

The

ADVOCATE



A Publication of the Missouri Pest Management Association

FROM THE PRESIDENT



Welcome to Fall in Missouri.

I hope everyone is as busy as we are in Central Missouri as the weather has been great and the bugs are thriving.

I thought for this president's message I would review one of our Board meetings for you and give you an update on what each committee is planning.

EDUCATION: As one of the hardest working committees, members are involved in planning the Annual Meeting education. The meeting will be held in Kansas City at the Argosy Casino and is being held jointly with the Kansas Pest Control Association. They are also planning a Recertification for January 13, 2017 in Columbia, MO and will begin plans for the August Re-Certification in Jefferson City. This meeting is also the time of year that we hold a golf/bocce tournament. If you haven't participated in one of these events, it is great fun and a way to meet your fellow members.

GOVERNMENT AFFAIRS: Lizbe Knote is our Government Affairs Chair and attends the annual NPMA Legislative day and reports to the Board of Directors what is going on at the national level. She just reported that Congress passed a budget of \$1.1 billion to fight the Zika virus.

PAC: Gary Schuessler is our PAC (Political Action Committee) Chair and he is the chief fund-raiser for the committee that gives donations to candidates that are responsive to the Pest Control industry. Currently Gary is planning a raffle at the Annual Meeting to raise funds. The committee recently announced a donation to the Friends for Bernskoetter campaign. Mike Bernskoetter is a past president of MPMA and a 2-term state Representative from Cole County.

HALL OF FAME: This is a new committee that was organized to give recognition to the contributions of our members. The committee has three nominees for this first year award.

MEMBERSHIP/PUBLIC RELATIONS: All of the Regional Vice Presidents are involved in retaining and finding new members for the association. We are only as strong as our membership, so if you have not paid your dues, please contact the MPMA office.

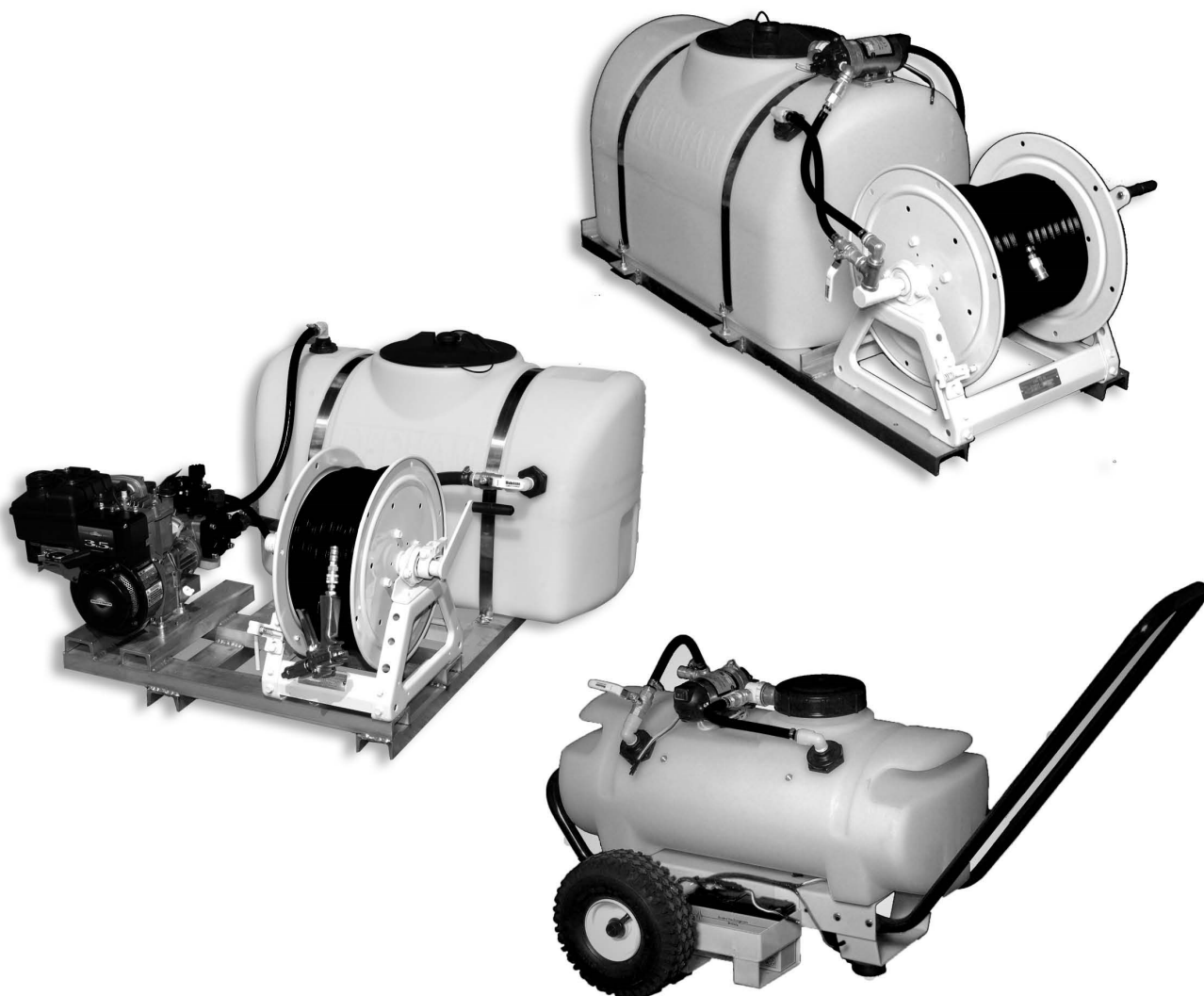
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NEWSLETTER OF THE MISSOURI PEST MANAGEMENT ASSOCIATION

