

THE MARYLAND BOARD OF INDIVIDUAL TAX PREPARERS

MANUAL

This manual is presented solely for informational purposes. It summarizes many of the laws and regulations applicable to the Maryland Board of Individual Tax Preparers, and individual tax preparers in Maryland. This content does not replace or supplement the law in any way, nor does this Manual offer authoritative guidance or interpretation of the law. Users should always check with the actual statute and/or regulation.

What is the Maryland Board of Individual Tax Preparers?

The Maryland Board of Individual Tax Preparers (“Board”) was authorized in 2008 by Maryland Code, Business Occupations & Professions, Title 21.¹ The Board’s purpose is to “establish a registration program to ensure that qualified individuals provide individual tax preparation services”.²

Licensed CPAs, JDs, Enrolled Agents, and local, state and federal employees performing duties within the scope of their employment, are exempt from the Board’s regulatory authority. Their assistants are as well, unless the assistant signs the return as tax preparer.³

The Board consists of eight members, appointed by the Governor. Seven are to have at least five years of tax preparation experience. One shall be a member of a nonprofit tax or consumer advocate program. Others may be members of the Maryland Association of Certified Public Accountants, Maryland Society of Accountants, the Maryland State Bar Association, and a member of the National Association of Enrolled Agents.⁴

➤ **09.38.01.01 The Board**

The Board holds an annual meeting in July of each year, or at such other time as the members of the Board may vote upon, for the purpose of electing officers. Monthly meetings may be held on dates mutually convenient to the members of the Board. Special meetings shall be held, after reasonable notice, at the call of the Chair, or any two Board members. Notice of all meetings and hearings shall be published in the Maryland Register.⁵

¹ All citations to *Maryland Code, Business Occupations & Professions, Title 21* that follow are indicated by section and heading.

² Sec. 21-102, *Purpose of Title*, subsec.(a).

³ Sec. 21-102(b).

⁴ Sec. 21-202, *Board Members*.

⁵ Md. Code Regs. 09.38.01.01 B.

The Chair shall preside at all meetings and shall perform such duties as the Board may direct. At any meeting at which the Chair is absent, the Vice-Chair shall act in the Chair's place.⁶

➤ **Sec. 21-203 Election of chair, officers**

The Board shall elect a chair and officers as necessary, and for terms as the Board determines.⁷ The Board has recently provided for two years terms for the chair, vice chair, exam committee chair, and two members of the investigation committee that work with the Executive Director. After two years, each is subject to replacement by a member of the Board based on that Board member's seniority. A logical succession has the vice chair assuming the role of chair, and the head of the examination committee, or a member of the omplaint committee assuming the role of vice chair. If no Board member steps forward to replace the chair, or vice-chair, or investigation committee member, as the case may be, that chair, vice chair, or investigation committee member shall serve for another year. After that year, a replacement based on seniority shall again be sought.

➤ **Sec. 21-204 Meetings, compensation, and staff**

The Board shall meet at least five times a year, with at least two meetings held between January 1 and April 15.⁸ For all meetings, a quorum shall consist of a majority of the members serving on the Board.⁹

Each Board member be reimbursed for expenses under the Standard State Travel Regulations, as the State Budget allows. This has meant reimbursement for parking when the Board has met in person.¹⁰

The Board may employ staff, as the State budget allows.¹¹

➤ **§ 21-205. Rules, regulations, and bylaws of Board**

The Board may adopt by-laws,¹² though currently has none, and has rule-making capacity¹³. The Board shall adopt rules of professional conduct, select and administer exams, establish fees, maintain a list of all authorized Maryland Registered Tax Preparers ("MRTPs"), maintain a record of its proceedings, maintain records of all complaints MRTPs, and report to the General Assembly.¹⁴ The Board was recently required by the No Scam Tax Preparer Act to

⁶ Md. Code Regs. 09.38.01.01 C. The regulations refer to the "Chairperson" and "Vice-Chairperson" of the Board. The Board has shortened these titles to "Chair" and "Vice-Chair" for ease of reference.

⁷ Sec. 21-203(a) and (b).

⁸ Sec. 21-204 (b)

⁹ Sec. 21-204(a)

¹⁰ Sec. 21-204(c). This provision also permits compensation for Board members in accordance with the State budget, but the budget does not provide for compensation.

¹¹ *Id.*, at (d)

¹² Sec. 21-205(a).

¹³ *Ibid.*

¹⁴ Sec. 21-205(b).

adopt a new code of ethics and professional conduct for MRTPs. The Board shall do so under Maryland's rule-making procedure¹⁵ after allowing for public input from the tax preparer community. The new code of ethics and professional conduct will be posted on the Board's website.¹⁶

¹⁵ MD Code, State Government, T. 10, Subt.1, Refs & Annos.

