

HB 554 -- TAXATION

SPONSOR: Eggleston

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Ways and Means by a vote of 8 to 3. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 7 to 4 with 1 voting Present.

SALES AND USE TAX MAP (Section 32.310, RSMo)

Currently, the Department of Revenue maintains a mapping feature on its website that displays sales tax information of political subdivisions of this state that have taxing authority.

This bill requires use tax information to be added to the mapping feature. Also, this bill requires the mapping feature to show the total of combined rates of overlapping taxing jurisdictions by July 1, 2022.

INCOME TAX (Section 143.011)

Currently, the top rate of income tax is 5.4% and may be reduced to 5.1% by a series of tax cuts of .1% over a period of years with only one reduction occurring per year. A tax reduction at the top rate occurs if the amount of net general revenue collected in the previous fiscal year exceeds the highest amount of net general revenue collected in any of the three fiscal years prior to such fiscal year by at least \$150 million.

This bill reduces the top rate of income tax by .1% and increases the total amount of cuts from five to six.

USE TAX (Section 144.605)

Beginning January 1, 2022, this bill provides that a vendor 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, as determined by the bill; and

(2) Does not have a physical presence within the state and the associated sales occurred with use of the Internet.

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.

This bill specifies that any vendor that does not have a physical presence within the state and the associated sales occurred with use of the Internet 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.

Additionally, this bill provides that political subdivisions that wish to enact a new local use tax, but do not wish to subject vendors that do not have a physical presence within the state and the associated sales occurred with use of the Internet to such local use tax, may enact such local use tax according to the applicable provisions local use tax laws, or any other applicable local use tax authorization provisions, and may exclude such vendors from such new tax.

TAXING JURISDICTION DATABASE (Section 144.637)

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.

MARKETPLACE FACILITATORS (Section 144.752)

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 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.

Marketplace facilitators may apply to the Department of Revenue 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 such percentage being four percent for sales made during the 2022 calendar year, two percent for sales made during the 2023 calendar year, one percent for sales made during the 2024 calendar year, and zero percent thereafter.

LOCAL USE TAX (Section 144.757)

This bill alters ballot language for approval or reapproval by the voters of the political subdivision for the collection of use taxes.

Under this bill, any county or municipality with an existing local use tax enacted prior to January 1, 2022, will be permitted to keep such existing local use tax at a rate not to exceed the rate enacted as of January 1, 2022. If any such county or municipality places a new use tax measure on the ballot and the measure fails to pass, the use tax enacted prior to January 1, 2022, will remain in effect until it expires or is repealed, reduced, or raised by a future ballot measure. If any such county or municipality places the use tax measure of this section on the ballot and the measure passes, the use tax of this section will replace the previously enacted use tax.

Currently, a local use tax may be referred to or described as the equivalent of a sales tax on purchases made from out-of-state sellers by in-state buyers and on certain intrabusiness transactions and the description will not change the classification, form or subject of the use tax or the manner in which it is collected.

This bill provides that the use tax must not be described as a new tax, described as not being a new tax, nor will it be advertised or promoted in a manner in violation of current law.

SIMPLIFIED SALES AND USE TAX ADMINISTRATION ACT (Sections 144.1000-144.1015)

Repeals the Simplified Sales and Use Tax Administration Act.

This bill has a nonseverability clause.

This bill is similar to HCS#2 HB 1957 (2020).

PROPONENTS: Supporters say that this bill collects a use tax on purchases made online and cuts the income tax. Since collecting use taxes would lead to increased tax revenues, it would be beneficial to offset the increase with a decrease to the income tax.

Supporters also say this bill assists local governments by allowing them to collect local use taxes on online purchases as long as the voters within the local government approve of a ballot measure that would allow the local government to collect such taxes. Also, this bill does not alter the current collections of current local government use taxes.

Supporters also claim that this bill will assist local businesses since they have to collect sales tax and this bill would extend the use tax onto online sales.

Some supporters say that having the "use of the Internet" in the nexus portion of the use tax may be troublesome since purchasers could make orders with use of a computer but actually make a purchase over the telephone in order to avoid the tax.

Testifying for the bill were Representative Eggleston; The Missouri Internet and Television Association; Missouri Retailers Association; Missouri Grocers Association; Missouri Tire Industry Association; City Of Des Peres, Missouri; Expedia Group; Microsoft Corporation; St. Louis Zoo; Greater St. Louis Inc; City of Chesterfield; Walmart Inc; City of St. Charles; Missouri Economic Development Council; Associated Industries of Missouri; Missouri Society of Certified Public Accountants; Missouri Chamber of Commerce.

OPPONENTS: Those who oppose the bill say that local governments that collect use taxes have already placed a use tax on the ballot and have been approved by voters. It would be an extra burden to place a new use tax on the ballot. Additionally, they claimed that this would be a new tax rather than changing the nexus of the existing use tax.

Testifying against the bill were Missouri Budget Project; County Commissioners of Missouri; Missouri Association of Counties; Arnie Dienoff; Gary Jungermann, County Commissioners Association; Municipal League of Metro St. Louis; Missouri Municipal League; and Steve Whitworth, Whitworth's Gift Chest Jewelers.

OTHERS: Others testifying on the bill say that the phase-out portion in the bill regarding marketplace facilitator liability may not be necessary.

Testifying on the bill were Elias Tsapelas; Amazon Services.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.