

February 5, 2013

The Honorable Richard Carlson, Chairperson
House Committee on Taxation
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Carlson:

SUBJECT: Fiscal Note for HB 2103 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2103 is respectfully submitted to your committee.

HB 2103 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, refers potential customers by a link on an internet website, by telemarketing, or 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, 2013.

According to the Department of Revenue, enactment of HB 2103 would increase state retail sales and compensating use tax collections, but the fiscal effect is estimated to be negligible. The bill would require modifications to several sales tax publications at a cost of \$4,200 from the State General Fund in FY 2014. Any fiscal effect associated with HB 2103 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



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

cc: Steve Neske, Revenue