

Topic: Review of Fees

Question by: Cheri Myers

Jurisdiction: North Carolina

Date: 7 October 2010

Jurisdiction	Question(s)		
	Does your state charge late fees for filings?	Are they statutory? And if so, can you give me a reference?	What is your late fee structure (document type, time parameter, and fee)?
Manitoba	No		
Corporations Canada	No		
Alabama			
Alaska			
Arizona	There is a late filing penalty of \$25 for charitable renewals and limited liability partnership annual reports.	Statute pertaining to charitable registration renewals: A.R.S. 44-6552(E) Statute pertaining to limited liability partnership annual reports: A.R.S. 29-1103(C)	In both instances, we successfully pursued revisions to the statutes this past legislative session that permit us to assess the late filing penalty at the time that the entity comes into compliance, instead of having to send a notice of delinquency. We found that such notices were often ignored, and in this budget crunch it made more sense to assess the penalty when the entity actually files their renewal or annual report.
Arkansas			

<p>California</p>	<p>Corporations and limited liability companies in California who do not file their annual (or biennial) statements within certain timeframes (California Corporations Code sections 2204, 17653, 6810 and 8810) are subject to a penalty, which is assessed by our Franchise Tax Board, not by the Secretary of State's office. We certify to the Tax Board the fact that the statement was not filed within the statutory timeframes and then the Tax Board assesses and collects the penalty (either \$250 or \$50 as outlined in California Revenue and Taxation Code section 19141).</p> <p>There is a process for the entity to request a waiver of the penalty with the Secretary of State's office and if the penalty is waived, we will "de-certify" the entity with the Tax Board.</p>	<p>Statutory</p>	
<p>Colorado</p>	<p>Only for annual reports.</p>	<p>See C.R.S. §7-90-501 (7) Each reporting entity that fails or refuses to deliver to the secretary of state a periodic report for filing on or before the due date prescribed by subsection (4) of this section and pay the prescribed processing fee is subject to a penalty, which shall be determined and collected pursuant to section 24-21-104 (3), C.R.S.</p>	<p>Our regular annual report fee is \$10, but it increases to \$50 if it is filed late. (\$40 penalty). If the entity becomes delinquent (Colorado's version of "administratively dissolved"), the fee for the Statement Curing Delinquency is \$100.</p>
<p>Connecticut</p>	<p>Connecticut does not assess late fees or penalties. I tried to include them in a bill two sessions ago and the legislature would not bite. I tried to promote a \$100 late filing fee on Annual Report filing. No go. Interestingly, the objection came from a legislator who is involved in little league as a coach and commissioner, and his concern was that it would be unfair to nonprofits with high leadership turnover. We then agreed</p>		

	to exempt nonstocks from the late fee provision, but by then the pro-business lawmakers had jumped all over it and didn't want any part of it. So we took it out of our final version of the bill that hit the floor, in order to remove controversy. The moral of that story: Do not make it too pricey and exempt nonstocks.		
Delaware			
District of Columbia	In the District of Columbia we had late fees for years now (over 50 years).	All fees are set by the statute - DC Code Title 29 Chapters 1, 3 and 10.	<p>Late fees are applicable for all annual / bi-annual reports. Fees vary depending on the type of entity. For example, LLCs pay \$82.50 late fee in addition to report filing fee of \$165.</p> <p>Domestic Business Corporation is also charged 5% interest in addition to the late fees.</p> <p>When customer's reinstate their entities we will charge the late fees for each year the report should have been filed.</p> <p>For foreign entities we have provision that give us authority to charge back reports and back fees for all years entity was in business without registration.</p>
Florida	<p>Yes, Annual reports filed after May 1st (except non-profit corps) have a \$400 late fee.</p> <p>That is not a typo. Prior to this year it could be waived for not receiving notice to file but the waiver provision was repealed and it must be paid. There are "reinstatement" fees if an entity becomes dissolved. It is a "fee" but the public views it as a tax/late fee/penalty.</p>	Statutory. S.607.193, F.S.	\$400 late fee on annual reports.

