

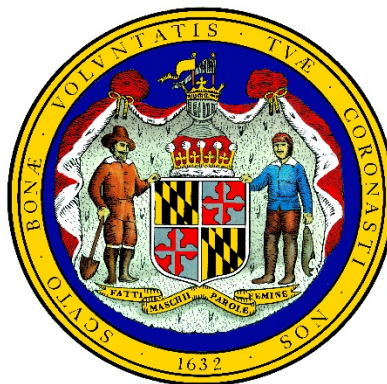
# Audit Report

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## Comptroller of Maryland Compliance Division

May 2024

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**OFFICE OF LEGISLATIVE AUDITS**  
DEPARTMENT OF LEGISLATIVE SERVICES  
MARYLAND GENERAL ASSEMBLY

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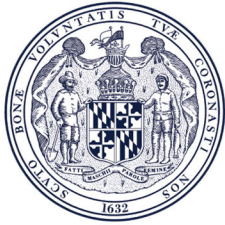
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Victoria L. Gruber  
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES  
OFFICE OF LEGISLATIVE AUDITS  
MARYLAND GENERAL ASSEMBLY

Gregory A. Hook, CPA  
Legislative Auditor

May 3, 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 fiscal compliance audit of the Comptroller of Maryland (COM) – Compliance Division for the period beginning March 18, 2019 and ending March 15, 2022. The Division is primarily responsible for enforcement of all tax laws administered by COM, including those relating to individual income taxes and business taxes such as corporate income, withholding, and sales and use taxes. The Division was also responsible for administering the Uniform Disposition of Unclaimed Property Act.

Our audit disclosed that the Division did not always assess penalties when holders of unclaimed property failed to remit such property to the Division. During the audit period such assessments were required by law; however, the applicable law has since been modified to permit the Division to waive the penalties, yet the Division had not formalized a policy on the penalty waiver process. In addition, the Division did not ensure that adjustments to business tax accounts processed by one Division unit were reviewed by supervisory personnel.

Our audit also disclosed that the Division did not conduct required supervisory reviews of State payments to taxpayers released from the Liability Intercept Program, and that the Division only conducted a minimal number of Bay Restoration Fee audits and excluded the entities that collected the majority of these fees.

Finally, our audit included a review to determine the status of the five findings contained in our preceding audit report. We determined that the Division satisfactorily addressed three of those findings. The remaining two findings are repeated in this report.

COM's response to this audit, on behalf of the Division, is included as an appendix to this report. We reviewed the response to our findings and related recommendations, and have concluded that the corrective actions identified are sufficient to address all issues.

We wish to acknowledge the cooperation extended to us during the audit by the Division. We also wish to acknowledge COM's and the Division's willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

A handwritten signature in black ink that reads "Gregory A. Hook". The signature is written in a cursive style with a large, stylized 'G' and 'H'.

Gregory A. Hook, CPA  
Legislative Auditor

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## **Background Information**

### **Agency Responsibilities**

The Compliance Division's primary responsibilities include enforcement of all tax laws administered by the Comptroller of Maryland (COM), including those relating to individual income taxes, as well as business taxes such as corporate income, withholding, and sales and use taxes. Primary functions include conducting taxpayer audits and investigations, collecting delinquent taxes, and performing other taxpayer compliance activities. In conjunction with these functions, the Division levies tax assessments and processes tax appeals. Collection tools used by the Division include filing tax liens, issuing bank attachments, employing independent collection agencies, and other steps such as preventing the renewal of an individual's driver's license. The Division uses the COM's automated State of Maryland Tax system to access, retrieve, and record tax data and other information as necessary. The Division was also responsible for administering the Uniform Disposition of Unclaimed Property Act.

According to the Division's records, as of June 30, 2022, outstanding individual income taxes (excluding interest and penalties) and business taxes that were subject to collection by the Division totaled approximately \$1.0 billion and \$473.4 million, respectively. These amounts represent a significant increase from prior years. As of June 30, 2019, outstanding individual income taxes (excluding interest and penalties) and business taxes that were subject to collection by the Division totaled approximately \$617.9 million and \$364.3 million, respectively. Per the Division, the significant increases in outstanding taxes subject to collection from fiscal year-end 2019 to 2022, were due primarily to the effects of the COVID pandemic, which delayed collection efforts for an extended period (March 2020 to August 2021).

