

Small Business Regulatory Fairness Board

Small Business Impact Statement

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Rule Number: 12 CSR 10.2436

Name of Agency Preparing Statement: Department of Revenue

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Name of Person Approving Statement: Zach Wyatt

Please describe the methods your agency considered or used to reduce the impact on small businesses *(examples: consolidation, simplification, differing compliance, differing reporting requirements, less stringent deadlines, performance rather than design standards, exemption, or any other mitigating technique).*

The statutes allowed the Department to create a multi-step process for businesses who wished to participate in this new individual income tax reporting program for S Corps and Partnerships. The Department decided to streamline the process into a single step of filing the tax return and to collect all information needed in that single step. This will make it easier for businesses to participate and easier for the Department to process the returns.

Please explain how your agency has involved small businesses in the development of the proposed rule.

Our agency did not get small businesses involved with the development of the rule. The development was done in-house using staff that have been answering questions from businesses during this process. The rule is being developed to help clarify the requirements of the SALT Parity Act and to streamline the reporting process into a single step.

Please list the probable monetary costs and benefits to your agency and any other agencies affected. Please include the estimated total amount your agency expects to collect from additionally imposed fees and how the moneys will be used.

This proposal will not impact any other state agency.

The Department will not receive any monetary benefit from this proposal. However, if a business chooses to participate they will report their income on a consolidated entity level tax return. This consolidated tax return may help speed up an audit done on a business should a business become subject to an audit. This program is strictly voluntary on the part of business and the Department assumes no fiscal impact from this proposal.

Please describe small businesses that will be required to comply with the proposed rule and how they may be adversely affected.

This is a voluntary program that S Corps and Partnerships (regardless of their size) may choose to participate in. There is no requirement to participate. Businesses are only encouraged to participate if they will benefit from this business income tax reporting method at the federal level; otherwise they will file their individual income tax return in the same manner they did before.

Please list direct and indirect costs (in dollars amounts) associated with compliance.

Currently S Corp and Partnership's members file individual income tax returns with the Department showing their portion of income that results from the S Corp or Partnership. The S Corp or Partnership do not report income from the business at the entity level. This proposal creates a voluntary reporting program that would allow the business to report their income and pay the taxes at the entity level. It then requires the individual members to report their portion of the income and taxes paid by the entity and receive a credit for the payment that the entity made.

This is a strictly voluntary program.

The Tax Cut and Jobs Act adopted by the Federal government limited the amount of state and local taxes (SALT) that can be claimed by an individual to \$10,000 at the federal level; however, no limit was placed on corporations filing at the entity level. Since S Corps and Partnerships do not file an entity level income tax return the members of these businesses are held to the \$10,000 federal SALT limit. The Internal Revenue Service (IRS) issued a notice that would allow these businesses a way to report their income at the entity level and not be restricted to the individual \$10,000 SALT limit.

During the 2022 legislative session, HB 2400 was adopted establishing the SALT Parity Act that allows MO to create a consolidated entity level return for these businesses. In order to allow a Missouri business to file the entity level return at

the federal level a similar form had to be created in Missouri. HB 2400 created that program and this rule is creating the entity level form.

Currently, these businesses are required to notify their members of their proportional amount of income attributed to the member. Should a business chose to participate in this program, the business would still notify their members of their proportional share, but they would additionally file the consolidated return. The Department noted that in 2018 there were 87,907 S Corp reporting MO Income. S Corps are required to file a MO-1120S that allows the Department to know how many S Corps there are. The Department is unable to identify the number of Partnerships there are.

It is assumed a business would not participate in this program unless they received a financial benefit at the federal level. Due to Missouri's income reporting rules, no benefit will be received at the state level as state and local taxes are added back in when calculating Missouri adjusted gross income. The Department is unable to determine how much a business may receive in federal benefits.

Since this is a strictly voluntary program and each businesses tax preparation is different the Department is unable to determine if a business will experience increased costs to prepare the entity level return. It is assumed that should a business have increased costs they would be outweighed by the amount of benefit received at the federal level or the business will not chose to participate.

Please list types of business that will be directly affected by, bear the cost of, or directly benefit from the proposed rule.

Per statutes this would allow S Corps and Partnerships to participate in this entity level income reporting program.

Does the proposed rule include provisions that are more stringent than those mandated by comparable or related federal, state, or county standards?

Yes___ No__X__

If yes, please explain the reason for imposing a more stringent standard.

For further guidance in the completion of this statement, please see §536.300, RSMo.