

**UNIVERSITY OF BALTIMORE SCHOOL OF LAW  
FALL 2021**

**Course:** Maryland Taxes  
LAWT 966-491; LAWT 966-512; TAXA 656-185

**Instructors:**

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Office hours via phone or Zoom: Mondays 9am-11am, Wednesdays 7pm-8pm; or by appointment, day and evening times are available.

Plus other co-instructors from State of Maryland Comptroller's Office personnel and tax practitioner attorneys and CPAs for panel presentation of the topics.

**Days/Time:** Thursday evenings, August 26,2021 through December 2, 2021 / 6:15 to 9:00 pm

**Course Description:**

This course will explore the substantive law and procedure of the Maryland taxes administered by the Maryland Comptroller, with a particular focus on Maryland income tax, corporate tax and sales and use tax. Other Maryland taxes will be discussed briefly. In addition, this course will cover Maryland tax procedure, including how liabilities are calculated, types and methods of assessment, the dispute process, the state's authority to collect and collection alternatives available.

**Course Materials:**

LexisNexis paperback, Maryland Income Tax Law and Regulations, 2013 Edition (most recent), (ISBN: 978-1-4224-6481-6);

LexisNexis paperback, Maryland Sales and Use Tax and Admissions and Amusement Tax Law and Regulations, 2019 Edition, (ISBN: 978-1-5221-8939-8);

Maryland's current tax statutes are available online at

<http://mgaleg.maryland.gov/mgawebsite/Laws/Statutes>;

and Regulations ("COMAR": Code of Maryland Regulations) are available online at

<http://www.dsd.state.md.us/COMAR/ComarHome.html>

Other reading materials that will be posted to the course website or available on the State's websites.

NOTE to students: Materials have been carefully selected and detailed citations provided in the syllabus so that all can serve as useful resources for you following their use in the course; see additional note in the Topics/Assignments section.

**Student Learning Outcomes:**

The goal of the course is to expose the student to the broad array of Maryland's taxes and an understanding of how each is applied and administered, in the context of becoming prepared to be a professional advisor. Upon completion of the course, students should be able to identify and analyze issues related to Maryland taxation and be familiar with the taxpayers' responsibilities and rights, and the State's procedures for establishing and collecting tax liabilities and handling disputes/appeals.

**Grades:**

There will be a single three-hour limited open book/open notes exam at the end of the course, and one graded assessment during the course. Eighty percent of the student's grade will be based upon the graded assessment and final exam; twenty percent will be based upon in-class participation including analysis and discussion of the reading materials and occasional homework quizzes or writing assignments.

**Course Expectations:**

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work per week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours. Students are expected to complete the reading assignments and to consistently participate in class discussion to demonstrate that you have reflected on the issues raised and are practicing to be the professional advisor for which the course is preparing you.

**Attendance:**

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools. For this three-credit hour course that meets one day per week, more than two absences is considered unacceptable per ABA standards. While LL.M. and M.S. students should endeavor to attend each class, there is no attendance policy applying to these students.

**Course Web Site:**

This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

**Class Cancellation:**

If the instructor must cancel a class, notices will be sent to students via email.

**Academic Integrity:**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or the School of Law. Violations of academic integrity include, but are not limited to: cheating; plagiarism; misuse of library materials; use of another's book or study materials without consent; unapproved multiple submissions; material misrepresentation of one's academic history or standing; misrepresentation of any academic matter; intentionally giving another student false or inaccurate information about class requirements; inappropriate discussion of exams; and misrepresenting or falsifying class attendance reports. The School of Law Honor Code and information

about the process is available at  
[https://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/index.cfm](https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm).

### **Course Evaluations**

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

### **Title IX Sexual Misconduct and Nondiscrimination Policy:**

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

### **Disability Policy:**

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact Keri Hickey, Director of Student Support in the Office of Academic Affairs, at [khickey@ubalt.edu](mailto:khickey@ubalt.edu).

