

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5085-03  
Bill No.: SCS for HCS for HB 1296  
Subject: Business and Commerce; Corporations; Taxation and Revenue - Income;  
 Taxation and Revenue - Sales and Use  
Type: Original  
Date: April 30, 2014

Bill Summary: This proposal would authorize a seller to advertise that the required sales tax will be assumed or absorbed into the price of the property sold or the services rendered if the amount of the tax is separately stated. The proposal would also provide a new option for income tax reporting of interstate sales by corporations.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
General Revenue	(Up to \$15,000,000)	(Up to \$15,000,000)	(Up to \$15,000,000)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(Up to \$15,000,000)</b>	<b>(Up to \$15,000,000)</b>	<b>(Up to \$15,000,000)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2015	FY 2016	FY 2017
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

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).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 143.451, RSMo. - Corporate Income Tax on Interstate Transactions:

In response to similar provisions in HCS for SB 693 LR 5185-02, 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 **Office of Administration - Division of Budget and Planning (BAP)** assume this proposal would change the methodology for determining the portion of a corporation's income which is taxable in Missouri, and deferred to the Department of Revenue for an estimate of the impact.

In response to similar language in HCS for SB 693 LR 5185-02, officials from the **Department of Revenue (DOR)** stated this language would provide, for purposes of income allocation, that transactions involving sales other than the sale of tangible personal property would be considered in this state if the taxpayer's market is in this state.

DOR officials prepared an estimate of the impact for these provisions which suggests the total loss of state revenue from this provision could be as much as \$10 to \$15 million annually.

DOR officials stated their calculation used 2011 information because that is the most recent year the Department has complete corporate information. DOR officials stated their understanding of the language in these provisions was to eliminate the current "partially within/partially without" category from the one-factor and three-factor allocation procedures and make sales either "in" or "out" of Missouri for corporate income tax reporting purposes. DOR officials also stated they assumed the new provisions would primarily apply to services.

ASSUMPTION (continued)

DOR officials stated they calculated their estimate of impact by eliminating the reported "partially" sales for corporations with a cost of sales percentage under 50% for companies based in Missouri assuming those sales were services and would be reported as "outside" Missouri under the proposed language.

**Oversight** notes this provision includes definitions to use in allocating the taxable income from multi-state transactions to determine the taxable amount for Missouri. Oversight does not have information regarding the number or amount of transactions which might be subject to those definitions. For fiscal note purposes, Oversight will indicate a reduction in income tax revenues up to the Department of Revenue estimate of \$15 million.

Section 144.080, RSMo. - Advertising the Assumption of Sales Tax by Sellers:

In response to a previous version of this proposal, officials from the **Office of the Secretary of State (SOS)** assumed 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 **Office of the Attorney General** assume any potential costs arising from a previous version of this proposal this proposal could be absorbed with existing resources.

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

BAP officials noted this proposal would allow a seller to advertise that the required sales tax will be assumed or absorbed into the price of goods or services if the amount of the tax is displayed on the receipt or invoice. BAP officials assume this proposal would have no direct impact on Total State Revenues.

ASSUMPTION (continued)

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

**Oversight** assumes these provisions would have no impact on the state or on local governments.

Bill as a whole responses

Officials from the **Joint Committee on Administrative Rules** assume this proposal would have no fiscal impact on their organization.

<u>FISCAL IMPACT - State Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
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**GENERAL REVENUE FUND**

<u>Revenue reduction</u> - Income tax			
Changes in corporate sales allocation methodology	(Up to	(Up to	(Up to
Section 143.451	<u>\$15,000,000)</u>	<u>\$15,000,000)</u>	<u>\$15,000,000)</u>

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(Up to</b>	<b>(Up to</b>	<b>(Up to</b>
	<b><u>\$15,000,000)</u></b>	<b><u>\$15,000,000)</u></b>	<b><u>\$15,000,000)</u></b>

<u>FISCAL IMPACT - Local Government</u>	FY 2015 (10 Mo.)	FY 2016	FY 2017
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

This proposal could have a direct fiscal impact to a small business with out of state sales as defined in the proposed language.

## FISCAL DESCRIPTION

Currently, in determining what portion of a corporation's income is taxable in Missouri, the business may use a method whereby the ratio of instate sales to total sales is multiplied by the net income. A method for determining whether sales of tangible property are to be considered instate is already established in current law. This act specifies a process for all other sales.

For sales of real property or rentals of tangible personal property, the portion of the property sold or rented that is located in this state will be considered an instate sale. For sales of service, the portion of the benefits delivered to purchasers in this state will be considered an instate sale.

For rentals or licenses of intangible property, the portion used in this state by the rentee or licensee will be considered an instate sale. Intangible property used for marketing will be considered used in this state if the good or service being marketed is purchased by a consumer in this state. Franchise fees or royalties for intangible property are considered used in this state if the franchise is located in this state.

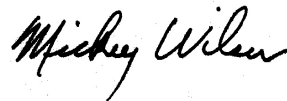
For sales of intangible property, the portion of the sale used in this state will be considered an instate sale. If the sale is for the right to conduct business activity in a certain geographic area, the sale will be instate if the geographic area is in this state. If receipts for sales of intangible property are dependent on use or productivity, such sale shall be considered a lease or rental of intangible property. All sales of intangible property other than the right to conduct business in a specific area or sales with receipts contingent on productivity or use will be excluded from the sales factor when determining corporate income tax.

If it can not be determined or reasonably approximated that a sale occurs in this state, such sale shall be excluded from the sales factor for corporate income 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 the Attorney General  
Joint Committee on Administrative Rules  
Office of Administration  
    Division of Budget and Planning  
Department of Revenue



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Director  
April 30, 2014

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April 30, 2014