

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 0568-02  
Bill No.: SCS for SB 118  
Subject: Taxation and Revenue - General  
Type: Original  
Date: March 7, 2019

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Bill Summary: This proposal establishes the Taxpayer Protection Act.

**FISCAL SUMMARY**

| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>  |            |  |  |
|--|------------|--|--|
| FUND AFFECTED  | FY 2020    | FY 2021                                      | FY 2022                                      |
| General Revenue                                      | \$0        | \$100,000 to Could exceed \$1,431,490        | \$100,000 to Could exceed \$1,431,490        |
| <b>Total Estimated Net Effect on General Revenue</b> | <b>\$0</b> | <b>\$100,000 to Could exceed \$1,431,490</b> | <b>\$100,000 to Could exceed \$1,431,490</b> |

| <b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>              |            |            |            |
|---|------------|------------|------------|
| FUND AFFECTED   | FY 2020    | FY 2021    | FY 2022    |
|   |            |            |            |
|   |            |            |            |
| <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 5 pages.

| <b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>                  |                |                |                |
|---|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>  | <b>FY 2020</b> | <b>FY 2021</b> | <b>FY 2022</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 2020</b> | <b>FY 2021</b> | <b>FY 2022</b> |
|   |                |                |                |
|   |                |                |                |
| <b>Total Estimated Net Effect on FTE</b>                  | <b>0</b>       | <b>0</b>       | <b>0</b>       |

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

| <b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b> |                |                |                |
|--|----------------|----------------|----------------|
| <b>FUND AFFECTED</b>                       | <b>FY 2020</b> | <b>FY 2021</b> | <b>FY 2022</b> |
| <b>Local Government</b>                    | <b>\$0</b>     | <b>\$0</b>     | <b>\$0</b>     |

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Department of Revenue (DOR)** assume this proposal states that, for all tax years beginning on or after January 1, 2020, any income tax return or claim for a refund prepared by a paid tax return preparer shall be signed by the paid tax return preparer and shall bear the paid tax return preparer's Internal Revenue Service preparer tax identification number (PTIN). Any paid tax return preparer who fails to sign the return or claim for refund or who fails to provide his or her preparer tax identification number, shall pay a penalty of fifty dollars for each such failure. Such penalty may not be assessed if the failure was due to reasonable cause.

The aggregate penalty that may be imposed by the Department on any paid tax return preparer shall not exceed twenty-five thousand dollars per preparer per calendar year.

The Director of Revenue may commence suit to enjoin any paid tax return preparer from further engaging in any conduct described in subdivision (2) of subsection 3 of proposed section 143.980, or from further action as a paid tax return preparer.

The fund or account that shall receive the revenues generated from the penalty on paid tax return preparers could increase by an unknown to minimal amount.

Currently, the Department does not capture data on how many returns are filed without a PTIN or signature of a paid tax return preparer if completed by a paid tax return preparer. The Department believes, though, that a penalty up to \$100 can accrue on a single tax return; \$50 for failure of preparer's signature and \$50 for not providing PTIN.

In 2016, Missouri had 2,781,440 returns filed. Based on information published by the IRS, 1,431,490 federal returns from Missouri were completed by a paid preparer.

The Department believes that the maximum increase to the fund or account that shall receive the revenues generated from the penalty or paid tax return preparers could increase by an unknown amount up to \$143,149,000 (1,431,490 preparers x \$100 penalty) each year.

DOR notes this proposed legislation may increase Total State Revenue by an unknown amount up to \$143,149,000 each year if each fine is levied on every tax form done by a preparer. While we realize the maximum impact is not likely, we know of no methodology to support a percentage less than 100 percent. In such cases, we choose to show the General Assembly the highest possible impact, even though it is likely it will be considerably less.

ASSUMPTION (continued)

The Department of Revenue has no way to know how many preparers would be fined and has no data on the number of tax preparers in the state.

**Oversight** was unable to determine how many paid preparers there are in the state or determine an appropriate percentage of returns that fail to have a signature. Oversight notes that in §143.980.2(2) that certified public accountants are not included in the definition of paid tax return preparer (therefore not subject to this proposal), so the 1,431,490 returns is overstated. Additionally this proposal would exempt from the penalty “any enrolled agent enrolled to practice before the IRS pursuant to 31 C.F.R Section 10.4”. Oversight notes that in order to become an enrolled agent a person must have the PTIN required by this legislation. Oversight is unable to determine how many tax preparers currently have the enrolled agency status.

**Oversight** will show in the fiscal note a range of potential of income to the state from \$100,000 to 1% of the returns missing the required name and number for the \$100 penalty. Therefore, this proposal could exceed \$1,431,490 (1,431,490 x 1% x \$100).

**Oversight** checked with DOR about the need for administrative costs to track these tax preparers. They stated their new tax system that began January 1, 2019 has the capability to capture the data and they would not need additional administrative costs. Based on this information, Oversight assumes DOR will not need additional resources to implement this proposal.

**Oversight** notes this proposal begins with tax year January 1, 2020 and therefore, the penalties will not be assessed until the first tax returns are filed in January 2021.

| <u>FISCAL IMPACT - State Government</u>   | FY 2020<br>(6 Mo.) | FY 2021   | FY 2022   |
|---|--------------------|---|---|
| <b>GENERAL REVENUE</b>  |                    |   |   |
| <u>Revenue</u> - DOR §143.980.2 - \$50 penalty collected from paid tax preparers not signing or putting their PTIN on a tax return (\$100 penalty if both violations) | \$0                | \$100,000 to<br>Could exceed<br><u>\$1,431,490</u>          | \$100,000 to<br>Could exceed<br><u>\$1,431,490</u>          |
| <b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>  | <b><u>\$0</u></b>  | <b><u>\$100,000 to<br/>Could exceed<br/>\$1,431,490</u></b> | <b><u>\$100,000 to<br/>Could exceed<br/>\$1,431,490</u></b> |

| <u>FISCAL IMPACT - Local Government</u> | FY 2020<br>(6 Mo.) | FY 2021    | FY 2022    |
|---|--------------------|------------|------------|
|   | <u>\$0</u>         | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT - Small Business

A small business that prepares tax returns could be negatively impacted if penalized.

FISCAL DESCRIPTION

This act establishes the "Taxpayer Protection Act".

For all tax years beginning on or after January 1, 2020, this act requires paid tax return preparers, as defined in the act, to sign any income tax return or claim for refund prepared by such paid tax return preparer and to provide such preparer's Internal Revenue Service preparer tax identification number.

Each failure to sign any income tax return or claim for refund, or to provide a preparer tax identification number, shall result in a fine of fifty dollars, not to exceed \$25,000 per calendar year. The Director of Revenue may file suit to enjoin a paid tax return preparer from engaging in certain actions, as described in the act.

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 Revenue



Kyle Rieman  
Director  
March 7, 2019

Ross Strobe  
Assistant Director  
March 7, 2019