

## HCS HB 1639 -- TAXATION

SPONSOR: Nolte

COMMITTEE ACTION: Voted "do pass" by the Committee on International Trade and Job Creation by a vote of 7 to 4.

This substitute establishes the Broad-Based Tax Relief Act of 2012; reduces the tax on corporate business income and business income for sole proprietors, partners, and shareholders in S-corporations; and changes the laws regarding the collection of money owed to the state.

### BROAD-BASED TAX RELIEF ACT OF 2012

For the 2012 tax year and each year thereafter, the amount of business income to tax will be determined by the Office of Administration comparing the Missouri net individual and corporation income tax revenue received in the fiscal year ending on June 30, 2010, to the Missouri net individual and corporation income tax revenues received in the fiscal year ending on June 30 of the tax year before the tax year of determination. If the result of the comparison shows a decrease from the 2010 year, the percentage of business income to be taxed will be the same as the immediately preceding tax year until the time that the comparison shows the revenues to be equal to or increased from 2010. Once the comparison shows the revenues to be equal to or increased, business income will be taxed at 90% for the first year following the determination, 80% for the second year, 70% for the third year, 60% for the fourth year, and 50% for each subsequent tax year.

### CORPORATE INCOME TAXES

For the 2012 tax year, the corporate tax rate will be determined by the Office of Administration comparing the Missouri net individual and corporation income tax revenue received in the fiscal year ending on June 30, 2010, to the Missouri net individual and corporation income tax revenues received in the fiscal year ending on June 30 of the tax year before the tax year of determination. If the result of the comparison shows a decrease from the 2010 year, the corporate tax rate will be the same as the immediately preceding tax year until the time that the comparison shows the revenues to be equal to or increased from 2010. Once the comparison shows the revenues to be equal to or increased, the tax rate will be 5.625% for the first year following the determination, 5% for the second year, 4.375% for the third year, 3.75% for the fourth year, and 3.125% for each subsequent tax year.

## COLLECTION OF STATE MONEY

The substitute changes the laws regarding the collection of money owed to the state. The substitute:

(1) Allows all state agencies to refer to the department for the collection of any debt owed to them. The department and state agencies, including the judiciary, are authorized to exchange any necessary information but the referring agency must follow all federal and state laws regarding the confidentiality of information and records. The department may compromise any referred state debt and use all general remedies afforded creditors of Missouri, remedies specific to the referring state agency, and remedies afforded the state in general. The department can employ department staff and attorneys, prosecuting attorneys, and private collection agencies to aid in the collection of debt. The department must add 10% to the amount of debt to be collected for the cost of collection which can be waived under specified conditions;

(2) Allows the Director of the Department of Revenue, beginning January 1, 2013, to mail any document by first class mail if at least one notice of deficiency or assessment is sent by certified mail to the taxpayer's last known address;

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

(4) Authorizes an amnesty from the assessment or payment of all penalties, additions to tax, and interest on delinquencies of unpaid taxes administered by the department which occurred on or prior to December 31, 2011. A taxpayer must apply for amnesty, file a tax return for each tax period for which amnesty is requested, pay the unpaid taxes in full from August 1, 2012, to October 31, 2012, and agree to comply with state tax laws for the next eight years from the date of the agreement. All new revenues resulting from the tax amnesty program will be deposited into the General Revenue Fund unless otherwise earmarked by the Missouri Constitution. The department must submit a report by December 31, 2012, to the Speaker of the House of Representatives and the President Pro Tem of the Senate. These provisions become effective July 1, 2012, and expire December 31, 2015;

(5) Allows the department director and the Commissioner of the Office of Administration to enter into a reciprocal agreement with the federal government to offset vendor and contractor payments for any debt owed to the state. Currently, the department has a reciprocal agreement with the United States Treasury to offset income tax overpayments;

(6) Requires anyone making a claim or having a judgment under the provisions of the State Legal Expense Fund to have a no-tax due statement from the department before any moneys can be expended from the fund for the settlement of any liability claim and allows an offset from the fund to satisfy any delinquent tax debt owed before payment is made to the person. Payments of less than \$10,000 from the fund for property damage claims are not required to have a no-tax due statement;

(7) Allows the department director to issue an administrative garnishment once he or she has filed a certificate of lien in the circuit court for delinquent income or sales or use taxes. Any person or other entity receiving this order must turn over within 10 business days any of the taxpayer's assets in his or her possession and any assets that are to become due the taxpayer including wages, salaries, commissions, bonuses, workers' compensation benefits, disability benefits, pension or retirement payments, and interest less a fee to cover costs of up to \$6 per month. The taxpayer may obtain relief from the garnishment by paying the total amount owed;

(8) Authorizes a sales and use tax exemption for electrical energy and gas or propane, water, coal, and energy sources, chemicals, machinery, equipment, supplies, parts, and materials used or consumed in testing, installing, calibrating, maintaining, repairing, or restoring any machinery or equipment exempted from sales and use tax in Section 144.054 and authorizes a sales and use tax exemption for electrical energy and gas or propane, water, coal, and energy sources, chemicals, machinery, equipment, supplies, parts, and materials used or consumed in the manufacturing, processing, preparing, furnishing, compounding, or producing of food, or used in research and development related to manufacturing, processing, preparing, furnishing, compounding, or producing food; and

(9) Requires the department director, at a taxpayer's request, to hold a refund claim for sales taxes unprocessed without accruing interest pending the outcome of a legal proceeding. A purchaser can submit a refund claim directly to the department director as long as the tax has been remitted to the department director, the claim is refunded only once, and a notarized assignment of rights statement by the vendor is provided or a notarized statement confirming the efforts that have been made to obtain the statement is included. An amended return is not required for refund claims made by a purchaser under these provisions. A purchaser can appeal a refund denial to the Administrative Hearing Commission within 60 days from the date the department director mailed the notice. Also, a purchaser is allowed to file an appeal of the department director's decision to deny a refund claim if the appeal is filed no later than

September 28, 2012, for a refund denied on or after January 1, 2007, and the claim is based solely on the issue of the exemption of the electronic transmission or delivery of computer software.

The provisions of the substitute regarding the tax amnesty contain an emergency clause.

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of a cost of Up to \$111,062,721 to an income of Unknown in FY 2013, a cost of Up to \$218,667,148 to an income of Unknown in FY 2014, and a cost of Up to \$325,114,201 to an income of Unknown in FY 2015. Estimated Net Effect on Other State Funds of an income of Unknown to a cost of More than \$100,000 in FY 2013, FY 2014, and FY 2015.

PROPOSERS: Supporters say that most small businesses do not qualify for a majority of tax credits and incentives. Because the bill reduces the taxes for everyone by 50% over time, all small businesses will benefit. The performance-based evaluation aspect of this tax reduction tests the economic philosophy that lowering taxes will help the economy.

Testifying for the bill were Representative Nolte; Associated Industries of Missouri; National Federation of Independent Business; Missouri Chamber of Commerce and Industry; Missouri Grocers' Association; Missouri Retailers Association; and Ford Motor Company.

OPPOSERS: Those who oppose the bill say that the permanent tax cuts to business and corporate taxes will reduce state revenues needed to support K-12 and higher education and other vital services. There is no mechanism to increase tax rates if the test results are negative and revenues decrease.

Testifying against the bill was Missouri National Education Association.

OTHERS: Others testifying say that they have concerns because the bill uses a decrease in tax credits for historic preservation to pay for or offset the decrease in corporate income tax revenue.

Testifying on the bill was Missouri Association of Realtors.