

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2103

As Recommended by House Committee on
Taxation

Brief*

HB 2103 would enact “click-thru” nexus provisions relating to sales and use taxation.

One part of the bill would expand the definition of a retailer doing business in this state for purposes of sales and use tax collection to include those retailers and affiliated persons who enter into certain agreements with Kansas residents. Such agreements would include those entered into with one or more residents of Kansas under which the resident, in exchange for some consideration, directly or indirectly refers potential customers from Kansas so long as the cumulative gross receipts stemming from transactions generated by such references exceed \$10,000 during the preceding 12 months. The bill also would create provisions of law by which retailers could submit proof they do not meet the requirements established in the expanded definition.

Additional language in the bill would require any vendor selling or leasing tangible personal property to the state to register as a retailer for Kansas sales tax purposes; and that any ruling, agreement, or contract between a retailer and the State of Kansas executive branch concerning a sales and use tax exemption, despite the presence of a warehouse or distribution center, be null and void unless specifically approved by each chamber of the Legislature.

*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>

Background

The bill was requested for introduction by the Kansas Chamber. Representatives of the Kansas Chamber, the Overland Park and Manhattan chambers of commerce, and Target corporation said “click-thru” nexus legislation was being adopted in multiple states as part of the latest initiative to level the playing field between online retailers and “bricks-and-mortar” retailers.

There was no opponent testimony.

The fiscal note from the Division of the Budget indicated the bill would be expected to have a slightly positive but indeterminate impact on State General Fund receipts.