

# REALITY CHECK : SB 860

*An honest look at Senate  
Bill 860 passed by the  
Missouri General Assembly  
and vetoed by Governor  
Jeremiah "Jay" Nixon on  
June 11, 2014*



*The Voice of Missouri Business.*



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## **ISSUE: St. Louis County Assessor notice to taxpayers**

### **SECTION: 137.133**

**DESCRIPTION:** This section would require correspondence from the St. Louis County Assessor to taxpayers requesting voluntary disclosure of information to clearly indicate disclosure of the information is voluntary.

**AIM/TRIM's ESTIMATE OF IMPACT:** No cost to state or local government.

**AIM/TRIM's METHODOLOGY:** This simply requires a statement and there should be no cost to add the statement and better inform taxpayers of the voluntary nature of the requested information.

**OA ESTIMATE OF IMPACT:** N/A

**AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT:** N/A

## **ISSUE: Allowing small businesses to file annual Withholding Tax returns**

### **SECTION: 143.221**

**DESCRIPTION:** This change would allow 3,500 smaller employers with less than \$100 in withholding tax per quarter to file withholding taxes on an annual basis, rather than four times per year. This will save them time and effort in preparing 10,500 extra returns per year and resulting in cost savings for the Missouri Department of Revenue that currently must process those returns.

**AIM/TRIM's ESTIMATE OF IMPACT:** No cost – should result in cost savings to the Missouri Department of Revenue.

**AIM/TRIM's METHODOLOGY:** We agree there is no cost to the state, and argue there should be some savings to the Missouri Department of Revenue because of the elimination of 10,500 returns and payments that will no longer need to be processed by the DOR personnel. Even if those returns and payments are made electronically, there should be some cost savings to the state.

**OA ESTIMATE OF IMPACT:** \$0<sup>1</sup>

**AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT:** N/A

## **ISSUE: Used manufactured homes**

### **SECTION: 144.044**

**DESCRIPTION:** The bill codifies the current practice of exempting the sale of used manufactured homes from sales and use taxes.

**AIM/TRIM's ESTIMATE OF IMPACT:** No cost.

**AIM/TRIM's METHODOLOGY:** We agree with the assessment by the Office of Administration there is no impact from this provision.

**OA ESTIMATE OF IMPACT:** \$0<sup>1</sup>

**AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT:** We agree with OA's assessment on this issue.

## **ISSUE: Graphing calculators included in sales tax holiday**

### **SECTION: 144.049**

**DESCRIPTION:** The bill adds graphing calculators with a taxable value of \$150 or less to the list of items that may be purchased exempt from state tax during the annual sales tax holiday during one weekend in August. Local governments may choose to participate in the holiday event, in which case, the calculators would be exempt from local tax also.

**AIM/TRIM's ESTIMATE OF IMPACT:** Unknown cost to state; local government cost is at their option.

**AIM/TRIM's METHODOLOGY:** The new exemption would simply add an additional item to the list of items that are exempt during the three day sales tax holiday in August each year: graphing calculators with a taxable value of less than \$150.

OA provided an estimate to the Oversight Division that estimated an impact of \$100,000 for the General Revenue Fund/\$200,000 in total state revenue loss, but the Oversight Division included a maximum calculation of revenue loss. To achieve this maximum amount of revenue loss, every student enrolled in Pre-Algebra or Algebra I would purchase a new graphing calculator at a store in Missouri that would otherwise be subject to sales tax, during the three-day sales tax holiday period.

We do not believe every student (or their parent) makes a decision to purchase a calculator based on whether sales tax applies or not, nor do we believe that all parents and students will have the tax planning ability to purchase all such calculators during the sales tax holiday event. Therefore, we believe the impact on state funds will be minimal.

**OA ESTIMATE OF IMPACT:** \$200,000 state cost; \$0 local cost.<sup>1</sup>

**AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT:** While we believe the Office of Administration estimate is closer to the correct amount than the amount shown by the Oversight Division in the fiscal note for the bill, we have no data upon which to base an estimate.

## **ISSUE: Advertising absorption of sales tax**

### **SECTION: 144.080**

**DESCRIPTION:** The bill would allow a retailer to advertise that sales tax will be absorbed or included in the price if it is separately stated on an invoice or receipt. Current law prohibits such activity.

**AIM/TRIM's ESTIMATE OF IMPACT:** No cost.

**AIM/TRIM's METHODOLOGY:** We agree there is no impact from this provision.

**OA ESTIMATE OF IMPACT:** \$0<sup>1</sup>

**AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT:** We agree with OA's assessment on this issue.

## **ISSUE: Refund claims allowed to original taxpayer**

### **SECTION: 144.190**

**DESCRIPTION:** The bill would clarify the law to ensure taxpayers should receive refunds when they have overpaid paid the tax to the Department of Revenue and would not allow the DOR to offset refunds for "delinquencies" that are still subject to appeal by the taxpayer.

**AIM/TRIM's ESTIMATE OF IMPACT:** No cost to state or local governments.

**AIM/TRIM's METHODOLOGY:** In very limited situations, the DOR is denying refunds based on a very strained interpretation of the existing statute that was put in place to prevent abusive behavior by unscrupulous retailers. The law was never intended to block refunds to taxpayers that overpaid taxes to the Department of Revenue, but to stop repeated refunds to retailers that intentionally over-collected sales taxes from customers, sought refunds, and did not refund the money to customers. This change would clarify that taxpayers that have overpaid the tax are entitled to refunds, as the law has been interpreted until a very recent change in interpretation by the Department of Revenue.

The bill also clarifies that a refund may only be used to offset a delinquency if the taxpayer has had the opportunity to appeal the validity of that delinquency. This ensures the taxpayer is not denied due process. Again, this was a recent change in policy by the Department of Revenue and this law is meant to provide clarification to the DOR.

**OA ESTIMATE OF IMPACT:** \$5m state, \$5m local.<sup>1</sup>

**AIM/TRIM COMMENT ON OA ESTIMATE OF IMPACT:** OA states because DOR claims the provisions have impacted *less* than \$5m in refund claims over the last several years, they estimate the proposal will reduce state revenues by *more* than \$5m annually and reduce local government revenues by the same amount. This is illogical. Regardless, refunding overpaid taxes to the taxpayer to which they rightfully belong is not a "loss" to state and local governments. There is no revenue loss from this proposal.

**NOTES:**

1. "2014 Tax Exemptions Grid UPDATE," 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>
2. "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>