According to the State's records, during fiscal year 2022, the Division's expenditures totaled approximately \$34.5 million (see Figure 1 on the following page) and collections from its enforcement programs totaled \$616.6 million.

**Figure 1**  
**Division Positions, Expenditures, and Funding Sources**

<b>Full Time Equivalent Positions as of June 30, 2022</b>		
	<b>Positions</b>	<b>Percent</b>
Filled	323	85.4%
Vacant	45	11.9%
Frozen	1	0.3%
Closed	9	2.4%
<b>Total</b>	<b>378</b>	
<b>Fiscal Year 2022 Expenditures</b>		
	<b>Expenditures</b>	<b>Percent</b>
Salaries, Wages, and Fringe Benefits	\$28,372,302	82.3%
Technical and Special Fees	249,828	0.7%
Operating Expenses	5,865,263	17.0%
<b>Total</b>	<b>\$34,487,393</b>	
<b>Fiscal Year 2022 Funding Sources</b>		
	<b>Funding</b>	<b>Percent</b>
General Fund	\$23,840,845	69.1%
Special Fund	10,646,548	30.9%
<b>Total</b>	<b>\$34,487,393</b>	

Source: State financial and personnel records

## Organizational Change

Effective January 2023, COM transferred the Hearings and Appeals Unit and the Unclaimed Property Unit from the Compliance Division to a newly formed Law and Oversight Office, as their own Divisions. The Hearings and Appeals Division conducts administrative reviews and holds hearings for disputed tax cases. The Unclaimed Property Division is responsible for administering the Uniform Disposition of Unclaimed Property Act. The activities of Hearings and Appeals and Unclaimed Property through March 15, 2022 were included in this audit.

## Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the five findings contained in our preceding audit report dated December 18, 2020. As disclosed in Figure 2, we determined that the Division satisfactorily addressed three of these findings. The remaining two findings are repeated in this report.

**Figure 2**  
**Status of Preceding Findings**

<b>Preceding Finding</b>	<b>Finding Description</b>	<b>Implementation Status</b>
Finding 1	The Division did not consistently perform three of its available compliance programs designed to identify and pursue certain individuals who failed to file required tax returns or report all income.	Not repeated
Finding 2	The Division did not ensure that tax assessments for businesses that failed to file required tax returns were prepared and recorded timely in accordance with its procedures.	Not repeated
Finding 3	The Division did not adequately control critical adjustments to taxpayer accounts in COM's automated State of Maryland Tax system.	<b>Repeated</b> (Current Finding 2)
Finding 4	The Division did not assess penalties, as required by law, when holders of unclaimed property failed to remit such property to the Division.	<b>Repeated</b> (Current Finding 1)
Finding 5	The Division did not ensure that manual calculations of interest and penalties included in sales and use tax assessments were accurate, which resulted in incorrect interest and penalties being assessed on certain taxpayers.	Not repeated



## Findings and Recommendations

### Unclaimed Property

#### **Finding 1**

**The Division did not always assess penalties when holders of unclaimed property failed to remit such property to the Division.**

#### **Analysis**

During the audit period, the Division did not always assess required penalties when holders of unclaimed property, such as financial institutions and insurance companies, failed to report and remit the property to the Division. Further, when the State law that was in place during the audit period that required a penalty assessment was modified effective October 1, 2022 to permit the Division to waive penalties, we found that the Division had not formalized a policy or process for waiving penalties.

State law provides that unclaimed property, such as savings accounts, shall be reported and remitted by the property holder to the Division annually. In general, property is assumed to be abandoned when there is no owner contact with the holder regarding the property for three years. State law in effect during the audit provided that if unclaimed property is not remitted by the holder when required, a financial penalty equal to 15 percent of the property value is to be imposed on the holder. However, we were advised by Division management that the Division's unofficial policy had been to not assess this penalty when property is identified by its independent contractors to maintain a positive working relationship with property holders.

