

HB 1477 -- TAXATION

SPONSOR: Brattin

This bill authorizes Missouri to enter into the multistate Streamlined Sales and Use Tax Agreement, eliminates all state tax credits, phases in a flat income tax rate for individuals and corporations, and increases the state sales and use tax by .25%.

STREAMLINED SALES AND USE TAX AGREEMENT

The bill requires the Director of the Department of Revenue to enter into the Streamlined Sales and Use Tax Agreement with one or more states 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 of adoption of the ordinance. 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 change (Section 32.087.18, RSMo);
- (2) When a political subdivision changes the tax rate or the local sales tax boundary, the change must become effective on the first day of the calendar quarter 120 days after the sellers receive notice of the change (Section 32.087.19); and
- (3) When specified political subdivisions repeal an existing tax, the repeal must become effective on the first day of the calendar quarter 120 days after notice to sellers (Sections 66.620 - 67.1545, 67.1775, 67.2000, and 67.2530).

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 (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 (Sections 32.086 and 67.395 - 67.576);

(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 67.1545, 67.2030, and 67.2530);

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

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

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

(7) Requires the department director to participate in an on-line registration system that will allow sellers to register in this state and other member states. Registration with the central registration system and the collection of sales and use taxes in this state must not be used as a factor in determining whether the seller has nexus with this state for any tax at any time (Section 144.082);

(8) Requires the department director to establish rules and regulations for the remittance of sales and use taxes that allow for payments by all remitters and requires a seller to submit its sales and use tax returns electronically in a simplified format approved and prescribed by the department director (Section 144.084);

(9) Requires a seller to be allowed a deduction from taxable sales for bad debts attributable to taxable sales that have become uncollectable (Section 144.104);

(10) Requires the department director to provide and maintain an electronic database that describes boundary changes for all taxing jurisdictions and the effective dates of the changes for sales and

use tax purposes, a database of all sales and use tax rates for all taxing jurisdictions, and a database that assigns each five- and nine-digit zip code to the proper rates and taxing jurisdictions. The department director must complete a taxability matrix and provide reasonable notice of changes in the taxability of products or services listed in the matrix. A seller or certified service provider can be liable for reliance upon erroneous data provided by the department director on tax rates, boundaries, or taxing jurisdiction assignments (Sections 144.123 - 144.124);

(11) 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 this state's participation in the streamlined agreement (Section 144.125); and

(12) Requires the department director to provide a monetary allowance under the automated collection system 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).

ELIMINATION OF TAX CREDITS (Sections 32.115, 99.1205 - 137.1018, 148.064 - 208.700, and 253.550 - 660.055)

All tax credits are eliminated after December 31, 2014; and any previously issued tax credit must be redeemed before January 1, 2017.

FLAT INCOME TAX RATE (Chapter 143)

Beginning January 1, 2015, the bill phases in a flat tax rate for individual income tax of 4.4% for tax year 2015, 4% for 2016, and 3.8% for 2017 and all subsequent tax years. The corporate income tax rate is reduced from 6.25% to 5% for tax year 2015, 4% for tax year 2016, and 3.5% for 2017 and all subsequent tax years. Beginning January 1, 2017, the bill increases the state sales and use tax rate by .25% for general revenue. The Missouri adjusted gross income will be the taxpayer's federal adjusted gross income with the following deductions added: qualified expenses for eligible educators; certain business expenses of reservists, performing artists, and fee-based government officials; moving expenses; self-employment taxes; self-employed SEP, SIMPLE, or qualified retirement plans; health insurance; penalties for the early withdrawal of savings; alimony paid; individual retirement account deductions; student loan interest; tuition and fees;

domestic production activities; the amount of any interest on specified governmental obligations; any deduction for specified net operating losses; specified property taxes; and any nonqualified distribution from a qualified tuition savings program. The bill authorizes a deduction from Missouri taxable income for capital gains from the sale of a taxpayer's principal residence under specified conditions; value of any property owned by the taxpayer's employer that was used by the taxpayer for personal use; Social Security benefits; unemployment compensation; workers' compensation; public assistance payments; sick pay; inheritances and gifts; alimony received; employment-related expenses that were not reimbursed by the taxpayer's employer; contributions to a medical or health savings account; contributions to a 529 Plan; Missouri state or local tax refunds, credits, or offsets; interest income from Missouri state and local bonds; 25% of education costs over \$250 including clothing for school and school supplies for a home, parochial, private, or public school; a deduction of \$5,000 each for the taxpayer, spouse, and dependents to be increased annually based on the federal Consumer Price Index for All Urban Consumers.

SALES AND USE TAX

The bill:

- (1) Repeals the prohibition of a local tourism community enhancement district's board of directors from imposing a sales tax on food, utilities, telephone, and wireless services for sales made on or after January 1, 2015 (Section 67.1959);
- (2) Authorizes a state and local sales and use tax exemption for sales of over-the-counter drugs to individuals with disabilities; and all sales of drugs, durable medical equipment, prosthetic devices, and mobility enhancing equipment (Section 144.030.2(19));
- (3) Revises the list of items exempted from state and local sales and use tax to add all sales of piped natural or artificial gas or other fuels delivered by the seller for domestic use and to remove all sales of electrical current, natural, artificial or propane gas, wood, coal, or home heating oil. It also repeals the exemption for all sales of water service for domestic use in the City of St. Louis (Sections 144.030.2(24) and 144.032);
- (4) Authorizes a sales tax exemption for all sales of new light aircraft, light aircraft kits, or light aircraft parts or components manufactured or substantially completed within this state when sold by the manufacturer to a qualified purchaser (Section 144.030.2(43));

(5) Authorizes a sales tax exemption for all sales of computer printouts, computer output on microfilm or microfiche, and computer-assisted photo compositions under specified conditions (Section 144.030.2(44));

(6) 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 receipt. 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);

(7) Requires any out-of-state seller who voluntarily collects and remits use tax to file and remit the tax annually unless the amount is equal to \$1,000 or more. The seller must file and remit the use tax for the month when \$1,000 or more is due (Section 144.655.7); and

(8) Specifies that the 2% timely remittance of payment allowance applies to sales transactions with tax exemptions under Sections 144.210 and 144.212 (Section 144.710).

The provisions of the bill regarding the Streamlined Sales and Use Tax Agreement will become effective January 1, 2016.