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**Topics / Assignments:** These are the scheduled topics and preliminary reading assignments for each class, subject to any new relevant court decisions or administration pronouncements, if any. At least two weeks before that class, we will be updating the assigned reading and posting additional resource items directly to the course website, so be sure to check TWEN. Many detailed citations have been provided in the syllabus for each discussion topic, both to facilitate the learning process and also for your use in the future as reference material. Students are not expected to read every word of every listed item; students should, however, at least skim the listed statutes, regulations, court decisions etc. to familiarize yourself with the topics and be prepared to participate in the class discussion about the issues raised in the readings. Remember that our goal is for you to be thinking like a professional advisor.

### **August 26, 2021 – Description of the course. and overview of Maryland's tax structure**

- Goals for and content of the course.
- Administrative matters.
- The Constitutional underpinnings of state taxation.
- Maryland's tax revenue picture.
- The structure of
  - the Comptroller's Office – responsibilities and taxes administered;
  - State Department of Assessments and Taxation (SDAT) – real and personal property taxes, transfer and recordation taxes;
  - Department of Labor (DLLR) – unemployment insurance "tax".
- A brief introduction/refresher on the major Constitutional limitations applicable to state taxation, primarily Due Process and the Commerce Clause.
- A brief review of how tax laws are made in Maryland, the General Assembly committees and processes; and how regulations are promulgated.
- Finding legislation, Fiscal and Policy Notes on the General Assembly website; information on the Comptroller's and other agencies' websites.
- Differences between federal taxation and state taxation.
- State's and taxpayers' rights and responsibilities.

- *Resources for reading:*
  - *Comptroller's Tax Tip #30: A Brief Look at Maryland Taxes:*  
[https://marylandtaxes.gov/forms/Miscellaneous\\_Tax\\_Tips/taxtip30.pdf](https://marylandtaxes.gov/forms/Miscellaneous_Tax_Tips/taxtip30.pdf)
  - *Maryland's finances, see page 18 for charts of revenues and expenses:*  
<https://marylandtaxes.gov/forms/CAFR/cafr2020.pdf>
  - *The Legislative Process:*  
<http://dls.maryland.gov/pubs/prod/NoPblTabLibResDocs/Legislative-Process.pdf>
  - *Legislative Handbook Series Volume III*  
[http://dls.maryland.gov/pubs/prod/RecurRpt/Handbook\\_Volume\\_3\\_MDs\\_Revenue\\_Structure.pdf](http://dls.maryland.gov/pubs/prod/RecurRpt/Handbook_Volume_3_MDs_Revenue_Structure.pdf)  
See starting on the PDF's page 14: chapter 1 on revenue structure and chapter 2 on overview of revenue sources
  - *The Maryland Taxpayer Bill of Rights*  
<https://marylandtaxes.gov/forms/taxpayer-bill-of-rights.pdf>

**September 2, 2021 – The U.S. Constitution, Federal Law, U.S. Supreme Court decisions and other courts' cases as they relate to state taxation; aka limits on the state's power to tax**

- Due Process Clause of the Constitution's 14<sup>th</sup> Amendment
- Commerce Clause of Article I of the Constitution
- Supremacy Clause of Article VI
- Import/Export Clause of Article I
- Equal Protection Clause of the 14<sup>th</sup> Amendment
- Privileges and Immunities Clause of Article IV
- U.S. Public Law 86-272 15 U.S.C. §§381-84, The Interstate Income Act of 1959
- *Readings (a summary will be provided; students should be familiar with the headnotes):*
  - Referenced parts of *The Constitution of the United States*: <https://constitutionus.com/>
  - U.S. Public Law 86-272 15 U.S.C. §§381-84
  - For Due Process:
    - *Miller Bros. v. Maryland*, 347 U.S. 964 (S.Ct. 1954)
    - *South Dakota v. Wayfair, Inc.*, 585 U.S. \_\_\_, 138 S. Ct. 2080 (S.Ct. 2018)
  - For Commerce Clause:
    - *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (S.Ct. 1977)
    - *Japan Line Ltd. v. County of Los Angeles*, 441 U.S. 434 (S.Ct. 1979)
    - *Quill Corporation v. North Dakota*, 504 U.S. 298 (S. Ct. 1992) [negated by *Wayfair*]
  - For Supremacy Clause:
    - *McCulloch v. Maryland*, 17 U.S. 316 (S.Ct. 1819)
    - *United States v. New Mexico*, 455 U.S. 720 (S.Ct. 1982)
    - *United States v. City of Detroit*, 355 U.S. 466 (S.Ct. 1958)
  - For Import-Export Clause:
    - *Michelin Tire Corp. v. Wages*, 423 U.S. 276 (S.Ct. 1976)
    - *Department of Revenue of the State of Washington v. Association of Washington Stevedoring Companies*, 435 U.S. 734 (S.Ct. 1978)
  - For Equal Protection Clause:
    - *Armour v. City of Indianapolis*, 566 U.S. 673 (S.Ct. 2012)
    - *Nordlinger v. Hahn*, 505 U.S. 1 (S.Ct. 1992)
  - For Privileges and Immunities Clause:
    - *Austin v. New Hampshire*, 420 U.S. 656 (S.Ct. 1975)
    - *Lunding v. New York Tax Appeals Tribunal*, 522 U.S. 287 (S.Ct. 1998)
  - For U.S. PL 86-272:

