

The seal of the Missouri State Auditor is circular and features a central figure holding a scale and a sword. The text around the seal reads "SEAL OF THE STATE AUDITOR" at the top, "JUSTICE WE STAND DIVIDED" in the middle, and "1820 MISSOURI 1892" at the bottom.

Nicole Galloway, CPA

Missouri State Auditor

Department of Revenue

Sales and Use Tax

Report No. 2020-041

August 2020

auditor.mo.gov



Nicole Galloway, CPA
Missouri State Auditor

CITIZENS SUMMARY

Findings in the audit of the Department of Revenue Sales and Use Tax for Fiscal Year 2019

Ongoing Sales and Use Tax Issues

Several previous audit reports have included concerns and recommendations relating to timely sales and use tax discounts and internet sales. State laws allowing retailers to retain a portion of sales and use taxes collected if they remit the taxes to the Department of Revenue timely result in the state and local governments forgoing significant revenues. Missouri's timely sales and use tax discount is the most generous such discount in the nation, and significantly benefits the state's largest retailers. In addition, Missouri is one of two states with statewide sales taxes that have not passed legislation to allow for the collection of sales tax on online purchases made from out-of-state sellers or to participate in the Streamlined Sales and Use Tax Agreement, costing the state millions in potential sales tax revenue.

In the areas audited, the overall performance of this entity was **Good**.*

*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.

Department of Revenue

Sales and Use Tax

Table of Contents

State Auditor's Report	2
------------------------	---

Introduction	
Background	4

Management Advisory Report - State Auditor's Findings	1. Ongoing Sales and Use Tax Issues.....	9
---	--	---

Organization and Statistical Information		13
---	--	----

Appendixes

A	Department of Revenue Response.....	16
B	Combined Statement of Receipts and Distributions - State Funds Year Ended June 30, 2019	17
C	Combined Statement of Receipts, Distributions, and Changes in Cash and Investments - Local Funds Year Ended June 30, 2019	18
D	Combined Statement of Additions, Deductions, and Changes in Cash and Investments - Custodial Accounts Year Ended June 30, 2019	19
E	Combined Statement of Distributions - Local Funds Year Ended June 30, 2019	20
F	Comparative Statement of State and Local Sales and Use Tax Collections 10 Years Ended June 30, 2019.....	21
G	Comparative Statement of State and Local Sales and Use Tax Collections - Adjusted for Inflation 10 Years Ended June 30, 2019.....	22
H	Comparative Statement of Distributions - Local Funds 10 Years Ended June 30, 2019.....	23



NICOLE GALLOWAY, CPA **Missouri State Auditor**

Honorable Michael L. Parson, Governor
and
Members of the General Assembly
and
Kenneth J. Zellers, Director
Department of Revenue
Jefferson City, Missouri

We have audited certain operations of the Department of Revenue, sales and use tax collections, as required by Section 32.087, RSMo, and in fulfillment of our duties under Chapter 29, RSMo. The scope of our audit included, but was not necessarily limited to, the year ended June 30, 2019. The objectives of our audit were to:

1. Evaluate the department's internal controls over significant management and financial functions.
2. Evaluate the department's compliance with certain legal provisions.
3. Evaluate the economy and efficiency of certain management practices and procedures, including certain financial transactions.

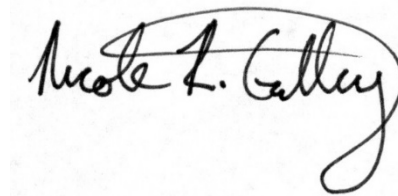
Our methodology included reviewing written policies and procedures, financial records, and other pertinent documents; interviewing various personnel of the department, as well as certain external parties; analysis of comparative data obtained from internal sources; and testing selected transactions. We obtained an understanding of internal control that is significant to the audit objectives and assessed the design and implementation of such internal control to the extent necessary to address our audit objectives. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of applicable contract, grant agreement, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

Except as discussed in the following paragraph, we conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

Government Auditing Standards require us to obtain and report the views of responsible officials of the audited entity concerning the findings, conclusions, and recommendations included in the audit report. Due to the nature of this report, and due to the findings being legislative in nature, we were unable to obtain views of responsible officials for the findings, conclusions, and recommendations outlined in the Management Advisory Report. The views of responsible Department of Revenue officials were obtained and included herein.

