

Circuit Court for Baltimore County  
Case No. C-03-CV-22-002232

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND\*

No. 1575

September Term, 2022

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JOHN A. GALBREATH

v.

STATE OF MARYLAND DEPARTMENT OF  
BUDGET AND MANAGEMENT, CENTRAL  
COLLECTION UNIT

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Graeff,  
Zic,  
Salmon, James P.\*\*  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: April 4, 2024

\* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Md. Rule 1-104(a)(2)(B).

\*\* Salmon, J., participated in the hearing of the case, and in the conference regarding the Court's decision, but he was no longer a member of the Court prior to the adoption of the opinion. The remaining judges sitting on the panel constitute a quorum. Because they agree as to the reasoning and outcomes of the appeal, there is a "concurrence of a majority of [the] panel." Md. Code Ann., Cts. & Jud. Proc., § 1-403(b) (2020 Supp.); *see also Jackson v. State*, 408 Md. 231, 239–40 (2009).

This appeal arises from a complaint filed in the Circuit Court for Baltimore County, by John A. Galbreath, appellant, against the State of Maryland Department of Budget and Management, Central Collection Unit (“CCU”), appellee. Appellant sought to compel the CCU to comply with his requests under the Maryland Public Information Act for information regarding its Tax Refund Intercept Program. Appellee filed a Motion to Dismiss or In the Alternative for Summary Judgment. The court issued an order granting the motion and dismissing the complaint.

On appeal, appellant presents two questions for this Court’s review,<sup>1</sup> which we have consolidated and rephrased, as follows:

Did the circuit court err in dismissing the complaint on the ground that the Tax Refund Intercept Program documents requested by Mr. Galbreath were protected from disclosure under § 13-202 of the Tax General Article?

For the reasons set forth below, we shall reverse the judgment of the circuit court, and remand for further proceedings.

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<sup>1</sup> Mr. Galbreath presented the following questions on appeal:

1. Did the circuit court err in granting summary judgment to the State of Maryland Department of Budget’s Central Collection Unit, when the records that appellant requested under Maryland’s Public Information Act do not all contain tax information and can be redacted to remove any confidential information?
2. Did the circuit court err in granting summary judgment to the State of Maryland Department of Budget’s Central Collection Unit, when there are genuinely disputed issues of material fact?

## FACTUAL AND PROCEDURAL BACKGROUND

### I.

#### The CCU

The CCU “is responsible for the collection of each delinquent account or other debt that is owed to the State or any of its officials or units.” Md. Code Ann., State Fin. & Proc. (“SF”) § 3-302(a)(1) (2022 Supp.). The CCU collects debt by various means, including the Tax Refund Intercept Program (“TRIP”), through which the CCU can certify a debt to the Comptroller of Maryland (the “Comptroller”), who then intercepts any state tax refund that the debtor may receive and applies it to the debt. Md. Code Ann., Tax – Gen. (“TG”) §§ 13-914 to 13-919 (2022 Repl. Vol.).<sup>2</sup> Before certifying a debt to the Comptroller, the CCU must notify the debtor of the intent to use the TRIP procedure. TG § 13-914(a). Debtors then can request an investigation regarding the validity of the debt. TG § 13-916.

### II.

#### Mr. Galbreath’s Prior Involvement With the CCU’s TRIP

In April 2019, Mr. Galbreath received a notice of intent to use the TRIP procedure to offset a debt. *Galbreath v. Dep’t of Budget and Mgmt., Cent. Collection Unit*, No. 1431, Sept. Term, 2022, 2023 WL 5969289, at \*1 (filed Sept. 14, 2023). In May 2019, he requested an investigation. *Id.* at \*2. In October 2020, the CCU sent another letter notifying Mr. Galbreath of its intent to certify his name to the Comptroller to intercept any

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<sup>2</sup> The “Comptroller of Maryland is responsible for the fair and efficient collection of taxes,” and serves a role at the state level like that of the Internal Revenue Service. *Broadway Servs., Inc. v. Comptroller of Maryland*, 478 Md. 200, 208 (2022).

