

HCS #2 HB 1957 -- TAXATION

SPONSOR: Eggleston

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 7 to 0. Voted "Return to the Committee of Origin" by the Standing Committee on Rules-Legislative Oversight by a vote of 10 to 0. Voted "Do Pass with HCS #2" by the Standing Committee on Ways and Means by a vote of 5 to 2. Voted "Do Pass" by the Standing Committee on Rules-Legislative Oversight by a vote of 7 to 3.

The following is a summary of the House Committee Substitute #2 for HB 1957.

INCOME TAX

This bill reduces the top income tax rate 0.14% on January 1, 2021.

Additionally, beginning with the 2022 calendar year this bill will allow the income tax rate to adjust for a period of two years:

(1) For the 2022 calendar year, for every additional \$18 million in sales and use tax revenue received from October 1, 2020, to September 30, 2021, less \$130 million, exceeds a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be reduced 0.02% from its 2021 rate. For every \$18 million in sales and use tax revenue received from October 1, 2020, to September 30, 2021, less \$130 million, fails to equal a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be increased 0.02% from its 2021 rate.

(2) Beginning with the 2023 calendar year, for every additional \$18 million by which half of the sales and use tax revenue received from October 1, 2020, to September 30, 2022, less \$130 million, exceeds a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be reduced 0.02% from its 2021 rate. For every \$18 million by which half of the sales and use tax revenue received from October 1, 2020, to September 30, 2022, fails to equal a 2.8% increase in sales and use tax revenue received from October 1, 2019, to September 30, 2020, the top tax rate will be increased 0.02% from its 2021 rate. Any adjustment of the tax rate currently, as defined in the bill, will take effect in addition to any adjustment of the tax rate as specified in this bill (Section 143.011, RSMo).

ECONOMIC NEXUS

Beginning January 1, 2021, this bill provides that a vendor also engages in business activities in this state if a vendor during a 12 month period meets the following criteria:

- (1) Has cumulative gross receipts of at least \$100,000 from the sale of tangible personal property to purchasers for the purpose of storage, use, or consumption in this state; and
- (2) Does not have a physical presence within the state and the associated sales occurred with use of the Internet (Section 144.605).

TAXING JURISDICTION DATABASE

This bill requires the Director of the Department 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 incorrect data provided by the director on tax rates, boundaries, or taxing jurisdiction assignments (Section 144.637).

MARKETPLACE FACILITATORS

By January 1, 2021, marketplace facilitators, as defined in the bill, that meet the use tax economic nexus threshold established in the bill must register with the Department of Revenue to collect and remit use 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. These retail sales will include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace, as defined in the bill.

Marketplace facilitators properly collecting and remitting use tax in a timely manner will be eligible for any discount provided for currently.

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

OTHER PROVISIONS OF THE BILL

Any department that has the Constitutional authority to collect sales and use tax under Article IV of the Constitution of Missouri may remit any new revenue collected under the provisions of the

bill to the General Revenue Fund (Section 144.605).

The bill specifies that new revenue collected under the provisions of the bill that would be deposited into the School District Trust Fund will now be deposited into the state General Revenue Fund (Section 144.701).

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 the use tax is 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 144.757).

This bill has a nonseverability clause.

This bill is similar to HCS #2 HB 548 (2019).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that this bill would level the playing field for businesses within Missouri that must charge a sales tax on the sale of goods. Additionally, the bill lowers the income tax in order to offset the new revenue collected by taxing the sale of goods purchased online. Supporters also claimed that the bill would not alter current use taxes collected by local governments and would allow them to collect revenue from online sales after their votes have voted in the tax. It was also stated that every state, other than Florida, that has a sales or use tax has passed a similar bill into law.

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

OPPOSERS: Opponents say that sales and use taxes are regressive in nature and that Missouri is currently in the process of cutting the income tax which leads to uncertainty in the income tax offset. Additionally, opponents were against the local use tax portion of the bill because many local governments have already voted a use tax into law at the local level and there is no need to vote on a measure again. Opponents were also against the portion of the bill that moves a 1% tax on goods sold online from the School District Trust Fund to the General Revenue Fund.

Testifying against the bill were Missouri Municipal League; Missouri Budget Project; Missouri Association of Counties; Jefferson City School District; Missouri Association of School Administrators; St. Charles County; Missouri National Education Association; St. Louis City; and Municipal League of Metro St. Louis

INFORMATIONAL: Testimony was given on the fiscal note of the bill.

Testifying on the bill was Missouri Department of Revenue