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Distribution Changes

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April Issue - March 15
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Advertising

Advertising deadlines will be the same as copy deadlines - no exceptions. Advertising rates are as follows:

<u>Size</u>	<u>One Issue</u>	<u>Four Issues</u>
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Postmaster: Send address changes to: 722 E. Capitol Avenue, Jefferson City, MO 65101.

CALENDAR OF EVENTS

December 6-8, 2016

Joint Missouri & Kansas Annual Meeting
Argosy Casino Hotel & Spa
Kansas City, MO

January 13, 2017
Winter School
Columbia, MO

March 10, 2017
Board Meeting
MPMA Office - Jefferson City, MO

May 19, 2017
Board Meeting
MPMA Office - Jefferson City, MO

August 17, 2017
Board Meeting, PAC Golf & Bocce Tournament
Jefferson City, MO

August 18, 2017
August Re-Certification
Capitol Plaza Hotel
Jefferson City, MO

October 13, 2017
Board Meeting
MPMA Office - Jefferson City, MO

November/December 2017 (tentative)
Annual Conference and Exposition
St. Louis, MO



A WIN AND A SMILE FOR THE GOOD GUYS!

ANDY MCGINTY AND LEANN DIAMOND, ESQ.

Whether defending claims or lawsuits, you really don't win outright that often. This is true - Not just with pest or lawn exposures but also other businesses outside our industry. But when you get a win (and win one against a plaintiff you know should get "squat"), it is that much more satisfying knowing the system works for the right persons and the right reasons. Here is our story.....

Our insured performed a WDIR in Texas in 2011. The insured listed evidence that was readily accessible to the buyer and issued the WDIR to the buyer like normal. Pretty routine, right?

Well, unfortunately the buyer of the home is an attorney. When I say she was an attorney, we are not exaggerating. She reminded us constantly and of course she and her lawyer knew everything about WDIRs and anything we said was wrong, incorrect or basically stupid. Can you believe that a claimant who is also an attorney would act like that? Yea, right!!!!!!!

Fast forward 2 years - Our insured gets served with a lawsuit in 2013. We are allowed an extension to try and see what the claim is all about, etc., because the lawsuit comes out of nowhere.

So we get the appraisal and the damages come out to be in the \$7-8000 range and not all if it is WDI damage. We send this information to the claimant's attorney to see if we will be able to settle the case. Well, normally you expect a demand anywhere from the amount of damages to maybe \$15-20K or so for the other "legal" damages the attorneys say we owe and almost never do. Well, since we are writing about this case you can tell their expectations were not what we considered reasonable. What did the claimant want? Roughly over \$100,000 at the outset. Sounds like a WDIR claim in Alabama doesn't it?

