

PUBLIC INFORMATION ACT—TAXATION—TAX-RELATED INFORMATION—RESTRICTIONS ON DISCLOSURE OF INFORMATION IN CENTRAL REGISTRATION SYSTEM—RECOVERY OF COSTS—TAXPAYER'S RIGHT TO CHALLENGE DISCLOSURE.

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You have requested our opinion concerning public disclosure of information contained in the automated Central Registration System maintained by the Retail Sales Tax Division ("Division") of the Office of the Comptroller. Specifically, you ask:

- (1) What, if any, information contained in the system must be disclosed to the general public upon request?
- (2) How may the State recover costs incurred in complying with a request for information that must be disclosed?
- (3) Do taxpayers have a right to restrict dissemination of any information in the system?

As more fully explained below, we conclude as follows:

- (1) With the exception of the particular kinds of information described in Part V below, which is not confidential, the information in the system may not be disclosed to the public in a form that will identify particular taxpayers.
- (2) Current State law and regulations authorize the Division to charge requesters the actual cost incurred in providing requested information.
- (3) Although taxpayers may seek judicial relief to prevent disclosure, in the absence of a court order all information in the system that is subject to mandatory disclosure under the Maryland Public Information Act ("PIA") must be made available to the public upon request.

I
Central Registration System

Persons who wish to do business in Maryland must first register with the State for various tax and related purposes. Such persons may be obligated to pay one or more of a number of taxes in addition to income taxes—admissions, retail sales, alcohol, tobacco, or motor vehicle fuel taxes. A business operator may also be obligated to pay unemployment insurance or to make income tax withholding reports. The Division has developed a Central Registration System for new businesses that allows the operator to submit a "Combined Registration Application" containing the information required by each of the State agencies concerned, thereby greatly simplifying the process of starting a business in Maryland.

The Application contains the full identity of the taxpayer, including the taxpayer's federal identification number or social security number and the name, address, and telephone number of the business entity and of each individual who controls it. Additionally, the Application contains detailed information on the nature and scope of the business, including the form of its ownership, the size of its payroll, the number of its employees, the name and location of all of its places of business, and the specific business activities in which it engages.

The original of the Application is kept on file with the Division's Central Registration Unit, and copies are sent to the various State tax agencies as appropriate. Ultimately, pertinent parts of the information on the Application are entered into an automated data processing network. The information is thus readily available for use by the different agencies "to determine if the Applicant is liable for certain taxes, to register the applicant and, where appropriate, to issue a required license." Form No. CRU-1 at 2 (rev. June, 1984).

The information in these automated files may also be useful to entities other than State tax agencies for a variety of purposes. Governmental entities, for example, might seek information concerning particular taxpayers for tax administration or related official purposes.¹ Government or private entities might wish to obtain categorized information for research. And, commercial enterprises

¹As noted in Part III below, both State and federal laws expressly authorize disclosure to governmental entities for these purposes. Therefore, this opinion addresses only disclosure to members of the public.

might seek the names and addresses of particular groups of taxpayers in order to target sales activities to those taxpayers.

II

The Maryland Public Information Act

"The Maryland Public Information Act ... was broadly conceived. Its purpose was to provide the public the right to inspect the records of the State government or of a political subdivision.... Its basic policy was in favor of disclosure." *Faulk v. State's Attorney for Harford County*, 299 Md. 493, 506 (1984). See also *Cranford v. Montgomery County*, 300 Md. 759, 771 (1984).

The PIA's basic rule of disclosure is contained in §10-613(a) of the State Government Article ("SG" Article): "Except as otherwise provided by law, a custodian shall permit a person or governmental unit to inspect any public record at any reasonable time." Moreover, the General Assembly has specifically provided that the PIA ordinarily "shall be construed in favor of permitting inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection." SG §10-612(b). Thus, the PIA "reflect[s] the legislative intent that citizens of the State of Maryland be accorded wide-ranging access to public information concerning the operation of their government." *A.S. Abell Publishing Co. v. Mezzanote*, 297 Md. 26, 32 (1983).

The PIA defines "public record" as documentary material in any form that "is made by a unit or instrumentality of the State government or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business." SG §10-611(f)(1). Since all of the information about which you have inquired certainly is documentary material that either was made or—more accurately—was received by a unit of State government in connection with public business, the records of that information are clearly "public records." See 65 *Opinions of the Attorney General* 365, 366 (1980) (personnel file of public employee is "public record" within meaning of PIA).

