

Department of Legislative Services  
 Maryland General Assembly  
 2017 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 691 (Delegate Atterbeary, *et al.*)  
 Economic Matters

Corporations and Associations - Annual Reports - Filing Fees (Filing Fee  
 Fairness Act of 2017)

This bill alters the corporate filing fee amount paid by business entities in the State.

The bill takes effect July 1, 2017.

Fiscal Summary

**State Effect:** General fund revenues increase by approximately \$432,900 in FY 2018, based on a three-year average of recent filing fee payments. Special fund expenditures increase by \$1.0 million in FY 2018. Future years reflect annualization and ongoing operating costs.

(\$ in millions)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	\$0.4	\$0.4	\$0.4	\$0.4	\$0.4
SF Expenditure	\$1.0	\$0.7	\$0.7	\$0.8	\$0.8
Net Effect	(\$0.6)	(\$0.3)	(\$0.3)	(\$0.3)	(\$0.4)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease*

**Local Effect:** None.

**Small Business Effect:** Minimal, as it is assumed that most small business will pay slightly less or the same amount in corporate filing fees.

Analysis

**Bill Summary:** The bill alters the amount of the corporate filing fee paid by business entities in the State by repealing the \$300 annual fee that is paid by business entities and

establishing a new rate schedule based on each business entity’s taxable personal property assets, as shown in **Exhibit 1**.

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**Exhibit 1**  
**New Filing Fee Schedule**

<u><b>Taxable Assets</b></u>	<u><b>Fee</b></u>
None	\$150
\$1-\$10,000	\$150
\$10,001-\$25,000	\$200
\$25,001-\$50,000	\$300
\$50,001-\$100,000	\$750
\$100,001-\$150,000	\$1,500
\$150,001-\$200,000	\$3,000
over \$200,000	\$4,000
Family Farms	\$100

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**Current Law:** At the beginning of each calendar year, the State Department of Assessments and Taxation (SDAT) mails a personal property tax return to most businesses on record. Businesses must file the return by April 15, reporting personal property located in Maryland on January 1, the “date of finality.” The date of finality is the date used to determine ownership, location, value, and liability for tax purposes. An annual report fee is required to be paid to SDAT with the personal property tax return. The annual report fee is for the privilege of maintaining the legal entity’s existence in the State. **Exhibit 2** identifies the amount of the report fee that each legal entity is required to pay.

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**Exhibit 2**  
**Annual Reporting Fee Requirement**

<u><b>Business Entity</b></u>	<u><b>Fee</b></u>	<u><b>Business Entity</b></u>	<u><b>Fee</b></u>
Stock Corporation	\$300	Domestic Statutory Trust	\$300
NonStock Corporation	\$0	Foreign Statutory Trust	\$300
Foreign Insurance Corporation	\$300	Real Estate Investment Trust	\$300
Foreign Interstate Corporation	\$0	Certified Family Farm	\$100
Limited Liability Company	\$300	Sole Proprietorship	\$0
Limited Liability Partnership	\$300	General Partnership	\$0
Limited Partnership	\$300	Amended Return	\$0

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**Background:** In Maryland, there is a tax on business-owned personal property that is imposed and collected by local governments. Personal property generally includes business property including furniture, fixtures, office and industrial equipment, machinery, tools, supplies, inventory, and any other property not classified as real property. To provide for uniform assessments, SDAT is responsible for assessing all personal property. Each county or municipal government is responsible for issuing the tax bills and collecting the tax. The tax year begins on July 1 and ends on June 30. The personal property tax has been a local tax exclusively since 1984 when the State tax rate on personal property was set at zero.

Personal property, except inventory, is assessed based on the original cost less an annual depreciation allowance. The depreciation rate is determined based on the category of property. Seven rate categories (A through G) each pertain to different types of personal property. Except for data processing equipment and canned software, property may not be depreciated below 25%. For example, an item that was purchased for \$400 would be reduced by the depreciation factor each year until it reaches a minimum of \$100. Inventory is valued at its fair average value using the cost or market value, whichever is lower.

SDAT's Charter Unit is the central repository of all records for business entity formation and filings, such as charters, limited liability companies, partnerships, and trusts. The unit provides resident agent information for service of process on these entities and accepts service in certain instances on their behalf. It also records trade names and is the filing place for most financing statements under the Uniform Commercial Code. The Charter Unit administers the State's annual corporate filing fee. Revenue collected is deposited into the State general fund. The department does not collect State or county property taxes; this is done by county governments.

