

February 9, 2012

The Honorable Les Donovan, Chairperson
Senate Committee on Assessment and Taxation
Statehouse, Room 123-E
Topeka, Kansas 66612

Dear Senator Donovan:

SUBJECT: Fiscal Note for SB 371 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 371 is respectfully submitted to your committee.

SB 371 concerns the state compensating use tax and determination if a retailer has nexus in Kansas. The proposal amends current law to expand the definition of a retailer doing business in this state to include "click-thru" provisions in which a retailer would be responsible for collecting and remitting use tax. Such retailer would be someone who enters into an agreement with one or more Kansas residents for a commission or other consideration, directly or indirectly, refers potential customers by a link on an internet website, by telemarketing, by an in-person or oral presentation. The bill specifies that gross receipts from such sales within Kansas must exceed \$10,000 during the prior 12 months. Provisions are included in the bill for the retailer to submit proof that they do not have nexus.

The bill also provides that any ruling, agreement or contract between a retailer and the state's executive branch or state agency agreeing that a retailer is not required to collect sales and use tax in this state despite the presence of a warehouse, distribution center or fulfillment center is null and void unless specifically approved by a majority vote in each of the houses of the Legislature. The bill further provides that any vendor selling or leasing tangible personal property to the state is required to register as a retailer for Kansas sales tax purposes. The bill would take effect July 1, 2012

According to the Department of Revenue, enactment of SB 371 would increase state sales and use tax collections, but that the effect would be negligible. The bill would require modifications to several sales tax publications at a cost of \$5,250. Any fiscal effect associated with SB 371 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Steve Neske, Revenue