

Delaware Code Amendments Increase Franchise Taxes for Corporations

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Delaware Gov. John Carney recently signed into law amendments to the Delaware Code altering certain fees and franchise taxes charged by the Delaware secretary of state. The most significant of these amendments raises the annual franchise tax ceiling on most Delaware corporations from \$180,000 to \$200,000 and establishes a new category of “Large Corporate Filers” whose annual franchise tax will be fixed at \$250,000.

Large Corporate Filers are Delaware corporations that, as of December 1 of the immediately preceding calendar year: (a) had a class or series of stock listed on a national securities exchange; (b) reported, in financial statements included in their most recent annual report filed with the Securities and Exchange Commission (SEC) or a similar foreign agency, (i) consolidated annual gross revenues or consolidated assets of at least \$750 million, and (ii) both consolidated annual gross revenues and consolidated assets of at least \$250 million; and (c) would have otherwise been required to pay an annual franchise tax of \$200,000.

If a corporation’s financial statements are reported in a foreign currency, the amounts will be converted to U.S. dollars for the purposes of measuring consolidated gross revenues and consolidated assets, using the applicable spot exchange rate established by Bloomberg as of the last day of the corporation’s most recently completed fiscal year.

A corporation that became listed on a national securities exchange in connection with a spin-off or other succession transaction within the fiscal year and would otherwise qualify as a Large Corporate Filer but has not filed an annual report with the SEC or a similar foreign agency may nonetheless be treated as a Large Corporate Filer. In such cases, the secretary of state will refer to the most recent annual report of the corporation’s predecessor to determine whether the corporation’s consolidated annual gross revenues and consolidated assets fall within the requirements described above for qualification as a Large Corporate Filer.

The amendments include a number of other increases in franchise tax amounts and filing fees. A copy of the new legislation is available [here](#). The amendments generally will take effect on August 1, 2017; however, the increases in the maximum annual franchise tax will be effective for the tax year beginning January 1, 2017.