The Division uses several independent contractors to perform nationwide audits to help identify and recover unreported unclaimed property owned by Maryland residents. However, when the contractors identified unclaimed property not previously reported and remitted, the Division did not assess the required penalties on the property holder for failing to report and remit the unclaimed property on their own. According to the Division's records, between July 2019 and March 2022, unreported unclaimed property totaling approximately \$71.5 million was identified by the contractors that was subsequently to be transferred to the State. The Division's practice of not assessing penalties resulted in the State not collecting approximately \$10.7 million (15 percent of the value of the property) from the related property holders for failing to remit the unclaimed property.

Timely submission by holders of unclaimed property is critical to ensure the Division can facilitate the return of the funds to the rightful owner. Furthermore, the Division paid commissions totaling \$7.6 million (6 to 12 percent of the identified amount remitted to the State) to the audit contractors during the aforementioned period. Since these commissions are paid using State funds, the assessment of penalties would offset the audit costs to the State.

This condition was commented upon in our preceding audit report. In response to that report, the Comptroller of Maryland (COM), on behalf of the Division, stated that by April 2021, it would consult with its legal counsel and seek legislative sponsorship to amend the law to authorize COM to exercise discretion in waiving the penalty. In addition, the response indicated that by June 2021, COM would consult with its counsel to determine the feasibility of retroactively assessing penalties.

During the 2022 legislative session, the law was amended to permit COM to waive the 15 percent penalty effective October 1, 2022. However, as noted above, assessments were waived prior to the law change. In addition, COM had not established formal written policies and procedures governing when waivers would be issued or the approval process required for the waivers. Finally, the Division had not consulted with its counsel regarding the feasibility of retroactive assessments, during the period prior to the aforementioned law change granting COM discretion over penalty assessments.

### **Recommendation 1**

**We recommend that the Division**

- a. consult with legal counsel to determine the feasibility of retroactively assessing penalties for unremitted unclaimed property identified prior to implementation of the aforementioned law (repeat), and**
- b. develop formal policies and procedures governing waivers of assessments including criteria for the waiver and the related approval process.**

## **Adjustments to Taxpayer Accounts**

### **Finding 2**

**Adjustments to business taxpayer accounts processed by one Division unit were not always reviewed by supervisory personnel as required.**

### **Analysis**

Adjustments to business taxpayer accounts processed by one Division unit were not always reviewed by supervisory personnel as required by COM procedures.

Specifically, we identified 29 months during which required reviews had not been performed by this unit even though the unit processed adjustments totaling at least \$45.1 million during these months.<sup>1</sup> The unit processes adjustments that may increase or decrease a taxpayer's liability due to field audits conducted. Furthermore, our test of ten adjustments that reduced taxpayer liabilities by \$4.1 million but had not been reviewed disclosed one adjustment totaling \$578,482 that lacked adequate supporting documentation, such as documentation supporting the accuracy of the amount processed.

Division management advised us that due to limitations with its automated system it cannot establish online controls over critical adjustments, and instead relies on supervisory reviews of output reports of critical transactions processed. However, our review disclosed that supervisory reviews were not performed for any adjustments processed by the Division unit between November 2019 and November 2021 and between March 2022 and June 2022.

A similar condition was noted in our two preceding audit reports. In its response to our preceding report, COM, on behalf of the Division, agreed to ensure that all critical adjustments to taxpayer accounts are reviewed and approved in accordance with established procedures by April 2020. As noted above, the reviews were not completed and the Division did not have a specific reason for the lack of reviews during the months noted.

## **Recommendation 2**

### **We recommend that the Division**

- a. ensure that critical adjustments to taxpayer accounts identified on output reports are reviewed by an independent supervisor, and that adequate documentation supporting the adjustments and their independent review and approval is maintained (repeat); and**
- b. ensure that adequate supporting documentation is maintained for all adjustments processed.**

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<sup>1</sup> A limitation exists within the automated system used by the Division that prevents the Division or us from readily determining the exact total of adjustments processed by the unit.

## **Liability Intercept Program**

### **Finding 3**

**The Division did not conduct required supervisory reviews of State payments to taxpayers released from the Liability Intercept Program.**

### **Analysis**

Supervisory reviews of State payments to taxpayers released from the Liability Intercept Program were not conducted as required. COM can withhold a State payment to satisfy a liability of \$50 or more due to the State. Some or all of the payment may subsequently be released to the taxpayer after payment of the debt to the State or in certain other circumstances, such as establishment of a payment plan. Division employees can unilaterally release payments withheld due to tax debts, such as those relating to sales and use tax, withholding tax, and corporate or individual income tax; and consequently, the Division has a policy requiring daily supervisory review of these released payment transactions.

