

Department of Legislative Services
 Maryland General Assembly
 2007 Session

FISCAL AND POLICY NOTE

House Bill 1053
 Ways and Means

(Delegate Hucker, *et al.*)

Business Organization Filing Fees - Income Tax Credit

This bill increases the filing fee paid by specified business entities that are required to file an annual report with the State Department of Assessments and Taxation (SDAT) from \$300 to \$1,000. Businesses that pay these fees can claim a credit against the State income tax for the amount of filing fees paid, not to exceed the lesser of \$500 or the income tax liability in the tax year. Any unused amount of credit may not be carried forward to any other tax year.

The bill takes effect July 1, 2007 and applies to reports filed after December 31, 2007 and to tax years 2007 and beyond.

Fiscal Summary

State Effect: Net general funds would increase by \$105.8 million in FY 2008, which represents an increase of \$148.1 million from increased filing fees and a decrease of \$42.4 million due to credits being claimed as provided by the bill. Transportation Trust Fund Revenues (TTF) would decrease by \$1.3 million due to credits being claimed against the corporate income tax. Future years reflect an increase in filing fees and credits claimed as provided by the bill. Expenditures would increase by \$34,000 due to one-time tax form and computer programming expenses at the Comptroller’s Office.

(\$ in millions)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
GF Revenue	\$105.76	\$76.83	\$76.83	\$76.83	\$76.83
SF Revenue	(1.30)	(2.00)	(2.00)	(2.00)	(2.00)
GF Expenditure	.03	0	0	0	0
Net Effect	\$104.42	\$74.83	\$74.83	\$74.83	\$74.83

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

Local Effect: Local highway user revenues would decrease by \$391,000 in FY 2008 and by \$599,600 in FY 2009 and beyond due to credits being claimed against the corporate income tax. No effect on expenditures.

Small Business Effect: Minimal.

Analysis

Current Law: Exhibit 1 shows the filing fee for entities that are required to file an annual report with SDAT:

Exhibit 1 Annual Filing Fees for Annual Reports Filed with SDAT

<u>Type of Business Entity</u>	<u>Filing Fee</u>
Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, and banking institution	\$300
Foreign corporation subject to the jurisdiction of this State, except a national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution	\$300
Maryland savings and loan association, banking institution, or credit union or a foreign savings and loan association, national banking association, or credit union that is subject to the jurisdiction of this State	\$300
Maryland limited liability company (LLC), limited liability partnership (LLP), limited partnership (LP), or a foreign limited liability company, foreign limited liability partnership, or foreign limited partnership	\$300
Business trust	\$300
Real estate investment trust (REIT) doing business in this State	\$300

Background: The Budget Reconciliation and Financing Act of 2003 (Chapter 203) raised the fees that business entities are required to pay with their annual reports filed with SDAT. For Maryland and foreign corporations and specified financial institutions, the fee increased from \$100 to \$300. For a REIT the annual filing fee increases from \$25 to \$300. Chapter 203 also imposed a \$300 fee for the annual filing of a Maryland or foreign LLC, LLP, or LP.

It was estimated that there were approximately 127,800 Maryland corporations, 28,100 foreign corporations, 200 Maryland financial institutions, 200 foreign financial institutions, and 250 REITs that would have their filing fees increased as a result of the legislation. It was estimated that general fund revenues would increase by approximately \$55 million annually beginning in fiscal 2004 from fees for annual filings with SDAT.

The Budget Reconciliation and Financing Act of 2004 (Chapter 430) also altered and imposed new fees for filing annual reports with SDAT by: • repealing the exemption for insurance companies that pay an annual filing fee of \$25 to the Insurance Commissioner from the requirement to file an annual report of a foreign corporation – the estimated 540 such foreign insurance companies were required to pay the same fee as other foreign corporations, \$300; and • requiring a \$300 filing fee to be paid with the 159 annual reports of business trusts.

Exhibit 2 shows the number of each type of entity that filed an annual report with SDAT in fiscal 2004 through 2006.

State Fiscal Effect: The bill increases filing fees for reports filed after December 31, 2007 and provides a credit of up to \$500 for businesses required to pay these filing fees beginning in tax year 2007. As a result, general fund revenues could increase by \$104.5 million in fiscal 2008 and TTF revenues could decrease by \$1.3 million. **Exhibit 3** details the net impact of the bill in fiscal 2008 through 2012.

This estimate is based on the following facts and assumptions:

- 211,500 businesses paid filing fees in fiscal 2007. Increasing the fee to \$1,000 would increase revenues by \$148.1 million.
- According to the Comptroller's Office, an average of 61,400 corporations filed in tax year 2004 and 2005. An estimated 141,400 pass-through entities (PTEs) would file in tax year 2007.
- Based on tax liabilities reported by the Comptroller's Office, 23,400 corporations would claim an average credit of \$356.
- Ninety percent of PTEs would claim the maximum credit.
- Five percent of PTEs would dissolve as a result of increased filing fees.

- Annual reports are required to be filed by April 15 of each year. The bill increases filing fees for reports filed after December 31, 2007 and provides a credit of up to \$500 for businesses required to pay these filing fees beginning in tax year 2007. The net impact in fiscal 2008 would be the increased filing fees minus credits paid for fees paid in tax year 2007, which would have been paid at the current rate of \$300. Future years reflect the impact of increased filing fees and credits (up to a maximum of \$500) for filing fees paid at \$1,000.

Exhibit 2
Annual Reports Filed with SDAT by Entity Type
Fiscal 2004 through 2006

<u>Entity Type</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
Maryland LLC	53,817	58,682	69,845
Foreign LLC	5,475	6,196	7,752
Domestic LP	6,960	6,568	6,430
Foreign LP	1,236	1,233	1,232
Domestic LLP	1,294	1,279	1,313
Foreign LLP	82	86	102
Business Trust	142	196	279
REIT	252	290	322
Domestic Financial	42	40	37
Foreign Financial	79	72	72
Domestic Corporation	104,952	98,466	98,643
Foreign Corporation	<u>24,412</u>	<u>25,102</u>	<u>25,505</u>
Total	198,743	198,210	211,532

Source: State Department of Assessments and Taxation

**Exhibit 3
HB 1053 Fiscal Impact**

	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
<u>General Fund Revenues:</u>					
Increased Filing Fees	148,072,400	143,617,300	143,617,300	143,617,300	143,617,300
Credits Claimed					
Pass-through Entities	(38,186,300)	(60,461,700)	(60,461,700)	(60,461,700)	(60,461,700)
Corporations	(4,126,800)	(6,329,200)	(6,329,200)	(6,329,200)	(6,329,200)
<u>Net General Fund</u>	105,759,300	76,826,500	76,826,500	76,826,500	76,826,500
TTF Revenues					
Credits Claimed by Corporations	<u>(1,303,200)</u>	<u>(1,998,700)</u>	<u>(1,998,700)</u>	<u>(1,998,700)</u>	<u>(1,998,700)</u>
Net Effect	104,456,100	74,827,800	74,827,800	74,827,800	74,827,800

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State Department of Assessments and Taxation, Comptroller's Office, Department of Legislative Services

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