¹⁶ Sec. 21-205(c).

How does the Board examine, admit, and register candidates? How are registration fees used to fund the Board's operations?

The Board oversees examinations at least twice per year¹⁷ of applicants for the credential of Maryland Registered Tax Preparer¹⁸ (“MRTP”). The Board hires outside contractors to develop and administer the exam, and provides input on the content of the exams. Applicants who are at least 18 years old, with at least a high school diploma, or equivalent, and of good character and reputation, and who pass the exam with a score of at least 70%,¹⁹ may be registered with the Board,²⁰ and the Board keeps a list of all registered preparers.²¹ Note that the requirement to take and pass the exam may be waived by an individual meeting requirements for experience, continuing education, and experience consisting of completion of the requisite number of returns.²² An applicant with a previous felony conviction must provide the Board with a PTIN registration, a letter from the applicant’s parole or probation officer, and a true copy of the order of conviction. The Board’s decision whether to permit registration takes into account all facts and circumstances surrounding the application, including criteria listed in the Maryland Code of Criminal Procedure.²³ However an individual qualifies, registration with the Board is required before that individual may provide tax preparation services in Maryland.²⁴

The Board establishes fees for initial registration as an MRTP, and for renewal.²⁵ Currently, the registration fee is \$100, the renewal fee is \$100, and fee for reinstatement of an expired registration is \$120.²⁶ Registration is valid for two years, and expires at the end of the second year, unless the MRTP renews. At least one month before a registration expires, the Board shall send notice of the impending expiration, with a renewal notice.²⁷ The renewal notice requires certification that the registrant has complied with continuing education requirements, and payment of a renewal fee.²⁸

The Board requires each MRTP to obtain at least 16 hours of continuing education every two years by providers meeting stated criteria.²⁹ The Board conducts random audits of MRTPs who certify they have taken the requisite continuing education. Details are provided to prospective preparers and public through this link, <https://onestop.md.gov/licenses/individual-tax-preparer-5d1540b654f24d03e999844e>. If an MRTP fails to duly renew registration, and registration expires, the Board may reinstate the MRTP’s registration upon satisfaction of

¹⁷ Sec. 21-304, *Registration examinations; in general*.

¹⁸ Sec. 21-205, *Rules, regulations, and bylaws of Board*, subsec. (b)(1).

¹⁹ Md. Code Regs. 09.38.01.02. – *The Examination*.

²⁰ Sec. 21-302, *Registration qualifications*.

²¹ Sec. 21-205, *Rules, regulations, and bylaws of Board*, subsec. (b)(4).

²² Md. Code Regs. 09.38.01.02.

²³ MD Code, Criminal Procedure, Sec. 1-209, *Employment of non-violent ex-offenders*.

²⁴ Sec. 21-301, *Registration required to provide tax preparation services*; Sec. 21-401, *Registration required to provide tax services*;

²⁵ Sec. 21-205, *Rules, regulations, and bylaws of Board*, subsec. (b)(3); Sec. 21-207(b)(1).

²⁶ Md. Code Regs. 09.38.04 – *Fees*.

²⁷ Sec. 21-308, *Expiration and renewal of registration*, subsec. (b)(1).

²⁸ Sec. 21-308, subsecs.(c)(2) & (3).

²⁹ Sec. 21-309, *Continuing Education Requirements*.

continuing education requirements, payment of all past due renewal fees, and a reinstatement fee.³⁰

All fees collected are submitted to the Comptroller, who, in turn, submits them to the Individual Tax Preparers Fund.³¹ Registration Fees and other moneys allocated by the State to the Individual Tax Preparers Fund are used to fund the Board's operations.³²

³⁰ Sec. 21-310, *Reinstatement of registration*.

³¹ Sec. 21-207(c), *Registration Fees*; Sec. 21-208, *Individual Tax Preparers Fund*.

³² *Ibid.*

What are the obligations of Maryland Registered Tax Preparers?