tax refund to satisfy outstanding debt. *Id.* Mr. Galbreath explained that the debt matter had been resolved. *Id.* at \*3. An administrative hearing was scheduled, but the CCU advised that it had decertified the debt from the TRIP, and a hearing was not necessary. *Id.* at \*4. On May 21, 2021, the Administrative Law Judge ruled that the validity of the CCU’s determination to certify Mr. Galbreath’s name through the TRIP was moot. *Id.* Mr. Galbreath then filed a complaint in the Circuit Court for Baltimore County, seeking a declaratory judgment that the CCU violated Maryland law in the process of certifying his alleged debt. *Id.* On September 14, 2022, the court dismissed the complaint for failure to state a claim upon which relief could be granted, rejecting Mr. Galbreath’s argument that the CCU acted unlawfully. *Id.* at \*5. Mr. Galbreath appealed, and this Court concluded that the claim was moot because the CCU had dismissed its tax intercept action and could not seek to collect the alleged debt. *Id.* at \*7.

### III.

#### **Mr. Galbreath’s Public Information Act Requests**

On August 12, 2021, while Mr. Galbreath’s challenge to the CCU’s procedures in his case was continuing, Mr. Galbreath requested TRIP records from the CCU pursuant to Maryland’s Public Information Act (“MPIA”). Md. Code Ann., Gen. Provisions (“GP”) § 4-601 (2019 Repl. Vol.). He requested “an opportunity to inspect or obtain copies of public records that concern communications between alleged debtors and the Department of Budget and Management (DBM) or its Central Collection Unit (CCU);” communications within the DBM or CCU and “any Maryland or Federal

agency/governmental unit concerning the alleged debtors/debts.” The request was “confined to situations where the alleged debtor requested an investigation after receiving a delinquency notice or letter from the CCU concerning the alleged debt.” Mr. Galbreath sought communications between alleged debtors and the CCU within the previous five years.

In an e-mail dated August 23, 2021, the CCU denied “the bulk” of Mr. Galbreath’s request based on the advice of the Office of the Attorney General. The e-mail stated, in relevant part:

I must deny the bulk of your request as per the advice of DBM’s Assistant Attorney General. According to their search, over 1,500 debtors over the past five years have requested an investigation into the validity of their alleged debts following receipt of a notice of intent to intercept a state tax refund; however, with the exception of your own account, you do not constitute a “person of interest” as defined in the General Provisions Article of the Maryland Code, §4-101(g). Accordingly, your request to inspect any such records must be denied under GP §4-336(b), as the records contain confidential financial information of individuals.<sup>3</sup>

The e-mail advised that all requested documents specific to Mr. Galbreath’s accounts were being compiled and would be forwarded upon receipt.

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<sup>3</sup> Md. Code Ann., Gen. Provisions (“GP”) § 4-336(b)–(c) (2019 Repl. Vol.) provide as follows:

(b) Subject to subsection (c) of this section, a custodian shall deny inspection of the 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 creditworthiness.

(c) A custodian shall allow inspection by the person in interest.

On August 25, 2021, Mr. Galbreath sent a “new/amended” request in response to the State’s denial. The request was amended to state that “[i]nformation that identifies an alleged individual debtor or entity debtor, such as name, address, telephone number, social security number or EIN, may be redacted. The amount of the alleged debt may also be redacted.” In all other respects, the August 12, 2021 and August 25, 2021 requests were identical.

In a letter dated September 9, 2021, the Office of the Attorney General (“OAG”), representing the appellee, denied Mr. Galbreath’s request, again citing GP §§ 4-101(g) and 4-336(b). The OAG explained that, with respect to communications with other agencies, once a debt is “certified to the Comptroller for certification through CCU’s account management system[,] no written or electronic communication exists between CCU and the Comptroller pertaining to this process.” With respect to communications with debtors, the letter explained:

Over 4,000,000 debtors received notices of CCU’s intent to intercept a state tax refund within the last five (5) years. Of those debtors, approximately 3,600 debtors requested investigations as to the validity of debts and fall within the parameters of your request. With the exception of your own account, it is my understanding that you are not, nor do you represent a person of interest as defined in GP § 4-101(g). Accordingly, your request to inspect any records must be denied under GP § 4-336(b) as these records contain confidential financial information of individuals.

