



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

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August 21, 2024

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Jared Solomon, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a review of data provided to us by the Comptroller of Maryland – Office of the Comptroller and the Comptroller’s Revenue Administration Division (RAD) relating to tax year 2021 individual income tax returns that included a claim for a Pass Through Entity (PTE) tax credit.¹ Our review was conducted as a follow-up to our most recent audit report on RAD dated January 22, 2024 which included an informational comment addressing an allegation received through our fraud, waste, and abuse hotline regarding extensive delays in refunds claimed on personal income tax returns that included a PTE credit.

We conducted the review under the authority of State Government Article, Section 2-1220 of the Annotated Code of Maryland. This review was not an audit, and we made no recommendations related to our review. Our RAD audit report noted a September 19, 2023 letter from the Office of the Comptroller to tax professionals acknowledging challenges in processing returns claiming the PTE credit. The letter attributed the delays to the complexity of returns filed, lack of staff, and outdated technology and outlined the steps being taken and the progress being made to address these challenges and delays, as well as steps that tax professionals can take to help expedite return processing.

During our audit, RAD advised us that as of October 2023, the majority of the outstanding credits for tax year 2021 had been resolved. We requested detailed documentation from RAD to support the number of returns with PTE credits received and the number that were still not processed. RAD was unable to provide the requested information prior to the issuance of our

¹ State law provides that a member of a PTE, such as a partner in a partnership, may claim a credit on their personal income tax return for taxes paid by the PTE attributable to the member’s share of the PTE’s taxable income.

report. As a result, we were unable to determine the disposition of the PTE credits to determine the veracity and disposition of the allegation.

In April 2024, RAD provided us with a report which indicated that, as of April 4, 2024, a total of 76,684 individual income tax returns claiming PTE credits totaling \$1.9 billion had been received for tax year 2021. According to the report, of the total returns received, 76,110 had been fully processed, and 574 returns with PTE credits totaling \$6.2 million were still pending. We performed various tests of the tax year 2021 data provided to us by RAD and determined that the data were sufficiently reliable for the purposes the data were used during our review. Figure 1 shows the number of days it took to process the aforementioned 76,110 returns, all of which were processed within 779 days, with approximately 74 percent processed within 180 days or 6 months.

The time taken to process these returns may be due to issues unrelated to the PTE credit and could be the result of multiple factors, certain of which are beyond RAD's control. Specifically, processing time could be impacted by how RAD allocates its resources, the completeness and accuracy of the tax return submitted, and the taxpayer's timeliness in submitting any required follow-up information and supporting documentation requested by RAD.

Figure 1
Processing Time for 76,110
Tax Returns

Days to Process	Count of Returns	Cumulative Percent
0 to 22	18,747	24.6%
23 to 59	21,219	52.5%
60 to 119	11,597	67.7%
120 to 179	5,003	74.3%
180 to 239	5,816	82.0%
240 to 299	5,307	88.9%
300 to 359	2,947	92.8%
360 to 419	1,666	95.0%
420 to 479	1,033	96.4%
480 to 539	1,727	98.6%
540 to 599	448	99.2%
600 to 659	317	99.6%
660 to 719	262	99.9%
720 to 779	21	100.0%
Total	76,110	

Source: RAD provided report of all Tax Year 2021 returns that included PTE credits

During our current review, we inquired as to whether RAD had addressed the staffing and technology issues noted in the Comptroller's letter, which contributed to the delayed processing of the PTE credits. RAD advised us that it enhanced its automated system to more efficiently process the PTE credits and reduce the staff resources needed.

We did not test the functionality of the enhancements claimed by RAD, but did request and receive data on tax year 2022 individual income tax returns claiming a PTE credit. We performed various tests of the data and determined that the data were sufficiently reliable. According to the data, as of May 8, 2024, RAD had received, 80,989 returns that claimed PTE credits totaling \$1.6 billion, of which 80,293 had been fully processed, and 696 with PTE credits totaling \$1.1 million were still pending. The aforementioned 80,293 returns were processed within 440 days according to the report, with approximately 93 percent processed within 180 days or 6 months.

August 21, 2024

RAD is continuing to process the outstanding returns with PTE credits for both tax years 2021 and 2022.

Sincerely,

Brian S. Tanen

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cc: Senator William C. Ferguson IV, President of the Senate
Delegate Adrienne A. Jones, Speaker of the House of Delegates
Senator Guy J. Guzzone, Chair, Senate Budget and Taxation Committee
Delegate Benjamin S. Barnes, Chair, House Appropriations Committee
Comptroller Brooke E. Lierman
Andrew M. Schaufele, Chief Deputy Comptroller
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