Needless to say we politely told the claimant's attorney we were not interested (vs what we really wanted to say) in his demands and to please proceed with his next course of action. They did and did so with complete relish and gusto to "punish" our insured for his alleged

faulty inspection. We will get to the liability part in a bit.

So we turned the lawsuit over to our attorney, LeAnn Diamond, who also has been a noncommercial pest control operator (licensed in termite and pest) for over 30 years. The claimant's attorney as well as the client, who you remember is also an attorney, decided that they were going to try and do things their way and roll the dice. So we proceed with discovery. When we say that this claimant's attorney (and client probably) used every delaying tactic they could come up with, they did. For example, they tried to prevent us from inspecting the home and we almost had to file a motion with the court to allow us on the premises. It was also next too impossible to get their experts' names who would back up their claims and get supporting documentation from these alleged experts.

We could not figure out how the claimant was coming up with a demand for damages of over \$100,000? The claimant's attorney stated that they had "information" stating that the house was devalued over \$96,000 due to all of that termite damage. We asked about their expert and all we got back for a response was crickets. It is hard to defend against innuendo, allegations and demands when they refuse to supply information!

The claimant also stated they wouldn't have bought the house at all (even though they got it for under market value and the property values in the area had skyrocketed) and the house was just a white elephant having no value! At one point we attempted to get them to tell us how much they would accept for the house. They couldn't and wouldn't give us a price.

The way we defend most suits is we do not wait. The claim is made, and when the claimants are not cooperative we bring in our experts. This includes an appraiser to "zap" the devalued property claim- which is just what we did.

We obtained the services of an ex-state inspector who inspected our insured's work and documentation. He

(Continued on page 5)

A WIN AND A SMILE CONTINUED

confirmed what we knew from the start - that our insured did its job and followed the rules and regulations in conducting the inspection and filling out the WDIR. At that point we finally were able to start getting to take the claimant's "experts" depositions to see what they would raise their right hand and swear to. Amazingly, every single one of the claimant's experts confirmed everything that we thought to be true. There was no evidence that our insured didn't perform the WDIR inspection correctly and they could find no evidence that our insured was liable for anything!

The game continued with more delays and insufficient information provided to us through the discovery process (interrogatories and request for production of documents). We guess that the claimant and the attorney hoped that we would just give up at some point and pay them money.

We finally go to a mediation to see if we could "reasonably" settle before trial. We pretty much knew what was going to happen before the fact and, of course, it did: 3-4 hours of wasted life. At the start of the case the claimant wanted around \$10K in damages. Before the mediation the claimant wanted over \$100K. During the discovery process they generously dropped their demand to \$96K and right before mediation they dropped their demand to \$53K. Again, we attend mediation in good faith and trying to resolve - remember? As a reminder they wanted \$53K to make this go away before mediation. So what does the claimant's attorney start off with at the mediation? A \$300,000 DEMAND! I can't repeat what I told the mediator when he asked us how we would respond to this "reasonable" demand. He did laugh though.

The mediation ended at an impasse when they finally got down to \$52K. Still too much. Believe it or not we were going to pay up to \$25K on a claim that our insured did not owe. The insured was there and really wanted us to make this go away but not for \$52K. We shut down the mediation and I instructed LeAnn to get ready for trial.

Trial begins and LeAnn basically does a WDIR defense "clinic" to the jury. The trial went on for 5 days but at the end the jury comes back and finds that our insured has 0% responsibility. We zipped them! The claimant and the attorney were dumbfounded! Not only did they get nothing from our insured but they had to pay our insured's costs for dragging it (and us) through trial.

Now here is the punch line: During the discovery process when it was pretty clear the claimant's attorney had a very weak case, we filed what's called an Offer of Judgment with the court for what they claimed their actual damages were in the beginning of the case (before greed took over). What that means is if the claimant does not accept our offer, and then goes to trial and the jury awards what we offered or less, we can get some of our costs back.

