

HCS #2 HB 548 -- TAXATION

SPONSOR: Eggleston

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 5 to 4. Voted "Do Pass" by the Standing Committee on Rules - Legislative Oversight by a vote of 5 to 3. HCS HB 548 was recommitted from the Floor to the Standing Committee on Rules-Legislative Oversight. Voted "Do Pass with HCS #2" by the Standing Committee on Rules - Legislative Oversight by a vote of 7 to 2.

USE TAX MAPPING

Currently, the Department of Revenue must create and maintain a mapping feature on its website that displays various sales tax information. This bill requires this such mapping feature to include use tax information (Section 32.310, RSMo).

LOCAL SALES AND USE TAX INCREASES

No county, municipality, other political subdivision, or special taxing district shall increase any sales or use tax to a rate that is greater than one and .05% above the rate of such tax on the effective date of this bill. Additionally, this bill requires increases to the local sales and use tax to be voted on by residents in a general election (Section 32.350).

This bill requires that after August 28, 2019, any political subdivision imposing a sales tax increase that requires voter approval to place the following information on every ballot associated with the proposed increase:

- (1) The highest cumulative sales tax rate within the political subdivision if the sales tax increase is enacted;
- (2) The lowest cumulative sales tax rate within the political subdivision if the increase is enacted; and
- (3) The average cumulative sales tax rate within the political subdivision if the increase is enacted. The average cumulative sales tax rate must be calculated by adding together the cumulative sales tax rates of every distinct taxing district within the political subdivision, and dividing that sum by the total number of distinct taxing districts within the political subdivision (Sections 67.392 - 94.1012).

INCOME TAX

Currently, the top rate of income tax will be reduced from 6% to 5.5%, with each cut becoming effective if net General Revenue collections meet a certain trigger, with an additional reduction in the top rate of tax of 0.4% to take effect this calendar year.

This bill reduces the top tax rate a further 0.12% on January 1, 2020. Additionally, this bill will adjust the top tax rate over a period of two years beginning with the 2021 calendar year. During this period of adjustment, for every additional \$46 million in sales tax revenue received in a tax year over a 4% increase in sales tax revenue received in the previous tax year, the top tax rate will be reduced 0.05%. For every \$46 million by which the sales tax revenue received in a tax year fails to equal a 4% increase in the amount of sales tax revenue collected in the previous tax year, the top rate will be increased 0.05%. Any adjustment will take effect on January 1 of the calendar year following the year in which a change in sales tax revenue triggered an adjustment (Section 143.011).

ECONOMIC NEXUS

Beginning January 1, 2020, out-of-state vendors using the Internet engage in business activities in this state if:

(1) The vendor's gross revenue from delivery of tangible personal property into this state in the previous or current calendar year exceeds \$100,000; or

(2) The vendor sold tangible personal property into this state in 200 or more separate transactions in the previous or current calendar year (Section 144.605).

TAXING JURISDICTION DATABASE

This bill requires the Director of Revenue to provide and maintain a downloadable electronic database at no cost to the user for taxing jurisdiction boundary changes and tax rates. Such databases may be directly provided by the director, or may be provided by a third party as designated by the director.

Vendors will not be liable for reliance upon erroneous data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments (Section 144.637).

MARKETPLACE FACILITATORS

By January 1, 2020, marketplace facilitators, as defined in the bill, that meet the sales tax economic nexus threshold established in the bill will register with the Department of Revenue to collect

and remit sales tax on sales made into the state through the marketplace facilitator's marketplace by or on behalf of a marketplace seller, as defined in the bill. Such retail sales shall include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace.

Marketplace facilitators required to collect and remit sales tax as specified in this bill may do so under the provisions of the Simplified Remote Sales Tax Remittance Program. Marketplace facilitators properly collecting and remitting sales tax in a timely manner shall be eligible for any discount provided for currently.

Marketplace facilitators shall provide purchasers with a statement or invoice showing that the sales tax was collected and will be remitted on the purchaser's behalf (Section 144.752).

OTHER PROVISIONS OF THE BILL

This bill specifies that any vendor meeting the provisions of the economic nexus, as defined in the bill, with the state of Missouri, will not be subject to use taxes of a political subdivision in this state unless approved or reapproved by the voters of the political subdivision (Section 144.605).

Ballot language for approval or reapproval by the voters of the political subdivision is included in this bill (Section 144.790).

PROPONENTS: Supporters say that this bill would level the playing field for brick and mortar stores in competition with online retailers, along with not increasing the total amount of taxes in the state since there is an offsetting income tax cut. Additionally, supporters pointed out that with a simple rate of 4.225% it would be easy for online retailers to know how much to remit to the state considering the fact that there are numerous special sales tax rates in the state, and that this would assist in the constitutionality of the language.

Testifying for the bill were Representative Eggleston; Missouri Retailers Association; Missouri Grocers Association; Missouri Tire Industry Association; Associated Industries of Missouri; and the Missouri Chamber of Commerce and Industry.

OPPONENTS: Those who oppose the bill say that the income tax cut portion of the bill may not accurately reflect how much revenue is gained through the new tax because estimates depend on a wide variety of factors that may change over the course of time.

Testifying against the bill were the Missouri Budget Project; American Association of Retired Persons; Missouri National Education Association; The Civic Council of Greater Kansas City; and the Missouri Coalition for Behavioral Healthcare.

OTHERS: Others testifying on the bill say that incorporating marketplace facilitators into any online sales tax bill is important to accurately estimate revenue since many online transactions take place through a facilitator instead of direct retailer to customer transactions. Additionally, it was pointed out that any online sales tax bill must be carefully crafted to ensure constitutionality at the federal level.

Testifying on the bill was the Missouri Department of Revenue.