Accordingly, enclosed in response to your request, please find a copy of a Notice of Intent to Offset through federal vendor payments previously sent to you on April 13, 2019, and a copy of your Notice of Tax Refund Interception along with CCU’s response to your Tax Refund Interception Investigation Request.

Second, regarding your communication dated August 25, 2021 which amends your August 12, 2021 request, that request also must be denied for the same reasons discussed above.

The OAG further noted that, even if Mr. Galbreath was “entitled to inspect or copy the requested documents after the appropriate redactions of all personnel information of individuals and all confidential information of individuals,” a CCU agent would have to search through thousands of documents and manually remove non-disclosable information, and therefore, the estimated cost would be \$221,367.23. Attached to the OAG’s letter was a Good Faith Cost Estimate for Mr. Galbreath’s request.

On September 22, 2021, Mr. Galbreath submitted a new request to the CCU. This request narrowed the scope of the previous requests. Mr. Galbreath stated that he was seeking three communications between debtors and the CCU for each alleged debt:

1. The initial TRIP notice sent to the alleged debtor;
2. The letter from the alleged debtor that *first* requests an investigation; and
3. The investigation report sent to the alleged debtor.

Mr. Galbreath’s request noted that “[i]nformation that identifies an alleged individual debtor or entity debtor, such as name, address, telephone number, e-mail address, bank account number, social security number, EIN, etc. may be redacted. The amount of the alleged debt may also be redacted.” Finally, Mr. Galbreath limited his request “to cases where the alleged debtor *first* requests an investigation between May 2018 and May 2020.” Mr. Galbreath requested a “waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public’s

understanding of the various procedures the DBM and CCU go through when pursuing payment from alleged debtors.”

In a letter dated October 18, 2021, the OAG denied Mr. Galbreath’s request. It explained:

Over 3,000,000 debtors received notices of CCU’s intent to intercept a state tax refund between May 18 2018 and May 2020. Of those debtors, approximately 1,600 debtors requested investigations as to the validity of the debts and fall within the parameters of your request. With the exception of your own account, it is my understanding that you are not, nor do you represent, a person of interest as defined in GP §4-101(g). Accordingly, your request to inspect any records other than your own must be denied under GP §4-336(b) as these records contain confidential financial information of individuals. Copies of your documents were previously sent in response to your first Public Information Act request dated August 12, 2021 and amended on August 22, 2021.

The OAG further noted that, even if Mr. Galbreath was “entitled to inspect or copy the requested documents,” after appropriate redactions, the estimated fee based on the narrowed scope of the request would be \$97,100.18.<sup>4</sup> Attached to the OAG’s letter was a Good Faith Cost Estimate, noting the estimated cost to pull, scan, and redact files for Mr. Galbreath’s request, plus copy fees.

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<sup>4</sup> The letter advised that CCU agents would have to manually search through “thousands of stored/archived physical files to retrieve [and copy] the requested documents.” CCU agents would then be required to redact information protected by the MPIA.

#### IV.

##### **Public Information Act Compliance Board**

On December 7, 2021, Mr. Galbreath filed a complaint with the Public Information Act Compliance Board (“PIACB”) pursuant to GP § 4-1A-05.<sup>5</sup> The complaint alleged that the fees estimated by the DBM were unreasonable. On February 3, 2022, the PIACB dismissed Mr. Galbreath’s complaint. It found that, because “DBM-CCU has not ‘charged’ [Mr. Galbreath] a fee, as required by § 4-1A-04(a)(1) to trigger [its] review and resolution,” the matter was not ripe for review. The PIACB noted that, if the CCU ultimately was required to produce some or all of the records Mr. Galbreath sought, and the fees for production exceeded \$350 and were, in his view, unreasonable, Mr. Galbreath could file a new complaint.

