

HB 2238 -- TAXATION

SPONSOR: Merideth

INDIVIDUAL INCOME TAX

This bill establishes the "Missouri Working Family Tax Credit Act".

For all tax years beginning on or after January 1, 2021, this bill creates a tax credit to be applied to a taxpayer's Missouri income tax liability after all reductions for other credits for which the taxpayer is eligible have been applied. The tax credit will not exceed the amount of the taxpayer's tax liability, and will not be refundable. The amount of the tax credit will be 20% of the amount of a taxpayer's federal earned income tax credit.

The Department of Revenue will determine whether a taxpayer who did not apply for the tax credit authorized by this bill is eligible and will notify such taxpayer of their potential eligibility.

The department will prepare an annual report regarding the tax credit authorized by this bill containing certain information as described in the bill (Section 143.177, RSMo).

This provision will sunset after six years unless reauthorized by the General Assembly.

CORPORATE TAXATION

This bill adds "qualified air freight forwarders", as defined in the bill, to the definition of "corporation" as a transportation corporation for the purposes of corporate income allocation (Section 143.441).

USE TAX ECONOMIC NEXUS

Beginning January 1, 2022, this bill provides that all vendors without a physical presence in this state making sales of tangible personal property for delivery into this state will be required to collect and remit any use tax due as if such vendor maintained a physical presence in the state. This provision will only apply to vendors who make at least \$100,000 in gross revenue from the delivery of tangible personal property into this state in the previous or current calendar year.

No obligation to collect and remit use tax under this portion of the bill will be applied prior to January 1, 2022.

The use tax collections made under this bill will be deposited in

the General Revenue Fund (Section 144.612).

MARKETPLACE FACILITATORS

By January 1, 2022, marketplace facilitators, as defined in the bill, that meet the use tax economic nexus threshold established in the bill must register with the department to collect and remit sales and 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. Such 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. Sales made through a marketplace facilitator will be deemed to be consummated at the location to which the item is shipped or delivered, or at which possession is taken by the purchaser.

Marketplace facilitators will report and remit sales and use tax collected under this bill on a separate form developed by the department. Marketplace facilitators properly collecting and remitting sales and use tax in a timely manner will be eligible for any discount provided for under current law.

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

No class action will be brought against a marketplace facilitator in any court in this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected on retail sales facilitated by a marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim.

If the department audits a marketplace facilitator, it will only audit the facilitator and not the marketplace sellers on behalf of whom the marketplace facilitator facilitates sales.

Marketplace facilitators may apply to the department for relief from liability for the failure to collect and remit the correct amount of sales or use tax on retail sales facilitated for marketplace sellers under certain circumstances, as described in the bill. Relief from liability will be a percentage of the sales and use tax collected by the marketplace facilitator, with the percentage being 4% for sales made during the 2022 calendar year, 2% for sales made during the 2023 calendar year, 1% for sales made during the 2024 calendar year, and none thereafter.

The department may grant a waiver from the requirements of the bill

if a marketplace facilitator demonstrates to the satisfaction of the department that all of its marketplace sellers are already registered to collect and remit sales and use tax. If a waiver is granted, the sales or use tax due will be collected and remitted by the marketplace seller (Section 144.752).

SALES TAX ADMINISTRATION

This bill provides that any local sales tax changes due to a boundary change will take effect on the first day of the calendar quarter 120 days after the sellers receive notice of the change.

The effective date for the imposition, repeal, or rate change of each local sales and use tax will be the first day of the calendar quarter at least 120 days after the sellers receive notice of the change (Section 32.087).

This bill makes changes to several sections of law relating to local sales taxes in order to make the administration of the taxes uniform (Sections 66.601 to 94.705, 184.845, 221.407, 238.235, 238.410, 644.032).

This bill modifies certain exemptions from state sales tax to make the exemptions uniform across the state and local sales tax bases (Section 144.030).

The "School" and "Show Me Green" sales tax holidays are modified by repealing the ability for political subdivisions to opt out of the sales tax holidays, and by defining how the sales tax exemption applies to the purchase or return of certain items (Sections 144.049 and 144.526).

This bill relieves a purchaser from any penalties for failure to pay the proper amount of sales tax if the error was a result of erroneous information provided by the Director of the Department of Revenue (Section 144.060).

A certified service provider (CSP), as defined in the bill, will not be certified unless it meets certain requirements relating to the security and privacy of purchasers' information, as described in the bill (Section 144.109).

The director will provide and maintain downloadable electronic databases at no cost to the user of the databases for taxing jurisdiction boundary changes, tax rates, and a taxability matrix detailing taxable property and services. Sellers and CSPs will be relieved from liability if they fail to properly collect tax based upon information provided by the department. Certified service providers, sellers, and marketplace facilitators may utilize

proprietary data, provided the Director of the Department of Revenue certifies that such data meets the standards provided for under the bill (Sections 144.123 and 144.124).

This bill provides that a cause of action against a seller by a purchaser for a tax erroneously or illegally collected will not accrue until the purchaser has provided written notice to a seller and the seller has had 60 days to respond. A seller will be presumed to have a reasonable business practice if in the collection of such tax the seller uses a provider or a system certified by the Director of the Department of Revenue and has remitted all tax collected (Section 144.190).

Monetary allowances from taxes collected will be provided to certain sellers and certified service providers for collecting and remitting state and local taxes, as described in the bill (Section 144.140).

This bill repeals a provision which requires the Director of the Department of Revenue to establish brackets showing the amounts of tax to be collected on sales of specified amounts. Instead, the tax computation will be carried to the third decimal place, and the tax will be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four (Section 144.285).

This bill provides that all provisions of law with respect to sales into the state by out-of-state sellers apply to the Compensating Use Tax Law (Section 144.600).

LOCAL SALES AND USE TAXES

This bill modifies ballot language required for the submission of a local use tax to voters by including language stating that the approval of the local use tax will eliminate the disparity in tax rates collected by local and out-of-state sellers by imposing the same rate on all sellers (Section 144.757).

EFFECTIVE DATE

The provisions of this bill relating to sales tax administration, use taxes and the Missouri Working Family Tax Credit Act will become effective January 1, 2022. The remaining provisions will become effective August 28, 2020.

This bill is the same as SB 659 (2020).