- *Wisconsin Department of Revenue v. William Wrigley Jr. Co.*, 5050 U.S. 214 (S.Ct. 1992)

### September 9, 2021 – Sales and use tax (A)

- The important concept of nexus, pre and post the U.S. Supreme Court’s decision in *Wayfair*.
  - Tax-General Article §11-102
  - COMAR Regulation 03.06.01.33
  - Comptroller’s Tax Alert re *Wayfair*:  
[https://taxes.marylandtaxes.gov/Resource\\_Library/Tax\\_Publications/Tax\\_Alerts/Maryland-Wayfair-Tax%20Alert-Final-Version%209-14-2018.pdf](https://taxes.marylandtaxes.gov/Resource_Library/Tax_Publications/Tax_Alerts/Maryland-Wayfair-Tax%20Alert-Final-Version%209-14-2018.pdf)
- Imposition of the tax; sales tax and complementary use tax; definition of retail sale.
  - §11-101 to 11-103; Reg. 03.06.01.28
- The tax rates: general sales tax rate and alcoholic beverages sales tax rate.
  - §11-104; 11-1A-03
  - Comptroller’s FAQ – Sales & Use Tax on Sales of Alcoholic Beverages:  
[https://taxes.marylandtaxes.gov/Resource\\_Library/Taxpayer\\_Assistance/Frequently\\_Asked\\_Questions/Business\\_Tax\\_FAQs/Alcohol\\_and\\_Tobacco\\_Tax/Alcoholic\\_Beverages\\_FAQs/](https://taxes.marylandtaxes.gov/Resource_Library/Taxpayer_Assistance/Frequently_Asked_Questions/Business_Tax_FAQs/Alcohol_and_Tobacco_Tax/Alcoholic_Beverages_FAQs/)
- The tax base.
  - Tangible personal property v. real property v intangibles: §11-101(k); Reg. 03.06.01.23
    - *Comptroller v. Steuart Investment Company*, Court of Appeals (03/01/88)
  - Taxable services v. non taxable services: §11-101(m)
  - Fabrication v. installation: §11-101(2)&(3); Reg. 03.06.01.30
    - *AT&T Information Services, Inc. v. Comptroller*, MD Tax Court (03/22/90)
  - Bundled Transactions
    - *Quotron Systems v. Comptroller*, Court of Appeals 02/25/80
  - Digital codes and digital products – NEW in 2021
    - HB932 of 2020, CH38 of 2021 following veto override:  
[http://mgaleg.maryland.gov/2020RS/Chapters\\_noln/Ch\\_38\\_hb0932e.pdf](http://mgaleg.maryland.gov/2020RS/Chapters_noln/Ch_38_hb0932e.pdf)
    - Amendments in SB787, CH 669, of 2021 (11-101, page 5):  
[http://mgaleg.maryland.gov/2021RS/Chapters\\_noln/CH\\_669\\_sb0787e.pdf](http://mgaleg.maryland.gov/2021RS/Chapters_noln/CH_669_sb0787e.pdf)
    - Comptroller’s Tax Tip #29:  
[https://www.marylandtaxes.gov/forms/Business\\_Tax\\_Tips/bustip29.pdf](https://www.marylandtaxes.gov/forms/Business_Tax_Tips/bustip29.pdf)
- Taxable price: §11-101(l); Reg. 03.06.01.08
  - Delivery charge; Installation charge; Trade-ins; Discounts; Vending Machines.
    - §11-104(i); §11-201.1
- Common exemptions: resale, production/manufacturing, R+D, other.
  - Production
    - §11-101(f)&(g); §11-210
    - Reg. 03.06.01.10(A)(1)-(4) and (C); Reg. 03.06.01.24; Reg. 03.06.01.30
    - Reg. 03.06.01.32-2
    - *Comptroller of the Treasury v. Disclosure, Inc.* Md Court of Appeals (12/04/96)
    - *Potomac Edison v. Comptroller*, Court of Special Appeals (04/29/19)
  - Resale
    - §11-101(h)(3)(ii); Reg. 03.06.01.14; 03.06.01.15
    - *The Macke Company et. al. v. Comptroller*, Court of Appeals (12/26/84)
  - Research & Development
    - §11-217
  - Exemption certificates requirements.
    - §11-408; Reg. 03.06.01.14