➤ **COMAR 09.38.01.05 - Code of Professional Conduct**

The current Code of Professional Conduct is found at COMAR 09.38.01.05³³. The Code is subject to revision and reenactment by the Board on or before January 1, 2026 under the *Stop Scam Tax Preparers Act*.³⁴

Competence and Technical Standards

An MRTP shall provide tax preparation services in accordance with applicable professional standards.³⁵ If an MRTP cannot reasonably expect to perform services in accordance with applicable professional standards, the MRTP may not provide those services.³⁶ An MRTP may not commit acts that “reflect adversely on the MRTP’s fitness to provide individual tax preparation services.”³⁷ The MRTP may not permit others to perform acts *for* the preparer “with or without compensation” that would violate the Code of Professional Conduct if performed *by* the preparer.³⁸ An MRTP may resolve doubt in favor of the client if there is reasonable support for the position,³⁹ but shall promptly advise the client if the MRTP finds an error, or an omission of information, or related material, on a tax return.⁴⁰ No MRTP is permitted to have a client’s individual income tax refund check to be made payable to the preparer.⁴¹

Client records

An MRTP shall provide, make available, or return to a client or former client, upon written request and within a reasonable time, a copy of the client's tax return,⁴² personal papers or source material in the manner furnished by the client,⁴³ and a copy of any depreciation schedule associated with a client's tax return.⁴⁴ An MRTP may charge a fee in connection with the requirements of this regulation.⁴⁵

³³ Md. Code Regs. 09.38.01.05. – *Code of Professional Conduct*

³⁴ Sec. 21-205(b)(1).

³⁵ Md. Code Regs. 09.38.01.05.F.(1).

³⁶ *Id.*, at (2).

³⁷ *Id.*, at A(1).

³⁸ *Id.*, at A(2).

³⁹ *Id.*, at A(3).

⁴⁰ *Id.*, at A(4).

⁴¹ *Id.*, at A(5).

⁴² *Id.*, at B(1)(a).

⁴³ *Id.*, at B(1)(a).

⁴⁴ *Id.*, at B(1)(c).

⁴⁵ *Id.*, at B(2).

Contingent Fees

An individual tax preparer may not provide individual tax preparation services under an arrangement where the fee is contingent upon the findings or result of the services rendered.⁴⁶

Conflict of Interest

An MRTP who knows of a conflict of interest affecting a representation shall notify the client, or potential client.⁴⁷ The MRTP may not represent the client without the client's express written consent.⁴⁸

Communications with the Board

The Board shall send any written communication to an applicant MRTP by first-class mail to the last address furnished to the Board by that applicant or individual tax preparer.⁴⁹ If that applicant or MRTP receives from the Board a written communication requesting a response, the applicant or MRTP shall respond in writing within 30 days of the date of mailing.⁵⁰ Failure to respond as required by this subsection may be considered by the Board to be a violation of Business Occupations and Professions Article, Title 21.⁵¹

Change in contact information

An applicant or MRTP shall notify the Board in writing within 15 days after any change in the applicant's or individual tax preparer's business address and telephone number, home address and telephone number, and email.⁵²

➤ **Section 21-402 Representations to the public; tax preparation services**

Only tax preparers duly registered with the Board may hold themselves to the public as tax preparers. Unless authorized under this title to provide individual tax preparation services, an individual may not represent to the public, by use of a title, including "registered individual tax preparer" or "individual tax preparer", by description of services, methods, or procedures, or otherwise, that the individual is authorized to provide individual tax preparation services in the State.⁵³

⁴⁶ *Id.*, at C.

⁴⁷ *Id.*, at D(1).

⁴⁸ *Id.*, at D(2).

⁴⁹ *Id.*, at (b).

⁵⁰ *Id.*, at E(1)(a)

⁵¹ *Id.*, at E.(1)(c). An apparent typo states the particular provision as "Sec.21 -ill(a)(5)".

⁵² *Id.*, at E.(2)(a) through (e).

⁵³ Sec. 21-402.

➤ **§ 21-403. Records retention requirements**

Construction with federal law

The Board should require MRTPs to maintain records for a period not greater than required under federal law.⁵⁴ IRC Sec. 6107 requires tax preparers retain returns for a period ending three years after the close of the return period.

Disclosures to customer

Before rendering tax services, the preparer shall disclose to the customer in writing at an initial meeting, and display on any website, the preparer's name, address, telephone number, services the preparer is qualified to provide, education and training, including examinations taken and passed, and a statement that tax preparer is not a CPA, EA, or tax attorney.⁵⁵ The Board has authority to impose other requirements as well.⁵⁶

Responsibilities of Tax Preparer

These include obligations to sign the customer's tax return, obtain the customer's signature on the tax return, or on an authorizing document prior to completion of tax preparation services.⁵⁷ The MRTP must keep confidential all information received from customer used to prepare federal or state income tax return unless customer consents in writing, or disclosure is necessary for preparation of the tax return, authorized by law, required by court order.⁵⁸

⁵⁴ Sec. 21-403(a).

⁵⁵ *Id.*, at (b)(1)(i) – (iv) and (b)(2)(i) and (2).

⁵⁶ *Id.*, at (b)(1)(v).

⁵⁷ *Id.*, at (c)(1) and (2).

⁵⁸ *Id.*, at (c)(3).

How does the Board handle complaints alleging violations?

