

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4046-05
Bill No.: SCS for SB 795
Subject: Compacts; Revenue Department; Taxation and Revenue - Sales and Use
Type: Original
Date: April 22, 2016

Bill Summary: This proposal implements the Streamlined Sales and Use Tax Agreement.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	(\$718,975)	(\$157,632)	(\$114,324)
Total Estimated Net Effect on General Revenue	(\$718,975)	(\$157,632)	(\$114,324)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Conservation Commission	\$0	\$148,000	\$296,000
Parks, Soil & Water	\$0	\$118,500	\$237,000
Streamlined Sales and Use Tax Agreement Special	\$0	\$4,733,500	\$9,467,000
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	More than \$100,000	More than \$100,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
General Revenue	4 FTE	4 FTE	4 FTE
Total Estimated Net Effect on FTE	4 FTE	4 FTE	4 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 2017	FY 2018	FY 2019
Local Government	\$0	\$4,455,000	\$8,910,000

FISCAL ANALYSIS

ASSUMPTION

Officials at the **Office of Administration's Division of Budget and Planning (B&P)** assume this proposal requires the adoption and implementation of the Streamlined Sales and Use Tax Agreement (SSUTA). The bill becomes effective January 1, 2018.

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.

According to a 2009 University of Tennessee study - State and Local Sales Tax Revenue Losses from Electronic Commerce, Total State Revenues that Missouri could gain from collecting sales tax on e-commerce in FY 2012 is estimated at \$210 million

B&P notes that remote sellers would be able to remit sales tax under this agreement. B&P estimates this proposal would generate at least \$10 million in Total State Revenues annually, of which \$7.1 million would be used to pay anyone providing childcare services under section 208.046. However, the full amount may not be collected during the first year, due to the administrative processes of becoming a full member state of the SSUTA.

Section 32.086 creates a 1% collection fee for local sales taxes collected by DOR. This fee will be deposited in General Revenue to offset Department of Revenue's costs. Section 32.070.2 states that any money collected is to be used to make payments to anyone providing childcare under section 208.046. However, the proposal does not state whether this money is to be deposited into a special fund or General Revenue prior to making the payments. B&P assumes that the money will be deposited into General Revenue and then appropriated later. Therefore, B&P estimates this proposal will increase General Revenue by at least \$7.2 million and Total State Revenue by \$10.0 million once fully implemented.

Officials at the **Department of Revenue (DOR)** assume the Collections & Tax Assistance Division would require one Revenue Processing Technician I (\$26,652) for contacts to the registration section. Each technician requires CARES equipment and license. The Excise Tax Division would require two Revenue Processing Technicians (\$26,652) for return processing and correspondence. The Sales Tax Division does not envision an FTE impact for the Sales Tax area, but rule writing will create a significant impact for which the department will need additional managerial assistance (One Management Analyst Specialist I (\$42,708) is required.

ASSUMPTION (continued)

Additional DOR assumes the Integrated Tax System will incur additional costs of \$524,160 to implement the provisions of this proposal.

DOR assumes an additional \$10 million annually in sales tax collections from the implementation of the Streamlined Sales and Use Tax Agreement.

Oversight notes that current provisions allow the one percent collection charge for most but not all local sales taxes collected by the Department of Revenue.

Oversight was previously 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.

Oversight will utilize the estimate provided by the Office of Administration - Office of Administration - Budget and Planning of an additional \$10 million in state revenue. Oversight will assume the following breakout of new state revenues.

Entity	Sales Tax Rate	Sales Tax Amount
General Revenue Fund	3.000%	\$7,100,000
School District Trust Fund	1.000%	\$2,367,000
Conservation Commission Fund	0.125%	\$296,000
Parks, and Soils Fund	0.100%	\$237,000
Local Governments *	Average 3.800%	\$9,000,000
Total	NA	\$19,000,000

* 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.

ASSUMPTION (continued)

Oversight notes this proposal would make changes in several current statutory sales tax exemptions for the state and for local governments; taken individually, these changes in current exemptions could have a fiscal impact on various state funds and on local governments. As a part of the Streamlined Sales Tax program, however, Oversight does not consider the impact of individual changes to exemption provisions to be significant. For fiscal note purposes, **Oversight** will indicate additional revenue in excess of \$100,000 per year for those state funds that receive sales tax revenues, and for local governments.