#### V.

##### **Proceedings in the Circuit Court**

On June 8, 2022, Mr. Galbreath filed a complaint against the CCU in the Circuit Court for Baltimore County, pursuant to the MPIA. Mr. Galbreath alleged that the CCU

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<sup>5</sup> The Public Information Act Compliance Board is the entity “responsible for reviewing claims that a custodian of records charged an unreasonable fee for responding to a request.” *Action for Comm. for Transit, Inc. v. Town of Chevy Chase*, 229 Md. App. 540, 566 n.25 (2016). When Mr. Galbreath filed his complaint, the PIACB’s jurisdiction was limited to receiving, reviewing, and resolving complaints filed under § 4-1A-05 “from any applicant or the applicant’s designated representative alleging that a custodian: . . . (ii) charged an unreasonable fee under § 4-206 of this title.” Md. Code Ann., Gen. Provisions (“GP”) § 4-1A-04(a)(1) (2019 Repl. Vol). Effective July 1, 2022, GP § 4-1A-04 was amended to expand the PIACB’s jurisdiction to also include the ability to resolve complaints from an applicant alleging that a custodian denied inspection of a public record. GP § 4-1A-04(a).

violated the law in his alleged debt case, and it was seeking to avoid review of whether it violated the law in other cases. Pursuant to GP § 4-362, Mr. Galbreath sought an order from the court requiring the CCU to provide the public records he had requested in the August 21, 2021 MPIA request (as amended on August 25, 2021), and in the September 2021 MPIA requests. He further requested that “fees for providing these records be waived because this information is in the public interest.” Mr. Galbreath also requested “damages that the Court considers appropriate under § 4-632(d), costs under § 4-362(f), and such other further relief as the Court deems proper.”

On July 15, 2022, the CCU filed a Motion to Dismiss Or In The Alternative For Summary Judgment. It asserted that Mr. Galbreath was “seeking personal and confidential information of millions of citizens of Maryland with whom he has no personal relationship.” The motion alleged that “[e]ach of the three categories of documents requested by Plaintiff are created for the express purpose of conveying personal and confidential information to the debtor, the actual person in interest, relating to the debtor’s tax returns and refunds.”<sup>6</sup> The CCU argued that it was prohibited from producing the documents, and redaction was not feasible.<sup>7</sup>

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<sup>6</sup> Attached to the State’s motion was an affidavit of Roderick Morant, which generally outlined the process of collecting debts with respect to the TRIP process.

<sup>7</sup> On August 10, 2022, the circuit court entered an Order granting the State’s motion, finding no response had been filed by Mr. Galbreath. Mr. Galbreath, however, had filed an opposition to the motion on August 1, 2022, but the caption included an incorrect case number. On August 8, 2022, Mr. Galbreath notified the clerk for the circuit court, requesting that his response be filed under the correct case number. On August 17, 2022,

On October 26, 2022, the court held a hearing. Mr. Galbreath represented himself. The CCU began its argument by briefly explaining to the court how TRIP operated, noting that it “is a method by which the State can certify a debt owed to a State agency to the Comptroller of the State in order to intercept a tax refund to pay off that debt.” Counsel explained that Mr. Galbreath was “requesting information regarding these tax refund intercept documents,” and any information with respect to this TRIP program was tax information that was not subject to disclosure under TG § 13-202. Counsel argued that the TRIP materials requested by Mr. Galbreath included information in tax returns, including the amount of the tax return, “names, addresses, social security numbers,” as well as that they were receiving a tax refund, which is all information prohibited from disclosure under the Maryland and federal statutes.

Counsel further argued that the “vast majority” of debts certified for TRIP involved other records prohibited from being disclosed, including Motor Vehicle Administration (“MVA”) records, Maryland Transit Authority (“MTA”) records, and student debt.<sup>8</sup> For example, GP § 4-314 provides that “a custodian shall deny inspection of any record disclosing the name of the account holder” of an educational investment account. Counsel for the CCU argued that this prohibits disclosure of the record in its entirety, and therefore,

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Mr. Galbreath filed a Motion to Alter or Amend Judgment—seeking to amend the circuit court’s August 10 order. On September 12, 2022, the circuit court issued an Order accepting Mr. Galbreath’s motion to amend, and a hearing subsequently was set for October 26, 2022.

<sup>8</sup> GP § 4-304 exempts specific records from disclosure under the MPIA. *See* GP §§ 4-305 to 4-327 (enumerating a list of records prohibited from inspection disclosure).

disclosure is not allowed even with redaction of some information. Similarly, GP § 4-318 prohibits inspection of Department of Probation and Parole (“DPP”) records, and TRIP records often refer to traffic citations or EZ Pass records. Counsel for the CCU argued that it could not produce the documents requested, even with redaction of information within the records.