➤ **Sec. 21-206 Investigation of complaints by the Board**

The Board has authority to investigate complaints alleging violations of Title 21 of the Business Occupations and Professions. On receiving the results of an investigation, the Board must take appropriate action. The Board has the power to administer oaths, conduct hearings, and take testimony. The Board may seek subpoenas to compel testimony, and may seek injunctive relief to protect taxpayers from tax preparers found to be in violation of this title.⁵⁹

The Board begins investigations under Sec. 21-206 by referring complaints to the Complaint Committee, consisting of the Executive Director, and two Board members. Complaints are divided into three categories.

1. Consumer complaints, which often consist of complaints that the MRTP made an error on the return, or charged too much. If the complainant does not respond to the Board's request for supporting documentation, the complaint will likely be dismissed.

More serious errors indicative of fraud are usually referred to the Board by the Comptroller.

2. Audit complaints, where an MRTP alleges completion of CPE necessary for re-registration, but cannot produce proof on audit. If an MRTP who is the subject of a random audit does not produce proof of CPE, the Board will send a formal letter requesting proof within 30 days. If proof is not sent timely, the Board opens a complaint. The investigator on staff can usually contact the MRTP to continue the investigation.

The MRTP is given a chance to make up the CPE, and a monetary penalty may be assessed. The amount of such monetary penalties vary depending on the number of returns prepared and whether the preparer responds to the Board's communications. If the MRTP has prepared thousands of returns without registering, the Board has imposed fines up to \$10,000.

3. Code of Conduct complaints under COMAR Sec. 09.38.01.05, *Code of Professional Conduct*, which might involve, for example, failure to provide a copy of the tax return to the client, or return the clients' paperwork timely. An MRTP's failure to complete and file the return on time, or other acts which indicate the failure "to perform . . . services in accordance with applicable professional standards", would also fall under this category.⁶⁰

The Complaint Committee reports the number of complaints in each category to the Board during closed Executive Session.

⁵⁹ Sec. 21-206. *Investigation of complaints by the Board*

⁶⁰ COMAR, 09.38.01.05 – *Code of Professional Conduct*

When an individual files a complaint, and sends supporting documentation for Consumer or Code of Conduct complaints. The Board or the Attorney General's office may be able to negotiate a Consent Order ("Order"), which the Board Chair signs. If disciplinary action is imposed, the Order is posted on the Board's website. The complainant and respondent's names are posted as well, though the signature is blocked out.

If the parties are unable to agree on the terms of a Consent Order, charges will be issued and the complaint goes to the full Board for a hearing. The Board schedules the hearing, and gives notice to the respondent. If the respondent fails to appear, the Board may hold the hearing and make a determination.⁶¹ Because the Complaint Committee hears and considers complaints in the first instance, a later hearing by the Board is, in effect, an appeal. The Board's final order following a hearing is posted on the website.

A violation of the rules under Title 21 governing MRTPs is "an unfair or deceptive trade practice under Title 13 of Commercial Law Article and is subject to the enforcement and penalty provisions" contained therein.⁶² In addition, a person "aggrieved" by a violation of Title 21 may bring action to recover \$500 for each violation, and actual damages suffered. The Board may also, by majority vote, deny an applicant's registration, suspend or revoke a registration, or issue a reprimand to a registered preparer. The discipline issued by the Board will depend on the seriousness of the violation, the harm caused by the violation, the good faith of the registered individual, and any history of prior violations. Penalties collected are used to fund the Board's enforcement efforts.⁶³

To determine the penalty imposed under Sec. 21-311, the Board shall consider:

- the seriousness of the violation;
- the harm caused by the violation;
- the good faith of the registered individual; and
- any history of previous violations by the registered individual.⁶⁴

The Board shall use a penalty collected under Sec. 21-311 to provide for the enforcement of this section.⁶⁵

If a tax preparer's registration is not renewed, the Board may reinstate the tax preparer's registration by charging the preparer a late fee, and requiring submission of continuing professional education credits.

For reinstatements the preparer is charged the late fee and must submit CPEs.

⁶¹ Sec 21-312. *Notice and hearing*

⁶² Sec. 21-404. *See* Sec. 21-311. Denial, suspension, or revocation of registration, subp. 4; COMAR, 09.38.01.05 – Code of Professional Conduct; MD. subp. G, Commercial Law Code § 13-410 (2023), subp. (1), (2)(ii), (9)(i).

⁶³ Sec. 21-311. Denial, suspension, or revocation of registration

⁶⁴ *Ibid.*; 21-405. Amount of Penalty and subsequent violations.

⁶⁵ Sec. 21-311(b)(3). Denial, suspension, or revocation of registration