COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5553-01
Bill No.: HB 1727
Subject: Taxation and Revenue - Income; Taxation and Revenue - Sales and Use; Taxation and Revenue - General; Corporations
Type: Original
Date: April 11, 2012

Bill Summary: This proposal would change multiple provisions regarding taxation.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	More than $23,000,000 to (Unknown)	More than $23,000,000 to (Unknown)	More than $23,000,000 to (Unknown)
Total Estimated Net Effect on General Revenue Fund	**More than $23,000,000 to (Unknown)**	**More than $23,000,000 to (Unknown)**	**More than $23,000,000 to (Unknown)**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Road Bond	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
State Road	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
State Transportation	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
Total Estimated Net Effect on Other State Funds	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Total Estimated Net Effect on FTE	**0**	**0**	**0**

☐ Estimated Total Net Effect on All funds expected to exceed $100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed $100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Local Government	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

ASSUMPTION (continued)

Officials from the **Office of Administration, Division of Budget and Planning** (BAP), assume this proposal would not result in any additional cost or savings to their organization.

BAP officials noted that the proposal would make numerous changes to the tax code. BAP officials stated that they are not able determine the impact of this proposal on General and Total State Revenues except as noted below but assume the changes could have a substantial impact.

* The income tax base would be the federal Internal Revenue Code as adopted on Jan. 1, 2004, and BAP officials noted that numerous federal tax changes have occurred since that time.

* The proposal would decouple Missouri provisions from certain federal "bonus depreciation" deduction provisions.

* Corporations would be required to use a three-factor apportionment method when calculating taxable income, and would require combined reporting among related corporate parties.

* Common carriers would be defined for sales tax purposes.

* Sales tax overpayments would be refunded to the original purchasers, or retailers would be required to provide equivalent coupons.

* The proposal would repeal the timely filing discount for withholding tax payments. BAP defers to the DOR for an estimate of increased General and Total State Revenues.

Officials from the **University of Missouri, Economic and Policy Analysis Research Center** (EPARC) stated that they do not have adequate information to quantify the proposal's estimated impact on Missouri tax revenues.

Officials from the **Department of Revenue** (DOR) assume this proposal would make several changes to Missouri tax provisions.

ASSUMPTION (continued)

Section 143.091 RSMo

Provisions would be changed in this section to allow Missouri to decouple from the federal tax laws. Within 60 days of amendment, the Department of Revenue would be required to report to the Governor, the Speaker of the House, and the President Pro Tempore of the Senate any changes to the Internal Revenue Code.

Section 143.121 RSMo

This section would add back for Missouri income tax purposes any deductions that are included in the computation of federal taxable income under Section 168 of the Internal Revenue Code as the deductions relate to property purchased after August 31, 2004.

Oversight assumes this change would result in additional income tax revenue to the General Revenue Fund; however, the long term impact would be small since the federal provisions allow increased deductions in the year of purchase and reduced deductions in subsequent years. For fiscal note purposes, Oversight will indicate an unknown increase in revenues.

Sections 143.225 and 143.261 RSMo

These sections would eliminate the withholding tax compensation deduction. The Department would be required to notify approximately 180,000 taxpayers of the changes. The change would disallow the withholding tax compensation deduction, and should result in an increase in state revenues of approximately $23 million annually.

For fiscal note purposes, **Oversight** will record the DOR estimate of additional revenue for this provision in the General Revenue Fund.

ASSUMPTION (continued)

Sections 143.431 and 143.471 RSMo

These provisions would eliminate the single factor method of apportionment from corporate income tax.

According to reports from the University of Missouri, approximately 4% of the corporations in 2001 filed using single factor method of apportionment, and approximately $81 million dollars was paid in by corporations using the single factor method of apportionment.

If this method is eliminated, these corporations would more than likely use the 3 factor method of apportionment which may not be as advantageous as the single factor method of apportionment. Major forms and programming changes will be required.

Oversight assumes eliminating the single-factor method for apportioning income by corporations with income in more than one state would result in an unknown increase in corporate income tax revenues to the General Revenue Fund.

Sections 143.434, 143.451, and 143.461 RSMo

Provisions in these sections would change the method of computing corporate income tax from separate entity reporting to unitary reporting, or combined reporting.

Oversight is not able to estimate the impact of this change and for fiscal note purposes will indicate a range from unknown additional revenue to an unknown reduction in revenue.

Section 144.010 and 144.030 RSMo

These sections provide a definition of "Common Carriers" to the list of terms and definitions for sales tax exemptions and would modify the current sales tax exemption for vehicles used to transport persons and merchandise for hire.

ASSUMPTION (continued)

In response to a similar proposal (HB 1510 LR 5381-02) officials from the **Office of the Secretary of State** (SOS) assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the Secretary of State's Office for Administrative Rules is less than $2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Joint Committee on Administrative Rules** assumed a similar proposal (HB 1510 LR 5381-02) would not cause a fiscal impact beyond its current appropriation.

Officials from the **Office of Administration, Division of Budget and Planning** (BAP) assumed a similar proposal (HB 1510 LR 5381-02) would not result in additional costs or savings to their organization.

BAP officials assumed the proposal would expand the sales tax exemptions for motor vehicles licensed for a gross weight of twenty-four thousand pounds or more for trailers used by all motor carriers. The proposal would also expand the sales tax exemption for materials, parts, and equipment for motor vehicles used by common carriers.

BAP officials assumed the proposal would reduce General and Total State Revenues, including highway and education funds, as well as local revenues, by an amount that could exceed $5 million annually.

ASSUMPTION (continued)

Officials from the **Department of Transportation** (MODOT) deferred to the Department of Revenue for an estimate of the fiscal impact of a similar proposal (HB 1510 LR 5381-02).

