

**GROSS RECEIPTS TAX
PROPOSED CONSTITUTIONAL AMENDMENT**

Be It Enacted by the People of the State of Missouri:

PARAGRAPH 1. The Constitution of the State of Missouri is amended by creating a new Article to be known as *Article ??-?* and to read:

ARTICLE ??-?

REVENUE AND TAXATION

SECTION 1. Property, income, all other taxes and fees abolished.

Property, income and all other taxes, fees, assessments and other revenue-generating mechanisms are abolished and prohibited in this state, except as expressly provided by this Article.

SECTION 2. Abolished revenues replaced by replacement tax on exchange of goods and services.

A 2.4 percent state replacement tax on gross consideration derived from the wholesale and retail sale and other exchange of goods, property or services or interest therein is established to replace abolished revenues. The rate may be increased upon approval at a general election or for a period of up to two years upon approval at a special election only if:

- (1) The ballot measure proposing the rate increase specified the period of time in which the rate increase would be in effect; and
- (2) The rate increase is approved by a majority of voters voting on the question; and
- (3) The number of counties in which a majority of voters voting on the question approve the rate increase is a majority of the counties in this state.

SECTION 3. Abolished local revenues replaced by local replacement tax.

(1) In addition to the tax described in section 2 of this Article, a local replacement tax on gross consideration derived from the wholesale and retail sale and other exchange of goods or services may be adopted upon approval at a general election or for a period of up to two years upon approval at a special election within a local taxing district to replace abolished local revenues for the purposes of any governments in the local taxing district only if:

- (a) The ballot measure proposing the local tax specifies the period of time for which the tax would be in effect; and
- (b) The local tax is approved by a majority of voters voting on the question; and
- (c) The number of voting precincts in which a majority of voters voting on the question approve the local tax is a majority of the voting precincts participating in the election.

(2) There shall be four local taxing districts authorized to administer the local tax. The four local taxing districts shall be made up of the following groups of counties: (i.e.: industry; business, ag, commerce, etc)

(a) *(XXX four taxing districts as established by the Legislative Assembly XXX)*

(b)

(c)

(d)

(3) The Legislative Assembly shall enact the legislation necessary to administer the local tax lawfully and equitably in the extended area where the boundaries of a local government extend from one local taxing district into another local taxing district.

(4) The Legislative Assembly shall provide the procedure for establishing the local taxing districts and shall provide laws to govern their

organization and operation.

SECTION 4. Tax paid on gross consideration

State and local replacement tax to be paid on gross consideration by recipient; shall not be added to offered price. Except as provided in sections 9 and 11 of this Article, the taxes established under this Article shall consist of the rates determined under sections 2 and 3 of this Article, imposed on gross consideration described in section 6 of this Article except as exempted by section 5 of this Article. The tax shall be paid by the person receiving the gross consideration on which the tax is imposed, except employers shall withhold the tax from compensation for employment and remit the tax withheld to the state. The recipient of the gross consideration shall not add the amount of the tax to the offered price but may include the amount of the tax in the offered price.

SECTION 5. Tax exemptions.

Taxes established under this Article do not apply to gross consideration from:

- (1) A Social Security or other retirement, pension or disability plan payment;
- (2) An incidental sale of property outside the ordinary course of business for which the gross consideration is less than \$2,500;
- (3) An incidental sale of services by a provider if the total annual gross consideration received by the provider for incidental sales of services is less than \$2,500;
- (4) A barter transaction if the total annual gross consideration received by a barterer from barter transactions is less than \$2,500;
- (5) The sale of securities;
- (6) Interest and dividends received by an individual, except that this exemption does not apply to gross consideration received by a partnership, sub-chapter S corporation or other pass through entity in which the individual owns an interest;

- (7) An intergovernmental transaction;
- (8) A sale, other than retail sales, of goods or services, including intangible assets, for delivery and use outside this state; or
- (9) Any other type of gross consideration that the Legislative Assembly exempts from taxation.

SECTION 6. Gross consideration defined.

- (1) Gross consideration means:
 - (a) Wages, salary, tips or other monetary or property compensation for employment;
 - (b) Rent, lease payments or other consideration received for the right to occupy or use property;
 - (c) In the case of financial institutions, corporations, proprietorships, partnerships, sub-chapter S corporations, limited liability companies, business trusts, other pass through entities or other business entities of any kind, interest, dividends or other gain received from investment property;
 - (d) In the case of insurance companies or other insurance institutions, premiums received for insurance;
 - (e) Commissions received for the sale or other transfer of tangible or intangible property; and
 - (f) The total amount of proceeds received from a sale or barter of tangible or intangible property, products or services or interests therein, whether or not the acquisition is by the end user of the property, products or services.
 - (g) The total amount of proceeds received from internet sales, including, proceeds from online advertising links, sales of products and services thereon, whether or not the acquisition is by the end user of the property, products or services.

