

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 215 (Delegate Luedtke)
 Ways and Means

County Revenues - Business Fees and Personal Property Tax Exemption

This bill exempts personal property from county taxation and allows county governments to impose filing fees on businesses located in each county.

The bill takes effect June 1, 2017, except for the personal property tax exemption which takes effect July 1, 2017, and applies to taxable years beginning after December 31, 2017.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$410,000 in FY 2018 for computer reprogramming and administration costs at the State Department of Assessments and Taxation (SDAT). Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	410,000	-	-	-	-
Net Effect	(\$410,000)	\$0	\$0	\$0	\$0

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

Local Effect: County property tax revenues will decrease by an estimated \$301.0 million annually beginning in FY 2019 due to the business personal property tax exemption. County revenues may increase between \$8.3 million and \$33.3 million beginning in FY 2018 to the extent all counties impose a filing fee on business entities. County expenditures are not affected. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: For personal property tax returns filed on or after January 1, 2018, all personal property in the State is exempt from the county personal property tax except (1) operating personal property of a railroad or public utility and (2) property used to provide a cable television, data, or telecommunications service, including all fiber-optic and other cable wire systems, cellular telephone towers, and wireless appurtenances attached to or installed on cellular telephone towers.

The bill authorizes each county government to impose, by law, an annual fee on specified business entities that own real or personal property in the county. This is in addition to the corporate filing fee that is imposed at the State level on business entities. SDAT must collect the fee at the same time and in the same manner as the State filing fee; and promptly remit the fee revenue to the appropriate county.

Each county may determine the amount of the fee imposed; however, the fee may not exceed (1) \$25 for a business entity with 15 or fewer employees; (2) \$50 for a business entity with more than 15 but fewer than 51 employees; and (3) \$100 for a business entity with 51 or more employees. A county that imposes a fee must notify SDAT of the fee amount on or before July 1 of the year preceding the year in which the fee will be collected.

SDAT must identify provisions of State and local law that are rendered inaccurate or obsolete as a result of provisions of the bill and must submit a report to the General Assembly of its findings and recommendation for amendments by December 1, 2017.

Current Law: 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.

At the beginning of each calendar year 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. The filing fee is \$300 for the following:

- annual report of a Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, family farm, and banking institution;
- annual report of a foreign corporation subject to the jurisdiction of Maryland, except a national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution;
- annual report of a Maryland savings and loan association, banking institution, or credit union or of a foreign savings and loan association, national banking association, or credit union that is subject to the jurisdiction of Maryland;
- annual report of a Maryland limited liability company, limited liability partnership, or limited partnership, or of a foreign limited liability company, foreign limited liability partnership, or foreign limited partnership, except a family farm;
- annual report of a business trust; and
- annual report of a real estate investment trust or foreign statutory trust doing business in Maryland.

In addition, the filing fee for the annual report of a family farm is \$100.

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.

Certain personal property is exempt by statute or local law. Exemptions generally fall into two categories: those mandated by State law and those that are optional to local governments. There are certain organizations or groups whose personal property is exempt throughout the State. These organizations include religious groups, governmental entities, nonprofit hospitals, cemetery and mausoleum companies, and certain other groups that meet specified strict use criteria. In addition, State law requires that certain types of personal property be fully exempt throughout the State. These include aircraft, farming implements, residential (nonbusiness) property, most registered vehicles, boats not more than 100 feet in length, hand tools of mechanics or artisans, and intangible personal property (*e.g.*, stocks, bonds, patents, goodwill, trademarks, etc.).

State law authorizes local governments to exempt certain types of personal property. The county or municipality where the property is located may authorize a full or partial exemption. The most significant categories that may be exempt from the personal property

tax are commercial inventory, manufacturing and research and development inventory, and manufacturing and research and development machinery. Twenty-one counties offer exemptions for 100% of all three categories. Five of these counties (Frederick, Garrett, Kent, Queen Anne's, and Talbot) have elected to exempt all business personal property from county taxation. The three remaining subdivisions do not offer a 100% exemption in all categories but offer exemptions ranging from 0% to 65% for various commercial inventory, manufacturing inventory, and machinery.

