

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

March 25, 2019

TO: Honorable Dustin Burrows, Chair, House Committee on Ways & Means

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB2153 by Burrows (relating to a single local use tax rate as an alternative to combined local use tax rates for computing the amount of local use taxes remote sellers are required to collect and to the allocation of tax revenue collected at that rate.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 151, Tax Code to provide for a single local use tax rate in lieu of combined local use tax rates applicable to sales of taxable items by certain remote sellers.

Section 151.0595 would be added to provide that a remote seller required to collect and remit one or more local use taxes shall compute the amount to collect and remit either by using the combined rate of all applicable local use taxes or, at the remote seller's election, the single local use tax rate.

"Remote seller" would be defined as a seller whose only activities in the state are described in Sections 151.107(a)(4) or (5): regular or systematic solicitation of sales of taxable items in the state by distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales; or solicitation of orders for taxable items by mail or through other media if the seller under federal law is subject to or permitted to be made subject to the jurisdiction of this state for the purpose of sales tax collection.

A remote seller who elects to use the single local use tax rate would be required to notify the comptroller of the election before using the rate, and the rate would apply to all taxable sales of the remote seller.

The single local use tax rate effective in a calendar year would be the estimated average rate of local sales and use taxes imposed during the preceding state fiscal year. That rate would be determined by the comptroller by multiplication of the ratio of local sales tax remittances to state sales tax remittances during the preceding fiscal year times the state sales tax rate, rounded to the nearest one-fourth of one percent.

A purchaser could annually apply to the comptroller for a refund of the excess when payment of tax based on the single local use tax rate exceeds the amount of tax that would have been paid had tax been paid based on the combined rate of otherwise applicable local taxes.

A purchaser who pays tax to a remote seller at the single local use tax rate would not be liable for any additional amount of local use tax that might otherwise be due had the remote seller not elected to use the single local use tax rate.

Distribution of local tax revenue remitted by remote sellers electing to use the single rate would be made by the comptroller, on a monthly basis after applicable deductions, to eligible taxing units in the same percentage shares as those taxing units receive of allocations of other local sales and use tax revenues.

The bill would provide that the bill does not require a remote seller to collect local use taxes on sales of taxable items made before October 1, 2019, and provide that during the period from October 1, 2019 through December 31, 2019 the single local use tax rate would be 1.75 percent.

The bill would have no fiscal implications for the state.

The bill would take effect October 1, 2019.

Local Government Impact

Based on fiscal year 2018 data, the single local use tax rate computed as prescribed by the bill would be 1.75 percent.

While a rate of 1.75 is an average and the combined rate in any particular location will vary from that, it does not necessarily follow that taxing units in areas where the combined local rate is at the current two percent maximum will receive less revenue than if remote sellers were required to collect and remit at applicable local combined rates. Because revenue remitted subject to the single rate would be distributed to local taxing units in proportion to their allocations of local sales and use taxes remitted by retailers not eligible to use the single rate, taxing units in areas where the prevailing combined local rate is two percent will receive, other things equal, larger shares of the single rate remittances than taxing units in areas with lower combined rates.

There would be no significant fiscal implications for local governments in the aggregate; there could be some variance in distribution of revenue among jurisdictions compared with the distribution that would occur were all remote sellers required to collect and remit tax at applicable local combined rates, but the extent of such variance cannot be determined and would not be expected to be significant in relation to the total allocations of local sales and use tax revenues.

Source Agencies: 304 Comptroller of Public Accounts

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