

HCS HB 2048 -- SALES TAX COLLECTIONS

SPONSOR: Sutherland

COMMITTEE ACTION: Voted "do pass" by the Committee on Ways and Means by a vote of 10 to 0.

This substitute changes the laws regarding sales tax collections. In its main provisions, the substitute:

(1) Requires, beginning January 1, 2012, statements of no tax due from the Department of Revenue as a prerequisite to the issuance or renewal of state and local business and occupation licenses or to the receipt of payments from the State Legal Expense Fund. The department director may enter into an agreement with any state agency responsible for issuing business and occupation licenses to provide the names and tax identification numbers of applicants for these licenses. Tax delinquencies may result in the suspension of licenses;

(2) Authorizes the department director to file a certificate of lien in circuit court to garnish wages and to withhold payments and assets due to a taxpayer to be paid over to the department to be applied to the delinquent taxes. A copy of the order of garnishment must be mailed to the taxpayer notifying the taxpayer of the commencement of garnishment and the procedure available for appeal. The substitute establishes penalties for failure to comply with a garnishment order and prohibits an employer from discharging or refusing to hire an employee as a result of a garnishment order;

(3) Allows the department to implement and operate a financial institution match system to identify and seize financial assets of delinquent taxpayers. Financial institutions will be paid a fee from the delinquent taxpayer's account which cannot exceed the actual cost of conducting data matches. The substitute requires the department to provide notice to the taxpayer and the financial institution of the match, the lien or garnishment arising from the match, and the action to be taken and establishes a penalty for a willful violation by a financial institution;

(4) Authorizes the department director to place a lien upon a taxpayer's workers' compensation benefits, distributive share of a decedent's estate, or any claims made by a taxpayer in a law suit. The substitute requires the mailing of a notice to the taxpayer within 20 days of filing a certificate of tax lien and allows the department director to release a lien upon satisfaction of the tax debt or for an erroneous filing. The department director is required to establish and maintain records

for all certificates of tax liens and lien releases;

(5) Changes the time period for appealing individual income, corporate income, sales and use, and corporate franchise taxes and the time period for the imposition of penalties and interest on outstanding tax liabilities;

(6) Clarifies that certain purchases made for resale are not to be considered as retail for sales and use tax purposes when the subsequent sale is taxed in the state or another state, is for resale, is excluded from tax, is subject to tax but is exempt, or is exempt in another state where the subsequent sale occurs; and

(7) Clarifies that operators of amusement parks and places of entertainment or recreation, including games or athletic events, must charge sales taxes on the amount of gross receipts charged for admission, but any subsequent sale of the admissions or seating accommodations will not be subject to the taxes and clarifies that operators of hotels, motels, taverns, restaurants, drugstores, dining cars, or tourist camps must charge sales taxes on the amount of gross receipts charged for all rooms, meals, and drinks furnished at the establishment, but any subsequent sale of those same rooms, meals, and drinks is exempt from sales and use taxes.

The substitute contains an emergency clause on the provisions which clarify sales which are not to be considered as retail for sales and use tax purposes and when certain operators must charge sales taxes.

FISCAL NOTE: Estimated Effect on General Revenue Fund of a cost of More than \$237,022 to an income of More than \$100,000 in FY 2011, a cost of More than \$244,590 to an income of More than \$100,000 in FY 2012, and a cost of More than \$248,927 to an income of More than \$100,000 in FY 2013. Estimated Effect on Other State Funds of a cost of Unknown to an income of More than \$100,000 in FY 2011, FY 2012, and FY 2013.

PROPOSERS: Supporters say that the bill corrects two decisions by the Missouri Supreme Court. The court's decision in the ICC Management case requires all sellers to exempt entities to self-accrue and pay sales tax on the purchase of items they sell to the entities. This includes sales made to schools, churches, and state and local governments. Those additional tax costs will be passed on to these purchasers increasing costs for taxpayers that support local governments and increasing costs to churches and other exempt organizations. There are situations in which there should be no sales tax. Tax exemptions are passed by the General Assembly to help various citizens of Missouri; and if Missouri lets this ruling stand unchecked, it will impose a great

burden on suppliers of services to some of our state's largest industries, utilities, tourism, schools, churches, other non-profit entities, government, and consumers. Ticket sales should be treated separately since you are buying an experience and not a product. People who bid to do services in the state will have to pay the tax while out-of-state vendors will not be required to pay. A receptive business takes all parts of travel such as hotel, bus, escort, and show tickets and sets one price. The court cases make it difficult to be compliant with the law. The last reseller of the ticket is the one who collects the sales tax. Each separate identity will need a sales tax exemption. Agents and resellers may continue to do business as usual and ignore the new rules or leave Missouri because of the added confusion and cost.

Testifying for the bill were Representatives Sutherland and Munzlinger; Missouri Chamber of Commerce and Industry; Associated Industries of Missouri; Missouri Retailers Association; Boeing Company; Keith Lilly, Branson Area Receptive Association; Association of Missouri Electric Cooperatives; Missouri Telecommunications Industry Association; Missouri Energy Development Association; Gail Myer and Ramona Mormann, Missouri Hotel and Lodging Association; Missouri Restaurant Association; Associated General Contractors of Missouri; Associated Builders and Contractors; AT&T Incorporated and Affiliates; John Fedele, American Society of Media Photographers, St. Louis Chapter; Robert Taylor, Wireless USA, Incorporated; Chris Cudney, Ameren Services; Missouri Farm Bureau; Missouri Petroleum Marketers and Convenience Store Association; Missouri Asphalt Pavement Association; Missouri Association of Counties; Dan Shaw, Missouri Grocers Association; Missouri Travel Council; and South Western Association (Farm Equipment Dealers).

OPPONENTS: There was no opposition voiced to the committee.