Our review disclosed that as of March 10, 2023, supervisors had not reviewed output reports of these released payments since August 16, 2021. According to its records, the Division released approximately 25,000 payments, each exceeding \$100 and totaling approximately \$534.2 million between August 2021 and June 2022. The Division's written procedures require daily supervisory reviews of output reports of released payments. The supervisor is to document their review of one release on every two pages of the report, to help ensure that payments released were proper. According to Division management, when collection efforts resumed after the COVID pandemic in August 2021, these reviews were not performed due to time constraints imposed by implementation of a new tax system, required system training, and responding to a high volume of taxpayer correspondence.

### **Recommendation 3**

**We recommend that the Division**

- a. ensure that required supervisory reviews are performed and documented, and**
- b. review released payments during the aforementioned period and take corrective action for any unsupported or improper funds released.**

## Bay Restoration Fee

### **Finding 4**

**The Division only conducted a minimal number of Bay Restoration Fee (BRF) audits and excluded the entities that collected the majority of these fees.**

### **Analysis**

The Division only conducted a minimal number of BRF audits and no audits were conducted of entities that collected the majority of these fees. Specifically, the Division did not audit local governments or designated billing authorities even though these entities remitted \$300.7 million of the \$305.5 million in BRFs submitted to COM in fiscal year 2022. Of the 217 entities that remitted fees for that year, we determined that 108 were local governments or designated billing authorities. Furthermore, according to the Division's records, overall only 17 audits were conducted between October 2016 and June 2022.

State law provides for the assessment of a BRF for any user of a wastewater facility, an on-site sewage disposal system, or a holding tank that is located in Maryland or serves a Maryland user. The amounts of the fees are established in law and are initially collected by billing authorities authorized by the State's Department of Environment, which include local governments and designated billing authorities, as well as private entities, such as a condominium association or a mobile home park. All fees are forwarded to COM on a quarterly basis, along with a return form specifying fees due and collected for deposit into the State's Bay Restoration Fund to provide funding for upgrading wastewater treatment facilities.

The Division conducts periodic audits of the entities that initially collect the fees to help ensure that the required fees are collected and forwarded to COM. Division management advised us that the BRF audits historically have not generated significant recoveries. However, as noted above, the most material entities are not subject to audit, and the number of audits is limited. During our audit period 10 BRF audits were conducted, including 8 that resulted in assessments totaling \$270,358.

### **Recommendation 4**

**We recommend that the Division develop a formal plan to subject all entities collecting BRFs to audit, including those noted above, which considers factors such as materiality, risk, and prior audit findings.**

## **Audit Scope, Objectives, and Methodology**

We have conducted a fiscal compliance audit of the Comptroller of Maryland (COM) – Compliance Division for the period beginning March 18, 2019 and ending March 15, 2022. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine the Division's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included the identification, assessment, and collection of individual income taxes and various business taxes; and the identification, collection, and distribution of unclaimed property. We also determined the status of the findings contained in our preceding audit report.

Our audit did not include certain support services provided to the Division by COM – Office of the Comptroller. These support services (such as processing of invoices, maintenance of accounting records, human resources, and related fiscal functions) are included within the scope of our audit of the Office of the Comptroller. In addition, our audit did not include certain support services provided to the Division by COM – Central Payroll Bureau, effective January 1, 2018. These support services (payroll processing) are included within the scope of our audit of the Central Payroll Bureau since that date. Furthermore, our audit did not include certain support services provided to the Division by COM – Information Technology Division related to the monitoring of information technology equipment and services and the operation of the Annapolis Data Center. The operation of the Annapolis Data Center includes the development and maintenance of Division applications and maintenance of the operating system and security software environment. These support services are included in the scope of our audit of the Information Technology Division.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit

period of March 18, 2019 to March 15, 2022, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of the Division's operations.

Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical audit sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data), as well as from the contractor administering the State's Corporate Purchasing Card Program (credit card activity). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from these sources were sufficiently reliable for the purposes the data were used during this audit.

