HCS HB 2540 -- STATE REVENUES (Haahr)

COMMITTEE OF ORIGIN: Standing Committee on Ways and Means

DEPARTMENT OF TAXATION AND REVENUE

This bill changes the name of the Department of Revenue to the "Department of Taxation and Revenue" over a two-year transition period (Sections 32.005 to 32.006, RSMo).

STREAMLINED SALES AND USE TAX

This 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);

(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 to 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 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 to 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 144.043 and 144.111 to 144.112);

(7) Requires the department director to participate in an online 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 144.105);

(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 cannot be held liable for reliance upon erroneous data provided by the department director on tax rates, boundaries, or taxing jurisdiction assignments (Sections 144.123 to 144.124); and

(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).

SALES AND USE TAX CHANGES FOR STREAMLINED SALES AND USE TAX

The bill:

(1) 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 durable medical equipment, prosthetic devices, mobility enhancing equipment, and drugs dispensed by prescription (Section 144.030.2(19));

(2) Moves the state and local sales and use tax exemption for usual and customary delivery charges (SB 16 (2017)) (Section 144.030.2(46));

(3) Removes the opt-out option for locals, changes the purchase limits on the back-to-school sales tax holiday from a per transaction limit to a per item limit and adds instructional materials and school computer supplies (Section 144.049); and

(4) Requires any out-of-state seller who voluntarily collects and remits use tax to file and remit the tax annually by January 31 of the following year (Section 144.655.7).

The provisions of the bill regarding the "Streamlined Sales and Use Tax Agreement" will become effective January 1 the year after the Quill v. North Dakota is affirmed by an opinion in South Dakota v. Wayfair, Inc.

LOCAL USE TAX

This bill extends the date that local governments can vote on a local use tax from the November 2018 general election to the November 2020 general election (Section 32.087).

SINGLE SALES FACTOR APPORTIONMENT

Currently, a corporation can use three factor apportionment (property, payroll, & sales) or single factor (sales) apportionment to determine its Missouri taxable income when the corporation has both in-state and out-of-state income. This bill eliminates the three factor, requiring corporations to use single factor (Section 32.200).

COMPETITIVE BIDDING AND REVERSE AUCTIONS

This bill changes the exception limit to the competitive bidding rules from purchases equal to or less than $3,000 to a new $10,000 limit. It also increases the expenditure limit for purchases that require special notice, advertising, and solicitation requirements by the Commissioner of Administration from projects estimated at $25,000 or more to those projects estimated at $100,000 or more, and provides that the "lowest and best" bid is not determined to be the lowest, but also considers the quality promised.

The bill authorizes the Commissioner of the Office of Administration to hold reverse auctions for the purchase of merchandise, supplies, raw materials, or finished goods if the price is the primary factor in evaluating the bids (Sections 34.040 to 34.353).

SENIOR CITIZENS PROPERTY TAX CREDIT FOR RENTERS

This bill prohibits the issuance of the renter's portion of the senior citizens property tax credit (Sections 135.025 to 135.030).

EARNED INCOME CREDIT

This bill establishes the "Missouri Earned Income Tax Credit Act" which authorizes an individual income tax credit equal to 20% of any earned income tax credit claimed by the taxpayer on his or her federal income tax return, beginning on January 1, 2019. The credit is nonrefundable and cannot be carried forward. The Department of Revenue must notify taxpayers who may qualify for the credit and must contract with one or more nonprofit groups to contact non-English speaking individuals, elderly residents, tenants, and very low-income individuals who do not file tax returns to notify them annually of the credit. The department must prepare an annual report containing the number of credits issued and claimed, the total amount of revenue expended, and the average value of the credits issued within certain income ranges (Section 135.760).

PROPERTY TAX EXEMPTION FOR SOLAR ENERGY SYSTEMS

This bill defines solar energy systems and attempts to exempt the systems from property tax without making a corresponding change to Section 6 of Article 10 of the Missouri Constitution (Section 137.010).

INCOME TAX

Currently, the law provides for a reduction in the top rate of income tax over a period of years from 6% to 5.5%, with each cut becoming effective if net general revenue collections meet a certain trigger. This bill eliminates some of the tax rate brackets so that the top tax rate is 5% for all income over $7,000, indexed for inflation beginning in the 2020 calendar year (Sections 143.011 and 143.021).

BUSINESS PASS-THROUGH INCOME DEDUCTION

Currently, a pass-through entity can deduct 5% from its 2017 Missouri taxable income. The amount of the deduction will increase 5% each year certain net general revenue limits are met up to a maximum 25% deduction. This bill eliminates the increase in the deduction, keeping it at 5% (Section 143.022).

CORPORATE INCOME TAX

Beginning January 1, 2019, this bill reduces the corporation tax rate from 6.25% to 5% (Section 143.071).

STUDENT LOAN FORGIVENESS DEDUCTION FOR VETERANS

Beginning January 1, 2019, this bill authorizes an individual income tax deduction equal to 100% of any student loan forgiveness a veteran with a total service-connected disability received from any disabled veteran student loan forgiveness program administered by the United States Department of Education (Section 143.116).

