HCS HB 1542 & 1101 -- TAXATION

SPONSOR: Koenig

COMMITTEE ACTION: Voted "do pass" by the Committee on Ways and Means by a vote of 7 to 4.

This substitute requires the Director of the Department of Revenue to enter into the multistate Streamlined Sales and Use Tax Agreement and the department to establish the necessary rules to implement the compliance provisions of the agreement. The substitute specifies that:

(1) When a political subdivision changes the tax rate or the local sales tax boundary, the change must take effect on the first day of the calendar quarter 120 days after the sellers receive notice of the change;

(2) When a city annexes or detaches property, the city clerk must forward a certified copy of the ordinance to the department director within 10 days. The tax rate in the added or abolished territory must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the boundary change;

(3) If a political subdivision repeals an existing tax, the repeal must become effective on the first day of the calendar quarter 120 days after the sellers receive notice that the abolishment of the tax was approved;

(4) When an entity remits the tax authorized under Section 67.1959, RSMo, it will no longer receive a reduction in its sales tax liability for transactions with businesses that also collect a local tourism tax; and

(5) When a seller fails to properly collect taxes based on certain information provided by the department, the seller will be relieved from the tax liability.

The substitute also:

(1) Requires the state to be represented as a member of the agreement for amending the agreement by three delegates including a person appointed by the Governor, a member of the General Assembly appointed by mutual consent of the President Pro Tem of the Senate and the Speaker of the House of Representatives, and the department director or his or her designee. The delegates must make an annual report by January 15 on the status of the agreement;

(2) Requires the department director to perform all functions regarding the administration, collection, enforcement, and operation of all sales taxes;

(3) Requires the department to provide electronic databases for tax jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services;

(4) Requires all state and local sales taxes to have the same base which means that exemptions at the state and local level must be identical;

(5) Allows a seller a deduction from taxable sales for bad debts attributable to taxable sales that are uncollectable;

(6) Creates definitions for "delivery charges," "food," "bottled water," "candy," "ancillary services," "lease or rental," "purchase price," "sales price," "tangible personal property," and other definitions to be adopted as defined in the streamlined agreement;

(7) Creates definitions for the terms "engaging in business activities within the state" and "maintains a place of business in this state" as they relate to the collection of taxes;

(8) Allows the department to require any seller to electronically file and remit sales and use taxes;

(9) Creates the definition of "tangible personal property" to exclude specified digital products, digital audio-visual works, digital audio works, and digital books;

(10) Requires the on-line registration for out-of-state sellers to be simplified and no bond to be required;

(11) Requires no caps or thresholds to exist on the collection of sales or use taxes;

(12) Requires the department to offer out-of-state sellers uniform, simplified electronic filing;

(13) Requires uniform sourcing rules to determine what tax rates will apply to certain transactions;

(14) Requires various rules to determine the taxability of bundled transactions involving both taxable and nontaxable goods or services;

(15) Authorizes an amnesty to certain out-of-state sellers with uncollected or unpaid sales or use tax if the seller was not

registered in Missouri in the prior 12-month period before the effective date of the streamlined agreement;

(16) Allows a monetary allowance of up to 2% of the amount of remittance to sellers and certified service providers to be allowed for collecting and remitting the state and local sales taxes. However, they cannot simultaneously receive this monetary allowance and the 2% timely filing deduction;

(17) Specifies that all general revenue generated by the agreement that exceeds the revenue that would have been collected without the agreement must be deposited into the newly created Streamlined Sales and Use Tax Agreement Special Fund and appropriated solely to replace revenues lost at the local level from reducing the personal property tax and to replace revenues lost at the state level from reducing the individual income tax rate;

(18) Authorizes the department director to retain 1% of the amount of any local sales or use taxes collected by the department for the cost of collection;

(19) Authorizes an amnesty from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the department which occurred on or prior to December 31, 2011. A taxpayer must apply for amnesty, file a tax return for each tax period for which amnesty is requested, pay the unpaid taxes in full from August 1, 2012, to October 31, 2012, and agree to comply with state tax laws for the next eight years from the date of the agreement. All new revenues resulting from the tax amnesty program will be deposited into the General Revenue Fund unless otherwise earmarked by the Missouri Constitution;

