

From the Desk of the
Comptroller



As Maryland's chief fiscal officer, I find it important to hear directly from taxpayers who are on the front lines, as Maryland tries to recover from our country's historic recession. Towards this goal, I recently conducted an economic listening tour of Maryland, where I criss-crossed the state to hear from local government officials, business leaders and private citizens. I received an on the ground assessment of current economic conditions and heard first-hand what the private sector and Marylanders think and feel about our economy.

During my visit to all 23 county jurisdictions and Baltimore City, I heard directly from leaders of various industries vital to the economy of Maryland including agriculture, labor, life sciences, information technology, health care, mining, wineries, real estate, banking, military contracting and hospitality. Additionally, I talked to senior citizens, students, clergy, small business owners and municipal government leaders who play a crucial role in the fiscal health of our state.

While many are still suffering the impacts of this economic downturn, I was encouraged to hear stories of survival and perseverance from

small business owners and private citizens alike. I also gained valuable insight from my travels as to what Marylanders want from their government. To help Maryland move forward, the message I received from citizens was clear:

- develop a stronger partnership between government and business communities,
- end partisanship contention,
- reform state spending,
- avoid the introduction of new taxes, and
- prepare our students for success with improved financial literacy.

Like many I met with during my tour, I believe that government needs to tighten its belt as many businesses have been forced to do during these tough economic times. By living within our means and finding ways to do more with less, we will be able to effectively maintain fundamental services without further burdening our business and families. I will continue to push for this in Annapolis so we can lead Maryland to economic recovery sooner than later.

Maryland Brings Back Tax-Free Week

After a four-year hiatus, the state of Maryland will bring back its tax-free week, "Shop Maryland," this year beginning Sunday, August 8 through Saturday, August 14.



Legislation enacted by the Maryland General Assembly during the Special Session of 2007

stated that beginning in calendar year 2010, there will be a one week tax-free period to promote back-to-school shopping in Maryland. The sales and use tax does not apply to the sale of any items of qualifying clothing or footwear, excluding accessory items. A tax-free week will reoccur annually during the second week of

"Tax-Free Week" continued on Page 8

REVENUES

2010 Legislation Summary

The following is a summation of the tax-related laws passed during the 2010 Legislative Session.

Income Tax

Senate Bill 64 (Chapter 20, Acts of 2010) – Maryland Research and Development Tax Credit – Sunset Extension

This Act extends the termination date of the Maryland Research and Development Tax Credit to all taxable years beginning after December 31, 1999 but before January 1, 2020. This Act provides that if a taxpayer files on a fiscal year, for the taxable year that begins in calendar year 2019, they may claim a prorated credit for research and development expenses paid or incurred in the taxable year for that part of the taxable year that falls in calendar year 2019. The Act provides that the Maryland Research and Development Tax Credit will abrogate with no further action on June 30, 2021.

Effective Date: This Act took effect July 1, 2010.

Senate Bill 106 (Chapter 1, Acts of 2010) – Labor and Employment – Job Creation and Recovery Tax Credit

This Act establishes the Job Creation and Recovery Tax Credit to encourage qualified employers conducting or operating a trade or business in Maryland to hire qualified employees for newly-created or certain vacant positions in the state. The amount of the tax credit is based on the number of employees hired and the number of months that they were employed during the tax credit period. An individual, corporation or organization exempt under Section 501(c) of the Internal Revenue Code may claim the credit.

Qualified employees must be Maryland residents hired between March 25, 2010 and December 31, 2010 to fill positions that are full-time, for 12-months or more, located in the state, and newly created or have been vacant for at least six months. At the time of hire, the individuals must be receiving unemployment insurance benefits or have exhausted their benefits in the previous 12 months and not working full-time immediately preceding the date of hire.

A qualified employer must be certified by the Department of Labor, Licensing, and Regulation to claim up to a total credit of \$5,000 per qualified employee multiplied by the number of qualified employees hired, but not to exceed \$250,000. The credit amount for each qualified employee is \$5,000 for a 12-month period or \$416.67 for each month that the qualified employee was in the position. A qualified employer must claim the credit on the employer's tax return for each calendar month of 2010 as

that month corresponds to the qualified employer's taxable year. If the credit allowed in a year exceeds the total tax otherwise payable by the qualified employer for the taxable year, the employer may claim a refund for the excess.

