OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4831-02
Bill No.: HCS for HB 1356
Subject: Taxation and Revenue - Sales and Use; Revenue Dept.
Type: Original
Date: March 26, 2012

Bill Summary: This proposal would require the Director of the Department of Revenue to enter into the multistate Streamlined Sales and Use Tax Agreement, would require the Department of Revenue to implement the compliance provisions, and would devote the additional revenue from the Streamlined Sales Tax Program to the reduction of corporate income taxes.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
General Revenue	$0	(More than $140,775) to Unknown	(More than $127,026) to Unknown
Total Estimated Net Effect on General Revenue Fund	**$0**	**(More than $140,775) to Unknown**	**(More than $127,026) to Unknown**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 15 pages.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2013	FY 2014	FY 2015
Conservation Commission	$0	More than $100,000	More than $100,000
Parks, and Soil and Water	$0	More than $100,000	More than $100,000
Streamlined Sales and Use Tax Agreement Special *	$0	$0	$0
Total Estimated Net Effect on Other State Funds	**$0**	**More than $100,000**	**More than $100,000**

* Offsetting revenues and transfers.

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
General Revenue	0	3	3
Total Estimated Net Effect on FTE	**0**	**3**	**3**

☐ 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	**$0**	**(Unknown) to More than $100,000**	**(Unknown) to More 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 **Joint Committee on Administrative Rules** assume that this proposal would not have a fiscal impact to their organization in excess of existing resources.

Officials from the **Office of the State Treasurer** assume this proposal would have no fiscal impact on their organization.

Officials from the **Department of Natural Resources** (DNR) assume this proposal would require the Department of Revenue to promulgate rules to implement the streamlined sales and use tax agreement.

The Streamlined Sales and Use Tax Agreement would apply primarily to retail transactions by sellers who do not have a physical location in the state. Retailers who do not have physical location in the state would be required to report taxable sales and remit sales tax on Missouri sales. According to a 2009 University of Tennessee study - State and Local Sales Tax Revenue Losses from Electronic Commerce - the revenues that the state of Missouri could gain from collecting sales tax on e-commerce in FY 2012 was estimated at $210 million.

The Department's Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to the Missouri Constitution, and any increase in sales tax collected would increase revenue to the Parks and Soils Sales Tax Funds. DNR officials assume the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Officials from **St. Louis County** assumed a previous version of this proposal would have no significant impact on their organization.

Officials from the **City of Columbia** stated that they could not determine the fiscal impact of this proposal for their organization.

Officials from the **City of Kansas City** assume that the net result of adoption of the Streamlined Sales Tax and Use Tax Agreement would be an increase in revenue within Kansas City. That increase, based on the expanded sales from the Internet delivered within Kansas City cannot be estimated.

ASSUMPTION (continued)

Officials from the **City of Webb City** stated in response to a previous version of this proposal that it is difficult to estimate the increase in revenue for their organization, but assume this proposal would increase sales tax revenues ten percent due to the increase in internet sales.

Officials from the **Department of Transportation** (MODOT) assumed a previous version of this proposal would have no fiscal impact on their organization.

Officials from the **Department of Conservation** (MDC) assume this proposal would implement the provisions of the Streamlined Sales and Use Tax Agreement. The proposal may benefit the Department in that Conservation sales tax collections may increase, and any increase in sales and use tax collected would increase revenue to the Conservation Sales Tax funds. However, the initiative is very complex and may require adjustments to Missouri sales tax law which could cause some downside risk to the Conservation Sales Tax.

MDC officials stated that the fiscal impact to their organization is unknown but greater than $100,000, and assume the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

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

Change in Corporate Tax Rate

This proposal would require all increases in sales tax that result from the implementation of the Streamlined Sales Tax Act (SSTA) to be deposited into the newly created Streamlined Sales and Use Tax Agreement Special Fund. However, Constitutional sales taxes including those for the Department of Conservation, the Department of Natural Resources, and the Department of Transportation would have to be deposited into the corresponding dedicated funds. The proposal would require the corporate income tax to be reduced so that the amount of revenue collected with the SSTA and corporate income tax does not exceed the amount collected under the revenue collected with those two programs in the immediately preceding year.

