



GOVERNOR OF MISSOURI

JEFFERSON CITY

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JEREMIAH W. (JAY) NIXON
GOVERNOR

P.O. Box 720
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August 27, 2012

The Honorable Tom Dempsey
State Senator, District 23
3101 Buckskin Path
St. Charles, MO 63301

Re: Retroactive Taxation under House Bill No. 1329

Dear Senator Dempsey:

I write today to discuss the specific, dramatic impact for at least 122,702 Missourians who will receive a tax bill if my veto of House Bill No. 1329 is overridden.

Since the veto, I have directed the Missouri Department of Revenue to specifically delineate the number of Missourians who, because they purchased a vehicle since March 21, 2012 (the effective date of the unanimous decision of the Missouri Supreme Court in Street v. Department of Revenue), would receive a tax due notice as a direct result of House Bill No. 1329 becoming law. According to the Department of Revenue, no local tax was paid on 122,702 motor vehicles registered since March 21, 2012. If House Bill No. 1329 becomes law, all of those transactions would be subject to local tax retroactively, and the process for sending tax due notices to those taxpayers would begin immediately. As required by this law, at least 122,702 Missourians who purchased vehicles since March 21, and who correctly believed they had satisfied their tax obligation when they registered those vehicles, would be forced to pay an additional and unexpected local tax.

It is unfair and punitive to retroactively tax at least 122,702 Missourians, particularly without a vote of the people.

As I pointed out in my veto letter, Section 144.072 of House Bill No. 1329 specifically applies the tax retroactively:

[t]he legislature hereby declares its reasonable expectations and intent in enacting the taxing statutes . . . and restores, *retroactively* and prospectively, the application of Missouri's local sales tax law

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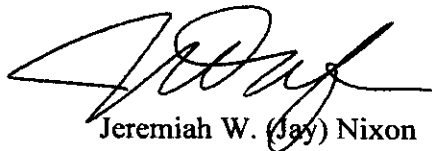
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so that local sales taxes shall continue to be imposed and collected on the sale of all motor vehicles, trailers, boats and outboard motors was purchased [sic], upon registration with the department of revenue. (Emphasis added).

A couple of hypothetical examples illustrate the stark application of the retroactivity requirement. Assume that a taxpayer living in a jurisdiction without a voter-approved local use tax purchased a car from a fellow Missourian (not an auto dealer) on April 1. The taxpayer did not pay any local tax on the purchase because he bought the car after the Street decision. If House Bill No. 1329 becomes law, that taxpayer will receive a tax due notice requiring him to pay a local tax on the car he bought in April in a private, individual to individual sale, even though the city and/or county he lives in has not passed a voter-approved local use tax. The same applies to a taxpayer who bought a car on or after March 21 from an out-of-state auto dealer. When she bought and registered the car, she rightfully assumed she had paid all the taxes she owed. Now, if House Bill No. 1329 becomes law, she will receive a tax due notice informing her that she owes an additional local tax for a vehicle she purchased months ago.

Because House Bill No. 1329, which attempted to abrogate the unanimous decision of the Missouri Supreme Court in Street, was truly agreed to and finally passed in the early morning hours near the end of session, the retroactivity requirement may not have been as thoroughly discussed and debated as other aspects of the bill. Given this fact, and in light of the fact that at least 122,702 Missourians will be retroactively taxed if this bill becomes law, I wanted to provide you with the additional information in this letter in advance of the veto session.

Sincerely,



Jeremiah W. (Jay) Nixon
Governor