

HCS HB 644 -- USE TAXES

SPONSOR: Falkner

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Ways and Means by a vote of 7 to 2 with 1 present.

The following is a summary of the House Committee Substitute for HB 644.

SALES AND USE TAX MAP (Section 32.310, RSMo)

Currently, the Department of Revenue must maintain a mapping feature on its website that displays various sales tax information. This bill requires the mapping feature to include use tax information.

VENDORS ENGAGED IN BUSINESS ACTIVITIES WITHIN THE STATE (Section 144.605)

Beginning October 1, 2021, this bill provides that a vendor will be considered to be engaging in business activities in this state if cumulative gross receipts from the vendor's sales in this state are \$100,000 or more during any 12 month period, or the vendor enters into 200 or more separate transactions in this state during any 12 month period. Vendors meeting such criteria will be required to collect and remit the use tax as provided under current law.

TAXING JURISDICTION DATABASE (Section 144.637)

This bill requires the Department of Revenue to provide and maintain a downloadable electronic database at no cost to the user of the database for taxing jurisdiction boundary changes and tax rates. Vendors will not be liable for reliance upon inaccurate data provided by the department on tax rates, boundaries, or taxing jurisdiction assignments.

MARKETPLACE FACILITATORS (Section 144.752)

Beginning January 1, 2023, marketplace facilitators, as defined in the bill, that engage in business activities within the state must register with the Department of Revenue to collect and remit use tax on sales delivered 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.

Marketplace facilitators will report and remit use tax collected under this bill as determined by the Department. Marketplace facilitators properly collecting and remitting use tax in a timely manner will be eligible for any discount provided for under current law.

Marketplace facilitators will provide purchasers with a statement or invoice showing that the 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.

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 such percentage being 4% for sales made during the 2023 calendar year, 2% for sales made during the 2024 calendar year, 1% for sales made during the 2025 calendar year, and 0% thereafter.

The state general revenue portion from remittances made pursuant to the marketplace facilitator portion of the bill, with the exception of revenues collected pursuant to section 144.701 and Article IV, Sections 43(a) and 47(a) of the Missouri Constitution, will be deposited to the credit of the cash operating expense fund established pursuant to section 33.575.

This provision is identical to a provision in SB 153 (2021)

LOCAL USE TAX (Section 144.757)

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

This bill is similar to HB 1895 (2020).

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 extend the use tax onto Internet sales. Additionally, this bill updates ballot language and the sales tax map on the Department of Revenue's website to include use tax rates. The goal of this legislation is to level the playing field for brick and mortar stores. This bill also assists local governments in revenue collections. Supporters also said that passing economic nexus is a top priority. However, the anticipated revenue from passing an updated nexus for use tax may not be as high as actual revenue. Supporters claim that this is not a new tax and is actually closing a loophole in law.

Testifying for the bill were Representative Falkner; Missouri Budget Project; Show Me Christian County; Charlie Herbst; MCTA - The Missouri Internet And Television Association; Missouri Retailers Association; Mo Grocers Association; Mo Tire Industry Association; City of Des Peres, Missouri; County Commissioners of Missouri; Cape Girardeau Area Chamber of Commerce; Buchanan County; Springfield Area Chamber of Commerce; City of Columbia; Missouri Association of Counties; Missouri Association of Municipal Utilities; Missouri Municipal League; Missouri Economic Development Council; Associated Industries of Missouri; Missouri Society of Certified Public Accountants; City of Independence; County Commissioners Association; St. Louis Zoo; Greater St. Louis Inc; City of Chesterfield; Walmart Inc; City of St. Charles; Missouri Economic Development Council; Missouri National Education Association; Municipal League of Metro St. Louis; Missouri Chamber Of Commerce; and Whitworth's Gift Chest Jewelers.

OPPOSERS: Those who oppose submitted online witness statements.

Testifying against the bill was Arnie Dienoff.

OTHERS: Others testifying on the bill submitted online witness statements

Testifying on the bill were Expedia Group; and Microsoft Corporation.

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.