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missouri's future

CMF White Paper Series: Impact of the Everything Tax on Missouri Businesses

Part 1: The Impact of the Proposed Sales Tax on Service Industries

Two ballot proposals on file with the Missouri Secretary of State seek to amend the Missouri constitution to eliminate the state income tax and replace it with an expanded, increased sales tax of up to 10%. These two initiative petitions, also known as Versions 12 and 13, require the legislature to “enact a law...imposing and levying a tax on all sales and services, except those sales and services exempted” under the proposals.

Because the proponents of the new tax have not signaled which of the two petitions is the one that will be put to a vote and because there are a number of unresolved questions in both petitions, this new tax would result in uncertainty and unfairness for millions of households and thousands of businesses.

If It's Not Clearly Exempt, It's Taxed

What is certain is that in every case, if the petition does not specifically exempt something, then it is subject to the proposed tax. As a result, the sales tax would apply to a broad range of services that are not currently taxed under Missouri's present sales tax system.

In this analysis, we will focus on:

- Services that are currently taxed under Missouri's sales tax and would be subject to a higher tax rate under the proposed sales tax;
- Services that are currently not taxed under Missouri's sales tax but would be taxed under the proposed sales tax; and

- The implications of taxing to a broad array of services, as is the case in the proposed sales tax.

Services Currently Taxed That Could Be Subject to a 10% Rate Under New Sales Tax

Under Missouri's current sales and use tax, very few services are taxed. In fact, tangible personal property is taxable unless specifically stated as exempt in law, but services are exempt unless specifically stated as taxable. The following services are currently taxed in Missouri and could be subject to up to a rate of up to 10% under the initiative petition proposals.

List of Items Currently Taxed and Subject to a Higher Rate Under the Proposal

- Admission tickets to places of amusement, recreation, entertainment, games, and athletic events;
- Local and long distance telecommunications services;
- Transmissions of messages of telegraph companies;
- Rent of hotel and motel rooms;
- Intrastate transportation services;
- Rental or lease of tangible personal property;
- Health club fees.

For Missouri families living through a difficult economy, increasing the sales tax on regular services like these will result in increased economic hardship and could result a decrease in sales for these products.

Services Currently Exempt, But Taxed Under the Proposals

Under the proposed sales tax, the number of taxable services would be expanded greatly, impacting purchases made by both households and businesses. The following lists of services, separated into services generally purchased by households and services generally purchased by businesses, are exempt under the current sales tax but would be subject to tax under the proposed sales tax.

Household Services

- Leisure and Recreation Sports Training and Lessons
- Motor Vehicle Maintenance and Repair
- Electronic and Computer Repair
- Parking Fees
- Cable, Satellite and Other Video Services
- Photography and Other Photo Services
- Video Rentals
- Veterinary and Pet Care Services
- Private Delivery Services
- Commissions of Financial Advisors and Loan Officers
- Professional Association Dues
- Labor Organization Dues
- Personal Care Services
- Laundry and Dry Cleaning
- Clothing Alterations
- Moving and Storage Services
- Lawn Care
- Home Maintenance and Inspections
- Tutoring
- Test Preparation

Business Services

- Event Planning
- Advertising
- Healthcare Services Purchased by Private Companies on Behalf of Individuals, to the Extent Costs are Recouped
- Medical Case Management
- Document Preparation and Finishing
- Printing and Copying
- Marketing and Telemarketing
- Mailroom Services
- Packaging and Labeling
- Debt Collection
- Investigations
- Security Services
- Management and Project Consulting
- Public Relations
- Bookkeeping
- Website Hosting and Process Serving
- Research and Development
- Data Analysis
- Scientific, Economic, and Technical Consulting
- Government Affairs
- Graphic Design
- Licensing Rights
- Surveying and Mapping
- Strategic and Logistic Consulting

Depending on the version of the initiative petition, these lists could also include the interest paid on mortgages, personal loans such as auto and student loans, credit cards, and loans made to businesses.

Implications of Taxing Services

In addition to the hardship the new tax proposal will place on Missouri families, it also puts Missouri businesses at risk. Because Missouri is a state that borders eight others, businesses near its borders could see a loss of revenue as customers choose to travel to other states with either lower sales tax rates or that exempt such services from their sales tax.

Furthermore, the significant amount of uncertainty in the proposals exposes businesses and households to complicated apportionment issues, audit risk, and costly litigation. While some services are specifically listed as exempt from the tax such as services performed by accountants, architects, barbers, cosmetologists, embalmers, engineers, funeral directors, lawyers, and real estate agents, brokers, and appraisers, these broad categories listed in the initiative petitions would have to be further defined by either the General Assembly or the Department of Revenue and possibly even the courts, leaving much uncertainty as to what would be taxed and what would be exempt if one of the proposals were approved by Missouri voters in November of 2012.

Also, there is a very real possibility that Missouri ends up with one or more absurd definitions as the law currently classifies golf courses as residential property for property tax purposes.

The General Assembly, Department of Revenue, or possibly even the courts would also be responsible for deciding who should collect and remit the proposed tax, as the petitions are silent on how the tax would be administered.

Additionally, the proposed sales tax creates a substantial disadvantage to Missouri domiciled service providers. As a result of federal court rulings, the proposed sales tax will direct business out of Missouri as households and businesses seek to avoid the tax by purchasing services from businesses without nexus, a physical presence or connection, with Missouri. Since most states exclude many services from their sales taxes, the possible 10% differential in cost for a Missouri company's service and a service offered by an out-of-state company would likely be a driving factor in the decision to purchase a service, creating an unfair playing field for Missouri businesses. This issue raises questions on how the General Assembly and the Department of Revenue would try to deal with this unfairness.

Conclusion

All of these questions will lead to more questions, compounding the uncertainty and unfairness of the proposal. If voters adopt one of the petitions, businesses and households will face a new, uncertain, and unfair tax as the legislature, the

Department of Revenue, and the courts grapple with imposing, administering, and interpreting the sales tax proposed by the initiative petitions.

About the Author

Brian Schmidt served as the executive director of the Missouri General Assembly's Joint Committee on Tax Policy from 2005 through 2011. He received his Bachelor of Political Science degree at Truman State University and his Master of Public Affairs- Public Policy degree at the University of Missouri-Columbia. He is currently the owner of Missouri Wonk, a Jefferson City-based public policy think tank that specializes in policy analysis, cost-benefit analysis, and forecasting. Missouri Wonk can be found online at www.mowonk.com.