

Chapter 728

(House Bill 454)

AN ACT concerning

Disclosure of Tax Information – Tax Compliance Activity and Binding Data Use Agreements

FOR the purpose of altering the definition of “tax information” for purposes of provisions of law governing the confidentiality and disclosure of tax information; authorizing, subject to certain limitations, the disclosure of certain tax information to certain ~~persons~~ tax compliance organizations and governmental entities for the purpose of assisting the Comptroller in certain tax compliance activity; requiring the Comptroller, when disclosing tax information in accordance with certain provisions of law, to require the ~~party~~ person or governmental entity to whom the information is to be disclosed to enter into a certain ~~data-use~~ agreement; requiring the Comptroller, when disclosing tax information in accordance with certain provisions of law, to supervise the recipient of the tax information in a certain manner; prohibiting an officer, employee, former officer, or former employee of a certain person from disclosing the tax information except under certain circumstances; and generally relating to the disclosure of tax information by the Maryland Comptroller.

BY repealing and reenacting, with amendments,

Article – Tax – General

Section ~~13-203(e)~~ 13-101, 13-201, 13-203(c), and 13-1018

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

BY adding to

Article – Tax – General

Section 13-203(f) and (g) and 13-208

Annotated Code of Maryland

(2022 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General13-101.(a) In this title the following words have the meanings indicated.(b) (1) “Demand response trip” means the carriage of a passenger who is unable to use regular schedule, fixed termini services.

(2) “Demand response trip” includes a trip that is required under the federal Americans with Disabilities Act.

(C) “GOVERNMENTAL ENTITY” MEANS:

(1) A GOVERNMENTAL UNIT; AND

(2) AN INSTRUMENTALITY OF:

(I) ONE OR MORE STATES;

(II) ONE OR MORE POLITICAL SUBDIVISIONS OF A STATE; OR

(III) ONE OR MORE STATES AND POLITICAL SUBDIVISIONS OF STATES.

[(c)] (D) “Governmental unit” means:

(1) this State or a political subdivision, unit, or instrumentality of this State;

(2) another state or a political subdivision, unit, or instrumentality of that state; and

(3) a unit or instrumentality of a political subdivision of this State or of another state.

[(d)] (E) (1) “Tax collector” means the person or governmental unit responsible for collecting a tax.

(2) “Tax collector” includes:

(i) the Comptroller;

(ii) the Department, with respect to:

1. the financial institution franchise tax; and

2. the public service company franchise tax; and

(iii) the registers of wills, with respect to the inheritance tax.

(F) “TAX COMPLIANCE ACTIVITY” MEANS ANY ACTIVITY THAT SUPPORTS THE COMPTROLLER IN ADMINISTERING THE LAWS DESCRIBED IN § 2-102 OF THIS ARTICLE.

(G) “TAX COMPLIANCE ORGANIZATION” MEANS AN ORGANIZATION:**(1) A PURPOSE OF WHICH IS TO ASSIST STATE TAX OFFICIALS IN ENSURING COMPLIANCE WITH AND ENFORCING STATE AND FEDERAL TAX LAWS;****(2) THE MEMBERSHIP OF WHICH CONSISTS SOLELY OF:****(I) STATES; OR****(II) STATE TAX COLLECTORS, COMPTROLLERS, OR DIRECTORS OF REVENUE AND THEIR EMPLOYEES; AND****(3) OF WHICH THE STATE IS A MEMBER OR PARTICIPANT.**

13-201.