The accompanying Organization and Statistical Information is presented for informational purposes. This information was obtained from the department's management and was not subjected to the procedures applied in our audit of the department.

For the areas audited, we identified (1) no significant deficiencies in internal controls, (2) no significant noncompliance with legal provisions, and (3) the need for improvement in management practices and procedures. The accompanying Management Advisory Report presents our finding arising from our audit of the Department of Revenue, sales and use tax collections.

A handwritten signature in black ink, reading "Nicole R. Galloway". The signature is written in a cursive style with a large, looping flourish at the end of the name.

Nicole R. Galloway, CPA
State Auditor

The following auditors participated in the preparation of this report:

Director of Audits:	Robert E. Showers, CPA
Audit Manager:	Robyn Vogt, M.Acct., CPA
In-Charge Auditor:	Shelbi M. Becker
Audit Staff:	Ethan D. Evans
	Sacha Tejan, CFE
	Emma Hoglebe

Department of Revenue

Sales and Use Tax

Introduction

Background

The state's sales tax is imposed on the purchase price of tangible personal property or taxable services sold at retail. Use tax is imposed on the storage, use, or consumption of tangible personal property in this state. Cities and counties may impose a local sales and use tax. Special taxing districts (such as transportation development districts) may also impose additional sales taxes. State and local sales and use taxes are collected by the Department of Revenue (DOR). The DOR then distributes the local sales and use taxes to the cities, counties, and districts.

Sales and use tax receipts collected from businesses and motor vehicle sales tax receipts collected from businesses and individuals are deposited into various state and local funds. Marine and ATV sales and use tax collections are deposited into the same funds as state sales and use tax. Motor vehicle leasing sales tax collections are deposited into the same funds as motor vehicle sales tax.

For operating purposes, the DOR has been charged with the responsibility of administering transactions in the following funds and accounts.

State Funds

The State Treasurer, as fund custodian, and the Office of Administration provide administrative control over fund resources within the authority prescribed by the General Assembly for all state funds.

General Revenue Fund: This fund, authorized by Section 144.700, RSMo, receives collections from a general 3 percent state sales and use tax. State sales tax is collected pursuant to Section 144.020, RSMo, and state use tax is collected pursuant to Section 144.610, RSMo. Retail sales of food are not subject to the 3 percent tax as provided by Section 144.014, RSMo. This fund also receives payments from common carriers in interstate air transportation, as authorized by Section 144.807, RSMo. In addition, the General Revenue Fund pays all motor vehicle sales tax refunds and receives motor vehicle sales tax collections as reimbursement from other state funds for their applicable share of the refunds.

Aviation Trust Fund: This fund, authorized by Section 144.805, RSMo, receives collections from a sales and use tax on aviation jet fuel from common carriers. These taxes are paid as a result of exemptions to General Revenue sales tax. The exemptions are a result of direct-pay agreements between common carriers and the DOR.

Conservation Commission Fund: This fund, authorized by Section 254.020, RSMo, receives collections of the 0.125 percent state sales and use tax and motor vehicle sales tax provided for in Article IV, Section 43(a), Missouri Constitution.



Department of Revenue
Sales and Use Tax
Introduction

State Highways and Transportation Department Fund: This fund received 75 percent of the collections from the 4 percent highway use tax during fiscal years 2013 and 2012. Effective July 5, 2013, the highway use tax was repealed and all motor vehicle transactions are now assessed a sales tax as authorized by Section 144.020, RSMo, which goes into the State Road Fund and the State Road Bond Fund. This fund continues to receive some residual highway use tax collections.