Effective Date: This Act took effect March 25, 2010.

Senate Bill 141 (Chapter 484, Acts of 2010) – Budget Reconciliation and Financing Act of 2010

This Act repeals the requirement that the Comptroller establish a tax add-on system that allows contributions to the Fair Campaign Financing Fund.

Effective Date: This Act took effect June 1, 2010.

Senate Bill 221 (Chapter 252, Acts of 2010) – Tax Credits for Qualifying Employees with Disabilities – Sunset Extension

This Act extends the termination date of the Maryland Tax Credits for Qualifying Employees with Disabilities under Section 21-309 of the Education Article and Section 10-704.7 of the Tax-General Article by one year to June 30, 2011. The tax credit is applicable to all taxable years beginning after December 31, 1996 but before January 1, 2014, for qualified employees hired on or after October 1, 1997 but before July 1, 2011. Excess tax credits may be carried forward and applied as a credit for taxable years beginning on or after January 1, 2014.

Effective Date: This Act took effect June 1, 2010.

Senate Bill 318 and House Bill 830 (Chapters 499 and 500, Acts of 2010) – Income Tax Checkoff for Developmental Disabilities

These Acts establish a checkoff elective on the Maryland individual income tax returns to give taxpayers an option to contribute to the Waiting List Equity Fund which is administered by the Department of Health and Mental Hygiene to provide certain community-based services for individuals with developmental disabilities. The check-off elective shall be designed to allow each spouse on a joint return to separately designate the spouse's contribution. The contribution will first be deducted from the amount of refund that the taxpayer is to receive, if any, and then added to the amount of tax liability that the taxpayer owes.

Effective Date: These Acts took effect July 1, 2010, and shall be applicable to taxable years beginning after December 31, 2009.

Senate Bill 555 and House Bill 873 (Chapters 85 and 86, Acts of 2010) – Business Occupations and Professions – Individual Tax Preparers – Examination Requirements

These Acts were cross-filed and provide that the State Board of Individual Tax Preparers shall give the examination prepared by the Internal Revenue Service or an equivalent examination by an

2010 Legislation Summary *(continued)*

independent national or state regulatory authority as determined by the board.

Effective Date: These Acts took effect July 1, 2010.

House Bill 121 (Chapter 393, Acts of 2010) – Office of the Public Defender – Eligibility for Services – Requests for Employment Status and Income Information

This Act adds new Section 16-210(b)(3) to the Criminal Procedure Article. This Act also authorizes the Office of the Public Defender to submit requests to the Comptroller and the Department of Labor, Licensing, and Regulation for information regarding the income and employment status of applicants for services of the office relating to eligibility for services.

Each request must be accompanied by an authorization for release of information in a format acceptable to the agency to which the request is submitted and signed by the applicant. Requests and responses may be exchanged via facsimile transmission.

Effective Date: This Act will take effect October 1, 2010.

House Bill 464 (Chapter 493, Acts of 2010) – Maryland Clean Energy Incentive Act of 2010

This Act extends the termination date of the Maryland Clean Energy Incentive Tax Credit under Section 10-720 of the Tax-General Article by five years to December 31, 2015. A qualified Maryland facility must begin producing qualified energy on or after January 1, 2006, but before January 1, 2016, in order to claim the credit.

This Act further provides that in each of the tax years for which the credit may be claimed, the credit is now refundable if the credit allowed for the taxable year exceeds the state income tax. The Maryland Energy Administration may no longer issue initial credit certificates for amounts less than \$1,000.

Effective Date: This Act took effect July 1, 2010.

House Bill 475 (Chapter 487, Acts of 2010) – Smart, Green, and Growing – The Sustainable Communities Act of 2010

This Act creates programs focused on creating, enhancing, supporting and revitalizing sustainable communities consistent with the Obama Administration's interagency partnership announced in June 2009.