Counsel argued that 26 U.S.C. § 6103, which is incorporated into TG § 13-201, provides that “no officer, employee of the United States or of any State or local law enforcement agency or any other person shall disclose any return or return information obtained by him in any manner in connection with the services of such an officer, employee or otherwise.” Counsel explained:

The term return means any tax information return, declaration of estimated tax or claim for refund required by or provided for or permitted under the provisions of this title which is filed with the secretary by or on behalf of or with respect to any person or any amendments or supplement thereto, including supporting schedules, attachments or lists, which are supplemental to or parts of returns so filed.

Section two under the definitions also prohibits the disclosure of any documents related to a taxpayer’s identity, the nature, source or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, over assessments or tax payments. Whether the taxpayer’s return was, is being or will be examined or subject to other examination or processing.

Counsel then stated that these records cannot “be produced in their entirety, redaction notwithstanding.”

Although Mr. Galbreath said that he was “not seeking the personal information of individuals, their names and addresses,” counsel for the CCU asserted that, with personal information redacted, there is nothing left in the documents. Counsel continued:

[T]he reason for the prohibition of the disclosure of the document, of any records themselves, is because their very existence points to the information that is prohibited from disclosure. The fact that there is a tax refund intercept means that there is a tax refund, and that information can't be disclosed.

So, the very existence of the documents themselves are a testament to the protected information, we can't, that can't be disclosed in these documents. Unlike other cases, under 4-328, where certain information can be redacted, the fact that these documents exist is [ ] protected information.

So, as a result of the statutes, the nature of the documents being requested, this Complaint should be dismissed, or summary judgment issued in the State's favor. However, even if the State, the, the Court were not willing to go that far, there's no public interest [ ] here.

With respect to the request for a waiver of fees, the CCU stated that there was never a demand for fees because the documents could not legally be produced. Counsel stated that “[t]he entire Complaint is premised on some imagined legal wrong done Plaintiff in this case.”

Mr. Galbreath argued that if the court accepted the CCU's position, none of its practices could be seen by the public, which was repugnant to the MPIA. The court noted that the CCU's argument was that, where a statute says a record cannot be produced, it cannot produce any part of the record, so redaction is not an issue. Mr. Galbreath stated that he was seeking information about the practices of the CCU. He wanted to know whether the CCU was following the law. He was not looking for personal information, but

he wanted to know how many investigations were done in response to a request for an investigation.

Counsel for the CCU then stated that the information Mr. Galbreath just mentioned was not requested, but Mr. Galbreath could make such a formal request and “go through the process.” The court stated that Mr. Galbreath should be able to request “[h]ow many letters from the debtor requesting an investigation were submitted? And how, and then, how many investigations were done or not done?”

After further discussion, the court stated that it was granting CCU’s motion for summary judgment. The court stated that TG § 13-202 prohibits disclosure of tax information, and because the TRIP program includes tax information, including that there will be a refund, the CCU was prohibited from producing the documents requested. The court stated, however, that there were other ways for Mr. Galbreath to get the information he wanted. On November 1, 2022, the court issued an order granting CCU’s motion, stating that the matter was dismissed.

This appeal followed.

### **STANDARD OF REVIEW**

In assessing the proper standard of review, we must determine the nature of the court’s order. Mr. Galbreath relies on the standard of review for a grant of a motion for summary judgment, and the CCU relies on the standard of review for a ruling dismissing a complaint for failure to state a claim upon which relief can be granted. “In order to follow the correct standard of review . . . it is necessary to determine what the trial court actually

did.” *Pope v. Board of School Comm’rs of Baltimore City*, 106 Md. App. 578, 590 (1995), *cert. denied*, 342 Md. 116 (1996).

When reviewing a circuit court’s “dismissal of a complaint on a motion to dismiss, ‘we look only to the allegations in the complaint and any exhibits incorporated in it and assume the truth of all well-pled facts in the complaint as well as the reasonable inferences that may be drawn from those relevant and material facts.’” *Worsham v. Ehrlich*, 181 Md. App. 711, 722, *cert. denied*, 406 Md. 747 (2008) (quoting *Smith v. Danielczyk*, 400 Md. 98, 103–04 (2007)) (internal quotations omitted). If, however, “matters outside the pleading are presented to and not excluded by the court, the motion shall be treated as one for summary judgment and disposed of as provided in Maryland Rule 2-501, which governs motions for summary judgment.” *Worsham*, 181 Md. App. at 722.