The bottom line when it was all said and done, this very reasonable claimant, an attorney who claimed to know everything about these types of claims, had to write us a check to get her butt kicked. She also got the pleasure of paying all the attorney fees to her own attorney. Again, it does not happen too often but when it does it makes for a great story and, more importantly, a great big smile!

Andy McGinty is the EVP/COO of LIPCA Insurance. He has been handling thousands of pest and lawn claims/suits since 1991. He helps LIPCA Insureds with loss control/documentation to protect their businesses. Andy has spoken nationwide at hundreds of conferences, CEU meetings and other pest and lawn venues. 699-893-9887 ext 101, andy.mcginity@lipca.com.



LeAnn Diamond has 26 years of experience practicing law in Texas and surrounding states, and is a Board Certified Civil Trial Attorney. She is also a Noncommercial PCO and has been licensed for over 30 years. LeAnn is a Partner with the law firm of Albin Roach, PLLC, 5665 Dallas Parkway, Suite 200, Frisco, TX 75234, 214-423-5100, ldiamond@albinroach.com.

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PRESIDENT'S MESSAGE CONTINUED

MISSOURI HOUSING INDUSTRY ALLIANCE: Steve Arenz is the Chair of this committee. Steve participates by attending bimonthly meetings in Jefferson City with other associations' members and lobbyists that have an interest in all aspects of the Housing industry. Each organization reports the latest from their profession and they are always interested in the bed bug situation from Steve.

AWARDS/NOMINATING: Randy Coleman serves as the Chair of this committee that annually finds members to serve on the Board of Directors and he also solicits nominations for the “Man of the Year” award as well as the “Veatch” Award.

NEWSLETTER EDITOR/WEBSITE: Ron Lang serves as the Editor of the newsletter and reviews each article that appears in the newsletter. He also monitors the website for updates and additions.

If you are interested in participating in any of these committees, please contact the MPMA and volunteer to serve.

We look forward to seeing each of you at the Annual Meeting in December in Kansas City.

Sincerely,

Mitch

Mitch Clevenger, ACE, MPMA President
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WHO SHOULD ATTEND?

Decision Makers: Managers/Owners/Supervisors

Why? Because ALL of them will be directly affected by the Sales Policies that you want to implement for your company. Avoid the potential problems in advance - be proactive rather than reactive.

Women owners and managers are encouraged to attend. Everyone is welcome!

PRESENTED BY:



Lloyd Smigel, industry guru



Pat VanHooser, 40 years experience

Groups are forming now and class size is limited. Contact Pat for information at 816-888-9146 or discoveryretreat@aol.com

MPMA AND KPCA JOINT ANNUAL CONFERENCE

DECEMBER 6-8, 2016 ~ ARGOSY CASINO HOTEL & SPA

Tuesday, December 6, 2016

ACE TRAINING

8:30 am	ACE Training Registration
9:00 am	ACE TRAINING <i>Instructor: Jeffery Preece, BCE, ZipZap Termite & Pest Control</i>
12:00 noon	Lunch
1:00 pm	ACE Testing

OWNERS

(Free to MPMA/KPCA Members)

10:00 am - Noon	Business on Purpose <i>Speaker: Gregory B. Knapp</i>
12:00 noon	Lunch
1:00 - 2:00 pm	Business on Purpose <i>Speaker: Gregory B. Knapp</i>
2:00 - 3:00 pm	Zika Virus <i>Speaker: Karen F. Yates, Missouri Department of Health & Senior Services</i>

3:30 - 4:30 pm	Missouri Board Meeting
4:00 - 7:00 pm	Exhibitor Set-up and Reception

Wednesday, December 7, 2016

7:00 am	Registration and Continental Breakfast
8:00 - 9:00 am	FLEA and FLEA CONTRL <i>Speaker: Jeff Tucker, BASF</i>
9:00 - 10:00 am	NEW RODENT CONTROL TECHNOLOGY <i>Speaker: Ted Bruesch, Technical Support Manager, Liphatech</i>
10:00 - 10:30 am	Break to View Exhibits
10:30 - 11:30 am	PERIMETER PESTS <i>Speaker: Jeff Tucker, BASF</i>
11:30 - 12:30 am	MOSQUITOS <i>Speaker: Speaker: Ed Freytag, Research Entomologist, New Orleans Mosquito and Termite Control Board</i>
12:30 - 1:30 pm	Awards Luncheon with Exhibitors
1:30 - 2:30 pm	SAFETY and LABELS <i>Speaker: Harry Connoyer</i>