Georgia	Yes, for annual registration filings only. The fee is 25.00	Statutory. Yes. O.C.G.A. § 14-2-122	It only applies to annual registrations received after the April 1st deadline. If you owe for multiple years, you are assessed a late fee for each year.
Hawaii	Yes, for annual reports (except for nonprofit corporate annual reports) and general partnership registration statements. (The penalty fee for annual reports is \$10 for every year delinquent. The general partnership registration statement is to be filed within 30 days from the formation date. A \$10 late filing penalty fee is imposed for every year the partnership registration statement is delinquent. We assess minimum penalty fees.)	<p>Hawaii Administrative Rules, Chapter 36 - Practice and Procedure of the Business Registration Division</p> <p>§16-36-13 <u>Penalties.</u> (a) Penalties shall be assessed commencing fifteen days after the due date of an annual report, partnership statement, license fee, or of any other document required to be filed with the division.</p> <p>(b) Penalties may be waived or reduced upon written request and only for good cause shown. [Eff 5/10/69; am and ren §16-36-13, 7/30/81; am and comp 12/21/84; am and comp 2/6/88; comp 3/28/00; comp 11/22/02; comp 3/29/04] (Auth: HRS §26-9) (Imp: HRS §§414-473, 425-13, 425D-1108, 428-1302)</p> <p>[§414-473] Penalties imposed upon corporations. Each corporation, domestic or foreign, that fails or refuses to file its annual report for any year within the time prescribed by this part shall be subject to a forfeiture of an amount to be determined by the department director not exceeding \$100 for every violation, neglect, or failure, to be recovered by action brought in the name of the State by the department director. A continuance of a failure to file the required report shall be a separate offense for each thirty days of the continuance. The department director, for good cause shown, may reduce or waive the penalty imposed by this</p>	Yes, for annual reports (except for nonprofit corporate annual reports) and general partnership registration statements. (The penalty fee for annual reports is \$10 for every year delinquent. The general partnership registration statement is to be filed within 30 days from the formation date. A \$10 late filing penalty fee is imposed for every year the partnership registration statement is delinquent. We assess minimum penalty fees.)

		<p>section. [L 2000, c 244, pt of §1]</p> <p>§425-13 Personal liability and penalty. (a) If a partner neglects or fails to comply with any provision of this part, all partners shall be liable jointly and severally for all the debts and liabilities of the partnership, and may be severally sued therefor, without the necessity of joining the other partners in any action or suit, and shall also severally forfeit to the State \$25 for each and every month while the default shall continue, to be recovered by action brought in the name of the State by the director of commerce and consumer affairs; provided that as to the forfeiture penalty, the director may, for good cause shown, reduce or waive the same.</p> <p>(b) Any person who signs or certifies as correct any statement or certificate filed pursuant to this part, knowing the same to be false in any material particular, shall be fined not more than \$5,000.</p> <p>(c) Any person who negligently but without intent to defraud signs or certifies as correct any statement or certificate filed pursuant to this part, which statement or certificate is false in any material particular, shall be punished by a fine not exceeding \$500. [L 1969, c 247, pt of §1; am L 1980, c 270, §5; am L 1982, c 204, §8; am L 1983, c 124, §17]</p> <p>[§428-1302] Penalties. (a) Each limited liability company and foreign limited liability company that fails or</p>	
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		refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a forfeiture of an amount to be determined by the director not exceeding \$100 for every such offense, violation, neglect, or failure, to be recovered by action brought in the name of the State by the director. A continuance of a failure to file the required statement shall be a separate offense for each thirty days of the continuance. The director, for good cause shown, may reduce or waive the penalty imposed by this section.	
Idaho			
Illinois			
Indiana			
Iowa			
Kansas	Yes.	Statutory	<p>The entity has a date the Annual Report is due, then a grace period. If the entity does not file by the due date or during the grace period then it forfeits and requires reinstatement. There are penalty fees for reinstatement if it is a for profit entity. The fees are statutory in that the statute specifies that a late fee or penalty applies but the statute does not usually specify the amount. This allows some flexibility to cover increasing costs without new legislation. The structure is fairly complicated to cover here, as it is based on the type of business.</p> <p>For instance a Not For Profit Corporation filing for reinstatement must pay all past due and current fees for reinstatement. The fee structure is</p>

