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HOUSE JOINT RESOLUTION NO. 597

Offered January 10, 2007

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Establishing a joint subcommittee to study sales tax nexus. Report.

Patron—Peace

Referred to Committee on Rules

WHEREAS, tangible personal property purchased in a retail establishment located in the Commonwealth is generally subject to the state and local sales taxes; and

WHEREAS, tangible personal property purchased through the Internet or by way of a catalog is subject to state and local sales taxes if there is sufficient nexus between the seller and the Commonwealth; and

WHEREAS, a retail vendor may create corporate subsidiaries for the purpose of retail, Internet, and catalog sales that operate and compete as separate entities; and

WHEREAS, the State Tax Commissioner has determined that the presence of a retail establishment in the Commonwealth establishes a nexus for the application of sales and use taxes to the sales made by the related catalog and Internet entities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study sales tax nexus. The joint subcommittee shall have a total membership of eight members, who shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates and three members of the Senate to be appointed by the Senate Committee on Rules. The joint subcommittee shall elect a chairman and vice chairman from among its membership.

In conducting its study, the joint subcommittee shall determine: (i) the current law for the establishment of nexus for sales and use tax purposes, (ii) the requirements to create sufficient nexus for tax purposes, (iii) the pros and cons nexus creates in the area of taxation, and (iv) whether the application of the nexus law in relation to separate corporate subsidiaries should be changed.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the joint subcommittee shall be provided by the Division of Legislative Services. Technical assistance shall be provided by the Department of Taxation. All agencies of the Commonwealth shall provide assistance to the joint subcommittee for this study, upon request.

The joint subcommittee shall be limited to four meetings for the 2007 interim, and the direct costs of this study shall not exceed \$8,000 without approval as set out in this resolution. Approval for unbudgeted nonmember-related expenses shall require the written authorization of the chairman of the joint subcommittee and the respective Clerk. If a companion joint resolution of the other chamber is agreed to, written authorization of both Clerks shall be required.

No recommendation of the joint subcommittee shall be adopted if a majority of the House members or a majority of the Senate members appointed to the joint subcommittee (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the joint subcommittee.

The joint subcommittee shall complete its meetings by November 30, 2007, and the chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2008 Regular Session of the General Assembly. The executive summary shall state whether the joint subcommittee intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and the report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may approve or disapprove expenditures for this study, extend or delay the period for the conduct of the study, or authorize additional meetings during the 2007 interim.

INTRODUCED

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