HCS SS#2 SB 674 -- TAXATION

SPONSOR: Koenig

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 6 to 4. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 6 to 4.

This bill modifies several provisions relating to taxation.

MULTISTATE TAX COMPACT

Beginning January 1, 2019, this bill modifies the Multistate Tax Compact by requiring corporations subject to income tax in this state to apportion and allocate income according to the income tax provisions provided in Chapter 143, RSMo. 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 option available in the Multistate Tax Compact, requiring corporations to use single factor (Section 32.200).

INDIVIDUAL INCOME TAX

Beginning January 1, 2019, this bill makes changes to the individual income tax. The bill reduces the tax rate brackets from 10 to five and sets the rate at 5.5% which can continue to reduce by 0.10% increments if the income triggers are met down to 5%; requires when an income bracket is eliminated from the tax table, the top remaining tax rate shall apply to all income in excess of the second highest remaining income bracket; freezes the pass-through business income reduction at 5%; and defines "net general revenue collected" to include all revenue deposited into the General Revenue Fund, less refunds and revenues originally deposited into the General Revenue Fund but designated by law for a specific distribution or transfer to another state fund (Section 143.011).

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 and the additional $1,400 deduction for head of household or surviving spouse beginning January 1, 2018 to match the deductions allowed under the new federal tax reform (Sections 143.151 and 143.161).

CORPORATE INCOME TAX

Beginning January 1, 2019, this bill reduces the corporate income tax rate from 6.25% to 5.5% and allows the rate to continue to reduce by 0.10% increments by using the same income triggers as used for the individual income tax rate reduction down to 5% (Section 143.071).

The bill removes the requirement that an affiliated group of corporations have 50% or more of its income derived from sources within this state in order to file a consolidated return, and eliminates transactions between affiliated members of the group from such consolidated return (Section 143.431).

Beginning January 1, 2019, this bill modifies the law relating to the allocation and apportionment of corporate income by requiring corporations to determine their income derived from sources within this state according to the provisions of this bill.

ALLOCABLE INCOME

Net rents and royalties from real property located in the state, and capital gains from the sale of such property, is allocable to the state. Net rents and royalties from tangible personal property are allocable to the state to the extent that the property is used in this state, or in their entirety if the corporation's commercial domicile is in this state and is not organized or taxable by the state in which the property is utilized, as described in the bill. Capital gains from the sale of tangible personal property is allocable to this state if the property had a situs in the state at the time of sale, or if the corporation's commercial domicile is in this state and is not organized or taxable by the state in which the property had a situs, as described in the bill. Interest and dividends are allocable to this state if the corporation's commercial domicile is in this state. Patent and copyright royalties are allocable to this state to the extent that the patent or copyright is utilized in this state, or to the extent that the patent or copyright is utilized in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

APPORTIONABLE INCOME

All apportionable income shall be apportioned to this state by dividing the total receipts of the corporation in this state during the tax period by the total receipts of the corporation everywhere during the tax period, and multiplying such result by the net income.

Receipts from the sale of tangible personal property shall be considered in this state if the property is received in this state by the purchaser, as described in the bill. Receipts from all other sales shall be considered in this state if the corporation's market for such sales is in this state, as described in the bill.

In the case of certain industries where unusual factual situations produce inequitable results under the apportionment and allocation provisions of this bill, the Director of Revenue shall promulgate rules for determining the apportionment and allocation factors for each such industry. In such a case, a corporation may petition the Director of Revenue, as described in the bill.

The bill also 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, and allowing only the single factor calculation in determining a corporation's Missouri taxable income (Sections 143.451, 143.455, 143.471, and 620.1350).

This bill provides that the method of allocation and apportionment elected by a corporation shall expire after five years, or whenever the Director of Revenue finds and notifies such corporation that such method does not show the income applicable to this state, whichever occurs first. After such expiration or revocation, the corporation may elect to use the same or a different method. Failure to make such an election shall constitute an election to comply with the allocation and apportionment provisions provided by the bill (Section 143.461).

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)

PROPONENTS: Supporters say that this bill will be complementary to the federal tax reform. The reduction and changes in the individual and corporate income tax is very important for this state and will lead to increased in-state employment, make Missouri competitive with other states, and simplify and make the Missouri tax system more fair. This will make Missouri open for business and ready to compete for economic growth. The single factor apportionment language will bring Missouri in line with most of our surrounding states.

Testifying for the bill were Senator Koenig; Missouri Retailers Association; Missouri Grocers Association; Missouri Chamber of

Commerce and Industry; and Associated Industries of Missouri.

OPPONENTS: Those who oppose the bill say that it will reduce funding for needed programs including education, childcare, health care, and others helping the poor. They believe the fiscal note is $35 to $40 million off.

Testifying against the bill was the Missouri Budget Project.

OTHERS: Others testifying on the bill say the bill needs language added to protect the banking, insurance and broadcasting industries.

Testifying on the bill were Missouri Insurance Coalition; Missouri Bankers Association; Motion Picture Association of America; and the Missouri Department of Revenue.