Parks Sales Tax Fund: This fund, authorized by Article IV, Section 47(a) and 47(b), Missouri Constitution, receives 50 percent of the collections from a 0.1 percent state sales and use tax and motor vehicle sales tax.

School District Trust Fund: This fund, authorized by Section 144.701, RSMo, receives collections from a 1 percent state sales and use tax pursuant to Section 144.701, RSMo. Retail sales of food are subject to a 1 percent tax to be deposited into this fund as provided by Section 144.014, RSMo. In addition, this fund receives 12.5 percent of collections from the 4 percent motor vehicle sales tax pursuant to Article IV, Section 30(b)2, Missouri Constitution.

Soil and Water Sales Tax Fund: This fund, authorized by Article IV, Section 47(a) and 47(b), Missouri Constitution, receives 50 percent of the collections from a 0.1 percent state sales and use tax and motor vehicle sales tax.

State Road Bond Fund: This fund, authorized by Article IV, Section 30(b), Missouri Constitution (Amendment 3), receives 37.5 percent of the collections from the 4 percent motor vehicle sales tax.

State Road Fund and State Transportation Fund: These funds, authorized by Article IV, Section 30(b), Missouri Constitution, receive 37.5 percent of the collections from the 4 percent motor vehicle sales tax, which is deposited 36.5 percent to the State Road Fund and 1 percent to the State Transportation Fund.

Local Funds

Sales and use tax collections for local funds are deposited into interest-bearing bank accounts until distributed. Subsequently 99 percent of the collections and earned interest are distributed to the various political subdivisions with the remaining 1 percent going to the General Revenue Fund for a collection fee, except for the Local Fuel Tax and Bond Trust Fund, which has no collection fee withheld from distributions to the fund. The DOR has sole responsibility for maintaining and disbursing fund resources for all local funds.

Local Fuel Tax and Bond Trust Fund: This fund, authorized by Article IV, Section 30(b), Missouri Constitution, receives 12.5 percent of the collections from the 4 percent motor vehicle sales tax. In addition, this fund receives collections from the motor fuel tax authorized by Section 142.803, RSMo.



Department of Revenue
Sales and Use Tax
Introduction

Local Sales and Use Tax Trust Fund: This fund receives collections generated from local sales taxes imposed by local political subdivisions, as authorized by Chapters 66, 67, 70, 92, 94, 162, 190, 238, 321, and 644, RSMo. In addition, this fund receives collections generated by a use tax, authorized by Section 144.757, RSMo, based on the local sales tax in effect, upon all transactions subject to taxes imposed under Sections 144.600 to 144.745, RSMo, except as otherwise provided. Net taxes and interest are subsequently distributed to the cities and counties.

Custodial Accounts

The DOR has been charged with the responsibility of administering transactions in the custodial accounts. Except for the Sales Tax Bond Account held by the State Treasurer, actual custody of the resources in the accounts rests with the DOR. Collections for the custodial accounts held by the DOR are deposited in interest-bearing bank accounts.

Compliance Clearing Account: This account receives tax payments from taxpayer audits. The DOR holds these payments in this account pending final audit review. Depending on the results of the audit review, the DOR transfers the tax payment to the appropriate state and local funds or issues a refund to the taxpayer.

Motor Vehicle Clearing Account: This account receives collections from motor vehicle agent offices and the central office for various taxes and fees. These receipts are subsequently transferred to various state and local funds.

Sales Tax Bond Account: The DOR receives cash bonds posted by taxpayers as authorized by Section 144.087, RSMo. All bond collections are deposited in the General Revenue Fund and reported by the DOR in this account. Cash bonds and related interest are to be refunded to the taxpayer after 1 year if the taxpayer is determined to have satisfactory tax compliance and if the bond was posted before January 1, 1984. If the bond was posted on or after January 1, 1984, the Attorney General has determined that no interest should be refunded. In the event of uncollectible sales tax liabilities, the bonds and related interest, if any, are forfeited to the DOR. The department subsequently distributes the monies to the state and the appropriate political subdivisions. Effective August 28, 2018, a bond is no longer required to obtain a retail sales license, but may be required of licensees in default of filing a return and paying taxes when due.