(20) Changes the state individual income tax rate, beginning January 1, 2012, to 4% of the Missouri taxable income up to and including $9,000 and 5.9% of Missouri taxable income for income over $9,000;

(21) Eliminates, beginning January 1, 2012, the head of household filing status. Any taxpayer filing as head of household on his or her federal tax return must file as single on his or her state tax return;

(22) Increases, beginning January 1, 2012, the amount of the personal and spouse exemption from $2,100 to $2,400 and the amount of the dependency exemption from 1,200 to $1,700;

(23) Requires collectors in all counties except for counties under township organization to mail a statement of all real and

tangible personal property tax due to each resident taxpayer at least 30 days before the taxes are delinquent. If the county commission certifies that the tax statement was mailed less than 30 days before the delinquent date and the taxpayer pays within 15 days after the delinquent date, no penalty or interest will be imposed;

(24) Requires county assessors to use the lowest trade-in value published in the October issue of a single nationally recognized motor vehicle valuation guide as approved by the State Tax Commission in conjunction with the association representing the majority of assessors in this state to determine the true trade-in value of a motor vehicle for personal property tax assessment purposes. Currently, assessors must use the trade-in value published in the October issue of the National Automobile Dealers' Association Official Used Car Guide to determine a motor vehicle's true value;

(25) Authorizes an exemption for motor fuel used exclusively in any watercraft in this state from the motor fuel tax and the sales and use tax. No tax can be imposed or levied on any motor fuel delivered to any marina or other retailer within this state who sells the fuel solely for use in any watercraft in this state. Currently, a taxpayer must pay the tax with the purchase of the fuel and then request a refund of the motor fuel tax from the department within one year of purchase;

(26) Changes when an employer is allowed to file an annual withholding tax return from when the aggregate amount withheld is less than $20 in each of the four preceding quarters to when the aggregate amount withheld is less than $100 in each of the four preceding quarters;

(27) Allows a seller to advertise that the required sales tax will be assumed or absorbed into the price of the property sold or the service rendered if the amount of the tax is separately stated on the invoice or receipt. Any person who fails to separately state the assumed or absorbed sales tax on the invoice or receipt will be guilty of a misdemeanor;

(28) Requires the owner of an aircraft that is not owned by an airline company to declare the aircraft to the county assessor for personal property tax purposes by March 1;

(29) Allows the clerk of the circuit court to charge and collect a surcharge of up to $10 in a case where a garnishment is granted; and

(30) Prohibits the use of a global positioning system or other technology to monitor the mileage traveled by a motor vehicle on

a Missouri road, highway, or street in order to impose any mileage tax.

The provisions of the substitute regarding the Streamlined Sales and Use Tax Agreement Act become effective January 1, 2014.

The provisions of the substitute regarding the tax amnesty contain an emergency clause.

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of an income of More than $23,475,596 to a cost of Unknown in FY 2013, an income of More than $23,507,115 to a cost of Unknown in FY 2014, and an income of More than $23,507,115 to a cost of Unknown in FY 2015. Estimated Net Income on Other State Funds of More than $64,531 in FY 2013, More than $77,222 in FY 2014, and More than $77,222 in FY 2015.

PROPONENTS: Supporters of House Bill 1542 say that the bill provides a tax amnesty to collect back taxes; enhanced compliance changes, and a tax cut. Currently, noncompliance is estimated at about 15%-17%. The bill changes the tax brackets so that there will be one bracket for incomes below $9,000 and one bracket for incomes above $9,000. With multiple income brackets, inflation creates a tax increase by pushing taxpayers into a higher tax bracket. The bill increases the standard deduction and dependency deduction and eliminates the filing as head of household. The head of household filing status is a marriage penalty to families that remain married. The bill reduces the tax burden on families and increases tax compliance. The tax changes will cost $57 million annually while the compliance changes should bring in $20 million or more each year.

