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Missouri Should Enact the “Streamlined Sales Tax” to Ensure Equitable Collections of Sales Tax

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Missourians expect equity in the state’s tax structure. If an individual is required to pay state sales tax on a particular product in one store, that individual expects that their neighbor will also be required to pay the same state sales tax when shopping at a different store. The current sales tax structure provided this equity for many decades. However, as the economy has changed, the “storefronts” have changed as well. In the last year, Missourians spent approximately \$2.8 billion on e-commerce, or products purchased through online storefronts.¹

The problem for Missouri is that the state sales tax hasn’t kept up with this changing economy. In fact much of the state and local sales tax related to online purchases is either not being collected or it may even be going to other states. Not only does this compromise the equity of the sales tax structure for all Missourians, it gives an unfair advantage to online retailers compared to Missouri’s bricks and mortar stores. In addition, it results in the loss of significant state and local revenue.

Missouri policymakers can ameliorate this problem by enacting the Streamlined Sales Tax collections mechanism. Twenty-three states have already enacted this mechanism, including most of Missouri’s neighbors: Kansas, Iowa, Nebraska, Oklahoma and Tennessee.²

Increasing Internet Purchasing Requires States to Update their Sales Tax Structure

Americans spent \$164.6 billion dollars through online retailers in 2010, equaling about 4.2 percent of all retail purchases nationwide.³ While a seemingly insignificant portion of total retail sales, the amount is problematic for three main reasons:

1. Experts project that the percentage of online sales compared to total retail sales will grow considerably over time as more individuals become accustomed to and comfortable with online retail⁴;
2. State and local budgets rely on sales tax revenue to provide an array of services for communities; and
3. Missouri’s current sales tax collection mechanisms are currently not equipped to capture sales tax on online purchases.

New technologies have changed the way Americans live, work and shop. Advancements in the Internet specifically have dramatically altered the way the nation interacts with retail. A 1999 University of Tennessee study states that e-Commerce sales more than doubled between 1999 and 2006 and that rapid growth rate is expected to continue.⁵

¹ U.S. Census Bureau, E-Commerce Report, November 2010. The report provides data on national spending from the fourth quarter of 2009 through the third quarter of 2010. Missouri’s portion of the spending is assumed to be 1.8 percent, the equivalent of its percentage of personal income in the nation.

² Streamlined Sales Tax Governing Board

³ IBID #1

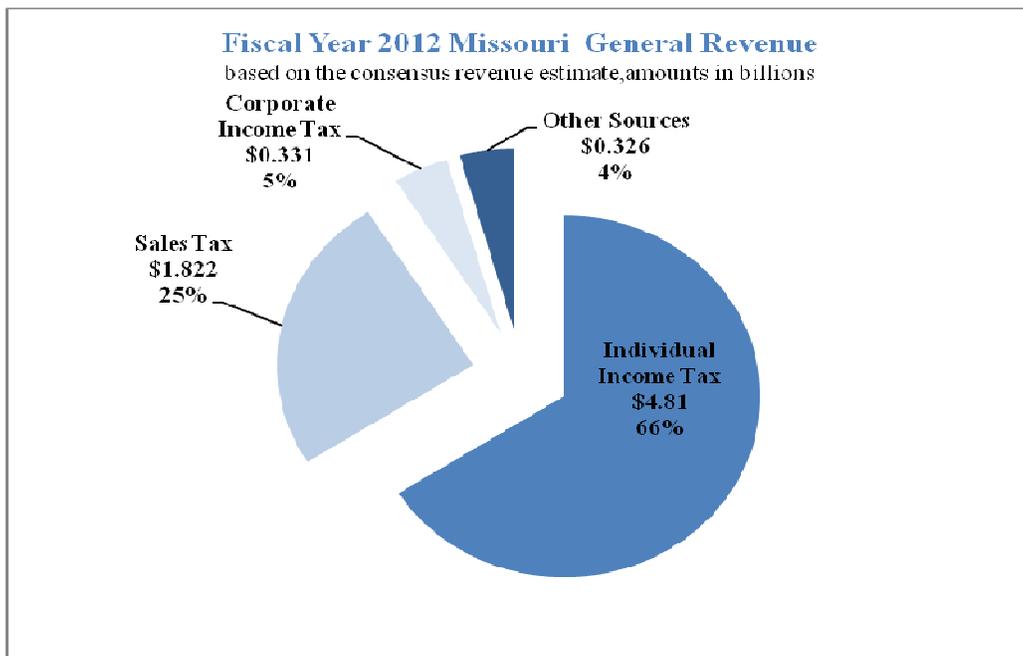
⁴ University of Tennessee, “State and Local Government Sales Tax revenue Losses from Electronic Commerce”, Donald Bruce, William Fox and LeAnn Luna, April 13, 2009, <http://cber.bus.utk.edu/ecom/ecom0409.pdf>

⁵ IBID

Prior to the rapid growth of Internet sales, the increase in mail order catalog sales raised legal questions about the retail vendor's responsibility for collecting sales taxes on remote sales. A 1992 U.S. Supreme Court ruling found that requiring remote sellers to collect sales tax from their customers would be an excessive burden because at the time there were more than 6,000 sales tax jurisdictions with varying definitions and rates with which the seller would be required to comply.⁶ The Court found that unless a business had a physical presence in a state, the business was not required to collect the sales tax. As a result, many retail operations have not only failed to collect sales taxes on remote sales, but some retailers are changing the way they operate in order to avoid collecting state sales taxes.⁷

Although the state cannot collect sales taxes on remote sales, a "use tax" is still due. Consumers who make more than \$2,000 worth of purchases annually are required to remit use taxes annually to the state. However, the responsibility is placed entirely on the consumer and most Missourians are likely unaware of the requirements. In fact, the Missouri Department of Revenue reports that in 2010, only 125 Missourians remitted use taxes totaling just \$110,784.⁸

