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# Comptroller of Maryland

Maryland Collections



Nick Berger, ESQ.



# MEET THE SPEAKER

Director @ Frost Law – Nicholas.Berger@Frosttaxlaw.com

- Nick helps individuals and businesses with a variety of tax-related matters find relief through his efforts as a tax attorney. These include negotiations with the federal and state government agencies to adjust accounts and settle tax matters, criminal investigations, tax planning, and strategy development. His **experience working at the Comptroller of Maryland** gives him a distinctive outlook on corporate income tax, individual income tax, sales and use tax, withholding tax, and admissions and amusement tax matters.
- Nick also plays a key role in the development of the junior associates at the firm by providing day-to-day mentorship for professionalism and guidance for devising strategies and communicating with clients. As the Chair of the firm's Law Clerk and Internship Programs, Nick works to recruit and onboard talented law students who are interested in hands-on work helping clients with their issues.
- In the community, Nick serves as a member of the Maryland State Bar Association Taxation Law Section and the Anne Arundel Bar Association. In 2022 and 2023 he was recognized as a Super Lawyers Rising Star for his efforts in tax for individuals and businesses.



Maryland Tax Attorney

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# Comptroller Audits & Assessments

How Does the State of Maryland Notify You of a Pending Issue?

-QRDT Audits

-RAR

-CP2000

-Balance Due Notices

-Pending Audit Letter

-Refund Denial

Frequent complaint from taxpayers: No issues receiving collection notices, but never received initial inquiries.

-Sent via regular mail.

# Timeline to Assess

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## Individual Audits

- The Comptroller's Office has three (3) years to audit a tax return from the due date of the return or the date the return was filed, whichever is later.
- There is no statute of limitations when there has been a change made to the federal return by the IRS and the taxpayer fails to notify the Comptroller's Office within ninety (90) days of the final determination by the IRS. If the Comptroller's Office is notified within the ninety (90) days, the Comptroller's Office has one (1) year to assess the deficiency.
- If no return has been filed or if there is found to be fraud, there is no statute of limitations.

## Business Audits

- Sales & Use Tax: 4 year SOL
- Withholding Tax: 3 year SOL
- Admissions and Amusement Tax: 4 year SOL
- If Fraud/Gross Negligence, the Comptroller's Office can go beyond the SOL

# Post-Assessment: Ability to Challenge

- After an investigation or audit is completed, a Tax Computation Notice is issued breaking down the new liability.
- Approximately 30 days later, a Notice of Determination is issued.
- 30 days for a timely appeal to the Office of Hearings & Appeals: assessments & refund denials.
  - Burden is on the taxpayer to disprove any assessment or refund denial.
- Beyond the 30 day window, late appeal (No further appeal rights, no late appeal for refund denials – MAJOR ISSUE).
- Maryland Tax Court (no filing fees; cases start de novo; hears all cases post H&A & property tax assessments; appeal from there go through the state Court system up to the Supreme Court – ex. Wynne Case).

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# Appeals

- Dispute the liability/refund denial.
- Possible rescission; work for a partial adjustment, lowering the liability.
- Settlement.

## Risks

- Outside of the protection of the Appeals Process
  - No formal means to settle
    - Lack of Internal Guidelines. No version of an IRM.
    - Decisions often dictated by internal policy opposed to written rules.
    - Website difficult to navigate.
  - No hold on collection action
    - “Shoot first, ask questions later” mantra. Burden is on the taxpayer to challenge assessments and resolve outstanding liabilities.

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# Collection Actions

- License Holds
  - Professional Licenses
  - Driver's License Renewal; Vehicle Registration Renewal
- Garnishment of Wages
- Bank Levies
- Liens
- Revocation of Business Charters



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# License Holds

- Often requires a significant down payment and a short-term payment plan to release.
- Down payment can range from 10%-33% with plans limited to 24-36 months.
- Best deals are often made via “who you know”. Huge disadvantage to those without representation.
- Individuals with a hold on their driver’s license or vehicle registration are often unable to travel to work, which further prevents them from being able to pay their liability. Cyclical issue many taxpayers face in Maryland.

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# Revocation of Charter & Business Licenses

- Business' temporarily closed and unable to legally operate until issue is resolved.
- Typically requires a significant down payment and a short-term payment plan to release.
- Best deals are often made via "who you know".

# How to Address

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- Best idea: hire someone familiar with the Comptroller's Office or utilize one of the pro bono services available in the state (Maryland Voluntary Legal Services, Law School Tax Clinic).
- Contact Collections Department.
- Private Debt Collector.
- File an Offer in Compromise.

# Contacting Maryland Collections

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- Distinct Departments for Individual and Business Accounts.
- If you don't have any contacts, try 410-974-2432.
  - Long Wait.
  - Comparable to IRS' ACS line. Roll of the dice with who answers.
- Work your way up to a Manager via contacts/multiple phone calls.

# Options

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- A payment plan for 36 months or less to avoid the filing of a lien on individual accounts.
  - Typically 24 months for businesses, but this is fluid.
- If you need longer, prepare Maryland Form 433-A or 433-B.
  - A variation of the IRS' forms.
  - No list of allowable living expenses.
  - Plans as long as 99 months.
  - No CSED, but tax liens now only last 20 years.
- Ask for an abatement/settlement. Ability to full-pay can improve your deal.
  - Unlike the IRS, Maryland is open to wheeling and dealing.
  - Lack of uniformity amongst deals. Again, depends on who you know and what you know to ask for.

# Options continued

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- Economic Hardship
  - Newer Program, comparable to the IRS' Currently Not Collectible status.
  - Will need to show your inability to pay.
  - Unclear guidelines. No official requirements.
- Ombudsman's Office
  - Role is to point you in the right direction.
  - Currently no Taxpayer Advocate's Office.

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# Private Debt Collectors

- Volume of Cases
- Cold Cases sent here
- Pros & Cons

# Offer in Compromise Program



- Eligibility
  - Different from the IRS
  - Most recent assessment has to be > 2 years old
    - Bridging the gap to eligibility
- Prepare Form 656 & Form 433-A and/or Form 433B
- Narrative (encourage not required)
- No official formula like the IRS; no clear guidelines of what is accepted and why
  - Propose settlement terms
  - Older liabilities
  - Fact driven
- State can accept, counter or deny
- No appeals process



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# Big Change

- New Comptroller, Brooke Lierman
- How will this change policy? Official Guidelines? Taxpayer relations?



# KEEP IN TOUCH WITH US



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