In this subtitle, “tax information” means:

(1) ANY TAX RETURN, INFORMATION RETURN, DECLARATION OF ESTIMATED TAX, EXTENSION OF TIME TO FILE A RETURN, OR CLAIM FOR REFUND UNDER THIS ARTICLE THAT IS FILED WITH THE TAX COLLECTOR BY, ON BEHALF OF, OR WITH RESPECT TO ANY PERSON AND ANY AMENDMENT OR SUPPLEMENT THERETO, INCLUDING SUPPORTING SCHEDULES, ATTACHMENTS, OR LISTS THAT ARE SUPPLEMENTAL TO OR A PART OF THE RETURN;**[(1)] (2) the amount of income or any other particulars disclosed in a tax return required under this article, if the return contains return information, as defined in § 6103 of the Internal Revenue Code;****[(2)] (3) any RETURN OR return information, as defined in § 6103 of the Internal Revenue Code, required to be attached to or included in a tax return required under this article; or****[(3)] (4) any information contained in:****(i) an admissions and amusement tax return;****(ii) an alcoholic beverage tax return;****(iii) a bay restoration fee return;****(iv) a boxing and wrestling tax return;****(V) A DIGITAL ADVERTISING GROSS REVENUES TAX RETURN;**

- ~~[(v)] (VI)~~ an E-9-1-1 fee return;
- ~~[(vi)] (VII)~~ a financial institution franchise tax return;
- ~~[(vii)] (VIII)~~ an inheritance tax return;
- ~~[(viii)] (IX)~~ a Maryland estate tax return;
- ~~[(ix)] (X)~~ a motor carrier tax return;
- ~~[(x)] (XI)~~ a motor fuel tax return;
- ~~[(xi)] (XII)~~ an other tobacco products tax return;
- ~~[(xii)] (XIII)~~ a public service company franchise tax return;
- ~~[(xiii)] (XIV)~~ a sales and use tax return;
- ~~[(xiv)] (XV)~~ a savings and loan association franchise tax return;
- ~~[(xv)] (XVI)~~ a tire recycling fee return;
- ~~[(xvi)] (XVII)~~ a tobacco tax return; or
- ~~[(xvii)] (XVIII)~~ a transportation services assessment return.

13-203.

(c) **[Tax] SUBJECT TO ~~SUBSECTION (F)~~ SUBSECTIONS (F) AND (G) OF THIS SECTION, TAX** information may be disclosed to:

- (1) an employee or officer of the State who, by reason of that employment or office, has the right to the tax information;
- (2) another tax collector;
- (3) the Maryland Tax Court;
- (4) a legal representative of the State, to review the tax information about a taxpayer:
 - (i) who applies for review under this title;
 - (ii) who appeals from a determination under this title; or

(iii) against whom an action to recover tax or a penalty is pending or will be initiated under this title;

(5) any license issuing authority of the State required by State law to verify through the Comptroller that an applicant has paid all undisputed taxes and unemployment insurance contributions payable to the Comptroller or the Secretary of Labor or that the applicant has provided for payment in a manner satisfactory to the unit responsible for collection;

(6) a local official as defined in § 13–925 of this title to the extent necessary to administer Subtitle 9, Part V of this title;

(7) a federal official as defined in § 13–930 of this title to the extent necessary to administer Subtitle 9, Part VI of this title;

(8) the Maryland Department of Health in accordance with the federal Children’s Health Insurance Program Reauthorization Act of 2009;

(9) the State Board of Individual Tax Preparers;

(10) the Alcohol and Tobacco Commission;

(11) the Maryland 9–1–1 Board;

(12) a person or governmental entity authorized by the Comptroller in writing to receive tax information for the purpose of identifying, preventing, or responding to fraud, provided that the tax information is:

(i) anonymized to the extent possible consistent with the information’s intended use; and

(ii) in addition to any other protections and safeguards under law, subject to any protections and safeguards set forth by the Comptroller in the written authorization;

(13) the Maryland Higher Education Commission;

(14) a hospital, the Health Services Cost Review Commission, the Department of Human Services, the Maryland Department of Health, and the State Department of Education, to the extent necessary to administer § 19–214.4 of the Health – General Article; [and]

(15) subject to subsection (e) of this section, the Maryland Small Business Retirement Savings Board and its authorized contractors for the purpose of administering

the Maryland Small Business Retirement Savings Program and Trust as authorized under Title 12 of the Labor and Employment Article; AND

(16) ~~A PERSON OR GOVERNMENTAL ENTITY~~ A PERSON, GOVERNMENTAL ENTITY, OR TAX COMPLIANCE ORGANIZATION FOR THE PURPOSE OF ASSISTING THE COMPTROLLER IN TAX COMPLIANCE ACTIVITY.