We also extracted data from COM's automated State of Maryland Tax system, and the systems used by the Division to account for and monitor unclaimed property and business tax collections for the purpose of testing certain areas, such as collection activity and the disposition of unclaimed property. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

The Division's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations, including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities,

information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to the Division, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect the Division's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes findings regarding significant instances of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to the Division that did not warrant inclusion in this report.

The response from COM, on behalf of the Division, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise COM regarding the results of our review of its response.



**Exhibit 1**  
**Listing of Most Recent Office of Legislative Audits**  
**Fiscal Compliance Audits of Comptroller of Maryland Divisions**  
**As of March 2024**

Name of Audit		Areas Covered	Most Recent Report Date
1	Revenue Administration Division	<ul style="list-style-type: none"> <li>• Processing, evaluating, verifying, and recording of tax data as reported by taxpayers and other parties</li> <li>• Collection of tax receipts</li> <li>• Distribution of tax refunds</li> </ul>	01/22/24
2	Central Payroll Bureau	<ul style="list-style-type: none"> <li>• Management of the State payroll system</li> <li>• Non-budgeted funds maintained for payroll deductions</li> <li>• Critical information systems</li> <li>• Support services to other units of the Comptroller for processing payroll timekeeping records</li> </ul>	10/05/23
3	Information Technology Division (Fiscal Operations)	<ul style="list-style-type: none"> <li>• Procurement</li> <li>• Equipment</li> <li>• Support services to other units of the Comptroller for monitoring information technology related services and maintaining information technology equipment inventory records</li> </ul>	02/02/22
4	Field Enforcement Bureau	<ul style="list-style-type: none"> <li>• Confiscated property</li> <li>• Business licenses</li> <li>• Routine inspections</li> </ul>	09/07/21
5	General Accounting Division	<ul style="list-style-type: none"> <li>• State agency vendor payment processing</li> <li>• Vendor table maintenance</li> <li>• State agency working funds</li> <li>• Corporate purchasing card program</li> </ul>	11/09/20
6	Information Technology Division – Annapolis Data Center Operations	<ul style="list-style-type: none"> <li>• Maintenance and monitoring of mainframe operating system, various security functions, and critical databases</li> </ul>	07/27/20
7	Office of the Comptroller Bureau of Revenue Estimates	<ul style="list-style-type: none"> <li>• Capital grants monitoring</li> <li>• Procurement and disbursements</li> <li>• Corporate purchasing cards</li> <li>• Support services to other divisions of the Comptroller, such as processing invoices, maintenance of accounting records, human resources, and related fiscal functions</li> </ul>	08/29/19

## APPENDIX



## COMPTROLLER of MARYLAND

**Brooke E. Lierman**  
*Comptroller*

**Edward F. Wykowski III**  
*Director*  
*Compliance Division*

April 12, 2024

Mr. Gregory A. Hook, CPA  
Legislative Auditor  
Office of Legislative Audits  
The Warehouse at Camden Yards  
351 West Camden Street, Suite 400  
Baltimore, MD 21201

Dear Mr. Hook:


Enclosed is the Comptroller of Maryland's response to your fiscal compliance audit report of the Comptroller of Maryland – Compliance Division for the period beginning March 18, 2019 and ending March 15, 2022.

We have carefully reviewed each finding and believe that our written responses satisfy each recommendation in the report. If any additional information is needed, please contact Lindsay Welsh, Deputy Director – Compliance Division at [lwelsh@marylandtaxes.gov](mailto:lwelsh@marylandtaxes.gov) or by phone at 410-260-6156.

The Comptroller appreciates your objective and fair appraisal of our operations and the associated recommendations made for improvement. We would also like to commend your audit team for their professionalism during the audit, and for performing a thorough review of the Compliance Division.