The growth in remote sales creates a new burden for state and local government services that rely on sales tax collections. Missouri's general revenue sales tax rate of 3 percent is responsible for 25 percent, or \$1.8 billion, of the general fund budget (see chart below). This funding combines with individual and corporate income tax and other funds and is used to provide revenue to support a variety of state services including elementary, secondary and higher education, health and mental health services for children and adults, services for seniors, child abuse prevention and corrections and public safety.⁹ In addition, Missouri has "dedicated" statewide sales taxes of 1.225 percent. These dedicated or earmarked sales taxes generate additional funding that is used to fund local K-12 school districts, conservation, parks and natural resources.¹⁰



⁶ IBID #2

⁷ IBID #4

⁸ Missouri Department of Revenue data. An additional 45 individuals filed use tax forms but had no tax due. In 2009, 96 filers paid \$50,714.

⁹ Missouri Office of Administration, Division of Budget & Planning, "Executive Budget for Fiscal Year 2012, Budget Summary", January 2011

¹⁰ Date on the Consensus Revenue Estimate from the Missouri Office of Administration, Division of Budget & Planning, "Executive Budget for Fiscal Year 2012, Budget Summary," January 2011

The University of Tennessee study provides a conservative estimate of state and local sales tax losses due to failure to capture existing sales tax on Internet purchases. **In 2012, Missouri is estimated to lose \$210 million in state and local revenue.**¹¹ The loss is expected to grow over time as retail sales grow, creating a crisis for Missouri and other states that fund critical state services with sales tax revenue.

State Policy Solutions

In their 1992 Supreme Court ruling, the Court also stated that the U.S. Congress has the authority to require compliance with state and local tax collections. Because the Congress has not yet acted to modernize the tax structure under the new retail economy, **state policy solutions are critical to prevent the further erosion of state and local sales taxes and to restore balance and equity to the sales tax structure for consumers.**

A comprehensive solution known as the “Streamlined Sales and Use Tax Agreement” was developed by forty-four participating states under the auspices of the Streamlined Sales Tax Governing Board. The purpose was to create a tax code that states could enact that substantially reduces the burden of sales tax compliance for online retailers. The agreement requires state legislation that when enacted creates increased uniformity in sales tax definitions across the states and simplifies collections procedures for retailers.

Twenty-three states, including many of Missouri’s neighbors have adopted the Streamlined Sales and Use Tax Agreement.¹² Missouri’s neighbors of Kansas, Iowa, Nebraska, Oklahoma and Tennessee have already adopted the agreement. **Legislation is currently under consideration in Missouri and has received bipartisan support and the endorsement of the business community.**

Technically Speaking

Consumers and lawmakers often ask some fundamental questions about how the streamlined sales tax collections mechanism would function in Missouri. Some of those questions are addressed below.

What would be the “real-life” impact on consumers and retailers?

Consumers would notice little or no change. An individual would pay the same state and local sales tax that currently exists when they make their purchase, whether the store is down the street or online. Consumers who have previously remitted sales tax through the “use tax” filing will no longer be burdened with this requirement, as the responsibility for collecting and remitting sales taxes will be borne by the retailer.

As a result, online retailers will no longer have an unfair advantage over Missouri’s local bricks and mortar retailers, as all retailers will be able to easily comply with state and local sales tax collections. Specifically, once Missouri comes into compliance with the Streamlined Sales tax agreement, retailers will be connected with a “certified service provider” through the Streamlined Sales Tax Governing Board. The Board works with six certified providers who provide retailers with the technical mechanisms and computer software designed specifically for this purpose. The mechanisms work in tandem with the retailers online shopping carts and are provided at no cost to the retailer, allowing for easy compliance with state and local sales tax collections and remittance.¹³

How does the Streamlined Sales Tax interact with Missouri’s Hancock Amendment?

The streamlined sales tax agreement is not subject to the Hancock Amendment’s requirement of a vote of the people because it is not a new tax. It neither increases the state (or local) sales tax rate nor the products which are subject to the tax. It is simply a collections mechanism that is designed to make the current sales tax easier to compute and collect.

¹¹ IBID #4

¹² Streamlined Sales Tax Governing Board

¹³ IBID #12

What about small retailers and E-Bay Sales?

The agreement is not intended to respond to E-Bay or small retail sales. In fact, the agreement includes a small business exception that exempts retailers who sell less than \$500,000 worth of merchandise per year from the requirements.

How are local sales taxes determined?

Missouri specifically designed its streamlined legislation in order to avoid competition between Missouri's municipalities for local sales tax revenue. For purchases made by Missourians from retail companies that are located outside of the state, the state and local tax rate is assessed based on where the purchase is sent. So, the local sales tax is remitted to the locality in which the purchaser lives, and the state sales tax is remitted by the company to Missouri. If the retail company is located within Missouri, the state and local sales tax rate that is assessed and remitted is based on where the company is located. So, the local sales tax that would otherwise be remitted in the locality in which the company operates if a person purchased items in the physical location is retained in that community. This allows Missouri to benefit most effectively from the purchases of its residents.

Summary

The streamlined sales tax legislation would level the playing field for Missouri's bricks and mortar retailers **and restore equity among taxpayers to the state's sales tax structure**. Taking the steps to modernize the state's sales tax structure is critical to ensure that Missouri prevents further loss of state and local tax revenue.

The Mission of the Missouri Budget Project is to advance public policies that improve economic opportunities for all Missourians, particularly low and middle income families, by providing reliable and objective research, analysis and advocacy.

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