

HB 593 -- USE TAXES

SPONSOR: Fitzwater

USE TAX MAPPING (Section 32.310, RSMo)

Currently, the Department of Revenue maintains a mapping feature on its website that displays various sales tax information. This bill requires such mapping feature to include use tax information. Political subdivisions collecting a use tax must send such data to the Department of Revenue by January 1, 2022, and the Department must implement the mapping feature using the use tax data by August 28, 2022.

If the boundaries of a political subdivision in which a sales or use tax has been imposed are changed or altered, the political subdivision must forward to the Director of Revenue by United States mail a certified copy of the ordinance adding or detaching territory from the political subdivision within 10 days of the adoption of the ordinance. The ordinance must reflect the effective date of the ordinance and must be accompanied by a map in a form to be determined by the Director of Revenue. Upon receipt of the ordinance and map, the tax imposed under the local sales tax law will be effective in the added territory or abolished in the detached territory on the first day of a calendar quarter after 120 days' notice to sellers.

CASH OPERATING EXPENSE FUND (Section 33.575)

This bill creates the "Cash Operating Expense Fund", which will consist of use tax revenues collected under the provisions of this bill, any funds appropriated to the Office of the Governor for expenses incident to emergency duties performed by the National Guard that are unexpended at the end of a fiscal year, and funds appropriated by the General Assembly.

Subject to appropriation, the Governor may transfer funds from the fund into the General Revenue Fund in any fiscal year in which actual revenues are less than the revenue estimates upon which appropriations were based or in which there is a budget need due to a natural disaster, as proclaimed by the Governor to be an emergency.

If the balance in the fund at the close of any fiscal year exceeds 2.5% of the net General Revenue collections for the previous year, such excess will be divided evenly between the State Road Fund and Debt Retirement Fund related to bonds issued by or on behalf of the state, as described in the bill.

The "Debt Retirement Fund" is established in the bill for the

purpose of retiring state debt.

#### ECONOMIC NEXUS (Section 144.605)

Beginning January 1, 2023, this bill modifies the definition of "engaging in business activities in this state" for use tax purposes to include selling tangible personal property for delivery into this state, provided such vendor had cumulative gross receipts of at least \$100,000 from such sales in the previous or current calendar year.

#### TAX COLLECTION AND REMITTANCE (Sections 144.608 and 144.140)

This bill authorizes the Department of Revenue to:

- (1) Consult, contract, and work jointly with the Streamlined Sales and Use Tax Agreement's Governing Board to allow sellers to use the Governing Board's certified service providers (CSPs) and central registration system services; or
- (2) Consult, contract, and work with CSPs independently.

The Department is authorized to determine the method and amount of compensation to be provided to CSPs by this state for the services of such CSPs to certain sellers provided no CSPs or seller utilizing a CSP is entitled to the current retention of 2% of 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 of the database 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.

#### TAXABILITY MATRIX (Section 144.638)

This bill requires the Director of Revenue to provide and maintain a taxability matrix and provide notice of changes in the taxability of products or services listed in the matrix.

Sellers and certified service providers will be relieved from liability for reliance upon erroneous data provided or approved by the Department, and a seller will be relieved from liability for

erroneous returns made by a CSP on behalf of the seller.

#### 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 include those made directly by the marketplace facilitator as well as those made by marketplace sellers through the marketplace facilitator's marketplace.

Marketplace facilitators must 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 must 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.

#### LOCAL USE TAX (Sections 144.757 and 144.759)

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, and by repealing ballot language specific to St. Louis County and its municipalities.

Beginning on January 1, 2023, this bill provides that the portion of the local use tax imposed by St. Louis County will be distributed to the cities, towns, villages, and unincorporated areas of the county on the ratio of the population that each such city, town, village, and unincorporated area bears to the total population of the county.

#### EFFECTIVE DATES

The provision relating to creating the Cash Operating Expense Fund contains an emergency clause.

The provisions relating to economic nexus, marketplace facilitators, and St. Louis County's local use tax will become effective January 1, 2023.

The remaining provisions will become effective August 28, 2021.