SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2599

As Amended by House Committee of the Whole

Brief*

HB 2599, as amended, would repeal a number of destination-based sales tax sourcing provisions enacted in 2003 and would restore all sourcing rules which had been in place prior to July 1, 2003. (Sales would be sourced to the location of the retailers (origin-based sourcing), except for certain telecommunications and utility services; as well as sales of property and services in connection with contracts in excess of $10,000.) The bill would be effective upon publication in the *Kansas Register.*

The destination-sourcing provisions enacted in 2003 would become effective again immediately upon the effective date of any legislation enacted by Congress that authorizes the Kansas Secretary of Revenue to require certain out-of-state sellers lacking physical presence in the state to collect and remit state and local sales and use taxes.

The bill also would prohibit future Kansas Legislatures from enacting compensation for expenses incurred by out-of-state sellers related to tax collection and processing without also compensating in-state sellers.

Under a House Committee of the Whole amendment, the bill would decelerate from monthly to quarterly the sales tax filing requirements for retailers with annual liability of $1,600 to $3,200; allow for waivers of penalty and interest when a retailer has additional liability attributable to “reasonable error” relative to a failure to properly implement destination sourcing; and authorize certain retailers with liability of less than $20,000 in the previous calendar year to obtain payments from the sales tax refund fund of up to $1,000 towards qualifying purchases of hardware, software, or other equipment necessary to comply with destination sourcing.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

A second House Committee of the Whole amendment would provide that immediately upon the effective date of any legislation enacted by Congress that authorizes the Kansas Secretary of Revenue to require certain out-of-state sellers lacking physical presence in the state to collect and remit state and local sales and use taxes, certain retailers with annual liability of less than $20,000 in the previous calendar year would be entitled to a remittance credit of 0.5 percent of state and local sales and use tax receipts.

Background

The SGF fiscal impact for FY 2005 based on the House Committee of the Whole version would be a reduction in receipts of an estimated $14.3 million, according to various fiscal impact statements prepared by the Department of Revenue and the Budget Division.

The initial fiscal note from the Budget Division indicated that SGF receipts would be expected to decline by $6.5 million in FY 2005 under the House Tax Committee version of the bill. This is the amount currently expected to be received from voluntary collections of use tax by remote retailers, which the Department of Revenue says would be "in jeopardy" if HB 2599 were to be enacted. The filing deceleration provisions would reduce receipts by an additional $1.8, $1.7 million of which would be attributable to a reduction in SGF receipts. The $1,000 sales tax credit for certain retailers also would increase refunds by an additional $6.4 million, $6.1 million of which would represent a reduction to the SGF.

The original bill contained a grandfather provision allowing retailers who were complying with destination-based sourcing rules to continue using those provisions for up to two years. The House Taxation Committee removed this section from the bill.

The first House Committee of the Whole amendment hereinbefore described, which was proposed by Representative Kirk, effectively incorporated the provisions of HB 2702, HB 2704, and HB 2787. The second House Committee of the Whole amendment regarding the 0.5 percent remittance credit, which was proposed by Representative Larkin, would reduce receipts by an additional $4.6 million if Congress enacted the necessary legislation to trigger that provision.