

(A) 4-YEAR LIMIT.

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AN ACTION TO RECOVER ADMISSIONS AND AMUSEMENT TAX, MOTOR FUEL TAX, OR SALES AND USE TAX MAY NOT BE BROUGHT AFTER 4 YEARS FROM THE DATE ON WHICH THE TAX IS DUE.

(B) NO LIMIT.

(1) (I) AN ACTION TO RECOVER ADMISSIONS AND AMUSEMENT TAX OR SALES AND USE TAX MAY BE BROUGHT AT ANY TIME IF THERE IS PROOF THAT THE TAX IS NOT PAID DUE TO FRAUD OR GROSS NEGLIGENCE.

(II) AN UNDERPAYMENT OF 25% OR MORE OF THE SALES AND USE TAX DUE IS PRIMA FACIE EVIDENCE OF GROSS NEGLIGENCE.

(2) AN ACTION TO RECOVER MOTOR FUEL TAX MAY BE BROUGHT AT ANY TIME IF THERE IS PROOF THAT THE TAX IS NOT PAID DUE TO FRAUD.

REVISOR'S NOTE: This section is new language derived without substantive change from the second sentence of former Art. 56, § 154(a) and the second and third sentences of former Art. 81, §§ 342(a), 393(a), and 409A(a).

In this section, the former word "payable" is deleted as surplusage in light of the word "due".

The Tax - General Article Review Committee notes that representatives of the Comptroller's Office objected to placing subsection (a) within the following section captioned "Time for Collections". The Court of Special Appeals of Maryland, in Osborne v. Comptroller, 67 Md. App. 555 (1986), appeal dismissed, 308 Md. 322 (1987), held that the language of former Art. 81, § 342(a) was a limitation period on collections. The Comptroller's Office believes that the section expresses a period of limitations on assessments of tax, rather than for collections. The placement and language utilized by the Tax - General Article Review Committee preserves the status quo on this point.

The third sentence of former Art. 56, § 154(a), which related to the types of action included as "action[s] to recover" taxes, is deleted as surplusage.

Defined terms: "Admissions and amusement tax" § 1-101
"Motor fuel tax" § 1-101 "Sales and use tax" § 1-101

13-1103. TIME FOR COLLECTIONS.