- *Comptroller v. Atlas General Industries*, Court of Appeals (03/09/64)
- *F&M Shaefer Brewing Co., v. Comptroller*, Court of Appeals (10/10/69)

As supplemental resources, the student may wish to review the Maryland Comptroller's Sales & Use Tax Tips as follows; these Tax Tips are found at

<https://marylandtaxes.gov/business/tax-compliance/business-tax-tips.php>

- [Tip 1 - Preparing Your Sales and Use Tax Return](#)
- [Tip 2 - What Sales Records Do I Need to Keep?](#)
- [Tip 3 - Sales and Use Tax on Out-of-State Purchases](#)
- [Tip 4 - Resale Certificates](#)
- [Tip 5 - How are Sales of Food Taxed in Maryland?](#)
- [Tip 6 - Retail Sales Involving Exemption Certificates](#)
- [Tip 7 - Are Repairs to Personal Property Taxable?](#)
- [Tip 8 - Computing Maryland's Sales and Use Tax](#)
- [Tip 9 - Sales and Use Tax Exemptions for Production Activities](#)
- [Tip 11 - Sales and Use Tax Exemptions for Agriculture](#)
- [Tip 12 - Fabrication Labor is Subject to Tax](#)
- [Tip 14 - Flea Market Sales are Subject to Tax](#)
- [Tip 16 - Maryland's Tire Recycling Fee and You](#)
- [Tip 17 - How to Prepare Your Maryland Tire Fee Report](#)
- [Tip 22 - Your Maryland Sales and Use Tax Packet](#)
- [Tip 27 - Sales and Use Tax Exemption for Caterers](#)
- [Tip 28 - Sales and Use Tax Exemption for Data Center Personal Property](#)
- [Tip 29 - Sales of Digital Products and Digital Code](#)

**September 16, 2021 – NO CLASS (Yom Kippur) – We will use the “snow day” scheduled for December 2 in order to recoup this time**

**September 23, 2021 -- Sales and use tax (B)**

More about specific exemptions and specifically taxable services:

- Occasional sales: §11-209; Reg. 03.06.01.12
- Capital transactions: 11-209; Reg. 03.06.01.13
- Other exemptions specified in statute.
  - §11-201 to 11-218
  - Interstate Commerce
    - §11-208, §11-404; Reg. 03.06.01.25 & .26
    - *Furnitureland South and Royal Transport v. Comptroller* Circuit Court for Anne Arundel County (08/13/99)
    - *W.R. Grace & Co v. Comptroller*, Court of Appeals (11/11/69)
    - *United Parcel Service, Inc. v. Comptroller*, Court of Special Appeals (12/09/86)
  - Software: §11-225; §11-219(b)&(c)
    - *Comptroller v. Equitable Trust Co.* Court of Appeals (08/11/83)
- Exempt organizations (501(c)(3)) purchases and sales, real estate construction, exemption certificates/entity's exemption number.
  - §11-204
  - Reg. 03.06.01.19(D)-(F)