Protested Sales Tax General Revenue Account: This account is not separately presented in Appendix D for fiscal year 2019. These payments, consisting of the 4.225 percent state portion of sales taxes paid under protest, are deposited in the General Revenue Fund.

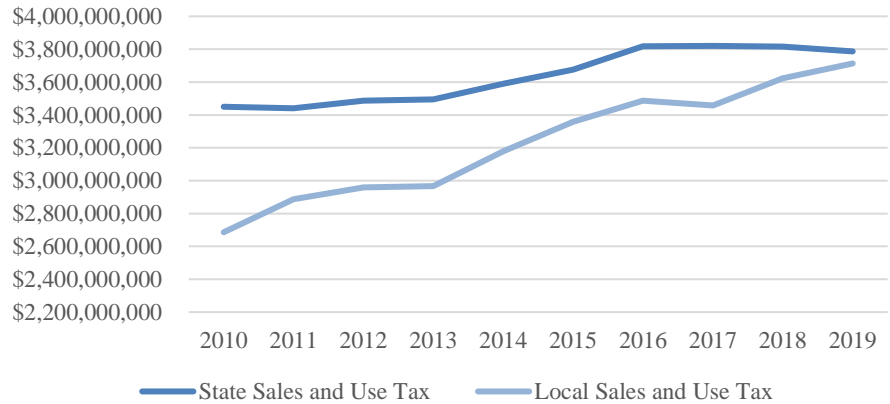


Department of Revenue
Sales and Use Tax
Introduction

Historical sales and use tax trends and information

As shown in Figure 1, when adjusted for inflation, state and local sales and use tax collections have increased for most years between fiscal year 2010 and fiscal year 2019. Adjusted state sales and use tax collections increased from \$3.45 billion to \$3.79 billion (10 percent), while adjusted local sales and use tax collections increased from \$2.69 billion to \$3.71 billion (38 percent) during this time period.

Figure 1: State and local sales and use tax collections, 2010-2019, by fiscal year, adjusted for inflation



Source: DOR annual reports, SAO analysis of Consumer Price Index data from <<https://fred.stlouisfed.org/series/CPIAUCSL>>, and Appendix G.

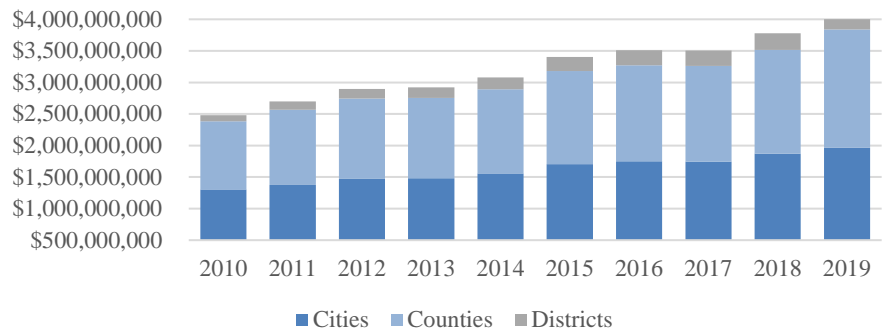
The state sales and use tax rate has remained at 4.225 percent during these 10 years. In comparison, local sales and use tax rates imposed by local political subdivisions are continuously changing as local taxing jurisdictions impose new tax rates and others expire. In addition, the increasing number of districts has contributed to the total increase in local sales tax collections. The total number of districts increased from approximately 320 in fiscal year 2010 to approximately 640 in fiscal year 2019 (100 percent).