The determination that a record is a "public record" does not end the inquiry, however. The PIA itself requires a custodian of records to deny inspection of all or part of certain public records. See SG §§10-615 through 10-617. SG §10-615 provides:

"A custodian shall deny inspection of a public record or any part of a public record if:

(1) by law, the public record is privileged or confidential; or

(2) the inspection would be contrary to:

(i) a State statute; [or]

(ii) a federal statute or a regulation that is issued under the statute and has the force of law."

Additionally, SG §10-617(f)(2) requires a custodian to deny inspection of any part of a public record "that contains information about the finances of an individual, including assets, income, liabilities, net worth, bank balances, financial history or activities, or credit worthiness."²

Some of the information on any particular Application clearly is information about the finances of the individual filing the Application. In addition, both State and federal tax laws contain confidentiality provisions that may apply to some of the information on the Application.

III

Confidentiality Statutes

A. State Statutes

The Maryland statutes pertaining to income taxes, retail sales taxes, admissions and amusement taxes, and unemployment insur-

²SG §10-617(d) requires a custodian to deny inspection of any part of a public record that contains confidential commercial or financial information. However, information is "confidential" for purposes of that exemption only if its disclosure would impair the government's ability to obtain needed information in the future or would cause substantial harm to the competitive position of the person from whom the information is obtained. 69 *Opinions of the Attorney General* 231, 234 (1984). Because the information on the Central Registration Application must be submitted as a prerequisite to doing business in Maryland, its disclosure would not harm the State's ability to obtain needed information. *Id.* Nor would the information on the Application reveal details of innovative business techniques that would give competitors an advantage over the taxpayer who submitted the application. Cf. 69 *Opinions of the Attorney General* at 235-36 (architects' construction drawings may reveal innovative design details). Therefore, in our view, SG §10-617(d) does not apply to the information on the combined registration application.

ance all include provisions that make the information on required reports or returns confidential. Thus, Article 81, §300(a) provides:

"Except in accordance with proper judicial or legislative order and except to an officer of the State having a right thereto in his official capacity, it shall be unlawful for any officer or employee or former officer or employee of the State or any political subdivision to divulge or make known in any manner:

(1) The amount of income or any particulars set forth or disclosed in any return under this [income tax] subtitle; or

(2) Any federal return, federal return information, or copies of a federal return or return information required by State law to be attached to or included in the State return."

It is also unlawful, "[e]xcept in accordance with proper judicial order, or as otherwise provided by law," for public employees "to divulge or make known in any manner the amount of sales, the amount of tax paid or any other particulars set forth or disclosed in any return required by [the Retail Sales Tax] subtitle." Article 81, §366. Similarly, "[e]xcept in accordance with a proper judicial order and except by request of an officer of [a] county or municipal-ity having a right to make the request in an official capacity, an official or employee of the State or any of its subdivisions may not make known in any manner any information contained in any [admissions and amusement tax] report." Article 81, §404(F)(1).

The unemployment insurance law also provides for the confidentiality of information collected pursuant to the authority of the Department of Employment and Training ("DET") to require employers to make records and reports concerning employment. Article 95A, §12(g)(1). "Information thus obtained shall not be published or open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity." Article 95A, §12(g)(1).³

³"Employing unit" is defined by Article 95A, §20(e) as any individual or any type of organization that has one or more individuals in its employ performing services for it in Maryland."

B. *Federal Tax Law*

The Internal Revenue Code also provides that "[r]eturns and return information shall be confidential." 26 U.S.C. §6103. More particularly, that section provides that, except as specifically authorized:

"[N]o officer or employee of any State ... who has or had access to returns or return information under this section ... shall disclose any return or return information obtained by him in any manner in connection with his service as such an officer or an employee or otherwise or under the provisions of this section." 26 U.S.C. §6103(a).

"Return information" means all information concerning a taxpayer's finances or taxes, official actions taken or contemplated regarding the taxpayer's return, "or any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary [of the Treasury] with respect to a return or with respect to the determination of the existence, or possible existence, of liability" for taxes. 26 U.S.C. §6103(b)(2). Return information includes the taxpayer's name, address, and identifying number. 26 U.S.C. §6103(b)(2) and (6). However, return information "does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer." 26 U.S.C. §6103(b)(2).