Background: As shown in **Exhibit 1**, the statewide assessable base for business personal property totals \$12.2 billion in fiscal 2017. Among counties that impose the business personal property tax, the assessable base ranges from a high of \$2.2 billion in Montgomery County to a low of \$26.9 million in Somerset County. Tax rates on business personal property range from \$2.09 in Worcester County to \$5.62 in Baltimore City.

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.

Exhibit 1
County Business Personal Property Base
Fiscal 2017

County	Personal Property Tax Rate	Business Personal Property
Allegany	\$2.4425	\$177,042,760
Anne Arundel	2.2870	1,544,655,000
Baltimore City	5.6200	1,258,000,100
Baltimore	2.7500	1,718,998,460
Calvert	2.2300	152,754,820
Caroline	2.4500	50,234,340
Carroll	2.5150	286,877,230
Cecil	2.4785	238,333,990
Charles	3.0125	487,412,820
Dorchester	0.0000	0
Frederick	0.0000	0
Garrett	2.4750	115,137,760
Harford	2.6049	627,854,280
Howard	2.9750	999,910,650
Kent	0.0000	0
Montgomery	2.5950	2,167,592,600
Prince George's	3.4350	1,403,313,280
Queen Anne's	0.0000	0
St. Mary's	2.1308	160,434,990
Somerset	2.5000	26,909,010
Talbot	0.0000	0
Washington	2.3700	409,948,270
Wicomico	2.1715	201,725,460
Worcester	2.0875	212,925,130
Total		\$12,240,060,950

Source: State Department of Assessments and Taxation

State Expenditures: The bill requires SDAT to administer and collect a new locally imposed filing fee, 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 does not currently track the number of employees for each business entity that pays the filing fee. As a result, the computer system will require substantial reprogramming to be able to assess a new county-optional fee based on the number of employees. The additional cost is estimated at \$410,000 in fiscal 2018.

In addition, SDAT could incur increased staffing cost to administer the program and to maintain the new database of local filing fees. The additional cost will depend on the number of counties that implement the new local filing fees. Based on one funding scenario, as discussed below, SDAT expenditures could increase by an additional \$558,000 annually.

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. If administering the new local filing fee increases SDAT's expenditures by 10%, Charter Unit expenditures could increase by approximately \$558,000.

Local Fiscal Effect: The bill alters the taxation of personal property at the county level in two ways. First, beginning in fiscal 2019, the bill exempts all personal property from county taxation, except for operating personal property of a railroad or public utility and specified telecommunications property. Second, beginning in fiscal 2018, the bill authorizes counties to establish filing fees, which vary in the amount depending on the number of employees, for businesses located in each county.

As a result of the personal property tax exemption, county personal property tax revenues will decrease by a significant amount beginning in fiscal 2019. SDAT estimates that the countywide business personal property assessable base will total approximately \$12.2 billion for fiscal 2017 and \$12.0 billion for fiscal 2018. SDAT does not currently have data as to the amount of personal property owned by various telecommunications services referenced in the bill.

As a point of reference, if specified telecommunications property comprises 15% of the county business personal property assessable base, and the business personal property tax base remains constant, county personal property tax revenues may decrease by approximately \$301 million beginning in fiscal 2019.

To the extent the actual personal property assessable base differs from the estimate, the effect of the property tax exemption will vary accordingly.

The bill also allows counties to impose a filing fee ranging from \$25 to \$100 depending on the number of employees in business entities in each county. SDAT reports the following number of business entities paying filing fees over the past five years:

<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>
327,165	334,505	339,940	347,331	315,549

SDAT does not collect information on employee size, but it is estimated that the majority of business entities that currently pay the State filing fee have fewer than 50 employees. Based on the five-year average of the number of business entities paying the State filing fee, county revenues may increase between \$8.3 million and \$33.3 million beginning in fiscal 2018 to the extent all counties impose a filing fee on business entities.

Small Business Effect: Beginning in fiscal 2019, small businesses will not be subject to county personal property taxes with regard to certain business personal property. As a point of reference, in fiscal 2014, there were 347,331 personal property tax reports filed with SDAT. The average personal property assessment was \$35,151, resulting in an average tax amount of \$1,043.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Carroll, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland Association of Counties; State Department of Assessments and Taxation; Department of Legislative Services

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