The Streamlined Sales and Use Tax Agreement (SSUTA) focuses on improving sales and use tax administration systems for all sellers and for all types of commerce. The SSUTA applies primarily to the 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.

Officials at the **Department of Conservation** assume an unknown fiscal impact but greater than \$100,000. The Conservation Sales Tax funds are derived from one-eighth of one percent sales and use tax pursuant to Article IV Section 43 (a) of the Missouri Constitution. 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. The Department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal.

Officials at the **Department of Natural Resources** assume this proposal would create/modify several state and local sales tax exemptions. This would decrease the amount of funding available in the Parks and Soils Sales Tax Funds.

The Department's Parks and Soils Sales Tax Funds are derived from one-tenth of one percent sales and use tax pursuant to Article IV Section 47(a) of the Missouri Constitution. Therefore, any additional sales tax exemption would be an unknown loss to the Parks and Soils Sales Tax Funds. The department assumes any increase in revenue to the Parks and Soils Sales Tax fund would be used for the purposes established in Article IV Section 47(a) of the Missouri Constitution, and not deposited into the SSUTA fund as established in 32.070 under this proposal.

The department assumes the Department of Revenue would be better able to estimate the anticipated fiscal impact that would result from this proposal

ASSUMPTION (continued)

In response to a prior proposal, officials at the **Missouri Department of Transportation** assumed there is no fiscal impact from this proposal.

Officials at the **Joint Committee on Administrative Rules** assume there is no fiscal impact from this proposal.

Officials from the **Office of the Secretary of State (SOS)** state 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 SOS 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, the SOS also recognizes 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 the office can sustain with the core budget. Therefore, the SOS reserves 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.

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Since the proposal is effective January 1, 2018, **Oversight** will reflect six months of impact on sales tax collections in FY 2018.

Oversight will assume the Department of Revenue will incur costs in FY 2017 preparing the state for the changes.

Section 32.070 states that all revenue generated under the streamlined sales and use tax agreement act that exceeds the amount of revenue that would have been collected if the streamlined sales and use tax agreement act were not effective shall be deposited into the new Streamlined Sales and Use Tax Agreement Special Fund. **Oversight** assumes the sales tax revenue dedicated to the Conservation Commission Fund and the Parks and Soils Fund are constitutionally dedicated and will not be earmarked to the new fund.

<u>FISCAL IMPACT - State Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
GENERAL REVENUE			
<u>Additional Revenue</u> - DOR 1% collection fee on additional local sales tax	\$0	\$45,000	\$90,000
<u>Costs</u> - Department of Revenue			
Personal Service	(\$102,220)	(\$123,891)	(\$125,130)
Fringe Benefits	(\$61,567)	(\$74,215)	(\$74,554)
Programming - system changes	(\$524,160)	\$0	\$0
Expense and Equipment	(\$28,028)	(\$4,526)	(\$4,640)
<u>Total Costs</u> - DOR	<u>(\$718,975)</u>	<u>(\$202,632)</u>	<u>(\$204,324)</u>
FTE Change - DOR	4 FTE	4 FTE	4 FTE
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$718,975)</u>	<u>(\$157,632)</u>	<u>(\$114,324)</u>
Estimated Net FTE Change for General Revenue	4 FTE	4 FTE	4 FTE
CONSERVATION COMMISSION			
<u>Additional Revenue</u> - Streamlined Sales Tax	<u>\$0</u>	<u>\$148,000</u>	<u>\$296,000</u>
ESTIMATED NET EFFECT ON CONSERVATION COMMISSION	<u>\$0</u>	<u>\$148,000</u>	<u>\$296,000</u>
<u>FISCAL IMPACT - State Government</u> (continued)	FY 2017 (10 Mo.)	FY 2018	FY 2019
PARKS, SOIL & WATER FUND			
<u>Additional Revenue</u> - Streamlined Sales Tax	<u>\$0</u>	<u>\$118,500</u>	<u>\$237,000</u>
ESTIMATED NET EFFECT ON PARKS, SOIL & WATER FUND	<u>\$0</u>	<u>\$118,500</u>	<u>\$237,000</u>