This Act creates the Smart Growth Subcabinet (Subcabinet) in Section 9-1406 of the State Government Article. The Subcabinet shall work together to create, enhance, support and revitalize sustainable communities across the state. The Subcabinet will make recommendations to the Department of Business and Economic

Development, the Department of Housing and Community Development and the Department of Planning.

The Act makes changes to the Heritage Structure Rehabilitation Tax Credit found in Title 5A of the State Finance and Procurement Article. The Act replaces the word "heritage" with "historic" and amends the definition of "certified rehabilitation" to include a qualified rehabilitated structure as well as the existing certified historic structure.

The Act adds many new definitions such as Financial Assistance, High Performance Building, Historic Property, Main Street Maryland Community, Main Street Maryland Program, Qualified Rehabilitated Structure, and Smart Growth Subcabinet.

The Act amends the definition of "substantial rehabilitation" to mean rehabilitation of a structure for which qualified rehabilitation expenditures, during the 24-month period selected by the individual or entity ending with or within the taxable year, exceed:

- \$5,000 for the rehabilitation of a single-family, owner-occupied residential structure;
- the greater of \$25,000 or 50 percent of the adjusted basis for a qualified rehabilitated structure located in a Main Street Maryland Community; and
- for all other property the greater of the adjusted basis or \$25,000.

The Act requires the Director of the Maryland Historical Trust, in connection with the Smart Growth Subcabinet, to adopt regulations that establish procedures and standards for certifying structures and to establish an application process for initial credit certificates for Maryland Sustainable Communities Tax Credits. The application process shall favor the award of tax credits for rehabilitation projects that are located the areas as set forth in Section 5A-303(b)(1)(iv).

Not more than 10 percent of the total credit amounts under initial credit certificates in any fiscal year may be issued for the rehabilitation of qualified rehabilitation structures.

The Act provides that if a fee charged for a commercial rehabilitation is not received by the Maryland Historical Trust within 120 days after the Trust sends notice that the fee is due, the initial credit certificate shall expire.

For a building to be a qualified rehabilitated structure, after rehabilitation:

- 50 percent of the existing external walls must be remaining external walls;
- 75 percent or more of the existing external walls must be external or internal walls; and

2010 Legislation Summary *(continued)*

- 75 percent or more of the existing internal framework must remain.
- The Act provides that for the taxable year in which a certified rehabilitation is completed, an individual or business entity may claim a tax credit as follows:
- an amount equal to 20 percent of the individual's or business entity's qualified rehabilitation expenditures for the rehabilitation;
- an amount equal to 25 percent of the individual's or business entity's qualified rehabilitation expenditures for a rehabilitation that is a qualified historic structure and high performance building;
- an amount equal to 10 percent of the individual's or business entity's qualified rehabilitation expenditures for the rehabilitation if the building is a qualified rehabilitated structure.

The Act provides that the director may not issue any initial credit certificates for any fiscal year after Fiscal Year 2014. The Act also provides for recapture based on the structure and time disqualifying work was performed or the structure was disposed. Disposal means to transfer legal title and includes, but is not limited to a sale, gift or foreclosure.

Effective Date: This Act took effect June 1, 2010.

House Act 1206 (Chapter 730, Acts of 2010) – Commercial Law – Consumer Protection - Refund Anticipation Loans and Checks

This Act creates Subtitle 38 of the Commercial Law Article to provide for new refund anticipation loan and refund anticipation check requirements for individual tax preparers.

This Act requires any facilitator of refund anticipation loans and checks to comply with the requirements of this section. If a facilitator fails to comply with the requirements, they are prohibited from soliciting the execution of, processing, receiving or accepting an application or agreement for a refund anticipation loan or check or facilitating the making of such a loan or check.

The Act defines facilitator as a person who, individually or in conjunction or cooperation with another person, processes, receives, or accepts an application or agreement for a refund anticipation loan or refund anticipation check, services or collects on a refund anticipation loan or refund anticipation check, or facilitates the making of a refund anticipation loan or refund anticipation check. A facilitator does not include certain financial institutions such as a bank, savings and loan association or credit union; an affiliate or subsidiary of a bank, savings and loan association, or credit union that, in connection with refund anticipation loans or refund anticipation checks acts solely as a servicer for the financial institution with which it is affiliated or of which it is a subsidiary; or a person who acts solely as an intermediary and does not interact with the public in the making of a refund anticipation loan or refund anticipation check.

