 arrests, issued nearly 1,700 criminal citations and brought in over \$1.5 million of previously uncollected in sales and use tax.

Kelly, who has been with the agency since 2002, replaces long-time agency employee John Horney who retired in February. He served as acting director during the transition.

"It is tall water to stand in," Kelly said in reference to succeeding Horney. "He is a great man who had a lot of experience with the agency and knew the job well."

Kelly has more than 27 years of public service, beginning his career with the Anne Arundel County Fire Department. He served the department as a cardiac rescue technician and paramedic.

He later attended the county police academy and served 18 years with the Anne Arundel Police Department before retiring as a lieutenant in 2002. While with the department, he worked as a training academy instructor, public information officer, administrative officer and senior commander.

"I thoroughly enjoyed my time with the Anne Arundel Police," said Kelly, reflecting back on his previous career. "On my final day there, walking down the hall was a very long and difficult walk."

Kelly's future plans for the department include the development of a long-term strategic plan, working closely with other law enforcement agencies throughout the state, pursuing legislation for more autonomy and keeping division vacancies to a minimum.

"Compliance over enforcement is our main objective," said Kelly. "We will continue to level the playing field for businesses throughout Maryland, ensuring that all are complying with the law and collecting money already owed to the state."



Jeff Kelly - Director of the Field Enforcement Division

*"We will continue to level the playing field for businesses throughout Maryland, ensuring that all are complying with the law and collecting money already owed to the state."*

--Jeff Kelly, on his top priority as the new Director of Field Enforcement

## Comptroller Franchot Receives The 2008 William R. Snodgrass Award

This past February, Comptroller Franchot was chosen by the Association of Government Accountants (AGA) as a 2008 William R. Snodgrass Distinguished Leadership award recipient. The Comptroller accepted the award on behalf of the agency's 1,100 employees at the AGA's Sixth Annual National Leadership Conference in Washington, D.C.

"I am truly honored to be recognized by such a distinguished and universally respected organization as the Association of Government Accountants," said Comptroller Franchot. "When I took office I promised the people of Maryland I would take an already outstanding agency and do my best to take it to the next level. By following through on my promise, with tough, independent policies and by always working for what is fiscally best for Maryland, not just politically best, I believe we have supercharged this agency. I thank all my employees for their efforts and promise the people of Maryland that we will continue to look for ways to improve our service to them."

The William R. Snodgrass Distinguished Leadership award recognizes the outstanding



Comptroller Franchot poses with other award recipients

leadership of individuals in state government that led to improved financial management and consistently exhibited the highest personal and professional standards. Founded in 1950, the AGA supports the careers and professional development of government finance professionals working in federal, state and local governments as well as the private sector and academia. The association has a long history of being thought of as the leader for the government accountability profession.

## Linda Tanton Takes on New Role



Deputy Comptroller Linda Tanton was recently elected to serve as president of the Federation of Tax Administrators (FTA) by a vote of her peers from across the country at the group's 2008 annual meeting in Philadelphia this June.

"Throughout her distinguished career with the Maryland Comptroller's Office, Linda's expertise and extraordinary leadership qualities have made her an invaluable member of the team," said Comptroller Franchot. "She continues to play a pivotal role as we work to take this great agency to an even higher level. As one of the leading national organizations for state tax administration, the FTA will be well-served over the coming year

as she brings invaluable energy and experience in her new role."

The FTA was organized in 1937 to improve the quality of state tax administration by providing services to state tax authorities and administrators. These services include research and information exchange, training and intergovernmental and interstate coordination. The federation also represents the interests of state tax administrators before federal policymakers.

Tanton has been an active member of the FTA for more than 10 years, including serving two years as a board of trustees member and then most recently as its first-vice president. In her new role as president, Tanton will preside at FTA meetings, appoint committee members and perform other various duties.

# New Corporate Reporting Requirements Coming Soon

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The governor recently signed legislation passed by the Maryland General Assembly in 2008 which reduced the corporate reporting requirements originally enacted during the 2007 special session. As mandated by the revised law, the Comptroller's Office is currently developing the new reporting regulations for companies doing business with the state of Maryland.

Stay tuned to our Web site, [www.marylandtaxes.com](http://www.marylandtaxes.com), in the coming weeks as DRAFT regulations will be posted for public viewing.

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## REVENUES

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