MPMA AND KPCA JOINT ANNUAL CONFERENCE

DECEMBER 6-8, 2016 ~ ARGOSY CASINO HOTEL & SPA

	2:30 - 3:30 pm	TERMITES, BIOLOGY and NEW RESEARCH Speaker: Ed Freytag, Research Entomologist, New Orleans Mosquito and Termite Control Board
3:30 - 4:00 pm	Break to View Exhibits	
4:00 - 5:00 pm	TERMITES, BIOLOGY and NEW RESEARCH continued Speaker: Ed Freytag, Research Entomologist, New Orleans Mosquito and Termite Control Board	
5:00 - 5:30 pm	Missouri Department of Agriculture	

Thursday, December 8, 2016

7:00 am	Registration and Continental Breakfast	
8:00 - 9:00 am	KANSAS RECERTIFICATION Speaker: TBD	TURF and LAWN Speaker: TBD
9:00 - 10:00 am	KANSAS RECERTIFICATION Speaker: TBD	TURF and LAWN Speaker: TBD
10:30 - 11:00 am	Break to View Exhibits	
11:00 - 12:00 noon	KANSAS RECERTIFICATION Speaker: TBD	TURF and LAWN Speaker: TBD
12:00 noon	Luncheon with Exhibitors	
1:00 - 2:00 pm	KANSAS RECERTIFICATION Speaker: TBD	TURF and LAWN Speaker: TBD
2:00 - 2:30 pm	Break to View Exhibits	
2:30 - 4:30 pm	KANSAS RECERTIFICATION Speaker: TBD	TURF and LAWN Speaker: TBD



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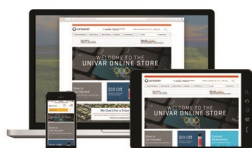


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FRIENDS AT WORK?

LLOYD MERRITT SMIGEL AND PAT VANHOOSER

After 5 years on the route you are promoted to Supervisor. Congratulations? You were selected because out of six other route people (Can't say route MEN anymore) you have the best track record for least unserved, best collections, most sales and a wonderful attitude to help anyone else. What a guy. What a gal. What a human. (I can say that – so far)

All of your cohorts agree that you have earned that position. And now, your past cohorts are now your employees. "Can't wait to see you in that new position." "When do we get a raise?" "Can I take off earlier on Fridays?" "Can you give me that great account that Scott has and transfer these two lousy accounts to Bill?" "Can I get the next new truck?" I can go on and on about these current/former friends and the drama that is coming your way.

When an in-house promotion is given – current friendships could be at stake. Some hard decisions will have to be made. It will be quite difficult at times. BEFORE you accept that promotion consider the repercussions. Discuss this with your significant (or insignificant) other. I am not saying to you that you should decline the position – I am saying you had better think it through.

Upper management should also be aware of this. The potential clashes that will occur and the real and/or perceived favoritism that might occur. In our opinion, it is best for Upper Management to discuss these potential problems and, if agreed upon, have an introductory meeting with all to discuss what might occur and that the past cohorts understand that decisions are based on Merit and company strategy - not friendship.

As we advance within a company we make friends and when we become their boss –

many of those friendships get strained because of the new relationships. Discussing this ASAP is crucial to the success or failure of the friendship relationship. It has to be understood that there may be times that you have to discipline your old friend and/or even fire them. Not an easy task.

A true friend will understand and stand the test of time. They will work with you and make any changes to help you. A poor friend will try to use you and manipulate you any way he or she can. By setting up the rules EARLY after your promotion, you are setting up the boundaries that must be held.

Performance Evaluations will be difficult. But if you have set up specific goals and then discuss them along the way – the evaluation should not be a surprise. This not only happens to supervisors, but managers as well. As you rise up in the organization this transition becomes more and more difficult.