  
Compliance Director

April 12, 2024  
Date

  
Agency Head

04/16/2024  
Date



# Comptroller of Maryland Compliance Division

## Agency Response Form

### Unclaimed Property

#### **Finding 1**

**The Division did not always assess penalties when holders of unclaimed property failed to remit such property to the Division.**

**We recommend that the Division**

- a. consult with legal counsel to determine the feasibility of retroactively assessing penalties for unremitted unclaimed property identified prior to implementation of the aforementioned law (repeat), and**
- b. develop formal policies and procedures governing waivers of assessments including criteria for the waiver and the related approval process.**

<b>Agency Response</b>			
<b>Analysis</b>	<b>Factually Accurate</b>		
<b>Please provide additional comments as deemed necessary.</b>	The finding is factually accurate in the sense that penalties were not always assessed during the audit period. It is important to note that amendments to the statute (Commercial Law, § 17-323) effective October 1, 2022, gave the Comptroller (COM) discretion to waive penalties when holders of unclaimed property failed to remit such property.		
<b>Recommendation 1a</b>	Agree	<b>Estimated Completion Date:</b>	04/30/24
<b>Please provide details of corrective action or explain disagreement.</b>	The Unclaimed Property Division has already met with the Office of the Attorney General to determine the feasibility and appropriateness of collecting retroactive penalties. After receiving advice from the Office of the Attorney General and analyzing practical considerations, the Division decided not to pursue retroactive assessments of penalties. However, the COM will establish a policy governing the discretionary assessment of penalties prospectively by April 30, 2024.		
<b>Recommendation 1b</b>	Agree	<b>Estimated Completion Date:</b>	04/30/24
<b>Please provide details of corrective action or explain disagreement.</b>	The Unclaimed Property Division met with the COM's policy team on Friday, September 15, 2023, to begin the process of establishing formal policies and procedures governing waivers of assessments, including criteria for the waiver and the related approval process.		

# Comptroller of Maryland Compliance Division

## Agency Response Form

### Adjustments to Taxpayer Accounts

#### **Finding 2**

**Adjustments to business taxpayer accounts processed by one Division unit were not always reviewed by supervisory personnel as required.**

**We recommend that the Division**

- a. ensure that critical adjustments to taxpayer accounts identified on output reports are reviewed by an independent supervisor, and that adequate documentation supporting the adjustments and their independent review and approval is maintained (repeat); and**
- b. ensure that adequate supporting documentation is maintained for all adjustments processed.**

Agency Response	
Analysis	Factually Accurate
Please provide additional comments as deemed necessary.	<p>The Division agrees that during the timeframe referenced, it did not always follow its normal cadence of adjustment reviews by an independent supervisor or manager. It is also true that the Division agreed to review all critical adjustments according to its procedures by April 2020 in the last audit report, however, at that time, we were not aware that a worldwide pandemic would begin just one month prior to the date we agreed to implement this action by. In fact, the Division's normal operations were severely destabilized for more than 15 months of the current audit period due to the COVID-19 pandemic. During this time, the section OLA refers to in Finding 2 was tasked with multiple projects unrelated to their normal scope of work, while also trying to manage the wellbeing and safety of its staff. Examples of additional tasks and projects assigned to this section during the pandemic included the following:</p> <ul style="list-style-type: none"><li>• New Tax System Training: Preparation for Release 1 Alcohol Tax &amp; Corporate Tax.</li><li>• MD Relief Act 2021: Entire available staff was assisting with answering emails and questions as well as researching the status regarding the receipt/non receipt of taxpayer relief act payments.</li><li>• MD Gas Tax Holiday: Staff reviewed, researched, and approved gas tax holiday applications for approval or denial of gas tax refunds and continuously communicated results of findings to other divisions of the Agency.</li></ul>

# Comptroller of Maryland

## Compliance Division

### Agency Response Form

	<ul style="list-style-type: none"> <li>Commerce Project: Relief Act related Grants &amp; Loans; staff were temporarily assigned to assist the Department of Commerce in reviewing and supporting in the approval of grant applications.</li> <li>Assistance to the General Accounting Division: Performed research payment of Relief Act Funds.</li> <li>Assistance to the Revenue Administration Division: Aided in processing Relief Act Funds payments.</li> <li>Assistance to the Department of Labor: Aided in processing unemployment claims.</li> </ul> <p>Additionally, the adjustments referenced in this finding are typically based on an audit and always have corresponding audit packets which include several levels of documented reviews and approvals; this applies to audit assessments which both increase and reduce liabilities. The Division provided samples of such audit files with documented assessment and refund approvals to the Office of Legislative Audits during the audit.</p>		
<b>Recommendation 2a</b>	Agree	<b>Estimated Completion Date:</b>	9/30/24
<b>Please provide details of corrective action or explain disagreement.</b>	The Division agrees to update its adjustment review procedures to ensure that a reasonable number of critical adjustments identified on output reports are reviewed by a supervisor or manager. Documentation of such reviews and approvals will be maintained for audit purposes.		
<b>Recommendation 2b</b>	Agree	<b>Estimated Completion Date:</b>	4/30/24
<b>Please provide details of corrective action or explain disagreement.</b>	The Division agrees to continue to retain documentation to substantiate its adjustments.		

