

**LAWYERS BEWARE:
UNPAID TAXES CAN RESULT IN DISCIPLINARY ACTIONS**

By Caroline D. Ciruolo, Esquire

Lawyers with undisputed tax liabilities must make payment arrangements or face investigation by the Attorney Grievance Commission. Since 2003, individuals holding a professional license issued by the State are required to pay all undisputed taxes and unemployment insurance contributions, or make satisfactory payment arrangements, before their license is issued or renewed. *See* Tax-Gen. § 13-203(c)(5), Md Code Ann. Individuals subject to this provision include, but are not limited to, insurance agents, doctors, pharmacists, social workers, engineers, accountants, cosmetologists, land surveyors, real estate appraisers, commercial watermen and nurses. Up until now, lawyers have avoided this requirement. This loophole will close on June 1, 2008.

Following the 2007 Special Session of the Maryland General Assembly, the Governor signed into law the Tax Reform Act of 2007 (Senate Bill 2). The legislation required the Client Protection Fund ("CPF") to certify with the Maryland Comptroller that a lawyer had paid his or her tax liabilities before accepting that attorney's annual assessment. *See* Bus. Occup. & Prof. § 10-313, Md Code Ann. The effective date of the new requirements was July 1, 2008. The Maryland State Bar Association ("MSBA") objected to this legislation on the grounds that the Client Protection Fund did not have sufficient employees to perform this task, and should not have to wait until the Comptroller completed its review before collecting annual assessments. The MSBA worked with Senator Brian Frosh and Delegate Kathleen Dumais to repeal the legislation during the 2008 General Assembly Session. The result is Senate Bill 493, signed on May 13, 2008.

Effective June 1, 2008, Senate Bill 493 repeals the requirement that the CPF certify that lawyers have paid all taxes before accepting annual payments. Instead, by August 31 of each year, the CPF must provide to the Comptroller a list of all lawyers, including names, mailing addresses and social security numbers, who paid the mandatory annual fee to CPF during the previous fiscal year.

If the Comptroller determines that a lawyer has not paid all undisputed taxes and unemployment insurance contributions, and the lawyer does not pay the amounts due or make satisfactory payment arrangements within 60 days after receiving notice of the delinquency from the Comptroller, or within any longer period authorized for good cause by the unit responsible for collection, the Comptroller may refer the matter to the Attorney Grievance Commission pursuant to Maryland Rule 16-731 for potential disciplinary action.

In reviewing the tax clearance provision in Senate Bill 2 for constitutionality and legal sufficiency, the Maryland Attorney General determined that the legislation was aimed at tax enforcement and was not an impermissible regulation of the practice of law in violation of the Separation of Powers Doctrine. *See* Letter of Advice on SB 2, dated November 19, 2007.

If you are facing a state or federal tax audit or investigation, or unresolved tax liabilities, and need assistance, please contact Caroline D. Ciruolo (410-547-7852, or cciraolo@rosenbergmartin.com) or any attorney in our tax group:

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