- Reg. 03.06.01.22
- Sales to federal, state, and local governments.
  - §11-220
  - *McCullough v. Maryland* 17 US 316 (1819)
  - *United States v. New Mexico* 455 US 720 (1982)
- Drop shipments.
  - Reg. 03.06.01.14
  - Tax Tip #4
- Real property construction, improvement, repair v personal property installation.
  - Reg. 03.06.01.19
  - *Miles & Stockbridge v Comptroller*, MD Tax Court (12/14/92)
- Repairs to Tangible Personal Property: Reg 03.06.01.03
- Cleaning of Commercial Buildings: §11-101(c)
- Detective, guard and armored car services: §11-101(c-1); Reg 03.06.01.39
- Room rentals.
  - §11-101(a-3); 11-101(k); Reg. 03.06.01.23
  - Comptroller's Tax Alert – Accommodations
    - [https://taxes.marylandtaxes.gov/Resource\\_Library/Tax\\_Publications/Tax\\_Alerts/SUT\\_TaxAlert\\_May2016.pdf](https://taxes.marylandtaxes.gov/Resource_Library/Tax_Publications/Tax_Alerts/SUT_TaxAlert_May2016.pdf)
    - *Travelocity.com. v Comptroller*, MD Tax Court (12/18/17)
- Auto rentals and Peer to Peer Car Sharing.
  - §11-104
  - Comptroller's Tax Alert – Peer to Peer Car Sharing
    - [https://taxes.marylandtaxes.gov/Resource\\_Library/Tax\\_Publications/Tax\\_Alerts/8\\_2\\_18\\_SUT\\_Tax\\_Alert.pdf](https://taxes.marylandtaxes.gov/Resource_Library/Tax_Publications/Tax_Alerts/8_2_18_SUT_Tax_Alert.pdf)
- Application of Sales Tax to Other Specified Industries
  - Marketplace Facilitators: §11-101(c-2)
  - Advertising Agencies: Reg. 03.06.01.38
  - Brokers: Reg. 03.06.01.27
  - Prepaid telephone service: §11-108
  - Personal, Professional and Insurance Services: §11-219; Reg. 03.06.01.01
  - Online Fantasy Competitions: Reg 03.11.01.01
  - Signs: 03.06.01.36

## **September 30, 2021 -- Sales and use tax (C)**

### **Sales tax administration and procedure.**

- Computation of Tax: §11-301
- Invoice presentation of tax and vendor assumption: §11-302; §11-402
- Bulk sales reporting and taxation requirements.
  - Tax-Gen §11-505
  - Commercial Law Article §6-102 to 6-105
  - *Mr. Pizza II v. Comptroller*, MD Court of Special Appeals (11/28/01)
- Direct Pay Permits/Effective Rate Agreements.
  - Reg. 03.06.01.31; Reg. 03.06.01.42
- Time of collection and remittance of sales and use taxes.
  - §11-403; §11-501; §11-502; Reg. 03.06.01.21
- Officer liability.
  - §11-401; §13-102
  - *Steven T. Fox v Comptroller of the Treasury*; MD Court of Special Appeals 4/29/99

- Sales tax audits:
  - Examination, determination and enforcement: §13-301 to §13-304
  - Required documents and accounting records: §11-504; Reg. 03.01.03.03; Reg. 03.06.03.02
  - Anatomy of the audit: Document review by auditor, calculations including sampling and extrapolation, review by supervisor, closing meeting, workpapers and calculations submitted, offsetting underpayments and overpayments, assessment, appeal process if necessary, etc.
  - Assessments: §13-401 to §13-413
  - Application for Revision of Assessment or claim for refund: §13-508; Reg. 03.01.01.04; Reg. 03.06.03.05
  - Exhaustion of remedies: §13-514
  - Appeal to Tax Court: §13-510
- Applying for sales tax refund, who may file.
  - §13-901(a)&(g); §13-1102; §13-1104
- Other – for your information only, just know that these exist: some sales-tax-type taxes imposed in Maryland that are beyond the time we have in this course:
  - Motor Vehicle Titling Tax and Vessel Excise Tax – Administered by the Motor Vehicle Administration and Department of Natural Resources
    - Registration of vehicles and vessels, tax collection
    - <http://www.mva.maryland.gov/vehicles/registration/buy-vehicle.htm>
    - <https://dnr.maryland.gov/boating/pages/registration.aspx>
  - Motor fuel, alcohol, tobacco taxes
    - *Fuel tax statutes are found in Chapter 9 of the Tax-General Article.*
    - *Alcohol tax statutes are found in Title 5 of the Tax-General Article.*
    - *Tobacco tax statutes are found in Title 12 of the Tax-General Article.*
  - Boxing and Wrestling Tax
    - *See Tax-General 6-101 et seq*
    - <https://www.marylandtaxes.gov/business/boxing-wrestling/index.php>

