

Celebrating (Tax) Justice in Baltimore

by Francine J. Lipman



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In this article, Lipman celebrates the work that low-income tax clinics and pro bono tax professionals are doing to pursue tax justice in Baltimore.

Baltimore

It's so nice to live here

I'm glad this is my home

I've got a homestead on Baltimore Street

It's some place to call my own

It's all kinds of people

Familiar places, smiling faces

I'm proud to say I'm a Baltimorean.

— "Baltimore" by Ellen (Tori) Amos¹

I. Baltimore Pride

In 1632 Sir George Calvert, the first Baron Baltimore, petitioned King Charles I to establish a colony called the Province of Maryland. Maryland, named after King Charles's wife, Queen Henrietta Maria, became a safe haven for Catholics, like the Calverts, who were fleeing religious persecution. The city of Baltimore was established in 1729 and named after Calvert's son, the second Lord Baltimore, Cecilius Calvert. Today's *Baile an Tí Mhóir*, Irish for "town of the big

house," has a rich, broad-minded, and diverse history.

Baltimore boasts more historic structures than any other American city. Nearly one-third of all its buildings, or more than 65,000 structures, are on the National Register of Historic Places. During the War of 1812, Francis Scott Key wrote "The Star-Spangled Banner" after watching bombs bursting over Fort McHenry during the Battle of Baltimore. After the war, President John Quincy Adams commemorated the many fallen Baltimore heroes and toasted the kindness of the citizens of the "Monumental City": "May the days of her safety be as prosperous and happy as the days of her danger have been trying and triumphant!"

The "Monumental City" is the birthplace for treasured American icons, including Thurgood Marshall, Nancy Pelosi, and Babe Ruth. The Baltimore-Washington international airport is named for Marshall, a Supreme Court justice with deep roots in Baltimore. He was named after his great-grandfather Thoroughgood, a former slave. Three of Marshall's grandparents lived in Baltimore shortly before serving in the Civil War. Marshall, who was educated in segregated schools, changed the course of U.S. history when he founded the NAACP Legal Defense and Education Fund in 1940. In his 23 years as chief counsel for the fund, Marshall argued 32 cases before the Supreme Court, including *Brown v. Board of Education*. President Kennedy appointed him to the Second Circuit in 1961, where he served until President Johnson appointed him U.S. solicitor general in 1965. Johnson nominated Marshall to the Supreme Court in 1967, where he served for 24 years as its first African-American justice.

In recognizing the humanity of our fellow beings, we pay ourselves the highest tribute.

— Justice Thurgood Marshall

¹"Baltimore" is the first single released by Amos. Amos and her brother were Baltimoreans when they wrote this song and won a local contest.

Baltimore also boasts legendary sports teams. The Orioles have advanced to the World Series six times, winning it in 1966, 1970, and 1983. Six Orioles players, including Cal Ripken Jr., and two team managers have been inducted into the National Baseball Hall of Fame.

*But the Birds are the best
The best of Baltimore
We like it here in Baltimore
There's so much love in Baltimore
Working hand in hand
To make this place a better land in Baltimore
Love is what you'll find
So stop and take the time
I've got Oriole baseball on my mind.*

Football is also big in the port city of the Chesapeake Bay. The Ravens have captivated fans since 1996, winning the Super Bowl championship in 2001 and 2013.

Baltimore, the “City of Neighborhoods,” is home to more than 100,000 college students from across the globe. These diverse residents attend at least a dozen accredited colleges and universities, including Johns Hopkins University. The university and its hospital are two of the biggest employers in the city. College students love that Baltimore is ranked among the top 15 large cities for walkability. “Charm City” also boasts fabulous seafood (including its famous crab cakes and oysters from the Chesapeake Bay) and delicious desserts, such as Berger cookies and summer snowballs. Fortunately, a comprehensive system of bike routes and more than 4,900 acres of parks are available to work off those high-calorie delights.

Baltimore also has a rich tax history. It played a key part in the American Revolution. After declaring itself independent in 1776, Baltimore briefly hosted the Continental Congress. The Maryland Line regiment fought courageously with General George Washington, resisting British excise taxes and sending staples to Boston when it was occupied.

II. Tax Justice in Baltimore

Today tax justice is served to Marylanders by three low-income taxpayer clinics and by vibrant

Tax Court calendar call and pre-calendar call programs, all located in Baltimore.

A. The LITCs

1. The University of Baltimore.

The University of Baltimore (UB) LITC is an academic clinic operating within the clinical law offices of the UB School of Law. The clinic provides pro bono legal representation to qualifying taxpayers with federal or state tax controversies. Supervised law students handle various administrative issues, including innocent spouse and injured spouse relief, collection due process matters, and Tax Court litigation. The UB LITC represents clients in district court refund litigation, addressing complex legal issues such as the interplay between the Administrative Procedure Act and tax refund procedures. After detailed client intakes and legal case analysis, UB LITC staff, attorneys, and students manage earned income tax credit denials and offers in compromise (including effective tax administration requests), and they file requests for critical tax information under the Freedom of Information Act.

