

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5283-02  
Bill No.: HCS for HB 1722  
Subject: Department of Revenue, Business and Commerce, Taxation and Revenue - Sales and Use  
Type: Original  
Date: March 2, 2018

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Bill Summary: This proposal authorizes a sales tax refund for businesses that were assessed higher taxes without notice as a result of the Department of Revenue changing its interpretation of taxable items before August 28, 2015.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
General Revenue	\$0	(Up to \$5,000,000)	\$0 or (Unknown)
<b>Total Estimated Net Effect on General Revenue</b>	<b>\$0</b>	<b>(Up to \$5,000,000)</b>	<b>\$0 or (Unknown)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Total Estimated Net Effect on FTE</b>	<b>0</b>	<b>0</b>	<b>0</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2019	FY 2020	FY 2021
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials at the **Office of Administration Division of Budget and Planning (B&P)** assume this proposal would allow businesses to receive a refund for 100% of the assessed sales and use taxes against the taxpayer that were not collected from the taxpayer's customers after a Department of Revenue (DOR) audit when the DOR expanded its interpretation of taxable items. Refunds would be allowed for tax assessments from August 28, 2005 through August 28, 2015.

B&P notes that there are no requirements for a taxpayer to prove the actual amount of sales and use tax being claimed as meeting these requirements. Further, it is unclear if judicial rulings changing the interpretation of taxable items by DOR would also qualify for these refunds.

A total of \$5.0 million in refunds is allowed under this proposal. In addition, if more than \$5.0 million in claims for refunds is made, DOR is to request appropriations from the General Assembly in later fiscal years.

Therefore, B&P estimates that Total State Revenue and General Revenue would decrease by \$5.0 million during FY 2020, the first fiscal year the refunds would become available; and General Revenue could be negatively impacted by an unknown amount beginning in FY 2021 if DOR requires further appropriations.

Officials at the **Department of Revenue (DOR)** assume the legislation under §144.190 may allow a refund to a business who paid sales and use tax assessments as a result of an audit by the Missouri Department of Revenue between August 28, 2005 and August 28, 2015. This is a result of the Department reacting to court decisions that expanded interpretations of taxable items where the taxpayer did not collect the tax from the taxpayer's customers.

This proposal may reduce Total State Revenue more than \$5 million.

<u>FISCAL IMPACT - State Government</u>	FY 2019 (10 Mo.)	FY 2020	FY 2021
<b>GENERAL REVENUE</b>			
<u>Cost</u> - refunds issued for businesses that were assessed higher taxes §144.190	<u>\$0</u>	<u>(Up to \$5,000,000)</u>	<u>\$0 or (Unknown)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>\$0</u></b>	<b><u>(Up to \$5,000,000)</u></b>	<b><u>\$0 or (Unknown)</u></b>
 <u>FISCAL IMPACT - Local Government</u>	 FY 2019 (10 Mo.)	 FY 2020	 FY 2021
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

Small businesses that qualify for the refund could be positively impacted.

FISCAL DESCRIPTION

This bill requires the Department of Revenue to refund the sales tax paid in a 10 year period between 2005 and 2015 as a result of an audit when the department expanded its interpretation of sales tax law and the taxpayer did not collect the tax from its customers. The total amount that can be refunded under this bill is \$5 million.

This proposal has an effective date of July 1, 2019.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Revenue  
Office of Administration  
Division of Budget and Planning

Ross Strope

A handwritten signature in black ink, appearing to read "Ross Strope", with a stylized flourish at the end.

Acting Director  
March 2, 2018