

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1118-02
Bill No.: Perfected SCS for SB 219
Subject: Accountants; Professional Registration and Licensing; Taxation and Revenue - General
Type: Original
Date: March 28, 2019

Bill Summary: This proposal modifies provisions relating to the practice of public accounting and establishes the Taxpayer Protection Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
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
Total Estimated Net Effect on General Revenue	\$0	\$100,000 to Could exceed \$1,431,490	\$100,000 to Could exceed \$1,431,490

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
Total Estimated Net Effect on FTE	0	0	0

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 2020	FY 2021	FY 2022
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Section 143.980 (Senate Amendment 1)

Officials from the **Department of Revenue (DOR)** state this proposed section states, that for all tax years beginning on or after January 1, 2020, any income tax return or claim for 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.

Any person who is the paid tax return preparer with respect to any income tax return or claim for refund and 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, unless it can be shown that the failure was due to reasonable cause.

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

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 this subsection, or from further action as a paid tax return preparer.

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 each year.

The Department realizes that the maximum impact, as reported above, is not likely, the Department is not able to support any percentage of occurrences other than 100 percent.

ASSUMPTION (continued)

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 \times 1\% \times \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.

Bill as a whole:

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** assume the proposal will have no fiscal impact on their organization.

Oversight notes that the Department of Insurance, Financial Institutions and Professional Registration has stated the proposal would not have a direct fiscal impact on their organization. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (6 Mo.)	FY 2021	FY 2022
GENERAL REVENUE			
<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) (Senate Amendment 1)	<u>\$0</u>	\$100,000 to Could exceed <u>\$1,431,490</u>	\$100,000 to Could exceed <u>\$1,431,490</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>\$0</u>	\$100,000 to Could exceed <u>\$1,431,490</u>	\$100,000 to Could exceed <u>\$1,431,490</u>

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

FISCAL IMPACT - Small Business

Small accounting businesses could be impacted by this proposal and small businesses 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.

FISCAL DESCRIPTION (continued)

Under this act, the Missouri State Board of Accountancy may obtain information regarding peer review from any approved American Institute for Certified Public Accountants peer review program.

The Board may obtain the name and address of the public accounting firm, the firm's dates of enrollment in the program, the date of acceptance and the period covered by the firm's most recently accepted peer review, and if applicable, whether the firm's enrollment in the program has been dropped or terminated.

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
Department of Insurance, Financial Institutions and Professional Registration



Kyle Rieman
Director
March 28, 2019

Ross Strobe
Assistant Director
March 28, 2019