### **October 7, 2021 -- Personal Income tax (A)**

- Residence and domicile:
  - MD Tax-Gen §10-101(k)
  - *Evans v. Comptroller of the Treas.*, 273 Md. 172, 328 A.2d 272 (1974).
  - *Shenton v. Abbott*, 178 Md. 526, 530 (1940).
  - 50 U.S.C. §4001(a)(1), 50 U.S.C. §4001(b).
  - Admin Rel. 1 and 37 (Military and Domicile)
- Filing Status:
  - §10-807 and COMAR 03.04.02.02
- Gross income, additions and subtractions
  - MD Tax-Gen §10-201, §10-203 through §10-210.2
- Deductions, itemized or standard.
  - MD Tax-Gen §10-217
  - COMAR 03.04.02.16
- Capital losses and carryforwards – COMAR 03.04.03.07
- Credits
  - MD Tax-Gen §10-701 through §10-748
  - COMAR 03.04.15
  - *Comptroller of the Treasury of Maryland v. Brian Wynne et ux.*, 135 S. Ct. 1787 (2015) with MD Tax-Gen §10-703 and §10-703.2.
- Exemption

- MD Tax-Gen §10-911
- Net operating losses
  - MD Tax-Gen §§10-210.1, 10-205(e)
- Maryland Form 502 and Instructions
- GILTI and FDII (Comptroller’s Tax Alerts)

**October 14, 2021 -- Personal income tax (B)**

- Nonresident taxation of income earned in Maryland
  - MD Tax-Gen §§10-101(j), 10.106.1, 10-806, 10-207, 10-208, 10-210, 10-211, 10-212, 10-219, 10-220
  - COMAR 03.04.02.03, 03.04.02.06, 03.04.02.07, 03.04.02.08, 03.04.02.09
- Composite Return
  - COMAR 03.04.02.04 and 03.04.07.05
- Part year residents.
  - MD Tax-Gen §10-805, 10-220
  - COMAR 03.04.02.12
- Nonresident real estate sales: withholding.
  - MD Tax-Gen §10-912
  - COMAR 03.04.12.08
- Form 505 and 505 NR and Instructions

**October 21, 2021 – Pass-through entity tax, fiduciary tax, estate/inheritance tax**

- **PTEs:**
  - Calculation and reporting of income, deduction and credit amounts.
  - Multistate apportionment.
  - The PTE tax (“withholding” tax) of Tax-Gen 10-102.1.
  - Composite returns.
  - Credit for other states’ taxes.
  - Business tax credits at the entity level.
    - *Tax-Gen sections 10-102.1, 10-305, and 10-401 and Regulations COMAR 03.04.02.04 and 03.04.07.01-.05 and Admin Releases 6, 8, and 25.*
    - *Form 510 and instructions are a good “picture” for understanding the above.*
  - Maryland’s PTE entity-level tax election.
    - *Tax-Gen section 10-102.1(b)(2)(ii)*
    - *Admin Release No. 6:*  
[https://www.marylandtaxes.gov/forms/Tax\\_Publications/Administrative\\_Releases/Income\\_and\\_Estate\\_Tax\\_Releases/ar\\_it6.pdf](https://www.marylandtaxes.gov/forms/Tax_Publications/Administrative_Releases/Income_and_Estate_Tax_Releases/ar_it6.pdf)
    - *PTE tax return instruction booklet:*  
[https://www.marylandtaxes.gov/forms/20\\_forms/PTE\\_Booklet.pdf](https://www.marylandtaxes.gov/forms/20_forms/PTE_Booklet.pdf)
- **Fiduciaries:**
  - Calculation and reporting of income, deduction and credit amounts.
  - Fiduciary nonresident beneficiary deduction.
    - *TGA sections 10-804, 10-813, 10-902, and 10-908(b) and Administrative Release 16.*
    - *Form 504 and instructions are a good “picture” for understanding the above.*
- **Estate/Inheritance taxes:**
  - Who/what is taxable
    - *Death tax statutes are found in Chapter 7 of the Tax-General Article.*
    - *Administrative Release No. 30*