By the way, IF you decide that you ARE going to help out your buddies, you will probably have turnover from those who see what you are doing and don't like it and then you create your own road to failure. When your "friend and buddy" gets more perks than he or she has EARNED – people tend to notice. Nobody likes favoritism.

So keep in mind that the sooner you discuss this (preferably in advance of your promotion) – the easier the transition will be.



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LEARN MORE ABOUT AMENDMENT 4, THE TAXPAYER PROTECTION AMENDMENT

WHAT IS AMENDMENT 4?

Amendment 4 to the Missouri Constitution would prohibit state and local governments from imposing any new sales tax or use tax on services. Services are not currently taxed, and Amendment 4 would protect Missouri from new taxes on services.

WHO IS BACKING AMENDMENT 4?

Amendment 4 is backed by a statewide coalition, Missourians for Fair Taxation (MFT). MFT was created by the 20,000-member Missouri Association of REALTORS®, which has a strong track record of protecting consumers. The coalition has grown to include other statewide professional and trade groups, all committed to protecting Missourians from new taxes on services.

WHAT KINDS OF SERVICES WOULD AMENDMENT 4 KEEP TAX-FREE?

Amendment 4 is designed to prohibit the state from putting a new sales tax on services that Missourians use every day. Here are just a few examples:

- **FAMILY SERVICES:** Day care, rent, health care, self-defense instruction and tutoring.
- **PERSONAL SERVICES:** Haircuts, manicures, tattoos, dry cleaning, car repairs and funerals.
- **PROFESSIONAL SERVICES:** Banking, accounting, advertising, technical installations and real estate.
- **HEALTH CARE SERVICES:** Physicians, surgeons, nurses, physical therapists, dentists, eye doctors and counselors.
- **HOME SERVICES:** Construction, plumbing, lawn care, heating and air conditioning, installations and repairs, appraisals and inspections.

HOW ARE CONSUMERS IMPACTED?

Sales taxes hit low- and middle-income families hardest. Amendment 4 protects those who are least able to afford new taxes, including senior citizens, the disabled and others on fixed incomes.



HOW REAL IS THE THREAT?

New sales taxes on services have been proposed in the last seven sessions of the Missouri General Assembly. Just this year, Missouri's neighboring states of Oklahoma and Illinois have discussed taxing services. Other states, such as North Carolina and Washington State, have started imposing new sales taxes on services this year. The threat is real because politicians often share bad ideas, and a sales tax on services is a bad idea for Missouri consumers.

WHAT WOULD BE THE AMENDMENT'S FINANCIAL IMPACT ON GOVERNMENT?

Missouri does not currently impose a broad sales tax on services. Because Amendment 4 would protect Missouri from imposing future sales taxes on services, there would not be any financial impact on governments because they do not now collect such a tax. Amendment 4 is revenue-neutral. A constitutional amendment adds certainty that future Missouri politicians and bureaucrats cannot simply change or interpret the law to allow sales taxes on services.

WHAT MESSAGE IS SENT TO POLITICIANS AND BUREAUCRATS?

Amendment 4 adds Constitutional security to Missouri's current practice of not taxing sales of services we use every day. It tells politicians to stop wasting tax dollars they already collect, stop looking for new ways to tax our citizens, and Protect Missouri from new taxes.

HOW WOULD AMENDMENT 4 AFFECT SALES TAXES FOR GOODS BOUGHT ONLINE?

The sales of tangible goods are currently subject to Missouri sales tax. Amendment 4 does not affect sales taxes for tangible goods, whether or not those goods are purchased online.

LEARN MORE ABOUT AMENDMENT 4 CONTINUED

HOW WOULD THE AMENDMENT AFFECT USE TAXES?

Use taxes are imposed by law when tangible goods are purchased outside the state and then used in Missouri. Amendment 4 would not affect current use taxes in Missouri.

HOW WOULD THE AMENDMENT AFFECT EXISTING SALES TAXES ON GOODS?

Amendment 4 would not affect existing sales taxes on tangible goods. Those taxes could still be raised, modified or extended.

WHAT WILL APPEAR ON THE NOV. 8 BALLOT?

