

SENATE BILL 552

Q7, Q3, Q4

9lr1059

By: **Senators DeGrange, Astle, Brinkley, Colburn, Conway, Currie, Dyson, Exum, Forehand, Garagiola, Gladden, Glassman, Greenip, Haines, Harrington, Harris, Jacobs, Jones, Kasemeyer, Kelley, King, Kittleman, Klausmeier, Lenett, Madaleno, McFadden, Middleton, Miller, Munson, Muse, Peters, Pugh, Raskin, Robey, Simonaire, Stoltzfus, Stone, and Zirkin**

Introduced and read first time: February 5, 2009

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Tax Amnesty Program**

3 FOR the purpose of requiring the Comptroller to waive certain penalties and interest
4 imposed for the nonpayment, nonreporting, or underreporting of certain taxes
5 under certain circumstances; establishing a period during which the
6 Comptroller shall grant amnesty; authorizing the Comptroller to enter into
7 certain agreements to provide a certain waiver under certain circumstances
8 with respect to certain taxes that a taxpayer agrees to pay in accordance with
9 certain terms and a certain schedule; requiring the Comptroller to submit a
10 certain report on the tax amnesty program; and generally relating to a tax
11 amnesty program for certain taxes.

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That:

14 (a) Subject to Section 2 of this Act, the Comptroller shall declare an amnesty
15 period for delinquent taxpayers from September 1, 2009, to October 31, 2009, both
16 inclusive.

17 (b) The amnesty period shall be applicable to the Maryland State and local
18 income tax, withholding taxes, sales and use taxes, and admissions and amusement
19 taxes.

20 (c) The waiver required under this Act applies to:

21 (1) Nonreporting of tax liability;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) Underreporting of tax liability; and

2 (3) Nonpayment of tax liability.

3 SECTION 2. AND BE IT FURTHER ENACTED, That:

4 (a) (1) Except as otherwise provided in this section, the Comptroller shall
5 waive all civil penalties (except previously assessed fraud penalties) and one-half of
6 the interest imposed against a taxpayer who:

7 (i) On or before December 31, 2008, failed to file a return
8 required or pay the tax imposed under the Tax – General Article for:

9 1. Individual income tax;

10 2. Corporate income tax;

11 3. Withholding tax;

12 4. Sales and use tax; or

13 5. Admissions and amusement tax; and

14 (ii) During the amnesty period:

15 1. Files a delinquent return and pays the tax, including
16 one-half of any interest, due under the return;

17 2. Pays the tax, plus one-half of any interest, due on a
18 previously filed return; or

19 3. With respect to delinquent tax due under a return
20 filed during the amnesty period or under a previously filed return, enters into an
21 agreement with the Comptroller under paragraph (2) of this subsection to pay the tax,
22 including one-half of any interest, in accordance with the terms and schedule
23 established in the agreement.

24 (2) (i) The Comptroller may at the Comptroller's discretion enter
25 into an agreement with a taxpayer to provide a waiver under this section with respect
26 to taxes that are not paid in full during the amnesty period but that the taxpayer
27 agrees to pay in accordance with the terms and schedule established under the
28 agreement.

29 (ii) Except as otherwise provided in this paragraph, the
30 required terms and schedule for payment under an agreement under this paragraph
31 are entirely at the discretion of the Comptroller.

1 (iii) An agreement under this paragraph shall provide for
2 payment in full of the delinquent tax plus one-half of the interest due on or before
3 December 31, 2010.

4 (iv) With respect to taxes that are subject to an agreement under
5 this paragraph:

6 1. The waiver of civil penalties and interest provided
7 under this section is void if the taxpayer fails to pay the full amount of taxes plus
8 one-half of any interest strictly in accordance with the terms and schedule established
9 in the agreement; and

10 2. The waiver provided under this section for one-half of
11 the interest imposed with respect to delinquent taxes does not apply to interest
12 accruing for periods after October 31, 2009, on amounts remaining unpaid after that
13 date.

14 (3) (i) In this paragraph, "corporate group" means an affiliated
15 group or controlled group of corporations under § 1504 or § 1563 of the Internal
16 Revenue Code.

17 (ii) The amnesty program under this section does not apply to:

18 1. Any taxpayer that as of September 1, 2009, has more
19 than 500 employees in the United States or is a member of a corporate group that has
20 more than 500 employees in the United States; or

21 2. Any taxpayer that was granted amnesty under the
22 2001 Maryland Tax Amnesty Program established under Chapter 275 of the Acts of
23 the General Assembly of 2001, with respect to the taxes for which the taxpayer
24 received amnesty under the 2001 Maryland Tax Amnesty Program.

25 (b) (1) Except as otherwise provided in this Act, a taxpayer may not be
26 charged with a criminal tax offense arising out of any return filed and tax paid during
27 the amnesty period or in accordance with an agreement entered into under subsection
28 (a)(2) of this section if the taxpayer, in accordance with the provisions of this Act:

29 (i) During the amnesty period:

30 1. Files a delinquent return and pays the tax, plus
31 one-half of any interest, due under the return; or

32 2. Pays the tax, plus one-half of any interest, due on a
33 previously filed return; or

34 (ii) With respect to delinquent tax due under a return filed
35 during the amnesty period or under a previously filed return:

1 1. Enters into an agreement with the Comptroller under
2 subsection (a)(2) of this section; and

3 2. Pays the full amount of taxes plus one-half of any
4 interest strictly in accordance with the terms and schedule established in the
5 agreement.

6 (2) The amnesty from criminal charges under paragraph (1) of this
7 subsection does not apply to:

8 (i) Any criminal charges pending in the courts of the State; or

9 (ii) Any criminal charges under investigation by an office with
10 the constitutional authority to prosecute a person for violation of criminal laws.

11 (3) For purposes of this subsection, an office with constitutional
12 authority to prosecute persons for violation of the criminal laws:

13 (i) Includes the Office of the Attorney General of Maryland, the
14 Office of the State Prosecutor, and the Office of the State's Attorney for any of the
15 political subdivisions of the State; and

16 (ii) Does not include the Office of the Comptroller.

17 (c) Except as expressly provided in this section, this Act does not authorize
18 the Comptroller to waive any interest charges or previously assessed fraud penalties.

19 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before March 15,
20 2010, the Comptroller shall report to the Governor and, subject to § 2-1246 of the
21 State Government Article, the General Assembly, on:

22 (1) The revenues raised under the amnesty program; and

23 (2) Other matters relating to the amnesty program.

24 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 June 1, 2009.