Under 26 U.S.C. §6103(d)(1), returns and return information "shall be open to inspection by, or disclosure to, any State agency, body, or commission, or its legal representative, which is charged under the laws of such State with responsibility for the administration of State tax laws." The information thus obtained is further open to disclosure to a State agency charged with auditing State revenues and programs, for the purpose of auditing the State tax agency. 26 U.S.C. §6103(d)(2).

IV

Non-Disclosable Information

Clearly, the various tax confidentiality provisions are designed to protect from public exposure information concerning the personal and business affairs of individuals that the State requires those individuals to reveal to it in the exercise of its taxing authority. Confidentiality provisions thereby protect "the right of an individua

ual not to have his private affairs made public by the government." *Whalen v. Roe*, 429 U.S. 589, 599 n. 24 (1977) (quoting Kurland, *The Private I, University of Chicago Magazine* 7, 8 (Autumn 1976)). Such protection of the individual's interests in privacy has been identified as critical to any tax collection system based on voluntary compliance because it encourages voluntary reporting of complete and accurate information to the tax authorities. Tully, *State Tax Secrecy Laws and Federal Grand Jury Subpoenas in Non-Tax Investigations*, 46 Alb. L. Rev. 78, 80-81 (1981).

It has also been recognized that protection of such privacy interests requires that personal tax-related information be kept confidential even if it is collected by the government in a form other than the actual tax returns to which the confidentiality statutes refer. Thus, in *In re Hampers*, 651 F.2d 19, 21 (1st Cir. 1981), the First Circuit held that State tax returns are not automatically obtainable by a federal grand jury because their disclosure would circumvent the safeguards of the federal tax confidentiality statute.⁴

Likewise, in 44 *Opinions of the Attorney General* 350, 352 (1959), this office concluded that particulars of admissions and amusement tax returns were not subject to public disclosure, notwithstanding the lack of any express statutory provision for their confidentiality. The Attorney General reasoned that protection of those returns was necessary to effectuate the legislative intent to safeguard personal information on income and sales tax returns:

"The Legislature has evidenced a general intention to make the statement of gross income and other particulars of tax returns confidential. It has expressly so stated with respect to income tax and sales and use tax returns. We cannot ascribe to the Legislature an intention to render these provisions futile insofar as amusement operators are concerned. Yet if amusement tax returns are not kept confidential any curious member of the public or interest-

⁴In *Hampers*, a federal grand jury investigating a non-tax matter subpoenaed state tax documents that were confidential under state law. The First Circuit, balancing the state's interest in preserving the documents' confidentiality against the weaker federal interest in obtaining the documents for a non-tax investigation, concluded that the documents were covered by a qualified privilege. 651 F.2d at 22-23. Therefore, the court held that "to enforce a subpoena in [a] federal criminal investigation, a federal grand jury must proffer reasonable cause to believe that a federal crime has been committed, that the information sought will be probative of a matter at issue in the prosecution of the crime, and that the same information or equally probative information can not be obtained elsewhere through reasonable efforts." 651 F.2d at 23.

ed competitor of any person engaged in the amusement business could obtain the very information as to gross income that the Legislature has painstakingly made confidential under the income and sales tax sections of the Code." *Id.*⁵

By the same token, information contained on the Combined Registration Application must be kept confidential to the extent that its disclosure would reveal confidential tax return information.

Section D of the Application contains significant information concerning the size of a business's payroll and the number of its employees. That information is contained in such items as: the business's estimated gross payroll, its taxable payroll, whether its income tax withholding will exceed \$300 per quarter, and the number of its employees in Maryland. For particular kinds of businesses, that section of the Application also discloses the size of the business's operations in the past, as reflected in such items as whether the business had a total payroll of \$1,000 or more during any calendar year, whether an agricultural business had a total payroll of \$20,000 or more during any calendar quarter, and the number of weeks during any calendar year in which ten or more workers performed agricultural services. All of these items contain information that both the income tax and unemployment compensation laws require be maintained and reported to the tax authorities. That is, they reflect the "particulars" of those reports. Accordingly, the information contained in these items is confidential and must not be disclosed in a form that would identify it with any particular taxpayer or employer.

Indeed, the very identity of a taxpayer as such must be kept confidential. The taxpayer's federal identification number, social security number, and name and address are federal return information as defined in 26 U.S.C. §6103(b)(2)(A). Such information is confidential in the hands of an officer or employee of a state who obtained it "in any manner in connection with his service as such an officer or an employee or otherwise." 26 U.S.C. §6103(a). It is also "federal return information ... required by State law to be included in the state [income tax] return," and it is therefore confidential by State law. Article 81, §300(a)(2).⁶

⁵The information on admission and amusement tax reports is now covered by an express confidentiality provision, Article 81, §405(f).