Here, the State’s motion was one to dismiss or in the alternative for summary judgment. The motion to dismiss presented matters outside the pleadings when it attached the affidavit from Mr. Morant, and the record indicates that the court considered information in the affidavit. “Generally the introduction of affidavits of fact will operate to convert a motion to dismiss into a motion for summary judgment.” *Id.* at 723. Additionally, the circuit court stated on the record that it was “grant[ing] the Motion for summary judgment.” Accordingly, we shall treat the circuit court’s ruling as a grant of summary judgment.

In *Wilkinson v. Board of Cnty. Comm’rs of St. Mary’s Cnty.*, 255 Md. App. 213 (2022), *aff’d*, 483 Md. 590 (2023), we explained the standard of review of a circuit court’s grant of summary judgment under Rule 2-501(f):

[S]ummary judgment is proper when the circuit court determines that there is no dispute as to any material fact and that the moving party is entitled to judgment as a matter of law. Whether a circuit court properly granted summary judgement is a question of law that is reviewed de novo. We independently review the record to determine whether the parties properly generated a dispute of material fact, and, if not, whether the moving party is entitled to judgment as a matter of law. We review the record in the light most favorable to the nonmoving party and construe any reasonable inferences that may be drawn from the facts against the moving party.

*Id.* at 236–37 (internal quotations and citations removed). *Accord Amster v. Baker*, 453 Md. 68, 75 (2017) (adopting traditional standard of review for summary judgment relating to an MPIA case).

## DISCUSSION

Mr. Galbreath contends that the circuit court erred in dismissing his complaint on the ground that the requested records contain “tax information,” which may not be disclosed pursuant to TG § 13-202.<sup>9</sup> He asserts that there are “genuinely disputed issues of material fact as to whether all of the requested records contain tax information, and thus

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<sup>9</sup> During oral argument, Mr. Galbreath asserted he was appealing only from the denial of his August 25, 2021 and September 22, 2021 MPIA requests. As such, we will not consider the application of the statute as applied to the August 12, 2021 request.

summary judgment was not appropriate.”<sup>10</sup> He asserts that the requested records must be examined to see whether they contain tax information.

Mr. Galbreath argues that the CCU is resisting release of the requested records because they will show that it does not always conduct the investigations required by law.<sup>11</sup> He states that the CCU improperly thinks that, after receiving a request for an investigation, it can decide whether to conduct that investigation, and it “thinks it is entitled to recertify the debt the next calendar year and start the process over,” which can lead to a situation where “an alleged debtor requests an investigation and hears nothing back from the CCU – only to receive a second TRIP notice after an exceedingly long period of time,” which violates due process.

Mr. Galbreath further asserts that the records do not seek confidential information, and he has made clear that if documents do contain confidential information, they can be redacted to remove that confidential information. He requests that this Court reverse the grant of summary judgment in favor of CCU and remand for the circuit court to hold a “trial on the merits.”

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<sup>10</sup> Mr. Galbreath also asserts that there are disputes of fact regarding the reasonableness of the fees appellees cited to redact the documents, if required. The circuit court found that the documents could not be provided, even with redaction, so it did not address, and therefore we will not address, the reasonableness of the fees listed.

<sup>11</sup> In support of his claim, Mr. Galbreath cites Md. Code Ann., Tax – Gen. (“TG”) § 13-916, which provides that, after a request from the debtor, the CCU shall investigate debt and make a written determination within 15 days, and MD. CODE REGS. (“COMAR”) 17.01.02.04, which provides that, a debtor has a right to request an investigation by the CCU, and the CCU shall submit a report of findings within 15 days of a debtor’s request.

