HB 521 -- Streamlined Sales and Use Tax Agreement Act

Sponsor: Koenig

This bill establishes the Streamlined Sales and Use Tax Agreement Act which requires the Director of the Department of Revenue to enter into the multistate Streamlined Sales and Use Tax Agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and types of commerce.

The bill specifies that:

(1) When a city annexes or detaches property, the city clerk must forward a certified copy of the ordinance to the department director within 10 days. The tax rate in the added or abolished territory must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the boundary change (Section 32.087.18, RSMo);

(2) When a political subdivision changes the tax rate or the local sales tax boundary, the change must take effect on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087.19,RSMo);

(3) If a political subdivision repeals an existing tax, the repeal must become effective on the first day of the calendar quarter 120 days after the Director of the Department of Revenue receives notice that the abolishment of the tax was approved (Sections 67.1303, 67.2030, 67.2530, and 94.578); and

(4) When a seller fails to properly collect taxes based on certain information provided by the department, the seller will be relieved from the tax liability (Sections 144.123 - 144.124).

The bill also:

(1) Requires the department to establish the necessary rules to implement the compliance provisions of the agreement. The state must be represented as a member of the agreement for amending the agreement by three delegates including a person appointed by the Governor, a member of the General Assembly appointed by mutual consent of the President Pro Tem of the Senate and the Speaker of the House of Representatives, and the department director or his or her designee. The delegates must make an annual report by January 15 on the status of the agreement. The bill specifies that all general revenue generated by the agreement that exceeds the revenue that would have been collected without the agreement must be deposited into the newly created Streamlined Sales and Use Tax

Agreement Special Fund and appropriated solely to replace revenues lost at the local level from reducing the personal property tax (Section 32.070);

(2) Authorizes the department director to retain 1% of the amount of any local sales or use taxes collected by the department for the cost of collection (Section 32.086);

(3) Requires the department director to perform all functions regarding the administration, collection, enforcement, and operation of all sales taxes. All state and local sales taxes must have the same base which means that exemptions at the state and local level must be identical (Sections 32.087 and 66.620 - 67.2530);

(4) Creates an individual income tax deduction for business income and phases it in over five years. Taxpayers will be allowed to deduct 5% of business income for the 2014 tax year, 10% for 2015, 15% for 2016, 20% for 2017, and, once fully phased-in, will be allowed a 25% deduction for all tax years after the 2017 tax year. Shareholders of S corporations and partners in partnerships will be allowed a proportional deduction based on their share of ownership (Section 143.013);

(5) Phases in a reduction in the corporate income tax rate over three years from 6.25% of Missouri taxable income to 5.25% for tax year 2013, 4.25% for 2014, and 3.25% for 2015 and all subsequent tax years (Section 143.071);

(6) Establishes the Sales Tax Technology Act. Beginning July 1, 2014, the Department of Revenue must implement an automated state and local sales and use tax system for all delinquent businesses and any business that wants to voluntarily enroll to electronically submit sales tax data and payments for debit and credit card transactions. The department is authorized to contract with third-party tax collection and remittance providers to implement and operate the system. The system must include the use of an electronic cash register for the receipt and processing of credit and debit transactions submitted by merchants at least once per day. The provider must establish a secure web portal with all sales tax transactions reported, including cumulative totals for the tax reporting period and the amount of tax submitted to the department on behalf of each business. The information must be available to the department for at least 185 days and include individual business locations and multiple locations within a single business. Any business that enrolls in the automated sales and use tax collection system must pay all costs to purchase and maintain the hardware and software, will be entitled to retain 2% of the tax as an allowance for timely payments, and will not need a

sales tax security bond. All transaction fees associated with the use of a credit or debit card must be paid by the business. A business has 30 days to comply with the requirements of these provisions. Failure to comply will result in the revocation of the business's sales and use tax license in addition to other penalty provisions. Annual filers and monthly filers who pay four times per month are exempt from the provisions of the bill and the department may delay the implementation of the provisions for any business if the integration of the business' existing system doesn't interface with the electronic cash register system by July 1, 2014 (Section 144.001);

(7) Defines "delivery charges," "food," "bottled water," "candy," "ancillary services," "lease or rental," "purchase price," "sales price," "tangible personal property," and other definitions to be adopted as defined in the streamlined agreement. The bill also defines "engaging in business activities within the state" and "maintains a place of business in this state" as they relate to the collection of taxes and "tangible personal property" to exclude specified digital products, digital audio-visual works, digital audio works, and digital books (Section 144.010);

(8) Establishes rules to determine the taxability of bundled transactions involving both taxable and nontaxable goods or services (Section 144.022);

(9) Requires uniform sourcing rules to determine what tax rates will apply to certain transactions (Sections 144.040 - 144.043);

(10) Allows a seller to advertise that the required sales tax will be assumed or absorbed into the price of the property sold or the service rendered if the amount of the tax is separately stated on the invoice or receipts. Any person who fails to separately state the assumed or absorbed sales tax on the invoice or receipt will be guilty of a misdemeanor (Section 144.080);

(11) Requires the on-line registration for out-of-state sellers to be simplified and no bond to be required (Section 144.082);

(12) Allows the department to require any seller to electronically file and remit sales and use taxes and requires the department to offer out-of-state sellers uniform, simplified electronic filing (Section 144.084);

(13) Authorizes a deduction from taxable sales for sellers with bad debts attributable to taxable sales that are uncollectable (Section 144.104);

(14) Requires the department to provide electronic databases for tax jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services (Sections 144.123 - 144.124);

(15) Authorizes an amnesty to certain out-of-state sellers with uncollected or unpaid sales or use tax if the seller was not registered in Missouri in the prior 12-month period before the effective date of the streamlined agreement (Section 144.125);

(16) Allows a monetary allowance under the automated collection system, beginning July 1, 2014, of up to 2% of the amount of remittance that sellers and certified service providers are allowed for collecting and remitting the state and local sales taxes. Currently, sellers are allowed to keep 2% for collecting and timely remitting the tax. A seller cannot simultaneously receive this monetary allowance and the 2% timely filing deduction (Section 144.140); and

(17) Requires no caps or thresholds to exist on the collection of sales or use taxes (Section 144.1012).

The provisions of the Streamlined Sales and Use Tax Agreement Act become effective January 1, 2015.