ASSUMPTION (continued)

BAP officials noted two impacts from this language:

1. Part of the increase in SSTA revenues would be deposited into dedicated funds as above, not into the SSTA fund. However, the proposal would require the corporate income tax rate to be reduced based on total SSTA collections. The impact to Total State Revenue is neutral, but General Revenue wold be negatively impacted, because the reduction in the corporate income tax revenues would exceed the increase in actual SSTA-fund deposits.

2. The proposal does not appear to allow for what would be "typical" growth in corporate income tax collections. Corporate income taxes in FY 2011 were historically low and have been declining thus far in FY 2012; this proposal could limit corporate income tax revenues to historically low levels,despite any gains in taxable income resulting from the improving national economy.

Streamlined Sales Tax Program

BAP officials stated that the proposal would require the adoption and implementation of the Streamlined Sales Tax Agreement, which would become effective Jan. 1, 2014. BAP did not have an estimate of the sales tax revenues to be gained from this proposal, but noted that many sellers would be able to remit taxes for sales that occur via e-commerce under this agreement.

Two studies of the state and local revenues that Missouri might gain from collecting sales tax on e-commerce provide an estimated range of $108 million (Eisanach & Litan, Feb. 2010) and $210 million (Bruce, Fox, & Luna, April 2009). Both studies are limited to the gains from e-commerce, and do not attempt to estimate other remote sales.

This proposal would increase General and Total State Revenues, and local revenues including those for education.

The proposal would also create a 1% collection fee for local sales taxes collected by DOR, which would be deposited in the General Revenue Fund to offset DOR's costs. This fee would Increase General and Total State Revenues by an unknown amount.

ASSUMPTION (continued)

Officials from the **Department of Revenue** (DOR) assume this proposal would require DOR to enter into the streamlined sales and use tax agreement with one or more states to simplify and modernize sales and use tax administration. DOR would create the regulations necessary to implement the provisions of the Streamlined Sales Tax Agreement in Missouri.

DOR officials noted and described a large number of additional provisions in the proposal regarding the administration of local sales and use taxes, and technical requirements for implementing the Streamlined Sales and Use Tax Agreement.

In addition, DOR officials noted that the Streamlined Sales Tax Agreement should significantly increase sales tax collections and Total State Revenue once it is fully implemented. However, any increase in revenue would appear to be offset by the reduction in the corporate income tax.

Administrative impact

DOR and ITSD-DOR would need to make significant changes to various tax systems. DOR officials assumed that excise tax would require two additional FTE Revenue Processing Technicians I (Range 10, Step L) for return processing because Excise Tax would have to determine where each delivery was made in order to properly figure the sales tax to be deducted from refund claims. Some invoices may be for fuel delivered at the retail station and others may be for fuel delivered to other locations. The Department would also need to know if the fuel is delivered inside city limits or outside city limits or even if the retail station is inside or outside city limits. This would require a great deal of processing time and effort as many refund claims contain hundreds of invoices, which would need to be reviewed individually.

DOR also assumes that Sales Tax would require one FTE additional Management Analyst Specialist I (Range 23, Step Q). DOR does not envision an FTE impact for the Sales Tax area, but rule writing would create a significant impact for which we will need additional managerial assistance.

The DOR estimate of administrative cost to implement this proposal including three additional FTE and the related fringe benefits, equipment, and expense amounted to $135,540 for FY 2013, $144,997 for FY 2014, and $146,496 for FY 2015.

ASSUMPTION (continued)

Oversight notes that the DOR response did not include any analysis of administrative impact for the corporate income tax provisions in the proposal. Oversight assumes these provisions would not result in any significant additional personnel requirements for DOR; if a significant cost is incurred, resources could be requested through the budget process.

Oversight assumes the Streamlined Sales and Use Tax Agreement would apply to retail transactions by sellers which do not currently have a physical location in the state. Those retailers which do not currently have a physical location in the state would be required to report taxable sales and remit sales tax on Missouri sales. This requirement would likely increase state sales tax collections but the number filers using current DOR systems would not likely change. Therefore, the proposal would not likely have a significant impact on Department of Revenue staffing for sales and use tax processing.