Supporters of House Bill 1101 say that the bill creates a flat tax, eliminates tax credit programs, reduces individual income tax from 6% to 3.8%, reduces corporate income tax from 6.25% to 3.5%, establishes internet sales as taxable through the streamlined sales tax agreement, and raises the state sales tax rate by .25%. The flat tax language in the bill is based on Pennsylvania’s law. A flat tax is simple and easy to implement and easier for consumers. While helping out charitable organizations is good, Missouri needs to stop corporate welfare. Missouri has shortfalls in its budget and needs money for schools and roads. With 461,000 small businesses in Missouri, the state could provide a tax credit for everyone instead of picking and choosing who gets a tax break. The tax system could fit on one page, provide an incentive for all, and let the market control which businesses succeed.

Testifying for House Bill 1542 was Representative Koenig.

Testifying for House Bill 1101 was Representative Brattin.

OPPONENTS: Those who oppose House Bill 1542 say that there will be a cost to businesses to get a license because of the no-tax due statement requirements. The problem will be with the local license renewal. A local town or county may require a no-tax due statement for all tax types before issuing or renewing a license. Since the state is having problems meeting K-12 education funding, there should be no reduction in state revenues with permanent tax cuts.

Those who oppose House Bill 1101 say that they are concerned about the elimination of tax credits that help the St. Louis area and provide assistance to people in desperate conditions, pregnant moms, families, foster children, and domestic violence victims. The sawmill industry uses a tax credit for the cleanup of their sawdust and wood scraps. The high cost to move wood waste for the industry's 2,600 loggers at 500 sawmills needs this help. Missouri makes charcoal and wood pellets from the wood waste and this would not be economically feasible without the tax credit. Low-income housing tax credits are honored for over 10 years and Missouri needs to reduce the time period that they can be redeemed. It will be 2025 before some of today's credits will be fully redeemed. Missouri has a AAA bond credit rating. If the state doesn't reduce its tax credit liability, its rating could be lowered. The credits for the insurance industry are tax offsets for state-mandated payments by insurance companies for insurance companies that may go out of business, a guaranty program. The bank tax credit is not a tax credit program since banks are required to pay a 7% bank tax and get a credit to pay their income tax. The state should have one or the other but not both. The streamlined sales tax definitions for "lease" and "rental" are unclear and make it a burden on the rental industry to know where to tax. The State of Kansas has suspended its implementation of the streamlined sales tax as it relates to rental transactions.

Testifying against House Bill 1542 were Missouri Bankers Association; Missouri Association of Realtors; and Missouri National Education Association.

Testifying against House Bill 1101 were Catholic Charities Archdiocese of St. Louis; Great Circle; Carmen Schultz, Boys and Girls Clubs; Doyle Childers, Forest Industries; Missouri Coalition Against Domestic Violence; Harry Gallagher; Missouri Insurance Coalition; Missouri Bankers Association; Missouri Rental Dealers Association; and Missouri Association of Realtors.

OTHERS: Others testifying on House Bill 1542 say that the no-tax due requirement is burdensome to small business. Certified public accountants need more lead time for an opportunity to adjust to the tax bracket and exemption changes to allow for tax planning. The offset of other liabilities should not be done at the loss of due process.

Others testifying on House Bill 1101 say that Missouri needs a tax policy that provides adequate funding for education. Elimination of the tax credits will increase income and control the tax code and expenditures. There is already a flat tax in Missouri. A short-term issue is the impact of tax credits winding down and how it affects the budget. Long-term tax rates need to be analyzed to be sure that they provide sustainable revenue. The redesign of Missouri's income taxes by creating a list of additions and deletions from federal income will require more work by a taxpayer’s tax accountant in order to calculate the taxes.

Testifying on House Bill 1542 was Missouri Society of Certified Public Accountants.

Testifying on House Bill 1101 were Missouri National Education Association; and Missouri Society of Certified Public Accountants.