⁶We point out however, that it is the name and address "of a person with respect to whom a [federal] return is filed" that may not be disclosed. That is, it is the fact-

Y
Disclosure of Information

Notwithstanding the various confidentiality provisions, much information derived from the Combined Registration Application is subject to public disclosure. Information regarding alcoholic beverages licensing is expressly made disclosable by other law. In addition, certain other items of information are outside the ambit of any confidentiality provision.

A. *Alcoholic Beverages Licensure*

Article 2B, §147(a) requires the Comptroller and other officials to keep records of all alcoholic beverages licenses that they issue or approve and of every license revocation, suspension, cancellation, or restriction imposed, together with a note of the cause for each such action. Those records "shall be open to inspection ... during regular business hours, by any person." *Id.*⁷ Thus, the legislative intent to make public all official actions regarding the licensing of alcoholic beverages businesses is especially clear. In line with that intent and the general disclosure requirements of the PLA, we believe that the names and addresses of license applicants and the additional information shown in Section E of the Application must be disclosed to anyone on request.⁸

Such information is not, in our view, "return information" within the meaning of 26 U.S.C. §6103(b)(2). The State's licensure of alcoholic beverages businesses is independent of, and thus irrelevant to, federal excise taxation of the same businesses. 26 U.S.C. §5145. Likewise, the fact that a taxpayer has applied for a Maryland alcoholic beverages license is irrelevant to the taxpayer's liability for federal income tax. Accordingly, that fact is not information received, collected, or prepared by the Secretary of the Treasury with

_____ of a person's taxpayer status that is confidential. The name and address of a business or an individual clearly is disclosable in contexts that do not reveal taxpayer status, notwithstanding that the business or individual may also be a taxpayer. See e.g., SG §10-617(h)(2) (names, business addresses, and business telephone numbers of licensees must be disclosed upon request).

⁷Under SG §10-617(a), that express statutory requirement of disclosure overrides the PLA's usual exemption of personal financial information from disclosure.

⁸Section E asks seven questions directly related to the "manufacture, sale, distribution or storage of alcoholic beverages."

respect to any federal tax or tax return, but solely concerns State licensing matters.

Neither is the mere fact that one has applied for a license to operate an alcoholic beverages business the equivalent of confidential information—such as the amount of a taxpayer's income or sales—that must be set forth on any State tax return. Because disclosure of the fact of the application would not disclose tax return "particulars," the fact is not protected by Article 81, §§300(a) or 366.

B. *Cigarette Sales*

Section F of the Application asks whether the applicant "desire[s] to sell cigarettes at the wholesale level in the State of Maryland." In our view, this information is not covered by any confidentiality provision.

The only federal tax imposed with specific regard to cigarettes is the federal excise tax on the manufacture or importation of cigarettes and related products imposed by 26 U.S.C. §5701. As with State alcoholic beverages licensing, the State requirement that wholesalers of cigarettes register and purchase tax stamps is irrelevant to any aspect of federal taxation or tax returns. Hence, disclosure of the fact that a particular applicant does, or does not, desire to sell cigarettes at wholesale would not disclose any information concerning that person's taxes or tax returns under the federal system.

Nor would disclosure of that information disclose any particulars of any State tax return that State law requires to be kept confidential. The Maryland tax on cigarettes is paid by purchasing from the Comptroller stamps to be affixed to the containers of the cigarettes. Article 81, §434. Thus, the fact that a particular business is required to purchase the stamps in no way reflects the business's taxpayer status, income, sales, or other confidential affairs.

Finally, the information in Section F reveals nothing about the applicant's "assets, income, liabilities, net worth, bank balances, financial history or activities, or credit worthiness." Hence, it is not protected from disclosure by SG §10-617(f)(2). Accordingly, this information must be disclosed to the public.

C. *Other Specific Information*

Other items of information contained on the combined registration application, while they are related to the determination

the applicant's liability for certain taxes, nonetheless may be disclosed without breaching confidentiality requirements. For example, the questions in Section G of the application pertain exclusively to the applicant's potential liability for the Motor Vehicle Fuel Tax imposed by Article 56, §§135 through 157. One's status as a taxpayer under those provisions is not confidential, however. To the contrary, Article 56, §140(k) requires every dealer in motor vehicle fuels, special fuel user, and special fuel seller to display "conspicuously in each place of business" a license to engage in the business or a certificate of exemption from licensing. That information must, therefore, be disclosed to the public.

