



MSBA Mailing Address
520 West Fayette Street
Baltimore, MD 21201

Canton Office
3700 O'Donnell Street
Baltimore, MD 21224

Annapolis Office
200 Duke of Gloucester Street
Annapolis, MD 21401

Bill: House Bill 294 – Personal Property Tax – Exemptions for Law Assessment – Alteration

Committee: House Ways and Means

Position: Oppose

Date: February 23, 2026

The Maryland State Bar Association's Taxation Law Section Council opposes House Bill 294 – Personal Property Tax – Exemptions for Law Assessment – Alteration, and its counterpart, Senate Bill 137.

The subject of House Bill 294 ("HB294") is Maryland Statutes Tax-Property Section 7-227 ("Sec. 7-227"), which exempts businesses that own *or use* less than \$20,000 of tangible personal property ("Property") located at a personal residence from filing a personal property tax return ("Business Return") with the State Department of Assessments and Taxation ("SDAT"). HB294 would eliminate that exemption, and require filing for small home businesses.

As currently written, Sec 7-227 is vague, overbroad, and incapable of fair administration. Moreover, the exemption under Sec. 7-227 applies by its terms to all small business entities, but inconsistent regulation limits application to sole proprietors. Until those substantial infirmities are corrected, we oppose any narrowing of exemptions, or imposition of further obligations, pursuant to HB294.

Proponents of HB294 have not addressed key consequences of the bill's proposed changes to Sec. 7-227. For example, on January 27, 2026, the Director of SDAT, Bob Yeager, testified that HB294 would eliminate the exemption from filing a Business Return for a business that *owns* less than \$20,000 of Property located at a personal residence. Director Yeager's stated goal is to give SDAT the authority to audit a Business Return showing a reduction in Property owned by that business of 40% or more compared to the prior year.

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The Director’s testimony referenced audits that seek documentation only. But just as the IRS inspects home offices, small businesses may face the prospect of SDAT’s arrival at a private residence to examine property owned or used by that small business. Most homeowners will not welcome that state intrusion.

Beyond impacting businesses that *own* less than \$20,000 of Property located at a personal residence, HB294 would also eliminate the exemption from filing for a business that *uses* less than \$20,000 of Property located at a personal residence. Perhaps it is not surprising that we did not hear testimony on January 27th about auditing Business Returns that report *use* of Property. For one thing, *use* is nowhere defined by Sec. 7-227, or on the Business Return. If a business occasionally places papers on a credenza passed down from the homeowner’s relatives over generations, is that business charged with trying to value that ancient piece? How often does a business have to use an item of Property during the reporting period before there is a duty to report? Once? Ten times? Every day? If a business uses a bathroom or kitchen in the home, is the business required to value and report all the cabinets and movable personal property in the bathroom or kitchen? The concept of *use* under Sec. 7-227 and the Business Return is so amorphous and ill-defined, there is no way to fairly administer or enforce it.

The indeterminate reference to *use* under Sec. 7-227 makes it impossible for Maryland small business taxpayers to know how to meet their obligations. When statutory language leaves taxpayers guessing whether their property is taxable, the law violates basic due process principles.

Article 24 of the Maryland Declaration of Rights provides that no person may be deprived of property except “by the Law of the land.” Md. Decl. of Rights Art. 24.¹ Maryland courts interpret this provision as the State’s due process guarantee, protecting against arbitrary or unauthorized governmental deprivation of property. *Dua v. Comcast Cable of Maryland, Inc.*² Taxation is a direct deprivation of property, so tax statutes must be clear enough to enable uniform, fair administration.

Subscribing to that principle, ambiguities within statutory language are interpreted in favor of the taxpayer. *Comptroller of Maryland v. Clyde’s of Chevy Chase, Inc.*³ Statutory language is ambiguous when it is “reasonably capable of more than one meaning.” *See Maizel v. Comptroller of Maryland.*⁴ Sec. 7-227 fails to define “use”, fails to articulate objective standards

¹ MD Constitution, Declaration of Rights, Art. 24, provides: That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land.

² 370 Md. 604, 621, 805 A.2d 1061, 1071 (2002) (Barring retroactive application of certain statutes).

³ 377 Md. 471, 483-484, 833 A.2d 1014, 1021-1022 (2003) (MD Tax-General Sec. 4-101, Admissions and Amusement Tax).

⁴ 250 Md. App. 360, 364-365, 250 A.3d 333, 338, (Md. Ct. Spec. App. 2021), and cases cited therein. (Claim for refund under Maryland Tax-General Article Sec. 13-1104).

governing application of the term “use”, and fails to provide measurable criteria by which taxpayers may determine liability. As written, the statute is susceptible of widely varying implementation. Lacking ascertainable standards for *use*, Sec. 7-227 permits arbitrary enforcement, and violates due process.

Furthermore, Sec. 7-227 renders Maryland an outlier among states, and positions it as unfriendly toward small business. Nationwide, personal property taxes are generally tied to ownership, or contracts like leases and rentals. Aside from a Virginia statute that taxes a private party’s use of property provided by the federal, state or local government⁵, this Committee is not aware of any state that imposes a personal property tax for *use* by a business of tangible personal property owned by a separate private entity.

Not only is the term “use” in Sec. 7-227 ambiguous as a matter of statutory interpretation, that ambiguity also makes it impossible for a small business that *uses* property at a residence to complete the Business Return with accuracy or certainty. The Business Return is eight pages of charts, lists, and questions that are often confusing and redundant because they attempt to reach both ownership and *use* of business property by large businesses, manufacturing concerns, and small businesses owning – or *using* – less than \$20,000 of Property at a residence. Many small businesses will have to hire an accountant to fill out the return, which is costly. Where Property is minimal, the fee for preparing the Business Return may exceed the value of the Property reported. Even then, professional expertise will not guarantee accuracy, because the parameters of *use* are so unclear.