Department of Revenue
Sales and Use Tax
Introduction

Local sales and use tax collections are distributed by the DOR to cities, counties, and districts. As shown in Figure 1, and as further illustrated in Figure 2, local sales and use tax collections and subsequent distributions have increased for most years between fiscal year 2010 and fiscal year 2019.¹

Figure 2: Local sales and use tax distributions by political subdivision type, 2010-2019, by fiscal year



Source: DOR Records, see Appendix H

Sales and use tax exemptions

As noted in several previous audit reports,² the DOR does not adequately capture and track information regarding some sales and use tax exemptions. As a result, the fiscal impact of each exemption and the cumulative fiscal impact of all exemptions on state and local revenues cannot be determined. According to DOR records, as of June 30, 2019, state law provided for 211 sales and use tax exemptions.

DOR officials have stated that reporting exemptions would substantially increase the burden on businesses and based on prior attempts to track limited exemptions, the data collected is likely to be highly inaccurate due to reporting errors by businesses. However, by not requiring businesses to track these adjustments, the DOR is unable to determine the cost of the various sales tax exemptions. Without this information the legislature cannot make informed decisions regarding the effectiveness and cost of the various exemptions. Although not repeated in this report, our recommendation remains as previously stated.

¹ For more detail on local sales and use tax distribution amounts, see Appendix H.

² Report No. 2019-067, *Sales and Use Tax*, issued in August 2019; Report No. 2017-113, *Cost of Tax Incentives and Exemptions*, issued in October 2017; Report No. 2015-080, *Sales and Use Tax*, issued in September 2015; and Report No. 2013-015, *Sales and Use Tax*, issued in February 2013.

Department of Revenue

Sales and Use Tax

Management Advisory Report - State Auditor's Findings

1. Ongoing Sales and Use Tax Issues

Several previous audit reports² have included concerns and recommendations relating to timely sales and use tax discounts and internet sales. These sales and use tax issues continue to be ongoing concerns.

1.1 Timely sales and use tax discounts

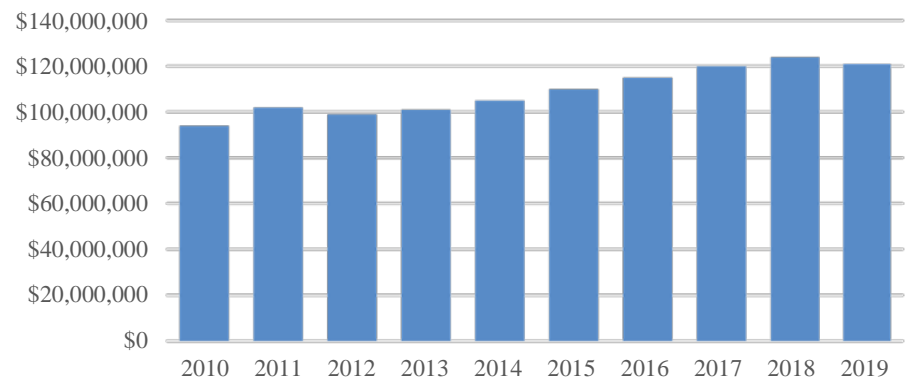
State laws allowing retailers to retain a portion of sales and use taxes collected if they remit the taxes to the Department of Revenue (DOR) timely result in the state and local governments forgoing significant revenues. Missouri's timely sales and use tax discount is the most generous such discount in the nation, and significantly benefits the state's largest retailers. In addition, the DOR does not routinely report to the General Assembly (GA) the amount of timely sales and use tax discounts retained by businesses.

Missouri's discount is the most generous in the nation

Missouri's timely sales and use tax discount is the most generous discount in the nation.³ Sections 144.140 and 144.710, RSMo, allow businesses remitting sales and use taxes to retain 2 percent of taxes payable to the DOR if the business remits payments timely.⁴ The amount of the discount is not capped.

As shown in Figure 3, the amount of sales and use tax revenues foregone as a result of the timely discount retained has increased for most years between fiscal year 2010 and fiscal year 2019. State and local sales tax revenues of approximately \$124 million and \$121 million were collected from purchasers, but retained as discounts by businesses remitting sales and use taxes in fiscal years 2018 and 2019, respectively.