			<p>The filing fee is \$20 plus the past due fees for the period back to the last filing on record. The fees are indicated below:</p> <p>Annual reports with tax year ending Fee per year</p> <p>Prior and up to 1971: No Fee 1972 to 1992: \$5 1993 to 2000: \$20 2001 to present: \$40</p> <p>A For Profit Corporation filing for reinstatement also must pay all past due and current fees for reinstatement. The fee structure is</p> <p>The filing fee for reinstatement is \$35, plus an \$85 penalty for entities that forfeited for failure to timely file their annual report and pay the annual report fee and franchise tax indicated below.</p> <p>Annual reports with tax year ending Franchise tax calculation</p> <table border="0"> <thead> <tr> <th>Minimum</th> <th>Maximum</th> </tr> </thead> <tbody> <tr> <td>Prior and up to 2000</td> <td>\$1</td> </tr> <tr> <td>for every \$1000 of net worth</td> <td></td> </tr> <tr> <td>\$35</td> <td>\$2515</td> </tr> <tr> <td>2001 to November 2004</td> <td></td> </tr> <tr> <td>\$2 for every \$1000 of net worth</td> <td></td> </tr> <tr> <td>\$55</td> <td>\$5015</td> </tr> <tr> <td>December 2004 to present</td> <td></td> </tr> <tr> <td>N/A</td> <td></td> </tr> <tr> <td>\$55 flat filing fee</td> <td></td> </tr> </tbody> </table>	Minimum	Maximum	Prior and up to 2000	\$1	for every \$1000 of net worth		\$35	\$2515	2001 to November 2004		\$2 for every \$1000 of net worth		\$55	\$5015	December 2004 to present		N/A		\$55 flat filing fee	
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Kentucky			
Louisiana	No		
Maine	Yes, a late filing penalty is assessed when annual reports are not filed by the filing deadline. A \$50 penalty is assessed for profit entities and \$25 for non-profit entities.	Yes, see both sections: http://www.mainelegislature.org/legis/statutes/13-C/title13-Csec1622.html http://www.mainelegislature.org/legis/statutes/13-C/title13-Csec123.html	A \$50 penalty is assessed for profit entities and \$25 for non-profit entities.
Maryland			
Massachusetts			
Michigan	For profit corporation annual reports and professional limited liability company annual statements the statutes impose a penalty for filing late.	Statutory Profit corporations see MCL 450.1921 http://legislature.mi.gov/doc.aspx?mcl-450-1921 and for penalty waiver guideline see http://www.dleg.state.mi.us/bcsc/forms/corp/pol/apagd1.pdf Professional limited liability companies see MCL 450.4909 http://legislature.mi.gov/doc.aspx?mcl-450-4909	
Minnesota			
Mississippi			
Missouri	Only on annual/biennial registration reports and amendments for partnerships that are not filed timely.	The registration report fee for general business is found at http://www.moga.mo.gov/statutes/C300-399/3510000125.HTM .	The fee goes up for each 30 day delinquency, but is capped.
Montana	For annual reports which are due by April 15. The fee to file an annual report is \$15.00 if filed on or before April 15. After April 15, the fee is \$30.00.	All fees are established by rule.	
Nebraska			
Nevada	For late annual lists, \$75. For those who right to transact business has been revoked, an additional \$300 is require to reinstate the entity into current standing.	YES, NRS 78.170 (similar for LLCs and other entities)	If not paid by due date of the annual list, the late penalty applies. This penalty would apply for each year an entity has failed to file it annual

			list and pay the fees.
New Hampshire	Yes, but only for annual reports.	Statutory.	They are assessed a \$50.00 late fee, by Statute, if the report is filed after April 1 of the year due.
New Jersey			
New Mexico			
New York			
North Carolina			
North Dakota			
Ohio	No		
Oklahoma			
Oregon	No. However, if a business entity goes inactive, they must pay a reinstatement fee in addition to the annual report fees that are due.		
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			
Tennessee			
Texas	Texas charges late fees for applications for registration of a foreign entity when the application is submitted more than 90 days following the date the entity first started transacting business in Texas. In addition, late fees are charged for reports.	In all cases, the late fees are statutory.	<p><i>Foreign entity registration. See Sec. 9.054 of the Texas Business Organizations Code which reads as follows:</i></p> <p>Sec. 9.054. LATE FILING FEE. (a) The secretary of state may collect from a foreign filing entity a late filing fee if the entity has transacted business in this state for more than 90 days without registering under this chapter. The secretary may condition the effectiveness of a registration after the 90-day period on the payment of the late filing fee.</p>

