

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

HB454/SB679

To help close the Tax Gap – the multi-billion-dollar difference between what the State of Maryland is owed in taxes, and what is paid – the Comptroller’s Office needs to partner with other public and private entities with expertise in complex tax compliance. While these relationships will help level the playing field and balance the state’s budget, it is critical to ensure adequate protections are in place for confidential tax data.

**What this bill does:** This bill has three key components:

1. Authorizes the Office of the Comptroller to enter into data-sharing arrangements with outside entities – such as the Multistate Tax Commission (MTC) and the Northeastern States Tax Officials Association (NESTOA) – to assist our Compliance Division with complex audit activities.
2. Requires a signed data use agreement for any and all data sharing relationships that involve taxpayer information.
3. Reinforces that individuals who come in contact with the disclosed tax data are not allowed to disclose unless expressly authorized in a binding data use agreement.

**Why this bill is important:** This bill is an important tool for the Office of the Comptroller to be proactive in developing partnerships that will allow the state to close the tax gap. Data partnerships will allow employees of the Comptroller’s Office to leverage outside partnerships to help them be more efficient and effective in their compliance roles.

Further, this bill significantly strengthens Maryland’s protections for confidential tax data by requiring binding data use agreements, and spelling out that unauthorized disclosure -even by people or entities that have a legal right to access the data - is not permitted and punishable under law. This will help the Comptroller’s Office do more to protect the vital data that belongs to Maryland’s taxpayers.



Brooke E. Lierman  
Comptroller of Maryland

Suggested Amendment Language follows:



# HOUSE BILL 454

Q7

41r1795  
CF 41r2991

By: **The Speaker (By Request - Office of the Comptroller)**

Introduced and read first time: January 22, 2024

Assigned to: Ways and Means

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## A BILL ENTITLED

AN ACT concerning

### **Disclosure of Tax Information - Tax Compliance Activity and Binding Data Use Agreements**

FOR the purpose of authorizing, subject to certain limitations, the disclosure of certain tax information to certain persons 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 to whom the information is to be disclosed to enter into a certain data use agreement; 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 **13-101, 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(1) 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 – General**

13-101

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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;**

**(2) AN INSTRUMENTALITY OF:**

**(I) 1 OR MORE STATES;**

**(II) 1 OR MORE POLITICAL SUBDIVISIONS OF A STATE; OR**

**(III) 1 OR MORE STATES AND POLITICAL SUBDIVISIONS OF STATES; AND**

**(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 ORGANIZATION” MEANS:**

**(I) AN ORGANIZATION THE PURPOSE OF WHICH IS TO ASSIST STATE TAX OFFICIALS IN TAX COMPLIANCE; AND**

**(II) WHOSE MEMBERSHIP CONSISTS SOLELY OF:**

1. STATES; OR
2. STATE TAX COLLECTORS, COMPTROLLERS, OR DIRECTORS OF REVENUE, AND THEIR EMPLOYEES, SO LONG AS MARYLAND IS A MEMBER OR PARTICIPANT IN THE ORGANIZATION.

13-201

In this subtitle, “tax information” means:

(1) ANY TAX OR INFORMATION RETURN, DECLARATION OF ESTIMATED TAX, EXTENSION OF TIME TO FILE A RETURN, OR CLAIM FOR REFUND BY, OR PROVIDED FOR OR PERMITTED UNDER, THE PROVISIONS OF 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 WHICH ARE SUPPLEMENTAL TO, OR A PART OF, THE RETURN SO FILED;

(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 REVENUE TAX RETURN;
- (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) 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) **SUBJECT TO SUBSECTION (G) OF THIS SECTION, FOR THE PURPOSE OF ASSISTING THE COMPTROLLER IN ANY TAX COMPLIANCE ACTIVITY, A GOVERNMENTAL ENTITY OR A TAX COMPLIANCE ORGANIZATION.**

**(F) WHEN DISCLOSING CONFIDENTIAL TAX INFORMATION UNDER SUBSECTION (C) OF THIS SECTION, THE COMPTROLLER MAY, IN ITS SOLE DISCRETION, REQUIRE THE PARTY TO WHOM THE INFORMATION IS TO BE DISCLOSED TO ENTER INTO A BINDING, WRITTEN DATA USE AGREEMENT, THE TERMS OF WHICH SHALL BE PRESCRIBED ACCORDING TO THE COMPTROLLER'S DATA SECURITY POLICIES AND BE CONSISTENT WITH STATE AND FEDERAL REQUIREMENTS.**

**(G) A PERSON OR GOVERNMENTAL ENTITY TO WHOM TAX INFORMATION IS DISCLOSED IN ACCORDANCE WITH SUBSECTION (C)(16) OF THIS SECTION:**

**(1) SHALL BE SUBJECT TO THE DIRECTION AND SUPERVISION OF THE COMPTROLLER 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.**

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