The Act defines a “refund anticipation loan” as:

- a loan arranged to be paid directly or indirectly from the proceeds of a consumer's tax refund; and
- includes the sale, assignment, or purchase of a consumer's tax refund at a discount or for a fee, whether or not the consumer must repay the buyer or assignee if the Internal Revenue Service denies or reduces the consumer's tax refund.

This Act requires a facilitator to display certain disclosures. The Act provides that a facilitator must display a schedule of fees charged for facilitating refund anticipation loans and checks along with interest rates charged for certain loan and check amounts.

The Act also provides that a facilitator must display a notice that explains to consumers that a refund anticipation loan or check is a loan against their income tax refund. The notice also explains that a consumer may receive their refund in the normal course and direct deposited into their account without paying for a loan or other product. The Act provides that this notice must be at least 14 point type on a sign not less than 16 x 20 inches. The Act also provides that a facilitator may not charge any fee other than those disclosed on the schedules.

The Act provides that if a consumer does apply through a facilitator for a refund anticipation loan, the facilitator must disclose on a separate form, the fee, applicable interest rate percentage, the time in which the loan will be paid, and the notice as mentioned above. For a refund anticipation check, the notice is very similar but tailored to the check process.

The Act provides that the disclosures must be provided in English and the language in which the facilitator and consumer orally communicate. Under the Act, a facilitator may not require a consumer to enter into a refund anticipation loan in order to complete a tax return among other prohibitions. This subsection does not preclude a facilitator from charging a fee to complete an income tax return.

The Act provides for multiple violations and penalties that a facilitator will face including violations under Title 13 of the Commercial Law Article and actual and consequential damages.

Effective Date: This Act will take effect October 1, 2010.

House Bill 1375 (Chapter 734, Acts of 2010) – Kids First Express Lane Eligibility Act

This Act extends the Kids First Act of 2008 (Ch. 692, Acts of 2008) by three years through 2012.

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This Act adds a new provision to require the Comptroller and the Secretary of Health and Mental Hygiene to enter into an inter-agency agreement that allows the sharing of information from the income tax return of a taxpayer for the sole purpose of identifying children who may be eligible for the Maryland Medical Assistance Program or the Maryland Children's Health Program, and enrolling eligible children in these programs. However, the Act prohibits the Comptroller from sharing information if a taxpayer fails to opt-in to the information sharing. This limited exception to the Comptroller's requirement to keep tax information confidential is further subject to the federal Children's Health Insurance Program Reauthorization Act of 2009.

Effective Date: This Act took effect July 1, 2010.

House Bill 1505 (Chapter 477, Acts of 2010) – Central Collection Unit – Collection of Debts Owed to the State

This Act authorizes the Central Collection Unit (CCU) in the Department of Budget and Management to certify to the Comptroller and the State Lottery Agency certain debts or claims owed to the state. This Act authorizes the agency to follow certain procedures when a certain debtor wins a certain prize and authorizes prize interception by adding new subsection 3-304(a)(4) to the State Finance and Procurement Article.

The Act also adds new Section 3-307 to the State Finance and Procurement Article. Section 3-307 provides for procedures under which the Central Collection Unit may certify a debt to the Maryland State Lottery.

The Act also amends Section 13-918 of the Tax-General Article to provide that the Comptroller shall honor interception requests from Central Collection Unit in fourth priority.

Effective Date: This Act took effect July 1, 2010 and applies to every debt or claim owed to the state on or after this effective date.

Corporate Reporting

Senate Bill 336 (Chapter 543, Acts of 2010) – Maryland Business Tax Reform Commission – Reporting Requirements

This Act provides that the commission must present its final report of findings and recommendations to the Governor on or before December 15, 2010.

Effective Date: This Act took effect July 1, 2010.