			<p>(b) The amount of the late filing fee is an amount equal to the product of the amount of the registration fee for the foreign filing entity multiplied by the number of calendar years that the entity transacted business in this state without being registered. For purposes of computing the fee, a partial calendar year is counted as a full calendar year.</p> <p>The registration fee for nonprofit entities is \$25. In all other cases, the registration fee is \$750. We generally cap the fees at 5 years.</p> <p><i>Nonprofit periodic reports. See Sec. 4.153 of the TBOC which reads in pertinent part as follows:</i></p> <p>Sec. 4.153. FILING FEES: NONPROFIT CORPORATIONS. For a filing by or for a nonprofit corporation, the secretary of state shall impose the following fees:</p> <p>(12) for filing a report under Chapter 22 to reinstate a corporation's right to conduct affairs in this state, \$5, plus a late fee in the amount of \$5 or in the amount of \$1 for each month or part of a month</p>
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		<p>that the report remains unfiled, whichever amount is greater, except that the late fee may not exceed \$25;</p> <p>(13) for filing a report under Chapter 22 to reinstate a corporation or registration following involuntary termination or revocation, \$25;</p> <p><i>Limited partnership periodic reports.</i> See Sec. 4.155 of the TBOC which reads in pertinent part as follows:</p> <p>Sec. 4.155. FILING FEES: LIMITED PARTNERSHIPS. For a filing by or for a limited partnership, the secretary of state shall impose the following fees:</p> <p>(9) for filing a periodic report required under Chapter 153, \$50;</p> <p>(10) for reviving a limited partnership's right to transact business under Chapter 153, \$50 plus a late fee in an amount equal to the lesser of:</p> <p>A) \$25 for each month or part of a month that elapses after the date of the notice of forfeiture; or</p> <p>(B) \$100;</p> <p>(11) for reinstatement of a certificate of formation or</p>
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			registration under Chapter 153, \$50 plus a late fee of \$100 and a reinstatement fee of \$75;
Utah	Utah does charge late fees on annual reports (\$10.00). We have done this for more than 25 years (although the amount has changed but not significantly). Our fee schedule is part of the appropriations act each legislative session.	Our authority comes from statutes like http://le.utah.gov/~code/TITLE16/htm/16_10a012200.htm found frequently in our business entity statutes.	\$10 for annual reports.
Vermont			
Virginia	Virginia assesses a penalty on a business entity that fails to pay its annual registration fee on time. Unlike most states, however, this fee is not associated with or required for the filing of an annual report by a corporation, which is the only entity type that is currently required to file an annual report. No penalty is associated with any "filing" per se.	Statute.	For stock corporations, the penalty is 10% of the annual registration fee or \$10, whichever is greater. See subsection C of Va. Code Section 13.1-775.1 at http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+13.1-775.1 Generally, annual registration fees are assessed as of the first day of the second month preceding the month of organization or registration, and must be paid on or before the last day of the month in which the entity was organized or registered to avoid imposition of the penalty. See subsections A and B of Section 13.1-775.1.
Washington	In Washington State, we do charge late fees for filing license renewals/annual reports.	The authority to charge a fee is in statute Revised Code of Washington 23B.01.570 http://apps.leg.wa.gov/rcw/default.aspx?cite=23B.01.570 and the actual fee is in rule Washington Administrative Code 434-112-085 (1)(c) http://apps.leg.wa.gov/wac/default.aspx?cite=434-112-085 .	They are required to be filed once a year in the month of original incorporation or formation. The late fee is really a penalty fee of \$25.

West Virginia			
Wisconsin			
Wyoming			

Additional comments:

Full text of email:

Good morning,
North Carolina is reviewing its fees and would like to know what states have designated late fees.

- 1) Does your state charge late fees for filings?
- 2) Are they statutory? and if so, can you give me a reference?
- 3) What is your late fee structure (document type, time parameter, and fee)

Thank you so much for help.

Cheri

Cheri L. Myers
Director of Corporations
NC Office of the Secretary of State
919-807-2050
919-807-2294 fax

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