- (2) In the case of gross consideration that is received in a form other than cash, the gross consideration shall equal the cash fair market value of the consideration received at the time the consideration is received.

SECTION 7. Penalty for failure to pay tax. Any person responsible for paying a tax established under this Article who fails to pay the tax for more than 90 days after the date established by law for the payment of the tax shall be subject to a civil penalty as provided by law.

SECTION 8. Distribution of replacement tax revenue; stabilization fund.

- (1) For each biennium, local replacement tax revenue shall be distributed as provided in subsection (6) of this section and state replacement tax revenue shall be distributed as follows:

- (a) To the state and to each local government district thereof, except school districts, a sum equal to the greater of:

(A) The highest biennial revenue that the state or the district received in any biennium from July 1, 1989, to June 30, 20??, from prohibited revenue sources; or

(B) One hundred and twelve percent of the revenue the state or the district received for the biennium beginning July 1, 20??, from prohibited revenue sources.

- (b) To each school district an amount per student equal to the average amount per student received by the 15 school districts that received the highest amount per student revenues from prohibited revenue sources in any biennium between July 1, 1989, and June 30, 20??. The amount per student from prior biennia shall be calculated by dividing a school district's total operating revenue from prohibited revenue sources for a biennium by the district's average daily membership for the biennium.

- (2) If the state replacement tax revenue plus accumulated stabilization fund revenues are insufficient to make the entire biennial distribution described in subsection (1) of this section, neither the state nor any local government district may incur debt in completing the distribution. Instead, the distribution to each entity shall be reduced so

as to distribute available revenue in the same proportion as the revenue would have been distributed under subsection (1) of this section.

- (3) For biennia beginning on or after July 1, 20??, the sums distributed by subsection (1) of this section may be adjusted by the Legislative Assembly to accommodate formation of new districts, inflation, and changes in population, unfunded costs of state and federally mandated programs.
- (4) Any revenue derived from a state replacement tax rate increase adopted under section 2 of this Article shall be distributed as provided in subsection (1) of this section.
- (5) Unless distributed as provided in subsection (2) of section 9 of this Article, surplus revenue remaining after the distributions in subsection (1) of this section shall be deposited in a stabilization fund. The stabilization fund shall be prudently invested. Earnings from the fund shall be retained by the fund. Stabilization fund corpus and earnings may be added to replacement tax revenue and expended in the amount necessary to complete the distributions described in subsection (1) of this section. Whenever the stabilization fund biennial ending balance exceeds \$8 billion, the excess shall be applied to first reduce outstanding bonded indebtedness of the state and second, to reduce the replacement tax rate applicable in the succeeding biennium.
- (6) Any revenue derived from a local replacement tax adopted by the voters of a local taxing district under section 3 of this Article shall be distributed for each biennium to the local governments and districts in the local taxing district as the local taxing district may determine.
- (7) The Legislative Assembly may enact legislation providing accounting conventions of any kind to determining the extent to which the state or a local government district was funded by prohibited revenue sources in a prior biennium.
- (8) As used in this section:
 - (a) "Average daily membership" means the average daily attendance of students in a school district when the school is in session, and

may be further defined or modified by the Legislative Assembly.

- (b) "Prohibited revenue sources" means those taxes, fees and other revenue generating mechanisms that were in effect at any time between July 1, 1989, to June 30, 20??, and that are prohibited under the terms of this Article.
- (c) "School district" means a school district providing kindergarten through grade 12 education, or any portion thereof, and does not include an education service district, community college district or community college service district.
- (d) "Student" means an individual receiving kindergarten through grade 12 instructions through a school district.

SECTION 9. Abolition of bonding authority.

- (1) No government authority shall exist in this state to incur debt by bonding or other pledging of private real or personal property as security.
- (2) Nothing in this Article shall impair payment of bonded indebtedness obligations existing on the effective date of this Article. This Article does not prohibit the imposition of any tax, fee or other revenue-generating mechanism:
 - (a) The revenue from which has been pledged to repay bonded indebtedness that existed on the effective date of this Article; and
 - (b) Only to the extent revenue is not available to pay the bonded indebtedness obligations from distributions made under section 8 of this Article.
- (3) Nothing in this Article shall prevent the issuance of bonded indebtedness that refunds bonded indebtedness existing on the effective date of this Article or that refunds the refunding bonded indebtedness or continues a series of refundings, to the extent:
 - (a) The term of the bonded indebtedness in existence on the effective date of this Article is not extended by refunding bonded

indebtedness; and

- (b) The refunding serves to reduce the cost of the bonded indebtedness to the state or the local government district that issued the bonded indebtedness being refunded.

