

REALITY CHECK : SB 829

An honest look at Senate Bill 829 passed by the Missouri General Assembly and vetoed by Governor Jeremiah "Jay" Nixon on June 11, 2014

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The Voice of Missouri Business.



ISSUE: Burden of proof shift to the Missouri Department of Revenue

SECTION: 136.300

DESCRIPTION: The law change would require the Missouri Department of Revenue (DOR) to prove additional tax liability for all taxpayers if the taxpayer meets certain conditions. Taxpayers must produce evidence of a valid dispute, must maintain adequate records (including support for any claimed exemptions) and provide the DOR reasonable access to those records. But if the DOR claims the taxpayer owes additional taxes, including in a dispute over an exemption, the DOR would be required to prove the additional tax liability, the same as the Internal Revenue Service does with federal tax liability today.

AIM/TRIM's ESTIMATE OF IMPACT: There should be no cost to state or local governments.

AIM/TRIM's METHODOLOGY: The burden of proof has already shifted to the Missouri Department of Revenue (DOR) in nearly all tax cases involving all individual taxpayers. The burden of proof is also on the DOR for business taxpayers with less than \$7 million in net worth and less than 500 employees. There has been no revenue loss associated with this shift in the burden of proof since it was implemented in 1999.

We believe the government should be able to prove all cases where they claim a taxpayer owes additional taxes and do not believe this law change will result in any loss to state or local funds. We believe this change will cause the DOR to more adequately prepare their case when claiming additional liability and this additional review may reduce the number of disputes between the DOR and taxpayers. This would result in cost savings for both the state and taxpayers through reduction in legal fees and expenses.

OA ESTIMATE OF IMPACT: "The impact on state revenues is unknown, but will be significantly negative, and there will be a significant negative impact on local revenues."¹

AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT: The laws that govern a taxpayer's eligibility for tax exemptions are not changed by this legislation and are still in effect. These laws would still require a taxpayer to provide evidence of qualification for any tax exemption they claim, along with documentation that is required to claim the exemption. Taxpayers must keep adequate records and provide the DOR reasonable access to those records under the provisions of the new law. As in existing law, taxpayers must provide initial evidence of exemption. This change requires the DOR to prove a taxpayer is not eligible for an exemption after the taxpayer has provided evidence they are eligible for the exemption. We believe the DOR should bear that reasonable burden.

¹ "Tax Break Legislation, Summary of Fiscal Impact," published by State of Missouri, Office of Administration, Division of Budget & Planning, <http://content.oa.mo.gov/sites/default/files/Summary%20of%20fiscal%20impact%20-%20FY%202015.pdf>