Sales and Use Tax

Senate Bill 237 and House Bill 203 (Chapters 509 and 510, Acts of 2010) – Sales and Use Tax – Exemptions – Veterans' Organizations

These Acts were cross-filed and provide a permanent sales and use tax exemption for veterans organizations organized under Section 501(c)(4) of the Internal Revenue Code.

Effective Date: These Acts took effect July 1, 2010.

Senate Bill 1081 (Chapter 650, Acts of 2010) – Rebate Programs for Retail Sales – Collection of Sales and Use Tax

This Act provides that before a state agency issues a rebate or similar instrument or authorizes a rebate or similar instrument to be issued by a nongovernment entity to reduce the cost of a retail sale of household appliances under a program to promote energy efficiency, the state agency or nongovernment entity must require the buyer of a household appliance to certify that: (1) the household appliance was purchased at a retail sale in the state; or (2) the buyer paid the applicable State sales and use tax.

Effective Date: This Act took effect July 1, 2010.

House Bill 855 (Chapter 706, Acts of 2010) – Sales and Use Tax – Exemption – Lodging at a Corporate Training Center

This Act exempts from the state sales and use tax the sale of a right to occupy a room or lodgings as a transient guest at a dormitory or other lodging facility that:

- is operated solely in support of a corporate or any other headquarters, training, conference, or awards facility campus;
- provides lodging solely for employees, contractors, vendors, and other invitees of the corporation that owns the dormitory or lodging facility; and
- does not offer lodging services to the general public.

Effective Date: This Act took effect July 1, 2010.

Estate Tax

Senate Bill 396 (Chapter 554, Acts of 2010) – Maryland Estate Tax – Pilot Program for Payment Deferral for Qualified Agricultural Property

This Act adds a new provision to Title 7 of the Tax-General Article relating to alternate payment schedules for Maryland estate tax imposed on agricultural and personal property used for farming purposes. The new Section 7-307(e) provides for a payment

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deferral of three years from the due date for Maryland estate tax imposed on property passing from a decedent to or for the use of an individual who enters into an agreement to use the property for farming purposes after the decedent's death. The amount that may be deferred is determined by multiplying the percentage of property of the gross estate that is used for farming purposes times the estate tax due. The amount of tax deferred under this section may not exceed \$375,000 as to any decedent.

If a payment deferral is allowed, the deferred estate tax shall be paid without interest in accordance with a payment schedule prescribed by the Comptroller over a three year period beginning in the fourth year after the due date. Interest does not begin on unpaid estate tax until the tax is due under the schedule.

To be eligible for the payment deferral, a qualified recipient must file an application and enter into an agreement in a form specified by the Comptroller to use the qualified agricultural property for farming purposes after the decedent's death and file periodic reports or allow periodic inspections as required by the Comptroller.

The new provision further provides that on or before October 1, 2013, the Comptroller shall submit a report to the General Assembly, in accordance with Section 2-1246 of the State Government Article, and the Maryland Agricultural Land Preservation Foundation concerning:

- the number of approved applications for Maryland estate tax payment deferral;
- the number of agricultural acres in which a Maryland estate tax payment deferral was approved under the payment deferral pilot program;

- the number of qualified agricultural properties approved for Maryland estate tax payment deferral that apply to preserve agricultural land under the Maryland Agricultural Land Preservation Foundation;
- the aggregate value of Maryland estate tax payment deferrals approved under the payment deferral pilot program;
- the aggregate amount of Maryland estate taxes paid due to exceeding the maximum amount eligible for payment deferral under the payment deferral pilot program; and
- recommendations for implementing a Maryland estate tax payment deferral program in the State.

Effective Date: This Act took effect on July 1, 2010 and will be applicable to decedents dying after December 31, 2010. However, the Act will remain effective only for a period of four years and, at the end of June 30, 2014, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Inheritance Tax

House Bill 443 (Chapter 674, Acts of 2010) Maryland Inheritance Tax – Exemption – Spouses of Predeceasing Descendants

This Act amends Section 7-203(b) of the Tax-General Article to provide an exemption from the inheritance tax for property that passes from a decedent to or for the use of a surviving spouse of a deceased child or of a deceased lineal descendant of a child of the decedent who was married to the child or lineal descendant of the child at the time of the child's or lineal descendant's death. Under the terms of this provision, "surviving spouse" means a surviving spouse who has not remarried.