**STREAMLINED SALES AND USE
 TAX AGREEMENT SPECIAL FUND**

Additional Revenue - Streamlined Sales and Use Tax (General Revenue Fund portion)	\$0	\$3,550,000	\$7,100,000
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<u>Additional Revenue</u> - Streamlined Sales and Use Tax (School District Trust Fund portion)	<u>\$0</u>	<u>\$1,183,500</u>	<u>\$2,367,000</u>
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ESTIMATED NET EFFECT ON STREAMLINED SALES AND USE TAX AGREEMENT SPECIAL FUND	<u>\$0</u>	<u>\$4,733,500</u>	<u>\$9,467,000</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2017 (10 Mo.)	FY 2018	FY 2019
LOCAL GOVERNMENT FUNDS			

<u>Additional Revenue</u> - Streamlined Sales Tax	\$0	\$4,500,000	\$9,000,000
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<u>Revenue Reduction</u> - DOR 1% collection fee	<u>\$0</u>	<u>(\$45,000)</u>	<u>(\$90,000)</u>
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ESTIMATED NET EFFECT ON LOCAL GOVERNMENT FUNDS	<u>\$0</u>	<u>\$4,455,000</u>	<u>\$8,910,000</u>
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FISCAL IMPACT - Small Business

Small businesses may be expected to collect additional sales taxes, perhaps due other states, as a result of this proposal.

FISCAL DESCRIPTION

This act requires the Department of Revenue to enter into the Streamlined Sales and Use Tax Agreement. Missouri will be represented by three delegates in meetings with other states regarding the Agreement. One delegate will be appointed by the Governor, one shall be a member of the General Assembly appointed by mutual agreement between the Speaker of the House of Representatives and the President Pro Tem of the Senate, and one will be the Director of the Department of Revenue. These delegates will report annually to the General Assembly regarding the agreement.

All revenue generated under the agreement that exceeds the amount that would have been collected without the agreement shall be deposited into the newly created Streamlined Sales and Use Tax Agreement Special Fund. Upon appropriation, moneys in the fund shall be used solely to make payments to any person or entity providing child care services to certain low-income individuals.

Any sales tax changes due to a boundary change will take effect on the first day of the calendar quarter 120 days after the sellers receive notice of the change.

When a political subdivision changes its local sales tax rate or taxing boundary, such change shall take effect on the first day of the calendar quarter 120 days after the sellers receive notice of the change.

The act requires all state and local sales taxes to have the same bases by requiring identical exemptions at the state and local level. The director of the Department of Revenue is required to perform all functions regarding the administration, collection, enforcement, and operation of all sales taxes.

The act provides uniform sourcing rules to determine what tax rates will apply to certain transactions. The act defines what constitutes engaging in business activities within the state and who is considered a vendor. Political subdivisions are prohibited from opting out of the sales tax holiday.

The act requires the Department to participate in an on-line registration system for sales tax collection. Registration in the system cannot be used as a factor to determine nexus with this state. The Department is required to accept electronic payments. Sellers will be allowed to deduct uncollectible bad debts attributable to taxable sales from sales tax remittances.

The Department must provide electronic databases for taxing jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services. Sellers will be relieved from liability if they fail to properly collect tax based upon certain information provided by the department.

FISCAL DESCRIPTION (continued)

Amnesty will be available for sellers under certain circumstances following registration with the state. Monetary allowances will be provided to sellers and certified service providers for collecting and remitting state and local taxes. Sellers and certified service providers are prohibited from simultaneously receiving the monetary allowance and the amount under their agreement with the secretary. The act sets out requirements for the seller and purchaser for tax exempt sales.

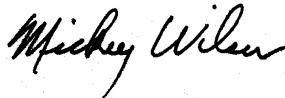
For products that are bundled, with one item being taxable and the other nontaxable, the entire product will be subject to taxation unless the provider can properly identify the nontaxable portion. For products that are bundled items with different tax rates, the highest tax rate will be used for the entire product unless the provider can properly identify the lower taxed item.

The provisions relating to the Streamlined Sales and Use Tax Agreement have an effective date of January 1, 2018.

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

Department of Conservation
Department of Natural Resources
Department of Revenue
Joint Committee on Administrative Rules
Missouri Department of Transportation
Office of Administration
Division of Budget and Planning
Office of the Secretary of State



Mickey Wilson, CPA
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April 22, 2016

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April 22, 2016