

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0719-01
Bill No.: HB 268
Subject: Revenue Department; Taxation and Revenue - Income
Type: Original
Date: January 13, 2015

Bill Summary: This proposal would allow taxpayers to seek a refund after the statute of limitations has passed if their return is examined by the Department of Revenue.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	(Up to \$2,939,657)	(Up to \$2,872,615)	(Up to \$2,873,359)
Total Estimated Net Effect on General Revenue	(Up to \$2,939,657)	(Up to \$2,872,615)	(Up to \$2,873,359)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
General Revenue	2 FTE	2 FTE	2 FTE
Total Estimated Net Effect on FTE	2 FTE	2 FTE	2 FTE

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2016	FY 2017	FY 2018
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 143.801, RSMo. - Credits and Refunds

Changes to this provision would allow a taxpayer to claim a credit or refund for overpayment of income taxes after the statute of limitations for making a claim has expired, if the Department of Revenue examines the taxpayer's return after such period of time has expired. The Department would be required to notify the taxpayer of the overpayment and the taxpayer could file a claim for a credit or refund within one year of the notice.

Officials from the **Office of Administration - Division of Budget and Planning** assume this program could reduce Total State Revenues and General Revenue but would not have an impact on the calculation of excess revenue under Section 18(e) of the state constitution.

Officials from the **Department of Revenue (DOR)** assume this legislation could result in additional refunds.

Fiscal impact

Based on their review of approximately 5,100 refunds denied as out of statute by the Department in FY 2014, DOR officials estimated the proposal could result in a reduction to Total State Revenue of up to \$2.8 million. DOR officials also stated it is possible more returns could have been identified, depending on the definition of an examination.

Oversight notes the proposal would require DOR to create a process to allow a taxpayer to claim refunds and credits which can not be claimed under current statute of limitations provisions. That process would become available if the Director of Revenue examines a return or causes a return to be examined, and Oversight assumes the routine processing of a return when it is filed would not be considered an examination. Oversight also notes the number and amount of claims could vary from year to year; however, the DOR estimate was based on claims in one fiscal year and Oversight assumes a similar level of claims could be expected each year. The DOR estimate of fiscal impact would appear to be the best available estimate, and for fiscal note purposes, Oversight will indicate an impact up to the DOR estimate for the General Revenue Fund.

ASSUMPTION (continued)

Oversight also assumes the DOR estimate of fiscal impact could be expected in FY 2016 since prospective claimants would have ten months to file after the effective date of the proposed legislation.

Administrative Impact

DOR officials assume Personal Tax would require two additional Revenue Processing Technicians I for returns processed and error correction, and Corporate Tax would require one additional Revenue Processing Technician I for correspondence, and programming time to develop and install new notices and notice messages. In addition, Collections & Tax Assistance (CATA) would require two additional Tax Collection Technicians I for calls to the delinquent and non-delinquent call centers. These personnel would require CARES equipment and licenses. Finally, Withholding Tax would require one additional Revenue Processing Technician I for correspondence.

The DOR estimate of cost to implement this proposal including six additional employees, benefits, equipment, and expense, totaled \$107,009 for FY 2016, \$90,733 for FY 2017, and \$91,743 for FY 2018.

Oversight has no independently verifiable information regarding the number of tax returns or the amounts which could be involved when previously unclaimed tax credits or refunds become eligible for refund. Based on the number of denied claims reported by DOR, Oversight assumes the proposal could be implemented with two additional employees. If an unanticipated additional workload is created by this proposal or if multiple proposals are implemented which increase the DOR workload, additional resources could be requested through the budget process.

Oversight has, for fiscal note purposes only, changed the starting salary for the additional employees 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 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight has also adjusted the DOR estimate of equipment and expense in accordance with OA budget guidelines. Finally, Oversight assumes a limited number of additional employees could be accommodated in existing office space.

ASSUMPTION (continued)

Oversight assumes the DOR estimate of expense and equipment cost for the new FTE could be overstated. If DOR is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment could be reduced by roughly \$6,000 per new employee.

IT impact

DOR officials also provided an estimate of the IT cost to implement this proposal of \$100,764 for 1,344 hours of contractor programming at \$75 per hour. In response to a similar proposal in the previous session (HB 1048, LR 4102-01), DOR officials estimated the cost at \$36,691 for a similar number of hours of programmer time by OA-ITSD (DOR) employees. DOR officials told us OA-ITSD had advised that staff programmers would not be available in FY 2016 to implement new legislation and contractors would be required. Oversight notes the current average cost for an OA-ITSD employee with benefits is approximately \$50 per hour, and assumes for fiscal note purposes only that an OA-ITSD employee could develop the programming required to implement this proposal at a cost of (1,344 hours x \$50 per hour) = \$67,200.

Officials from the **Department of Economic Development** deferred to the Office of Administration - Division of Budget and Planning and the Department of Revenue for an estimate of the fiscal impact of this proposal.

Officials from the **Office of the Secretary of State (SOS)** stated that 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 this is a small amount and does not expect 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 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** assume this proposal would not have a fiscal impact to their organization beyond existing resources.

ASSUMPTION (continued)

Officials from the **Department of Insurance, Financial Institutions, and Professional Registration** assume this proposal would not have a fiscal impact to their organizations.

<u>FISCAL IMPACT - State Government</u>	FY 2016 (10 Mo.)	FY 2017	FY 2018
GENERAL REVENUE FUND			
<u>Cost - Department of Revenue</u>			
Salaries	(\$39,400)	(\$47,280)	(\$47,753)
Benefits	(\$20,096)	(\$24,115)	(\$24,356)
Equipment and expense	(\$12,961)	(\$1,220)	(\$1,250)
IT cost	<u>(\$67,200)</u>	<u>\$0</u>	<u>\$0</u>
<u>Total Cost</u>	(\$139,657)	(\$72,615)	(\$73,359)
FTE change for the Department of Revenue	2 FTE	2 FTE	2 FTE
<u>Revenue reduction - DOR</u>			
Refunds Section 143.801	(Up to <u>\$2,800,000</u>)	(Up to <u>\$2,800,000</u>)	(Up to <u>\$2,800,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Up to <u>\$2,939,657</u>)	(Up to <u>\$2,872,615</u>)	(Up to <u>\$2,873,359</u>)
Estimated Net FTE Change for the General Revenue Fund	2 FTE	2 FTE	2 FTE
 <u>FISCAL IMPACT - Local Government</u>			
	FY 2016 (10 Mo.)	FY 2017	FY 2018
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

A small business could receive a tax credit or refund which was previously unavailable due to the statute of limitations if this proposal is implemented.

FISCAL DESCRIPTION

This proposal would allow a taxpayer to claim a credit or refund of an income tax overpayment when the Director of the Department of Revenue examines the taxpayer's return after the period of limitations expires and the examination reveals that the taxpayer would have been eligible for a credit or refund if the examination had been timely. The Director of the Department of Revenue would be required to notify the taxpayer of any overpayment discovered and the taxpayer would be allowed to file a claim for the credit or refund within one year of the notice.

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
Joint Committee on Administrative Rules
Office of Administration
 Division of Budget and Planning
Department of Economic Development
Department of Insurance, Financial Institutions, and
 Professional Registration
Department of Revenue



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