

LAW OFFICES OF
ABRAMOFF BUSHEL LLC
QUARRY LAKE AT GREENSPRING
2650 QUARRY LAKE DRIVE, SUITE 320
BALTIMORE, MARYLAND 21209

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WWW.ABRBUS.COM
(410) 583-1400

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IN OPPOSITION TO HB 174

Ways and Means Committee
Maryland House of Delegates
House Office Building, Room 130
Annapolis, Maryland 21401

RE: Senate Bill 174 – Property Tax Assessments – Appeal to Maryland Tax Court – Filing Fee

Dear Members of the Committee:

I respectfully submit this letter as testimony in opposition to House Bill 174.

Personal Background

My name is Alexander H. Bushel. I practice in law Baltimore, Maryland at Abramoff Bushel LLC. Our firm's practice consists almost entirely of real property tax assessment appeals. I have been a member of the Maryland Bar since 2009 and the Kentucky Bar since 2008. I have served on the Maryland State Bar Association's Tax Section Council. My focus has been in this area of the law since 2010.

In our practice, we represent taxpayers from every county and Baltimore City. We represent the owners of houses, office buildings, shopping centers, golf courses, nursing homes, hotels, marinas, mines, apartments, warehouses, factories, hospitals, farms, etc. This representation includes handling these appeals at the assessor level with the Department of Assessments & Taxation (SDAT), the Property Tax Assessment Appeal Boards (PTAABs) in each county, the Maryland Tax Court, and beyond to the State's appellate courts.

The Bill

This Bill proposes to set a \$100 filing fee for assessment appeals of income producing properties assessed for \$5,000,000 or more to the Maryland Tax Court. I am opposing this bill because the fees are being proposed for the sole purpose of discouraging certain taxpayers from exercising their appeal rights. This is an inappropriate reason for which to instate a filing fee.

A version of this bill was first introduced last session. It purported to create filing fees for certain commercial assessment appeals in order reduce the number of them. The purpose of a filing fee in a court, however, is not to deter access to justice and courts. Filing fees in our courts are for the purpose of recouping reasonable costs incurred by the tribunal in opening and processing matters. The Tax Court has long held a policy that it does not want to charge fees and restrict access of taxpayers. I recently discussed this push for filing fees with a retired Chief Judge of the Maryland Tax Court. He was disheartened to hear that this was being considered and he was of the firm opinion that it was entirely misguided to charge a taxpayer for the right to appeal their taxes.

What makes the legislation most distasteful to me is that the idea for filing fees on assessment appeals is not even coming from the Maryland Tax Court. **The Court did not ask for this bill and is not supporting it.** This bill was filed at the request of SDAT. Importantly, the Maryland Tax Court is an independent agency from SDAT and has the authority to override SDAT (change assessments, institute credits, and exemptions, etc.). Moreover, the Tax Court already has the ability to institute filing fees if it so wishes (see COMAR 14.12.01.01.B).

This legislation also begs the question of why is the legislature not ordering the Tax Court to charge filing fees for appeals of income tax, sales and use tax, digital ad tax, estate tax, admission and amusement tax, and other taxes? What is more costly about handling a real property assessment appeal over a complicated corporate income tax case?

Perhaps the clearest illustration of the utter lack of proper purpose to this bill is that the fees collected do not even accrue to the Maryland Tax Court. Rather, it appears they will simply be turned over to the State's general coffers.

Supporters of this bill will likely argue that the proposed fee is relatively modest. Even accepting that as an argument, however, does not show that there is a proper purpose for charging the fee. If a fee being "modest" makes it acceptable, why not charge modest fees for submitting committee testimony? Constituent mail? Complaint letters to the Governor?

Conclusion

As this bill is conceived purely as a punishment to taxpayers and does nothing to support the Maryland Tax Court, I respectfully oppose House Bill 174.

Sincerely yours,



Alexander H. Bushel