This proposal would also require the state and every political subdivision to adopt, implement, and incorporate by reference all provisions contained within the streamlined sales and use tax agreement. Changes in state regulations would be required to eliminate current regulations which conflict with Streamlined Sales and Use Tax Agreement provisions. It would also appear that new DOR regulations would be required to reference the provisions of the Streamlined Sales and Use Tax Agreement on a statewide basis in order to preserve the uniformity of regulations applicable to all sales in the state.

Finally, **Oversight** notes that retail entities with a physical presence in the state are currently using a set of systems and procedures created and operated by DOR. If those retailers were permitted to use the Streamlined Sales and Use Tax Agreement reporting and payment systems, there could be a reduction in the number of returns filed and revenue collected under current procedures. That could allow a reduction in DOR resources applied to sales tax processing but the number of filers and the amount which might be collected can not be estimated, and that process would likely not begin until after FY 2015.

ASSUMPTION (continued)

Oversight will include three additional DOR employees in this fiscal note and has, for fiscal note purposes only, changed the starting salary for the new positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period, and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has adjusted the DOR estimate of expense and equipment costs in accordance with OA budget guidelines, and assumes that a limited number of additional employees could be accommodated in existing office space.

Oversight also assumes the DOR estimate of expense and equipment cost for additional FTE could be overstated. If DOR is able to use existing equipment such as desks, file cabinets, chairs, etc., the estimate for new equipment could be reduced by roughly $5,000 per employee.

IT impact

DOR officials also provided an estimate of the IT cost to implement the proposal. DOR officials estimated the cost at $107,908 based on 4,072 hours to make programming changes to the sales tax processing system (MITS).

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

Oversight assumptions

Oversight has reviewed the studies cited by BAP and we noted that there are significant differences between the two studies in the methodology used to estimate the level of internet and other remote sales, the proportion of remote sales which would be taxable, and the current level of compliance with existing tax provisions.

ASSUMPTION (continued)

The Bruce, Fox, and Luna report suggests that approximately 25% of sales taxes due on e-commerce are uncollected, and that sales tax collections on e-commerce were $26.1 billion for the year 2010. This rough estimate of the uncollected sales tax would indicate that $8.7 billion was uncollected for the United States. If 1.8% of the $8.7 billion was due the state of Missouri, the additional revenue would amount to $156.6 million. The Eisenach and Litan report suggests only $3.8 billion in uncollected sales tax on e-commerce; 1.8% of that amount attributable to Missouri would be $70.2 million.

Information reported by the United States Census Bureau indicates that online retail sales grew at an average rate of 20% per year for the years 2000 to 2007, with lower growth rates for 2007 to 2009. A report by marketing and information technology consultants Forrester Research projected a 10% annual growth rate for the years 2009 through 2015, with online sales accounting for 11% of total retail sales (excluding groceries) by 2015.

Oversight notes that a significant percentage of total online retail sales would be business-to-business, however, and a significant percentage of those business-to-business sales would be tax exempt. Oversight does not have the resources to independently determine the actual amount of uncollected state and local sales and use tax**.**

Oversight has recently been provided an estimate of Streamlined Sales Tax Program revenue by officials from the Streamlined Sales Tax Governing Board. That estimate was based on comparing population and per capita income information for Missouri with the same information for states currently participating in the Streamlined Sales Tax program. Based on those calculations, Streamlined Sales Tax Governing Board officials estimated that those Missouri state funds which receive sales tax revenues would collect an additional $13.7 million in the first full year of operation.

Streamlined Sales Tax Governing Board officials stated that the program is currently voluntary; and the member states have agreed to simplify their sales tax programs and contract with third-party transaction processors who collect and remit sales taxes to the member states. Participating multistate retailers agree to collect and remit sales taxes to member states, typically in exchange for an amnesty on prior uncollected sales and use taxes.

ASSUMPTION (continued)

Oversight assumes the Governing Board estimate is the most reasonable estimate of potential additional revenue under the current voluntary program. Additional revenue could become available in the future if the United States government approves law changes to make state sales tax laws enforceable on interstate sales.

Under existing provisions, the estimated $13.7 million in additional revenues would be distributed due to the following state funds and to local governments.