**State Revenues:** The bill alters the current fee schedule for corporate filing fees by eliminating the \$300 fee that is paid by most business entities and replacing it with a new fee schedule based on each business entity's taxable assets. General fund revenues may increase or decrease depending on the number of business entities paying corporate filing fees in a given year and the fee paid.

Based on a three-year average (tax years 2013-2015) of corporate filing fees paid, the State collected approximately \$84.7 million in corporate filing fees each year. Under the new tiered schedule, it is estimated that corporate filing fees will total approximately \$85.1 million on an annual basis, resulting in a general fund revenue increase of approximately \$432,850 beginning in fiscal 2018, as shown in **Exhibit 3**.

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**Exhibit 3**  
**Revenue Change from New Filing Fee Schedule**

<u>Taxable Assets</u>	<u>Number of Businesses</u>	<u>Current Fee Revenue</u>	<u>New Fee Revenue</u>	<u>Difference</u>
None	163,419	\$49,025,700	\$24,512,850	(\$24,512,850)
\$1-\$10,000	69,513	20,853,900	10,426,950	(10,426,950)
\$10,000-\$25,000	18,961	5,688,300	3,792,200	(1,896,100)
\$25,001-\$50,000	10,796	3,238,800	3,238,800	0
\$50,001-\$100,000	7,653	2,295,900	5,739,750	3,443,850
\$100,001-\$150,000	3,252	975,600	4,878,000	3,902,400
\$150,001-\$200,000	1,805	541,500	5,415,000	4,873,500
over \$200,000	6,770	2,031,000	27,080,000	25,049,000
Family Farms	562	56,200	56,200	0
Exempt Businesses	57,464	0	0	0
<b>Total</b>		<b>\$84,706,900</b>	<b>\$85,139,750</b>	<b>\$432,850</b>

Source: State Department of Assessments and Taxation; Department of Legislative Services

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To the extent that variations occur in the number of business entities within each new fee category each year, the effect on general fund revenues will vary accordingly. In addition, Chapters 323 and 324 of 2016 establishes the Maryland Small Business Retirement Savings Program and Trust, which requires specified private-sector employers to make the program available to their employees. Chapter 324 waives the annual filing fee collected by SDAT for a corporation or business entity that participates in the program or otherwise offers a retirement savings arrangement for its employees for the filing of reports. The number of businesses that participate will also have an impact on revenues, depending on the amount of personal property these businesses have, and the fee they are required to pay.

**State Expenditures:** The bill requires SDAT to administer and collect a new tiered corporate filing fee structure, resulting in significant expenditure increases for the department. These expenditures relate to additional computer programming costs and personnel.

The SDAT computer system for administering the State corporate filing fee will require substantial reprogramming to monitor and track corporate filings being paid under the new tiered fee schedule. The additional cost is estimated at \$500,000 in fiscal 2018 and annual maintenance costs of \$66,700 annually thereafter.

In addition, SDAT could incur increased staffing cost to administer the program with the new tiered fee schedule. The Charter Unit is funded through special fund revenues collected through expedited fees paid by businesses for expedited processing of business filings. Expedited service fees for most types of filings are \$50. The proposed fiscal 2018 budget assumes 68 authorized positions, 6 contractual positions, as well as \$5.6 million in special fund revenues and expenditures for the Charter Unit.

As a result of the new tiered schedule proposed by the bill, SDAT’s special fund expenditures increase by \$1.0 million in fiscal 2018, which accounts for a 90-day start-up delay. The estimate reflects the cost of hiring one administrative officer, three office clerks, and seven administrative specialists to handle return receipts, change each entity’s coding annually as personal property values change, process refunds and overpayments, and handle the increased customer service interactions. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. The information and assumptions used in calculating the estimate are stated below:

Position(s)	11
Salaries and Fringe Benefits	\$464,473
Computer Reprogramming	500,000
Operating Expenses	56,196
<b>Total FY 2018 State Expenditures</b>	<b>\$1,020,669</b>

Future year expenditures reflect full salaries with annual increases and employee turnover and ongoing operating expenses.

### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Department of Assessments and Taxation; Department of Legislative Services

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md/hlb

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