Student attorneys in the UB LITC not only learn practical lawyering skills and help clients with substantive tax issues, they also participate in regular community education and outreach events. For example, the LITC teaches regular sessions of “Tax Law 101” to Marylanders as part of a new citizenship study program. And in conjunction with community partners, it has provided a program on the intersection of tax law and human trafficking. Alumni of the UB LITC often continue to help taxpayers through pro bono community service or by working at the IRS. Director John B. Snyder III and Assistant Director Elena A. Fowlkes are passionate warriors for tax justice, serving a greater good.

2. The Maryland Volunteer Lawyers Service.

The Maryland Volunteer Lawyers Service (MVLS) LITC provides pro bono legal assistance to qualifying low-income Marylanders with federal or state tax problems — including EITC denial, audits, refund claims, innocent spouse relief, Tax Court litigation, and collection issues. With more than 350 volunteers on its tax panel (including attorneys, CPAs, and enrolled agents),

the MVLS LITC covers the entire state of Maryland. It also provides outreach and education to taxpayers around the state on such timely topics as the recently codified Taxpayer Bill of Rights. The LITC offers regular tax training programs and monthly tax webinars for its volunteers. Its managing attorney, Janice Shih, embodies the Baltimorean spirit of service to community and welcomes practitioners to consider becoming a legal services volunteer.

3. The University of Maryland Carey School of Law.

The University of Maryland Carey School of Law (UM) LITC represents clients before the IRS and the comptroller of Maryland. Under close supervision, UM law students handle complex federal and state tax issues and experience what it's like to be a practicing tax attorney.

The UM LITC helps vulnerable taxpayers in many ways. A recent example involved a disabled Baltimorean who owed the IRS more than \$30,000 as a result of cancellation of debt income from the discharge of her student loans. The taxpayer's only source of income was her disability income, which was less than her modest expenses (a common scenario for disabled individuals who are unable to work). She had recently inherited her grandmother's home, but the house needed expensive repairs to make it accessible. Although Baltimore has a home repair loan program for low-income residents, this taxpayer was denied a loan because the IRS had a lien on her property. Fortunately, the UM LITC was there to provide pro bono tax services.

The LITC filed an OIC for the \$30,000 tax debt. The IRS initially denied the OIC because of the property, but UM LITC appealed the decision and explained that the taxpayer couldn't borrow against the house and she couldn't sell it because she needed a place to live. Moreover, the taxpayer needed relief from her tax debt because her monthly expenses consumed her meager disability income plus more. UM LITC prevailed and settled the case for less than \$1,500. The taxpayer has now paid her tax debt in full and has reapplied for a home loan so she can live in her house. Even better news is that Congress recently changed the law so that student loans discharged because of disability or death no longer result in taxable income.

B. The Baltimore Tax Court Calendar Programs

The Tax Court hears trials in 75 U.S. cities, including Baltimore. Volunteer tax practitioners are available for pro bono assistance to unrepresented taxpayers at the calendar call as unrepresented taxpayers navigate the process of contesting their tax deficiencies with the IRS.

Baltimore also has a strong pre-calendar-call program. Baltimore tax attorney Eric M. Bielitz has been instrumental in the success of this program and has written extensively about it.² He notes that having the program before the calendar call gives taxpayers the time to make the best use of the help they receive from pro bono volunteers, which includes a user-friendly education on the applicable tax laws. Also, taxpayers can settle their cases before the calendar call and avoid taking time off work to go to Tax Court. Bielitz further observes that the well-being of some taxpayers seems to improve because the volunteers help answer questions, which reduces the stress of an uncertain situation. Moreover, taxpayers may learn that they qualify for representation from Baltimore's LITCs and obtain pro bono tax counsel. Bielitz maintains that the pre-calendar-call program benefits the IRS and the Tax Court by helping settle cases early and better preparing taxpayers for those that do go to trial.

For civic-minded volunteers, the pre-calendar program is an excellent opportunity to provide pro bono services without an open-ended commitment, says Bielitz. He reports that fortunately, the Maryland Tax Bar is responsive and engaged in pro bono tax matters (even though Maryland attorneys are not required to complete pro bono service).

III. Conclusion

Given the depth and breadth of the tax services, education, and outreach by Baltimore's three LITCs and the Tax Court pre-calendar and calendar call programs, the city is energizing a pipeline of lawyers who understand the lifesaving link that access to tax justice provides for families.

² See, e.g., Bielitz, "Pro Bono, Pro Se: A Report on Baltimore, Maryland's Pre-Calendar-Call Program" (July 19, 2016).

Anti-poverty relief in the federal and state tax systems lifts millions of children and their families out of poverty each year. Yet about 36 percent of all federal audits are focused on these anti-poverty provisions. In 2017 lower-income working families were audited at twice the rate of families with incomes between \$200,000 and \$500,000. Only families with household incomes exceeding \$1 million were examined at meaningfully higher rates.

Without access to legal resources, lower-income families too often lose their anti-poverty benefits, even when they're qualified. Taxpayers have the burden of proof, and if a family can't respond to the IRS, it loses. And if these families — especially the children — lose, we all lose.

Thank you, Baltimore, for serving tax justice in Maryland and beyond.

From my own life experience, I can attest that we have come a long way toward universal justice in this country, but we are not there yet.

— Rep. Elijah E. Cummings, D-Md.
(serving Baltimore since 1996) ■

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