Entity	Tax Rate	
General Revenue Fund	3.000%	$9,738,000
School District Trust Fund	1.000%	$3,246,000
Conservation Commission Fund	0.125%	$324,600
Parks, and Soils Fund	0.100%	$405,800
Local Governments *	Average 3.800%	$12,334,900
Total	NA	$26,049,300

* The average rate for local sales and use tax is calculated based on tax revenues reported by the Department of Revenue for the year ended June 30, 2010.

This proposal would require all additional revenues to be deposited into the Streamlined Sales and Use Tax Agreement Special Fund and used to reduce corporate income taxes. For fiscal note purposes, **Oversight** will indicate revenue in excess of $100,000 per year for the Streamlined Sales and Use Tax Agreement Special Fund and for the Conservation Commission and Parks, and Soils Funds. Other state funds, and local governments, would not receive additional revenues from the Streamlined Sales Tax due to the proposed usage of those revenues to reduce corporate income tax rates.

The proposal appears to require implementation of the Streamlined Sales Tax program as of January 1, 2014, and we assume that additional revenues for the first fiscal year, FY 2014, would be less than 50% of a full year revenues. We have indicated additional revenues beginning in FY 2014, and DOR costs to implement and operate the program beginning in FY 2014.

ASSUMPTION (continued)

Oversight will also indicate a revenue reduction in corporate income taxes equal to the amount of additional sales tax revenue. Oversight notes that the reduction in corporate income tax revenues to the General Revenue Fund would exceed the additional revenue to the General Revenue Fund from the Streamlined Sales Tax Program since the proposal would require all of the additional revenues to be used to reduce corporate income taxes, but Streamlined Sales Tax Revenues for the Conservation Commission Fund and the Parks, and Soil and Water Funds would be remitted to those funds.

For fiscal note purposes, **Oversight** will indicate revenues from the Streamlined Sales Tax Program and Transfers to the General Revenue Fund in the Streamlined Sales and Use Tax Agreement Special Fund.

FISCAL IMPACT - State Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
GENERAL REVENUE FUND			
Transfer - Streamlined Sales and Use Tax Agreement Special Fund	$0	More than $100,000	More than $100,000
Revenue reduction - Reduction in corporate income taxes	$0	(More than $100,000)	(More than $100,000)
Cost - Department of Revenue			
Salaries - 3 FTE	$0	($81,312)	($82,125)
Benefits	$0	($42,689)	($43,116)
Equipment and expense	$0	($16,774)	($1,785)
Total	$0	($140,775)	($127,026)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	**$0**	**(More than $140,775) to Unknown**	**(More than $127,026) to Unknown**
Estimated Net FTE Effect on General Revenue Fund	0	3	3

CONSERVATION COMMISSION FUND			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION FUND	**$0**	**More than $100,000**	**More than $100,000**
PARKS, AND SOIL AND WATER FUND			
Revenue increase - Streamlined Sales and Use Tax Agreement	$0	More than $100,000	More than $100,000
ESTIMATED NET EFFECT ON PARKS, AND SOIL AND WATER FUND	**$0**	**More than $100,000**	**More than $100,000**
STREAMLINED SALES AND USE TAX AGREEMENT SPECIAL FUND			
Revenues - Streamlined Sales Tax Program	$0	More than $100,000	More than $100,000
Transfers - General Revenue Fund	$0	(More than $100,000)	(More than $100,000)
ESTIMATED NET EFFECT ON STREAMLINED SALES AND USE TAX AGREEMENT SPECIAL FUND	**$0**	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2013 (10 Mo.)	FY 2014	FY 2015
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to small businesses which would be required to report sales and to collect and remit Missouri sales and use tax under the agreement.

FISCAL DESCRIPTION

This proposal would require the Director of the Department of Revenue to enter into the multistate Streamlined Sales and Use Tax Agreement, and would require the Department of Revenue to implement the compliance provisions. The proposal would require revenues from the Streamlined Sales Tax Program to be deposited into the newly created Streamlined Sales and Use Tax Agreement Special Fund and the proceeds used to reduce Missouri corporate income taxes.

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

SS:LR:OD

SOURCES OF INFORMATION

Office of the Secretary of State
Office of Administration
Division of Budget and Planning
Department of Conservation
Department of Natural Resources
Department of Revenue
Department of Transportation
Joint Committee on Administrative Rules
St. Louis County
City of Columbia
City of Kansas City
City of Webb City

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March 26, 2012

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