(F) ~~WHEN~~ EXCEPT AS PROVIDED IN SUBSECTION (G) OF THIS SECTION, BEFORE DISCLOSING CONFIDENTIAL TAX INFORMATION UNDER SUBSECTION (C) OF THIS SECTION, THE COMPTROLLER ~~SHALL~~ MAY, IN ITS SOLE DISCRETION, REQUIRE THE ~~PARTY~~ PERSON OR GOVERNMENTAL ENTITY TO WHOM THE INFORMATION IS TO BE DISCLOSED TO ENTER INTO A BINDING, WRITTEN ~~DATA-USE~~ AGREEMENT REGARDING THE USE AND SECURITY OF THE TAX INFORMATION, THE TERMS OF WHICH SHALL BE PRESCRIBED BY THE COMPTROLLER ACCORDING TO THE COMPTROLLER'S DATA SECURITY POLICIES AND BE CONSISTENT WITH STATE AND FEDERAL REQUIREMENTS.

(G) (1) BEFORE DISCLOSING TAX INFORMATION UNDER SUBSECTION (C)(9), (12), (14), (15), OR (16) OF THIS SECTION, THE COMPTROLLER SHALL REQUIRE THE PARTY TO WHOM THE TAX INFORMATION IS TO BE DISCLOSED TO ENTER INTO A BINDING, WRITTEN AGREEMENT REGARDING THE USE AND SECURITY OF THE TAX INFORMATION, THE TERMS OF WHICH SHALL BE:

(I) PRESCRIBED BY THE COMPTROLLER ACCORDING TO THE COMPTROLLER'S DATA SECURITY POLICIES;

(II) CONSISTENT WITH STATE AND FEDERAL REQUIREMENTS, INCLUDING § 6103(A) OF THE INTERNAL REVENUE CODE; AND

(III) IN COMPLIANCE WITH § 6103(B)(5)(B)(III) OF THE INTERNAL REVENUE CODE, BY SUBSTITUTING "COMPTROLLER" FOR "SECRETARY".

(2) THE COMPTROLLER SHALL ADEQUATELY SUPERVISE THE RECIPIENT OF THE TAX INFORMATION UNDER SUBSECTION (C)(9), (12), (14), (15), OR (16) OF THIS SECTION AT ALL TIMES.

13-208.

AN OFFICER, EMPLOYEE, FORMER OFFICER, OR FORMER EMPLOYEE OF A PERSON, GOVERNMENTAL ENTITY, OR TAX COMPLIANCE ORGANIZATION TO WHICH TAX INFORMATION HAS BEEN DISCLOSED UNDER § 13-203(C)(16) OF THIS SUBTITLE

MAY NOT DISCLOSE, IN ANY MANNER, ANY TAX INFORMATION OBTAINED IN ACCORDANCE WITH THE DATA USE AGREEMENT, UNLESS THE DISCLOSURE IS:

- (1) AUTHORIZED EXPRESSLY BY A LAW OF THIS STATE OR THE FEDERAL GOVERNMENT;**
- (2) AUTHORIZED BY THE DATA USE AGREEMENT; OR**
- (3) REQUIRED BY A COURT ORDER.**

13-1018.

An officer, employee, former officer, or former employee of the State [or of], a political subdivision of the State, **OR A PERSON, GOVERNMENTAL ENTITY, OR TAX COMPLIANCE ORGANIZATION TO WHICH TAX INFORMATION HAS BEEN DISCLOSED IN ACCORDANCE WITH § 13-203 OF THIS TITLE** who makes a disclosure in violation of Subtitle 2 of this title is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months or both.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2024.

Approved by the Governor, May 16, 2024.