Here is the Official Ballot Title for Amendment 4 that will be presented to voters when they look at their ballot:

Shall the Missouri constitution be amended to prohibit a new state or local sales or use tax on any service or activity that was not subject to a sales or use tax as of Jan. 1 2015.

Potential costs to state and local governmental entities are unknown but could be significant. The proposal's passage would impact governmental entities ability to revise their tax structures. State and local governments expect no savings from this proposal.

WHAT IS THE ACTUAL LANGUAGE IN AMENDMENT 4?

Section 26. In order to prohibit an increase in the tax burden on the citizens of Missouri, state and local

sales and use taxes (or any similar transaction-based tax) shall not be expanded to impose taxes on any service or transaction that was not subject to sales, use or similar transaction-based tax on January 1, 2015.

WHAT IS THE "FAIR BALLOT" LANGUAGE FOR AMENDMENT 4?

Missouri law requires the Secretary of State to write, and for the Attorney general to approve, "Fair Ballot" language describing what a "Yes" or "No" vote will mean, as well as the impact on taxes. Fair Ballot summaries are publicly posted at each polling place to help voters better understand ballot measures. Here is the Fair Ballot summary for Amendment 4:

A "yes" vote will amend the Missouri Constitution to prohibit a new state or local sales/use or other similar tax on any service or transaction. This amendment only applies to any service or transaction that was not subject to a sales/use or similar tax as of January 1, 2015.

A "no" vote will not amend the Missouri Constitution to prohibit such state or local sales/use or other similar tax.

If passed, this measure will not increase or decrease taxes.





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Full Conference _____ \$215

Wednesday only _____ \$150

MO recertification; KS: Category 7e

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Category 7a

Management session _____ Free

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Includes training session & testing; Contact our offices for additional instructions and information; additional paperwork must be filled out.

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Wednesday only _____ \$200

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Thursday only _____ \$200

Category 7a

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ACE Training _____ \$60

Includes training session & testing; Contact our offices for additional instructions and information; additional paperwork must be filled out.

Total Payment = _____

To Register online, get additional info & updates:

www.kpcaeducation.com

Mail, Fax or Email to:

Kansas Pest Control Association

212 SW 8th Avenue, Suite 202

Topeka, KS 66603

785.271.9220 Fax: 785.233.5659

kansaspest@yahoo.com

Make checks payable to: KPCA

To Pay By Credit Card:

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Name on Card

Card Number

Expiration Date: _____

HOTEL INFORMATION

Argosy Casino Hotel and Spa

777 NW Argosy Parkway

Riverside, MO 64150

Free Parking

Reservations: 800-270-7711

Room rate \$109

good until November 15, 2016

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2016-2017 MEMBERSHIP RENEWAL/APPLICATION

Dues run July 1 through June 30. Please complete the information listed below, verify information with your signature and mail in the corresponding dues amount. Make check payable to MPMA and mail to: 722 E. Capitol Avenue, Jefferson City, MO 65101. If you have questions, call 573-761-5771 or 800-848-6722.

Company Name: _____

Company Representative: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Email: _____

For Companies with Annual Sales Volume of...	Annual MPMA/NPMA Dues are...
<input type="checkbox"/> \$0 - \$100,000	\$200
<input type="checkbox"/> \$100,001 - \$200,000	\$260
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<input type="checkbox"/> \$500,001 - \$1,000,000	\$680
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Affiliated,
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Signature: _____ Date: _____

- ☐ **Active Members:** Any person, firm or corporation engaged in pest management service work, for hire to the public at large shall be eligible for membership in this Association.
- ☐ **Affiliated Members:** Any active member that operates or controls another firm, and/or business location actively engaged in the pest management service business.
- ☐ **Limited Members:** Any person, firm or corporation not fully conforming with qualifications for Active members. A limited member shall automatically become an Active member upon meeting the qualifications wet forth for Active Membership.
- ☐ **Allied Members:** Any person, firm or corporation not engaged in pest management service work but which manufactures or supplies products, equipment, materials or provides services used by the pest management industry shall be eligible for Allied membership.
- ☐ **Honorary Members:** Any person who has made a contribution of material benefit to the pest management industry may become an honorary member by three-fourth (3/4) vote of the members of the Association in annual meeting assembled.