## October 28, 2021 -- Corporate income tax (A)

- Nexus
  - *Xerox Corp. v. Comptroller*. 290 Md. 428 A.2d (1981); *Matthew Bender & Co. v. Comptroller*. 67 Md.App.693. 509 A.2d 702 (1986); *SYL, Inc. v. Comptroller, Md. T.C. Apr.26, 1999*; *Gore Enterprise Holdings, Inc. v. Comptroller of the Treasury*, 437 Md. 492, 87 A.3d 1263 (2014).
  - *Administrative Release No. 2*
- Calculation of Maryland modified income; conformity to federal IRC
- Maryland income when a corporation is part of a federal consolidated group.
- Decoupling modifications
- NOLs
- *Tax-Gen 10-301 to 10-310*; *COMAR 03.04.03.01 to .07*; *Administrative Release No. 9*; *Administrative Release No. 18*; *Form 500 and instructions*.

## November 4, 2021 -- Corporate income tax (B)

- Multistate apportionment
- Credits
- Treatment of special entities (501(c)(3), REITs, RICs, etc
- *Tax-Gen 10-401 to 10-601*; *skim Tax-Gen 10-701 to 10-750*; *COMAR 03.04.03.08, .09 and .10*; *skim COMAR .03.04.08.01 to .05*
- *Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274; *Comptroller v. Ramsay, Scarlett & Co.*, 302 Md. 825, 490 A.2d 1296 (1985); *Comptroller v. NCR Corp*, 313 Md. 118, 544 A.2d 764 (1988); *Gore* (2014, cite above).

## November 11, 2021 – Admissions and Amusement tax AND Abandoned Property Law AND Unemployment Insurance Contributions (aka unemployment tax)

- **Admissions and Amusement tax**
  - The tax base.
    - TGA sections 4-101 through 4-301 and Regulations 03.06.02.01 through 03.06.02.05; *Comptroller of the Treasury v. Clyde's of Chevy Chase, Inc., et al.* No. 11, September Term, 2003 <https://mdcourts.gov/data/opinions/coa/2003/11a03.pdf>
- **Abandoned Property Law (not a "tax," but administration of this law acts like a tax for the holder and for the Comptroller's Office)**
  - Commercial Law Article sections 17-101 through 17-103 and Comptroller's Regulations 03.05.02.01 through 03.05.02.04
- **Unemployment Insurance Tax – DLLR**
  - Rate setting, contribution notices, employer reporting.
  - Employer's Quick Reference Guide: <https://www.dllr.state.md.us/employment/empguide/empguide.pdf>

## November 18, 2021 – Real estate and personal property taxes and real property transfer/recording taxes

- **Real Estate Ad Valorem Tax – SDAT**
  - Residential and Commercial property.
  - Valuation, assessment, triennial process, exemptions.
  - LINK to SDAT assessors' manual <https://dat.maryland.gov/Pages/Procedures.aspx>
- **Business Personal Property Tax – SDAT**
  - Annual filing requirement by the businesses, Form 1 and Form 2.

- [https://dat.maryland.gov/SDAT%20Forms/PPR\\_Forms/2019\\_Form1PPR.pdf](https://dat.maryland.gov/SDAT%20Forms/PPR_Forms/2019_Form1PPR.pdf)
- [https://dat.maryland.gov/SDAT%20Forms/PPR\\_Forms/2019\\_Form2.pdf](https://dat.maryland.gov/SDAT%20Forms/PPR_Forms/2019_Form2.pdf)
- Valuation, depreciation.
- Exempt property.
- **Transfer and Recordation Taxes**
  - What is taxable
  - Tax-Property Article §12-101 to 12-118 and 13-101 to 13-505 on General Assembly website at <http://mgaleg.maryland.gov/webmga/frmStatutesText.aspx?article=gtp&section=12-101&ext=html&session=2020RS&tab=subject5> et seq

