

SESSION OF 2010

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2519

As Amended by House Committee of the Whole

Brief*

HB 2519, as amended, would make a number of changes to various sales tax administration statutes relating to Kansas' participation in the multi-state Streamlined Sales and Use Tax Agreement (SSUTA).

One section would clarify the circumstances under which sales tax exemption certificates taken in "good faith" could relieve retailers from sales tax liability. One provision would stipulate that retailers would not be relieved from liability if it is discovered during the audit process that the seller had knowledge of materially false information or otherwise knowingly participated in activities intended to purposefully and unlawfully evade the tax.

An additional change would remove provisions requiring certificates to contain specific statutory subsection references to the exemptions being claimed, and signatures of officials of certain not-for-profit entities. Also eliminated would be a current requirement that payment be made by an exempt entity's check, voucher, or warrant in order for the retailer to acquire protection from liability. New language also would relieve retailers under most circumstances from the requirement to collect sales tax using the new sales tax rate for the first 30 days after the enactment date of a law changing the statewide sales and use tax rate.

A number of technical adjustments also would be made to KSA 2009 Supp. 79-3672 relative to "direct mail" sourcing

*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>

provisions. One clarification would provide that direct mail, which generally is defined as printed material delivered by US mail or other delivery services to a mass audience when the cost of the material is not billed directly to the recipients, would not encompass purchases of data processing services involved in producing the mail.

Background

The original bill, which contained all the above-mentioned provisions, except the retailer-optional change in sourcing rules, was requested for introduction and supported by the Department of Revenue, whose representatives testified that the bill was necessary to conform the Kansas sales tax law to various amendments made in Section 317 of SSUTA in 2009, and that Kansas could be found out of compliance with SSUTA during the 2010 governing board review process conducted later this fall if the bill were to not be enacted.

The House Taxation Committee added an amendment that would have authorized retailers to return to “origin-based” sourcing rules as an alternative to the “destination-based” sourcing rules which have been in effect since January 1, 2005.

The House Committee of the Whole struck the House Taxation Committee amendment regarding the choice of sourcing provisions by retailers.

The fiscal note on the original bill observed that under current law, Kansas is a full member state in good standing of SSUTA and benefits from voluntary compliance remittances submitted by participating remote retailers. The Department’s latest estimate is that Kansas will receive \$32.5 million in such remittances in FY 2011 under current law.