

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1858S.01I
Bill No.: SB 410
Subject: Taxation and Revenue - Income; Corporations
Type: Original
Date: March 9, 2021

Bill Summary: This proposal would allow certain S Corporation shareholders to receive a tax credit for income earned in another state.

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | | | |
|--|------------------|------------------|------------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 |
| General Revenue Fund | (Unknown) | (Unknown) | (Unknown) |
| Total Estimated Net Effect on General Revenue | (Unknown) | (Unknown) | (Unknown) |

| ESTIMATED NET EFFECT ON OTHER STATE FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>Other</u> State Funds | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 |
| | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE) | | | |
|---|----------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 |
| | | | |
| | | | |
| Total Estimated Net Effect on FTE | 0 | 0 | 0 |

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|----------------|----------------|----------------|
| FUND AFFECTED | FY 2022 | FY 2023 | FY 2024 |
| | | | |
| Local Government | \$0 | \$0 | \$0 |

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of Administration – Budget & Planning Division (B&P)** state this proposed legislation will reduce TSR by an unknown amount. B&P states this proposed legislation will impact the calculation under Article X, Section 18(e).

Section 143.081 – Credit for Out-of-State Income for S-Corporations

Officials from **B&P** state this proposed legislation would grant a tax credit for S-Corporation shareholders for income earned outside of Missouri, if the income earned out of state is not subject to income taxes in the state in which it was earned. The tax credit shall be equal to the shareholders proportion of Missouri Income Tax owed on such out of state S-Corporation income. This credit would begin on August 28, 2021. Since this is before the end of Tax Year 2021, B&P assumes that the credit would be available for taxpayers filing their annual Tax Year 2021 returns.

B&P notes that shareholders are already allowed a resident income tax credit if income earned out of state is subject to another state's income tax. B&P further notes that this would essentially eliminate the Missouri tax on all out of state income earned by any S-Corporation, if that income is not subject to any other state's income tax.

Based on information provided by the Missouri Department of Revenue, for Tax Year 2018 fewer than 1% of S-Corporations claimed out-of-state income. However, B&P was unable to determine how much of such S-Corporations income was derived from out-state-sources and how much of that income came from other states that do not levy an income tax. Therefore, B&P estimates that this proposal will have an unknown negative impact on TSR and General Revenue (GR) beginning in Fiscal Year 2022.

Officials from the **Missouri Department of Revenue (DOR)** state this proposed legislation would allow a resident shareholder in an S-Corporation to be eligible for a credit issued pursuant to this section in an amount equal to the shareholder's pro rata share of any income tax imposed pursuant to Chapter 143 on income derived from sources in another state of the United States, or a political subdivision thereof, or the District of Columbia, and which is subject to tax pursuant to Chapter 143 but is not subject to tax in such other jurisdiction.

S-Corporations are required to file a MO-1120S (S-Corporation Income Tax Return) with the Missouri Department of Revenue annually. The MO-1120S requires S-Corporations to disclose if any of the income they receive is from sources other than those located in Missouri. Of the 87,907 S-Corporations that completed the 2018 MO-1120S form, less than 1% indicated income outside Missouri.

DOR is unable to estimate the amount of the income that was reported as out of the state. Additionally, DOR cannot determine if any of that income is from jurisdictions that do not tax. DOR assumes an unknown impact that could exceed \$250,000 annually.

Oversight is unable to determine the actual amount of credits that will be claimed under this proposed legislation.

For purposes of this fiscal note, Oversight will report a revenue reduction to GR equal to a negative “Unknown” beginning in Fiscal Year 2022.

Oversight notes the actual impact of this proposed legislation is Unknown. However, it is assumed the potential reduction to GR could exceed \$250,000.

| <u>FISCAL IMPACT –</u> <u>State Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 |
|--|-------------------------|-------------------------|-------------------------|
| GENERAL REVENUE FUND | | | |
| <u>Revenue Reduction –</u> Section 143.081 – S- Corporation Tax Credit For Non- Taxed Out-Of-State Income | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |
| ESTIAMTED NET EFFECT ON GENERAL REVENUE FUND | <u>(Unknown)</u> | <u>(Unknown)</u> | <u>(Unknown)</u> |

| <u>FISCAL IMPACT –</u> <u>Local Government</u> | FY 2022 (10 Mo.) | FY 2023 | FY 2024 |
|---|---------------------|-------------------|-------------------|
| | <u>\$0</u> | <u>\$0</u> | <u>\$0</u> |

FISCAL IMPACT – Small Business

This proposed legislation could positively impact any small business with out-of-state income so long as such income is not taxed by any other state of the United States, as such small business could receive a tax credit for such income reducing or eliminating such small business’s tax liability.

FISCAL DESCRIPTION

Current law authorizes a tax credit for the amount of income tax paid to another state for income that is also taxed in this state. This act allows such tax credit to be claimed by resident shareholders of an S corporation for the amount of tax imposed by this state on income earned in another state but not taxed by such state.

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 Administration – Budget & Planning Division
Missouri Department of Revenue



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March 9, 2021



Ross Strobe
Assistant Director
March 9, 2021