The work and expense of completing the Business Return is a burden to small businesses. That burden is magnified by the necessity of paying taxes in addition to the sales taxes that might already have been paid for the Property.

There is also the question of who has actual knowledge and authority to value and report Property on the Business Return. If the business is reporting Property *owned* by the business, the answer is straightforward: the business owner will value and report the property. On the other hand, if the business is reporting Property *used* by the business, then, as we have seen, the answer is anything but straightforward.

Beyond uncertainty about what constitutes *use* for reporting purposes, it may not be clear who has the requisite knowledge and authority to value and report the Property. A sole proprietor with sole title to the Property used has the clearest identity of interest. A sole proprietor using Property owned jointly, or as a tenant by the entirety, will generally be considered to own only 50% of that Property under federal income, estate and gift tax. The Business Return nonetheless requires the sole proprietor to report a value for the portion of

⁵ Va. Code Ann. Sec. 58.1-3502 (2025)

Property the sole proprietor owns, *and* the portion of the Property owned by the sole proprietor's spouse or joint counterpart.

Reporting *use* of Property is especially problematic for owners doing business as a limited liability company ("LLC") or closely held C or S corporation (each a "Corp.") Entities offer liability protection, and the use of single member LLCs is on the rise.⁶ Even for a professional working from home, however, observance of business formalities is critical to maintaining liability protection. No member of an LLC, or shareholder in a Corp., may ignore business formalities, and use the business entity for personal purposes. Conversely, the business entity has no authority to bind the individual member(s) or shareholder(s).

Under pain of interest and penalties, Sec.7-277 and the Business Return compel the LLC member and Corp. shareholder to disregard business formalities, and treat an individual/married couple as an alter ego for purposes of reporting use of property owned by the individual or couple. This could provide grounds in other contexts for piercing the corporate veil, and imposing personal liability. Forcing an LLC or Corp. duly formed under the laws of Maryland to disregard state law governing business formation, disregard business formalities, and assign alter ego status to an individual member or shareholder, raises a serious question about state overreach.

Whereas *use* under Sec. 7-227 is too vague for proper application, the exemption itself is available by statute to all small businesses that own (*or use*) less than \$20,000 of Property under any straightforward reading of the statutory language. Neither Sec. 7-227, nor HB294, distinguish between businesses formed as sole proprietorships, partnerships, limited liability companies, or corporations. Neither Sec. 7-227, nor HB294, reference other statutes or regulations that delimit the businesses entitled to the exemption.

Where "the words of a statute, construed according to their common and everyday meaning, are clear and unambiguous and express a plain meaning", as they do in Sec. 7-227, Maryland courts give effect to the statute as written. *See Comptroller v. Clyde's of Chevy Chase, and cases cited therein.*⁷ Sec. 7-227 applies on its face to personal property "used in connection with a business, occupation, or profession". The unambiguous and plain meaning of the words "business, occupation, or profession" include partnerships, limited liability companies, or corporations, in addition to sole proprietorships.

Despite the clear and encompassing statutory language of Sec. 7-227, Md. Code Regs. ("COMAR") 18.03.06.02 (2025) purports to limit the exemption under Sec. 7-227 to a "business,

⁶ *Single-Member vs Multi-Member LLC Statistics (2026)*, SmallBizStatistics.com (updated Feb. 6, 2026), <https://smallbizstatistics.com/statistics/single-vs-multi-member-llcs/> (last visited Feb. 15, 2026).

⁷ 377 Md. 471, 483, 833 A.2d 1014, 1021 (2003)

occupation, or profession” *owned as “a sole proprietorship”*⁸ Property subject to the exemption must be located at an “individual’s principal residence *which is also the principal place of business of the sole proprietorship*”.⁹

By regulation, the executive branch charged with enforcement of Sec. 7-227 has added substantive eligibility requirements not contained in the statute, or contemplated by the plain meaning of the statutory language. While tax exemptions are strictly construed against the taxpayer, strict construction should not permit the executive branch to ignore statutory language, add conditions not in the statute, and expand enforcement authority beyond that which is delegated by the statute itself. The limitations imposed by COMAR 18.03.06.02 (2025) arguably exceed regulatory authority, and should be considered unenforceable as *ultra vires*.

As discussed, the language of Sec. 7-227 taxing *use* of Property is so vague and irregular that uniform assessment and compliance is impossible. Compounding the problem, Maryland originally gave an exemption from filing and taxes to any small business entity owning (or *using*) less than \$20,000 of Property, and then - by regulation not referenced anywhere in the statute - took it away from all small business entities except sole proprietors. We are forced to wonder whether this confusing and defective statutory scheme survives because it targets small businesses that lack the resources to challenge it.

HB294 does nothing to address existing issues with Sec. 7-227 and COMAR 18.03.06.02 (2025). The amendment, along with the statute it amends, cannot be administered uniformly and fairly, violates due process, and fuels the perception of Maryland as bad for business.

For all the foregoing reasons, the MSBA’s Taxation Law Section opposes HB294 and urges an unfavorable Committee report.

Sincerely,

Taxation Law Section Council, by the Legislation Committee:

Victoria Eve Kelly, Chair (info.veklc@gmail.com)

Kimberly F. Gilreath, Vice Chair

Lourdes Eliacin Mars, Member

Robert Braland, Member

⁸ COMAR, 18.03.06.02 A.

⁹ COMAR, 18.03.06.02 B.