For much the same reason, we believe that the names and addresses of persons licensed to collect retail sales tax must also be disclosed. Article 81, §362 provides that the license "shall be displayed in the applicant's place of business." This requirement is an aspect of the uniquely public nature of sales tax collection. The licensee patently does not have the sort of privacy interest regarding sales tax liability that confidentiality statutes are designed to protect. Hence, we think that the General Assembly did not intend to include the bare fact of licensure among the "particulars set forth or disclosed in the [retail sales tax] return" that must be kept confidential under Article 81, §366. Opinion No. 79-032 at 2-3 (April 26, 1979) (unpublished).

In sum, it is our view that information pertaining to particular businesses must be disclosed when its disclosure will not reveal either (i) confidential information concerning the affairs of the business or any individual or (ii) the identity of the person or entity liable for those taxes as to which the taxpayer's identity is itself confidential.⁹ While it is not practicable to formulate an all-

⁹We point out, in addition, that each of the tax confidentiality statutes at issue here expressly permits disclosure of statistical information. 26 U.S.C. §6109(b)(2) (return information "does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer"); Article 81, §800(e) ("Nothing herein shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular [income tax] reports and the items thereof"), §366 ("publication of [retail sales tax] statistics so classified as to prevent the identification of particular [income tax] reports and the items thereof", not prohibited), and §404(f)(2) "publication of [admissions and amusement tax] statistics so classified as to prevent identification of individual accounts" not prohibited); Article 95A, §12(g)(1) (employment information not to be disclosed "in any manner revealing the employing unit's identity"). Hence, the disclosure of such generalized information is governed by the basic requirement of the PIA that it be made available to anyone upon request. SG §10-613(a).

inclusive listing of the particular items of information that must be disclosed, we will be happy to review specific requests for disclosure and advise you regarding the appropriate response.

VI

Recovery of Costs

Your second question concerns the mechanism by which you may recover the expenses incurred in providing information from the Central Registration System to a requester. In our view, that mechanism already exists in regulations adopted under SG §10-621(a), which authorizes the custodian of a public record to "charge an applicant a reasonable fee for the search for, preparation of, and reproduction of a public record." See COMAR 03.07.01.01G (establishing charges for preparing and copying public records for inspection).

In particular, COMAR 03.07.01.01G(3) provides that when information must be retrieved from a data processing system in the form of a computer print-out, the Comptroller "shall determine a reasonable charge for the print-out on a case-by-case basis, taking into account computer time, programming, and material costs." We think that the most appropriate method for arriving at the "reasonable charge" is to charge the actual costs incurred by the Division. The goal in this regard should be for the State neither to make a profit nor to bear a loss on the cost of providing information to the public.

SG §10-621(b) provides that a custodian of records "may not charge a fee for the first 2 hours that are needed to search for a public record and prepare it for inspection." In providing information that must be retrieved from the data processing system, one of the costs the Division incurs is a charge for the computer time used. That charge is high—approximately \$1,400 per hour—although the amount of computer time used in complying with any particular request may be rather small, depending upon the nature of the request. Therefore, you have specifically asked whether SG §10-621(b) prohibits you from charging for the first two hours of computer time used.

In our view, SG §10-621(b) is applicable only to *employee* time, and not to computer time. We are confident that the General Assembly did not intend to require any State agency to bear wh-

could be as much as a \$2,800 charge for complying with a single request under the PIA. Indeed, this office has previously espoused this view¹⁰ in the *Public Information Act Manual* prepared for the guidance of custodians of public records: "[T]he official custodian may not charge a fee for the first 2 hours of the official's or employee's time that are needed to search for a public record and prepare it for inspection." Office of the Maryland Attorney General, *Public Information Act Manual* 10 (4th ed. 1985) (emphasis added).

VII

Taxpayer's Right to Prevent Disclosure

A substantial number of those who request information from the Central Registration System wish to use the information for commercial purposes. Some of the subjects of the information might well desire to prevent such use. In addition, some taxpayers may wish to prevent any dissemination of information derived from their Combined Registration Applications. Accordingly, you ask whether a taxpayer has the right to prevent dissemination of information that the PIA requires to be disclosed.