SECTION 10. Sources of revenue allowed.

Revenue may be derived from user charges, tuition, rent, sales, interest, gifts, federal revenue sharing, the Common School Fund, workers' compensation insurance premiums, unemployment insurance tax, timber sales revenue, fines, penalties, forfeitures, lotteries, investments, government owned or operated property and tax revenue derived from a federally required tax under section 11 of this Article, provided that:

- (1) User charges for public use are the same amount for each user and the annual amount raised by public user charges does not exceed the actual annual cost of providing the service or use of the facility for which the user charges are imposed;
- (2) Construction costs for facilities that provide public services are not defrayed by user charges, assessments, taxes or liens on private property other than as provided in this Article
- (3) Fines, penalties and forfeitures received are paid into the stabilization fund established under section 8 of this Article;
- (4) The Common School Fund is funded by revenue sources that are not prohibited revenue sources under section 1 or paragraph (b) of subsection (8) of section 8 of this Article

SECTION 11. Tax required by federal law allowed; vote required under certain conditions.

- (1) When federal law makes the receipt of a federal benefit conditional upon the imposition of a state tax, the Legislative Assembly shall seek to obtain a waiver or repeal of the federal requirement and if unsuccessful the Legislative Assembly shall refer a law accepting the federal benefit and imposing the required state tax to the people for

their approval or rejection

- (2) A referred measure that is described in subsection (1) of this section may become law only if the measure is approved by a 60 percent majority of voters voting on the question
- (3) (a) If a tax is imposed under this section, the state tax rate established under section 2 of this Article shall, for each biennium for which a tax imposed under this section is in effect on July 1 of the biennium, be reduced to a rate that economically refunds the tax imposed under this section to state tax taxpayers

(b) The tax rate that is reduced under this subsection shall be increased to the rate the tax would have been, but for this subsection, on the date the federally required tax is no longer imposed in this state

SECTION 12. Implementing legislation approved by sixty percent majority of the members of the legislature may take effect upon enactment.

- (1) Legislation implementing the provisions of this Article is not subject to the emergency declaration prohibition in section 1a, Article IX of this Constitution, if the implementing legislation is approved by a 60 percent majority of each house of the Legislative Assembly
- (2) This section is repealed on January 1, 20

SECTION 13. Conflicting law superseded.

This Article shall supersede any provision of this Constitution that is inconsistent with this Article.

SECTION 14. Amendment only by majority vote and by majority of counties.

This Article may be repealed, amended or superseded only if;

- (1) The measure repealing, amending or superseding this Article is approved by a majority of voters voting on the question; and

- (2) The number of counties in which a majority of voters voting on the question approve the measure is a majority of the counties in this state

SECTION 15. *Scope of taxing power.*

The tax imposed under this Article may be imposed on taxable gross consideration derived from all transactions over which this state may exercise the taxing power under the United States Constitution and federal law.

SECTION 16. **Leadlines.**

- (1) The section leadlines used in this Article are provided only for the convenience of the reader and do not express any intent in the enactment of this Article.
- (2) This section is repealed on January 1, 20??.

SECTION 17. Income tax transition rules. For income and corporate excise tax years beginning on or after January 1, 20??, and before January 1, 20??:

- (1) Withholding and estimated taxes may be collected only for periods prior to July, 20??.; and
- (2) Missouri taxable income shall equal Missouri Taxable income as determined under existing law for a taxpayer's tax year multiplied by a fraction, the numerator of which is the number of months in the taxpayer's tax year that are before July 1, 20??., and the denominator of which is 12.

SECTION 18. **Applicable dates.**

This article applies to:

- (1) Biennia beginning on or after July 1, 20??.;
- (2) Income and corporate excise tax years beginning on or after January 1, 20??.;
- (3) Reporting periods for other taxes, fees, assessments and revenue-generating mechanisms prohibited by this Article beginning on or after

July 1, 20??; and

- (4) Gross consideration arising from transactions occurring on or after July 1, 20??.

SECTION 19. Affect of partial unconstitutionality.

- (1) If any part of this Article is held unconstitutional by a court of competent jurisdiction, all other parts shall be unaffected and shall remain in full force and effect.
- (2) If subsections (2) or (3) of section 2 or subsection (1) (b) or (c) of section 3 or subsections (1) or (2) of section 14 of this Article are held unconstitutional by a court of ultimate jurisdiction then the replacement tax rate may be increased or a local replacement tax may be enacted or this Article may be repealed, amended or superseded only if the measure increasing the tax rate, or enacting the local replacement tax or repealing, amending or superseding this Article is approved by a 60 per cent majority of voters voting on the measure.