The CCU contends that disclosure of the records requested by Mr. Galbreath is statutorily prohibited. It asserts that “[d]ocuments regarding a debtor’s participation in the Tax Refund Intercept Program are protected by the prohibition against disclosing tax information,” and the “records sought by Mr. Galbreath simply cannot be produced, with or without redaction.” Additionally, even if they were not prohibited from disclosure as tax information, other statutes prohibit disclosure of documents such as student records and MTA records, which are frequent sources of debts sought for recovery by the CCU. The CCU requests that this Court affirm the grant of summary judgment in its favor.

The MPIA “grants to the public the right to inspect public records.” *MacPhail v. Comptroller of Maryland*, 178 Md. App. 115, 119 (2008). GP § 4-103 provides, in part, as follows:

(a) *In general.* – All persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees.

(b) *General construction.* – To carry out the right set forth in subsection (a) of this section, unless an unwarranted invasion of privacy of a person in interest would result, this title shall be construed in favor of allowing inspection of a public record, with the least cost and least delay to the person or governmental unit that requests the inspection.

“We construe the MPIA liberally to effectuate the Act’s broad remedial purpose.”

*Immanuel v. Comptroller of Maryland*, 449 Md. 76, 81 (2016).

The broad access to public records, however, is not without limits. GP § 4-301 provides:

(a) Subject to subsection (b) of this section, 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;
  - (ii) a federal statute or a regulation that is issued under the statute and has the force of law;
  - (iii) the rules adopted by the [Supreme Court of Maryland]; or
  - (iv) an order of a court of record.

As the Supreme Court of Maryland has noted, some of the exemptions from disclosure are mandatory, i.e., “they require the agency to withhold the protected records.” *Amster*, 453 Md. at 76, citing GP § 4-304; GP § 4-328. Other exemptions are discretionary, i.e., the agency can decide whether it would be “contrary to the public interest” to disclose the requested records. *Id.*, citing GP § 4-343. The Court has further explained:

Within these two broad categories, some records are protected in their entirety—no portion of them may be disclosed. GP § 4-304. This includes adoption records, hospital records, and welfare records. GP §§ 4-305–307. Other provisions exempt specific pieces of information and direct public officials to “deny inspection of [the] part of a public record” that contains such information. GP § 4-328; *see also* GP § 4-343. Documents that contain information that falls within these provisions may be disclosed in a redacted form, as long as the specific pieces of exempted information remain protected.

*Id.* at 76–77 (alteration in original).

Here, the CCU argues, and the circuit court found, that inspection would be contrary to a state statute. TG § 13-202 states that, “[e]xcept as otherwise provided in this subtitle, an officer, employee, former officer, or former employee of the State or of a political subdivision of the State may not disclose, in any manner, any tax information.” The CCU argues that this is a mandatory exemption from disclosure, which protects the records from disclosure in their entirety.

Mr. Galbreath, in contrast, contends that the documents he requested do not all contain “tax information” pursuant to TG § 13-202. He asserts: “Just because an alleged debt might result in a tax refund intercept does not mean all records concerning the debt contain tax information.” He asserts that the documents in the record regarding his TRIP notice show that the records do not contain tax information. Alternatively, he argues that there is a genuine dispute of material fact regarding whether the requested records contain tax information, and they must be individually examined.

Neither side cites any cases addressing this issue.

To determine whether the TRIP documents requested are prohibited from disclosure as tax information, we begin with the definition of “tax information.” TG § 13-201(2) defines “tax information” as including “any return information, as defined in § 6103 of the Internal Revenue Code, required to be attached to or included in a tax return under this article.” TG § 13-201(2). “Return information” is defined in 26 U.S.C. § 6103 of the Internal Revenue Code to mean:

a taxpayer’s identity, the nature, source, or amount of his income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments, whether the taxpayer’s return was, is being, or will be examined or subject to other investigation or processing, 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* (or the amount thereof) of any person under this title *for any tax, penalty, interest, fine, forfeiture, or other imposition or offense.*

26 U.S.C. § 6103(b)(2)(A) (2020) (emphasis added). *See MacPhail*, 178 Md. App. at 120.

In the context of the issue before us, the CCU uses TRIP to facilitate debt collections by certifying debts or claims to “the Comptroller for income tax refund interception.” SF § 3-304(a)(4); MD. CODE REGS. (“COMAR”) 17.01.02. To “certify” a debt means to “*furnish* to the Comptroller the names, . . . and amount of debt of debtors owing money to the State.” COMAR 17.01.02.01 (emphasis added). The Comptroller then intercepts any tax refund to which the debtor is entitled and applies it to the debt. *See* TG § 13-915. Documentation involved in the CCU’s certification to the Comptroller regarding the existence of a debt for collection arguably is encompassed within TG § 13-201’s definition of tax information.