PERSONAL & DEPENDENCY EXEMPTIONS

Currently, an individual can deduct $2,100 as a personal exemption, $2,100 for a spouse, and $1,200 for each dependent. This bill eliminates these deductions beginning January 1, 2018 to match the deductions allowed under the new federal tax reform (Sections 143.151 and 143.161).

FEDERAL TAX DEDUCTION

Currently, an individual can deduct his or her federal income tax liability up to $5,000 or if a combined return, up to $10,000; and a corporation can deduct up to 50% of its federal income tax liability. Beginning January 1, 2019, this bill phases out this deduction for both individuals and corporations based on federal taxable income limits. Also, the bill limits the corporate deduction to $5,000 for tax years 1994 to 2018 and limits the deduction for tax year 2019 and thereafter based on income with no maximum amount (Section 143.171).

WITHHOLDING TAX COMPENSATION

Currently, an employer is allowed to retain an amount between .5% to 2% of the amount of withholding tax due to the state if the employer timely remits the tax due on or before the due date. This bill repeals such allowance (Sections 143.225 and 143.261).

CORPORATE TAXABLE INCOME

This bill changes the calculation of taxable income of corporations by disallowing any inter-company transactions between corporations that file a consolidated income tax return in this state to be considered sales and business transactions in determining taxable income in Missouri for tax year 2018 and all years before (Section 143.451).

This bill changes the allocation and apportionment of net income of corporations having income from business activities which is taxable both within and without this state, beginning January 1, 2019 to determine Missouri taxable income (Sections 143.451, 143.456, and 143.461).

SALES AND USE TAX ALLOWANCE

Currently, a vendor is allowed to retain 2% of the amount of sales or use tax due to the state if the vendor timely remits the tax due on or before the due date. This bill eliminates such allowance for sales tax amounts above $1,500 per month, per location (Sections 144.070, 144.140 and 144.710).

FINANCIAL INSTITUTIONS TAX

This bill requires the same reduction in the corporate tax rate to apply to the financial institutions taxes (Sections 148.030, 148.140, and 148.620)

MANAGED CARE ORGANIZATIONS

Currently, each Medicaid managed care organization in this state must pay, in addition to all other fees or taxes required by law, a Medicaid managed care organization reimbursement based on a formula set forth in rules promulgated by the Department of Social Services. Beginning July 1, 2019, this bill changes the allowance to managed care organizations including Health Maintenance Organizations (HMOs) providing benefits to MO HealthNet managed care program eligibility groups. The managed care organization reimbursement allowance may be imposed on the basis of revenue or enrollment and can impose differential rates on Medicaid and commercial business. The Department of Social Services must recognize the cost of the reimbursement allowance as a cost in calculating actuarially sound reimbursement rates (Sections 208.431 to 208.437).

MISSOURI SENIOR SERVICES PROTECTION FUND

This bill requires the Department of Revenue to calculate the amount claimed for the federal tax liability deduction of corporations in Section 143.171 in the 2018 fiscal year and allocate up to $40 million to be transfered, upon appropriation, from the General Revenue Fund to the Missouri Senior Services Protection Fund annually (Section 208.1050).

LONG-ACTING CONTRACEPTIVES

This bill permits a long-acting reversible contraceptive (LARC) that is prescribed to and obtained for a MO HealthNet participant to be transferred to another MO HealthNet participant if the LARC was not delivered to, implanted in, or used on the original MO HealthNet participant to whom the LARC was prescribed. In order for a LARC to be transferred, certain provisions must be met as specified in the bill (Section 208.1070).

EMERGENCY BRIDGE REPAIR FUND

This bill creates the "Emergency Bridge Repair and Replacement Fund," which consists of moneys appropriated from General Revenue to the Department of Transportation for accelerated bridge replacements or immediate repairs to bridges in critical disrepair (Section 226.228).

YIELD TAX ON FORESTRY PRODUCTS

Currently, any timber cut on land classified as forest cropland is subject to a yield tax of 6%. This bill repeals the yield tax on forestry products (Sections 254.075 to 254.210).

MOTOR VEHICLE FEES

This bill increases motor vehicle fees to account for inflation from 1984 to 2018 but not more than a $500 increase per fee (Sections 301.015 to 301.4000, 302.012 to 302.735, and 306.012 to 306.550).

FANTASY SPORTS CONTESTS

This bill makes changes to the fantasy sports contest definitions and reduces the annual license renewal fee for a fantasy sport contest operator from $10,000 to a lower amount based upon the net revenue of the operator from the previous calendar year. An operator that made $250,000 or less would not be required to pay an annual license renewal fee. The bill also reduces the annual operation fee from 11.5% of the operator's net revenue from the previous calendar year to 6%.

The bill removes the date the operation fee is due and instead of an automatic suspension of the license of an operator who fails to apply for a license renewal or pay the annual operation fee by that date, allows the commission to suspend the license or deny the pending license application at its discretion.

This bill also limits the amount of money the applicant is required to remit to the commission for the cost of its investigation into the operator's employees, officers, directors, trustees, and principal salaried executive staff officers to $10,000 from $50,000 (Sections 313.905 and 313.935).

The provisions of this bill, as listed in the bill, excluding the provisions for the Streamlined Sales and Use Tax, shall become effective January 1, 2019.