Effective Date: This Act took effect July 1, 2010, and will be applicable to decedents dying after July 1, 2010.



Comptroller's Office Continually Reconnecting Marylanders with Lost Property

The Comptroller's annual unclaimed property advertising campaign, which consisted of a 144-page supplement to find 60,000 recently-identified owners of more than \$42 million in unclaimed funds, proved itself successful again. The supplement appeared in 30 newspapers throughout the state over a three-week period.

"Our number one job at the Comptroller's Office is to serve the people," said Comptroller Franchot. "Part of that service is to connect people with unclaimed funds so they get what they are owed."

As a result of the advertising efforts, nearly 17,000 inquiries were received resulting in nearly 9,000 hits. Currently, the unclaimed property team is visiting fairs and festivals throughout the state as part of its seasonal outreach efforts. The unclaimed property outreach season began on Friday, June 18 with the African American Heritage Festival in Baltimore and runs throughout the entire summer, ending with the Senior Expo/Baby Boomer Expo in October.

Remaining events include:

Allegany County Fair
July 19 - July 24, 2010

Montgomery County Fair
August 13 - August 21, 2010

Maryland State Fair
Baltimore County
August 27 - September 6, 2010

PG County Fair
September 9 - September 12, 2010

Anne Arundel County Fair
September 15 - September 19, 2010

Great Frederick Fair
September 17 - September 25, 2010

Senior Expo / Baby Boomer Expo
Baltimore County
October 6 - October 7, 2010

Comptroller Recognized for Efforts in Financial Literacy

Noting Comptroller Peter Franchot's outstanding commitment and contributions to financial literacy in Maryland's public schools, the Maryland Coalition for Financial Literacy and Maryland Council on Economic Education recently presented him with a certificate of appreciation. The award was given at a financial education summit for 200 teachers sponsored by the two groups.

"Comptroller Franchot is a friend of personal finance and financial literacy," said Dr. Allen Cox, head of Maryland Coalition for Financial Literacy.

Comptroller Franchot believes all high school students should be required to take a financial literacy course prior to graduation. Currently, only three counties (Talbot, Allegany and Carroll) require a standalone course in personal finance for all students.

"We made great progress on this issue last session, got a bill through the Senate calling for a mandated course in all high schools and formed a huge statewide coalition of teachers, parents, students, private businesses and non-profit advocacy groups," said Comptroller Franchot. "I will continue to fight for the important passage of this bill."

Maryland State School Superintendent Dr. Nancy S. Grasmick says Comptroller Franchot's leadership in financial literacy is "wonderful and refreshing."

Since taking office in 2007, Comptroller Franchot has traveled across Maryland visiting schools and meeting with educators and students to discuss the need for financial literacy.

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August until the Maryland General Assembly revisits the matter.

During Shop Maryland, each qualifying clothing and footwear item priced \$100 or less will be exempt from Maryland's 6% sales tax including sweaters, shirts, slacks, jeans, dresses, robes, underwear, belts, shoes and boots. However, accessory items such as, jewelry, watches, watchbands, handbags, handkerchiefs, umbrellas, scarves, ties, headbands and belt buckles are not exempt and will still be taxed.

Frequently Asked Questions:

If the total cost of several exempt items comes to more than \$100, do I still have to pay tax?

Each qualifying article of clothing or footwear selling for \$100 or less is exempt, regardless of how many items are bought at the same time. For example, two \$60 sweaters bought at the same time are both exempt, even though the total purchase price is more than \$100.

Is the first \$100 of a more expensive item tax-free?

No. If a suit costs \$110, sales tax is due on the entire \$110.

Where is information available about Shop Maryland Week?

Visit the Comptroller of Maryland's Web site, www.marylandtaxes.com, e-mail shopmaryland@comp.state.md.us or call 410-260-7980 (Toll-free, 1-800-MD-TAXES; TTY users, call via Maryland Relay at 711 or 1-800-735-2258).



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