That is not, however, the documentation requested by Mr. Galbreath. He is requesting documents generated *before* any certification to the Comptroller. The initial TRIP notice, which the CCU says is a form letter, merely advises the alleged debtor of an outstanding debt, which “will be certified to the [Comptroller]” and may cause the interception of “any State income tax refund otherwise due to you.” It advises that the person can remit payment to avoid the debt being subject to action or challenge the existence of the debt. This document concerns only the existence of the debt and possible future action. It does not include “tax information” pursuant to TG § 13-201.

The second type of document Mr. Galbreath seeks is letters from the alleged debtors requesting an investigation regarding the alleged debt.<sup>12</sup> These documents do not involve “tax information” pursuant to TG § 13-201.

The final type of document Mr. Galbreath requests is the investigation report sent to the alleged debtor. Based on the document sent to Mr. Galbreath, attached to the Complaint, it merely states the result of the investigation, and if it is concluded that a debt is owed, that “collection action, to include tax interception will continue” until the debt is paid. This document does not contain any tax information or indicate that the person is entitled to a refund.

The documents requested by Mr. Galbreath, the notice to an alleged debtor, a request for investigation into the validity of an alleged debt, and the results of that investigation, involve an alleged debt, not tax information. Documents generated *prior to* the time the CCU certifies the debt to the Comptroller to intercept any tax refund, do not qualify as “tax information” under TG § 13-201. Accordingly, we hold that the circuit court erred in concluding that the documents Mr. Galbreath requested are exempt from disclosure because they include “tax information” pursuant to TG § 13-201.

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<sup>12</sup> The debtor’s request for an investigation must be made within 15 days of the mailing of a TRIP Notice, and the CCU must then “submit to the debtor a report of its findings within 15 days from the date that the request for investigation was received.” TG § 13-916; COMAR 17.01.02.04(B). If the CCU determines that the referred debt is in error, it must: “(i) correct the referral or certification; (ii) discontinue certification procedures; or (iii) promptly remit to the debtor any amounts that have been improperly withheld.” TG § 13-916(b)(3). If, however, the CCU concludes that the referred debt is valid, it is then certified to the Comptroller pursuant to TG § 13-915.

The CCU contends that, even if the documents requested did not seek tax information, the refusal to disclose them was proper because the MPIA “generally prohibits the disclosure of records containing personal and confidential information to individuals without a legitimate interest in them.” It argues that the MPIA “prohibits disclosure of specific classes of documents regardless of whether they are redacted or not,” and “it would be an unwarranted invasion of privacy of Maryland’s debtors to produce their personal information to Mr. Galbreath.” Moreover, it asserts that “[p]roducing documents where the required information was redacted would result in no unique information being produced.”

The circuit court, however, did not address this argument. “On a ruling granting summary judgment, an appellate court will ordinarily only review the issue decided by the trial court.” *May v. Air & Liquid Sys. Corp.*, 446 Md. 1, 16 n.16 (2015). *Accord Bishop v. State Farm Mut. Auto Ins.*, 360 Md. 225, 234 (2000) (“[I]t is a settled principle of Maryland appellate procedure that ordinarily an appellate court will review a grant of summary judgment only upon the grounds relied upon by the trial court.”). Accordingly, we remand to the circuit court for further proceedings.<sup>13</sup>

**JUDGMENT OF THE CIRCUIT COURT  
FOR BALTIMORE COUNTY REVERSED.  
CASE REMANDED TO THE CIRCUIT  
COURT FOR PROCEEDINGS  
CONSISTENT WITH THIS OPINION.  
COSTS TO BE PAID BY APPELLEE.**

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<sup>13</sup> On remand, the court can consider the arguments whether the documents contain confidential information, whether they can be produced with redaction, and if warranted, whether the fees proposed are reasonable or waiver of the fees is in the public interest.