The reason for a particular request for information is irrelevant to the question of whether the information must be disclosed—even an improper motive for a request does not excuse from disclosure "information otherwise revealable under the Act." *Moberly v. Herboldshemer*, 276 Md. 211, 227 (1975). In 61 *Opinions of the Attorney General* 702, 710 (1976), this office concluded that the PIA does not permit a clerk of court to deny public inspection of marriage records, regardless of the intended use of those records. On that basis, the Attorney General concluded that the clerk must comply with a request made by a person who wished to use the information for commercial solicitations, notwithstanding the clerk's desire to protect the privacy of the individuals named in the records. 61 *Opinions of the Attorney General* at 710-11.

Further, the determination of whether the PIA requires disclosure of particular information must be based on the PIA and the confidentiality statutes discussed above. The wishes of the subject of the information do not affect that determination—information that the PIA clearly requires to be disclosed does not become non-disclosable simply because the subject of the information would prefer it so. In 63 *Opinions of the Attorney General* 355, 359 (1978), this office concluded that the determination of what infor-

mation is confidential under the PIA requires an objective, rather than a subjective, inquiry: "To allow a person submitting information or that person and a custodian to definitively characterize information as 'confidential' would allow the liberal disclosure policy of the [PIA] to be defeated merely by an assertion of one party or the agreement of both."

It is a closer question, however, whether a taxpayer has a right to challenge the Division's determination that particular information is not confidential. In *Chrysler Corp. v. Brown*, 441 U.S. 281, 293 (1979), the Supreme Court held that the federal Freedom of Information Act ("FOIA") does not afford a private right of action to prevent disclosure of information that is exempt from the FOIA's general requirement of disclosure.¹⁰ Nonetheless, we think that the PIA does create a private right to prevent disclosure of information protected by SG §§10-615 or 10-617.

The FOIA's exemptions merely permit agencies to withhold the described information; they do not limit agencies' discretion to disclose that information. *Chrysler Corp.*, 441 U.S. at 294. In contrast, the PIA absolutely prohibits disclosure of certain information. Thus, unlike the FOIA, the PIA is not "exclusively a disclosure statute." See 441 U.S. at 292. This office has previously suggested that individuals may have a right to institute "reverse PIA" actions to prevent disclosure of confidential information. Office of the Maryland Attorney General, *Public Information Act Manual* 33-34 (4th ed. 1985).¹¹ In addition, a person claiming that information is required by law to be kept confidential presumably may seek a writ of mandamus to prevent disclosure. See generally, e.g., *Criminal Injuries Comp. Bd. v. Gould*, 273 Md. 486 (1975). Hence, whether under the PIA itself or through common law process, a taxpayer may challenge a determination that particular information about the taxpayer in the Central Registration System is not confidential. See *Chrysler Corp.*, 441 U.S. at 318 (submitter of information may seek review under the Administrative Procedure Act of agency's decision to disclose information).

¹⁰Because the purpose and language of the FOIA and the PIA are substantially the same, the Supreme Court's interpretation of the FOIA is ordinarily persuasive as to the PIA. *Faulk v. State's Attorney for Harford County*, 299 Md. 493, 506 (1984).

¹¹Moreover, SG §10-626 expressly creates a private right of action for damages against any person who "willfully and knowingly permits inspection or use of" protected personal information. We do not mean to suggest, of course, that a good-faith determination that particular information must be disclosed would expose a custodian to liability under SG §10-626.

That is not to say that the Division must notify the taxpayer of any requests for information, however. No provision of the PIA expressly imposes such an obligation on custodians of public records. And, in the case of information from the Central Registration System, the number of taxpayers affected by a single request could easily run into the hundreds. We believe that, if the General Assembly had intended to impose such an obligation, it would have done so expressly.

At the same time, the PIA certainly does not prohibit the giving of such notice. Thus, you may notify taxpayers—directly or through the publication of a general notice—that certain information has been requested, if you choose to do so.

VIII

Conclusion

In summary, it is our opinion that federal and State statutes regarding the confidentiality of tax-related information prohibit disclosure of information concerning the personal and business affairs of identifiable taxpayers. However, (i) nonconfidential information about the taxpayer's plans to engage in certain regulated business activities or the taxpayer's authority to collect the retail sales tax and (ii) information that cannot be associated with any particular taxpayer must be disclosed to the public upon request. In complying with any request for disclosable information, the Division may impose a reasonable charge for the costs incurred, including the cost of all computer time actually used. Finally, we conclude that taxpayers have no right to prevent dissemination of information that the PIA requires to be disclosed to the public, although they may challenge the Division's determination as to the disclosability of particular information.

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