

# SENATE BILL 552

Q7, Q3, Q4

9lr1059

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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

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2009

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## CHAPTER \_\_\_\_\_

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.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

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

5 (1) Nonreporting of tax liability;

6 (2) Underreporting of tax liability; and

7 (3) Nonpayment of tax liability.

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

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

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

14 1. Individual income tax;

15 2. Corporate income tax;

16 3. Withholding tax;

17 4. Sales and use tax; or

18 5. Admissions and amusement tax; and

19 (ii) During the amnesty period:

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

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

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

29 (2) (i) The Comptroller may at the Comptroller's discretion enter  
30 into an agreement with a taxpayer to provide a waiver under this section with respect  
31 to taxes that are not paid in full during the amnesty period but that the taxpayer

1 agrees to pay in accordance with the terms and schedule established under the  
2 agreement.

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

6 (iii) An agreement under this paragraph shall provide for  
7 payment in full of the delinquent tax ~~plus one half of the interest~~ due on or before  
8 December 31, 2010.

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

11 1. The waiver of civil penalties and interest provided  
12 under this section is void if the taxpayer fails to pay the full amount of taxes ~~plus~~  
13 ~~one half of any interest~~ strictly in accordance with the terms and schedule established  
14 in the agreement; and

15 2. The waiver provided under this section for ~~one half of~~  
16 ~~the~~ interest imposed with respect to delinquent taxes does not apply to interest  
17 accruing for periods after October 31, 2009, on amounts remaining unpaid after that  
18 date.

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

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

23 1. Any taxpayer that as of September 1, 2009, has more  
24 than 500 employees in the United States or is a member of a corporate group that has  
25 more than 500 employees in the United States; ~~or~~

26 2. Any taxpayer that was granted amnesty under the  
27 2001 Maryland Tax Amnesty Program established under Chapter 275 of the Acts of  
28 the General Assembly of 2001, with respect to the taxes for which the taxpayer  
29 received amnesty under the 2001 Maryland Tax Amnesty ~~Program.~~ Program; or

30 3. Any taxpayer eligible for the July 1, 2004, through  
31 November 1, 2004, Settlement Period, as provided in Chapter 557 of the Acts of 2004,  
32 which was applicable to the Maryland corporation income tax assessed by the  
33 Comptroller based on issues that were ruled on by the Maryland Court of Appeals in  
34 the decisions in the Comptroller of the Treasury v. SYL, Inc., and the Comptroller of  
35 the Treasury v. Crown Cork & Seal Company (Delaware), Inc., 375 Md. 78 (2003),  
36 whether or not the taxpayer participated in the Settlement Period.

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

5 (i) During the amnesty period:

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

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

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

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

14 2. Pays the full amount of taxes ~~plus one-half of any~~  
15 ~~interest~~ strictly in accordance with the terms and schedule established in the  
16 agreement.

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

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

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

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

24 (i) Includes the Office of the Attorney General of Maryland, the  
25 Office of the State Prosecutor, and the Office of the State's Attorney for any of the  
26 political subdivisions of the State; and

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

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

30 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before March 15,  
31 2010, the Comptroller shall report to the Governor and, subject to § 2-1246 of the  
32 State Government Article, the General Assembly, on:

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.