# Comptroller of Maryland Compliance Division

## Agency Response Form

### Liability Intercept Program

#### **Finding 3**

**The Division did not conduct required supervisory reviews of State payments to taxpayers released from the Liability Intercept Program.**

**We recommend that the Division**

- a. ensure that required supervisory reviews are performed and documented, and**
- b. review released payments during the aforementioned period and take corrective action for any unsupported or improper funds released.**

<b>Agency Response</b>			
<b>Analysis</b>	<b>Factually Accurate</b>		
<b>Please provide additional comments as deemed necessary.</b>	<p>OLA determined that the supervisory review of the “Vendor Liability Offset Release Control Report (LORCR)” was not conducted as required for several months. The Compliance Division agrees that the reviews were not completed due to an abnormal volume of high priority tasks that directly impacted the taxpayer community following the resumption of collection actions in August 2021 when the Governor’s Executive Order related to the suspension of collection activities due to COVID-19 had expired.</p> <p>The staff that work the Liability Intercept Program are trained to release payments if they meet one of the following criteria: there are enough funds already being held to cover the liability, taxpayer is on a payment plan, or there is a pending adjustment to remove the liability.</p>		
<b>Recommendation 3a</b>	Agree	<b>Estimated Completion Date:</b>	Completed
<b>Please provide details of corrective action or explain disagreement.</b>	The LORCR is now being stored on an electronic document storage system and two resources have been identified to make sure these reviews are completed in a timely fashion.		
<b>Recommendation 3b</b>	Agree	<b>Estimated Completion Date:</b>	Completed
<b>Please provide details of corrective action or explain disagreement.</b>	Reviews for the months of August 2021 through February 2024 have been completed. Throughout this review, no improper releases have been identified based on the criteria noted above.		

# Comptroller of Maryland Compliance Division

## Agency Response Form

### Bay Restoration Fee

#### **Finding 4**

**The Division only conducted a minimal number of Bay Restoration Fee (BRF) audits and excluded the entities that collected the majority of these fees.**

**We recommend that the Division develop a formal plan to subject all entities collecting BRFs to audit, including those noted above, which considers factors such as materiality, risk, and prior audit findings.**

Agency Response			
Analysis	Factually Accurate		
Please provide additional comments as deemed necessary.	<p>For context, it's important to note that entities which collect the majority of BRF fees are not exempt from audit. These entities were simply not picked up for audit during the OLA audit period.</p> <p>The Division completes a formal comprehensive audit plan annually which addresses audit planning topics for each of the tax and fee types required to be audited. This plan includes its own BRF section with background information, audit stats, goals, and audit selection methodology. In addition, the Division routinely performs BRF delinquency collection runs which identify any entity required to file and pay BRFs that has not done so during the given period of the run. Between the audits and collection activities the Division performs for BRF, we feel that we adequately ensure compliance for this tax type.</p> <p>Furthermore, during the audit period, the Division was placed under the Governor's Pandemic Emergency Declaration which prevented it from conducting any new audits for 15 consecutive months, from March 23, 2020, through July 1, 2021. There were also only two BRF auditors on staff as of FY22 and those same two auditors were responsible for conducting Unclaimed Property, Withholding Tax, and BRF audits. Lastly, audit staff were charged with assisting with the same projects outlined in our response to Finding 2 during the timeframe referenced.</p>		
	Recommendation 4	Agree	Estimated Completion Date: 7/01/24

**Comptroller of Maryland  
Compliance Division**

**Agency Response Form**

<b>Please provide details of corrective action or explain disagreement.</b>	The Division agrees to add elements of materiality, risk, and prior audit findings to the existing formal audit plan beginning with the plan for FY25.
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