In response to a similar proposal (SB 480 LR 4472-01) MODOT officials assumed the proposal would reduce the motor vehicle sales tax revenue MODOT receives, because it would expand the sales and use tax exemption, which is currently only available to common carriers, to all motor carriers as defined by state law. The statutory definition of "motor carriers" specifically includes both contract and common carriers, so contract carriers would be exempt from paying sales taxes on motor vehicles licensed with a gross weight of 24,000 pounds or more, and on trailers used by such carriers in the transportation of persons and property.

MODOT receives motor vehicle sales and use taxes as provided by the Missouri Constitution; this proposal would reduce the vehicle sales tax revenues distributed to MODOT, cities and counties. MODOT officials estimated a slight (less than $100,000) negative impact to sales tax revenue generated from such carriers.

Officials from the **Department of Revenue** (DOR) assumed a similar proposal (HB 1510 LR 5381-02) would not have a fiscal impact on their organization but would reduce Total State Revenue. DOR officials stated that in FY 2011 approximately 12,000 commercial motor vehicles registered with 24,000 pound plates and paid more than $8 million in state sales and use tax. DOR officials estimated that the revenue reduction would be more than $5 million per year.

Oversight notes that current law provides for 50% of vehicle sales taxes to be distributed to the Road Bond Fund, 36.5% to the State Road Fund, 1% to the State Transportation Fund, and 12.5% to cities and counties. Oversight notes that these provisions appears to be more restrictive than the provisions in the other legislation, and for fiscal note purposes a revenue reduction less than $100,000 per year will be indicated for those state funds and for local governments.

Section 144.190 RSMo

This section would change the sales and use tax refund language to require the remitter to refund the overpayments to the purchaser.

ASSUMPTION (continued)

In response to similar language in Perfected HCS for HB 1030 LR 4140-03 DOR officials stated that the proposal would provide a process for purchasers to seek refunds from DOR when the purchaser has overpaid sales tax. New refund claims would be allowed for those claims that have been denied to vendors since January 1, 2007. DOR has reported to BAP that $96 million in refund claims, including General and Total State Revenues and local revenues, have been denied since that date.

DOR officials stated that they would not expect a significant increase in refunds if these new provisions were implemented.

DOR administrative impact

DOR officials noted that the proposal would become effective September 1, 2012 and assume the Department would need to make forms changes, and the Department and ITSD-DOR would need to make programming changes to various tax systems.

The DOR response included the DOR estimate that Tax would require one additional FTE Management Analyst Specialist I (Range 23, Step N) to review and track any changes made to the Internal Revenue Code of 1986, prepare and submit reports within 60 days to the Governor, Speaker of the House, and President Pro Tem of the Senate.

In addition, DOR assumes there would be a need to notify taxpayers of the new provisions, entailing approximately 180,000 letters, with an approximate cost of $92,700.

In summary the DOR estimate of cost to implement the proposal included one additional employee related benefits, equipment, and expense and totaled $151,125 for FY 2013, $64,386 for FY 2014, and $65,044 for FY 2015.

Oversight assumes that DOR would notify taxpayers of the new provisions in advance, and in regularly scheduled communications. Further, Oversight assumes that changes to Missouri tax provisions and changes to federal provisions which would have an impact on Missouri taxes would be analyzed regularly and could be reported as required in this proposal with minimal additional effort. Accordingly, Oversight assumes that any additional cost to DOR related to this proposal would be minimal and could be absorbed with existing resources. If unanticipated additional costs are incurred, or if multiple proposals are implemented which increase the DOR workload, resources could be requested through the budget process.

ASSUMPTION (continued)

DOR officials also provided an estimate of the IT impact to implement the proposal of $106,848 based on 4,032 hours of programming time to make changes to various DOR tax processing systems.

Oversight assumes OA-ITSD (DOR) is provided with core funding to handle a certain amount of activity each year. Oversight assumes OA-ITSD (DOR) could absorb the costs related to this proposal. If multiple bills pass which require additional staffing and duties at substantial costs, OA-ITSD (DOR) could request funding through the appropriation process.

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
Additional revenue - elimination of federal Section 168 depreciation	Unknown	Unknown	Unknown
Additional revenue - elimination of compensation deduction for withholding tax	$23,000,000	$23,000,000	$23,000,000
Additional revenue - elimination of single factor apportionment for corporations	Unknown	Unknown	Unknown
Change in revenue - unitary reporting requirement for corporations	Unknown to (Unknown)	Unknown to (Unknown)	Unknown to (Unknown)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**More than $23,000,000 to (Unknown)**	**More than $23,000,000 to (Unknown)**	**More than $23,000,000 to (Unknown)**

ROAD BOND FUND			
Revenue reduction - Expanded sales tax exemption	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
ESTIMATED NET EFFECT ON ROAD BOND FUND	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**
STATE ROAD FUND			
Revenue reduction - Expanded sales tax exemption	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
ESTIMATED NET EFFECT ON STATE ROAD FUND	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**
STATE TRANSPORTATION FUND			
Revenue reduction - Expanded sales tax exemption	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
ESTIMATED NET EFFECT ON STATE TRANSPORTATION FUND	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**

FISCAL IMPACT - Local Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
LOCAL GOVERNMENTS			
Revenue reduction - Expanded sales tax exemption	(Less than $100,000)	(Less than $100,000)	(Less than $100,000)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENTS	**(Less than $100,000)**	**(Less than $100,000)**	**(Less than $100,000)**

FISCAL IMPACT - Small Business

This proposal would have a direct fiscal impact to small businesses.

FISCAL DESCRIPTION

This proposal would change multiple provisions regarding taxation.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Secretary of State
Office of Administration
    Division of Budget and Planning
Department of Revenue
University of Missouri
    Economic and Policy Analysis Research Center

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