**November 25, 2021 -- NO CLASS (Happy Thanksgiving!)**

**November 30, 2021 – scheduled make-up day for Thanksgiving holiday**

**Tax-General Article Procedure**

- Filing returns is self-assessment of tax by individuals and businesses
  - MD Tax-Gen §§ 10-815 – 10-814
- Payment of tax: Withholding and estimated payment for/by individuals; estimated payments of businesses.
  - MD Tax-Gen §§ 10-815, 10-816, 10-820, 10-907, 10-908, 10-815
- Taxpayer requirement to report to Maryland the changes to federal return made by IRS.
  - MD Tax-Gen 13-409
  - *Maryland v. Ciotti*, 421, B.R. 202 (D. Md. 2008), aff'd, 638 F.3d 276, 2011 U.S. App. (4<sup>th</sup> Cir. Md.)
- Comptroller's compliance programs, information sharing with IRS: federal return with MD address and no MD return; comparing of federal income and deductions to Maryland return; algorithms for review for questionable returns (QRDT: Questionable Returns Determinations Team); others.
- Assessment when no return filed.
  - MD Tax-Gen §§13-303, 13-402
- Examination and audit of tax returns ("desk audit," additional information, adjustments)
  - MD Tax-Gen §§13-301, 13-302
- "Notice of Adjustment" issued following return processing review.
  - Taxpayer respond with additional information, supporting documents.
  - Appeal.
- Assessment notices, bill for additional tax; time for assessment.
  - MD Tax-Gen §§13-410, 13-413, 13-601, 13-602, 13-701, 13-832, 13-1101,
- Refund applications, interest and refund denials.
  - MD Tax-Gen §13-1104, 13-508, 13-603, 13-604, IRC §6511
  - Refund claim via amended return: IRS confirmation of corresponding federal amended
  - *Comptroller v. Jason Pharmaceuticals, Inc.*, 235 Md. App. 707 (2018).
- H&A Appeals, Tax Court Appeal, Judicial Review
  - MD Tax-Gen §§13-411, 13-508, 13-509, 13-508
  - COMAR 03.01.01.04
  - *American Bank Stationery Co. v. State*, 196 Md. 22, 75 A.2d 86 (1950). *Haskins et al.*, 298 Md. 681, 694 quoting *Labor Board v. Nevada Consolidated Copper Corp.*, 316 US 105, 106-107, 62 S.Ct. 960, 961 (1942).
  - *Normand v. Wal-mart.com USA LLC*, Louisiana Court of Appeal, 5th Circuit no 18-CA-21 (2018).

- Penalties
  - MD Tax-Gen §§13-703 through 13-705, 13-708
- Tax Collections and Other Offsets
  - MD Tax-General §§13-805, 13-1103, 13-812, 13-816, 13-821, 13-909, 13-915, 13-921, MD Health & Occup. §1-213
  - *Rossville Vending Mach. Corp. v. Comptroller of Treas.*, 114 Md.App. 346, 689 A.2d 1295 (1997).
- Personal Liability for Business Taxes
  - MD Tax-Gen §§11-601(d), 4-301, and 10-906
  - *Comptroller v. House*, 68 Md. App. 560, 568 (1985). *Comptroller of the Treasury v. D. Bruce Poole*, MD State Tax Reporter ¶¶ 201-535 (Apr. 10, 1996) citing Md. Ct. Spec. App., Decision No. 966, Apr. 10, 1996.
- Relief Provisions
  - MD Tax-Gen §§13-606, 13-714, 13-816(c), 13-908
- Appealing the Comptroller’s Notice of Final Determination, Maryland Tax Court procedure:
  - MD Tax-Gen §§13-514 through 13-516, 13-523, 13-524, 13-529, 13-532,
  - *Holzeid v. Comptroller of Treasury of Maryland, et al.*, 240 Md.App. 371, 205 A.3d 43 (2019).
  - *Frey v. Comptroller of the Treasury*, 422 Md. 111, 29 A.3d 475 (2011) cert, denied 132 S. Ct. 1796, 2012.
  - *Comptroller of Treas. V. World Book Childcraft Int’l, Inc.*, 67 Md.App. 424, 508 A.2d 148, cert denied, 307 Md. 260, 513 A.2d 314 (1986).

**December 2, 2021 – Semester review; selection of topics will be student-driven.**

**December – Exam date will be scheduled by the university.**

**Best wishes, and thanks for joining us.**