Figure 3: Timely discount totals, 2010-2019, by fiscal year



Source: DOR records

³ Effective January 2020, Colorado's discount is now capped at \$1,000 per filing period, making Missouri's discount the most generous.

⁴ Per Section 144.080, RSMo, if filing annually applicable taxes are due by January 31 of the following year, if filing quarterly applicable taxes are due the last day of the month following the completed quarter, and if filing monthly applicable taxes are due the 20th of the following month. Per Section 144.081, RSMo, if filing quarter-monthly applicable taxes are due within 3 business days following the completed quarter-monthly period.



Department of Revenue
Sales and Use Tax
Management Advisory Report - State Auditor's Findings

In fiscal year 2019, sales and use taxes comprised approximately 21 percent of the state's general revenue. With sales and use tax revenues being used to fund significant portions of state and local government budgets, such large discounts are significant.

According to the Federation of Tax Administrators,⁵ 26 other states offer similar vendor discounts; however, 17⁶ of those states have established ceilings to limit the amount of discount and/or compensation retained by businesses. In addition, the other 9 states either have a lower discount rate than Missouri or only apply the highest discount rate to a limited dollar amount of sales tax collected (e.g., the first \$3,000, then a lower rate applies).

Cap on discount would result in increased revenue

Changing state law to include a monthly cap on the amount of timely discount eligible to be retained would significantly increase state and local revenues. For example, as reported in our audit of state tax incentives and exemptions,⁷ applying a cap of \$2,500 per month (formerly⁸ the largest cap of contiguous states) to Missouri would result in approximately \$52 million in additional state and local sales tax revenue.⁹

Cap on discount would only impact the state's largest retailers

As further discussed in the audit of state tax incentives and exemptions, a monthly timely discount cap of \$2,500 would not affect the majority of sales tax filers. Based on the state's average sales tax rate of 7.86 percent,¹⁰ only businesses with monthly taxable sales of approximately \$1.6 million would have their timely discount capped. Retailers with less than \$1.6 million in monthly taxable sales would continue to receive the full 2 percent timely discount. In fiscal year 2016, the 50 largest sales tax collecting businesses retained approximately 72 percent of timely discounts exceeding \$2,500, with the top 5 largest sales tax collecting businesses receiving a total of \$17 million in discounts.

The state established the timely sales tax discount so businesses could recover a portion of their costs for compliance with state sales tax laws and to encourage timely remittance of sales and use taxes. With increased use of electronic systems to calculate and remit sales tax collections, it is not clear if the continued use of such a discount is necessary to achieve these

⁵ "State Sales Tax Rates and Vendor Discounts (January 1, 2020),"

<<https://www.taxadmin.org/assets/docs/Research/Rates/vendors.pdf>>, accessed on February 27, 2020.

⁶ The number of states with established ceilings has been updated to include Colorado which established a cap, effective January 2020.

⁷ Report No. 2017-113, Cost of Tax Incentives and Exemptions, issued in October 2017.

⁸ As of July 2019, Oklahoma no longer offers a timely discount to sales tax filers.

⁹ Based on fiscal year 2016 data.

¹⁰ Scott Drenkard and Nicole Kaeding, "State and Local Sales Tax Rates in 2016,"

<<https://taxfoundation.org/state-and-local-sales-tax-rates-2016/>>, (March 2016), accessed on June 7, 2017. Calculation regarding the estimated monthly taxable sales was based on this estimated average sales tax rate.



Department of Revenue
Sales and Use Tax
Management Advisory Report - State Auditor's Findings

objectives.¹¹ The current law allowing uncapped timely discounts results in the state and local governments providing a sizable subsidy to the largest retailers in the state, and is more generous than any other state. Implementing a cap on timely discounts would result in additional revenues to the state and local governments without increasing taxes on consumers.

Other states have taken action to change timely discount laws

Some states are reviewing their timely discount structure and making changes to reduce the amount of sales and use tax revenues retained by businesses. For example, Oklahoma had a discount of 1 percent with a cap of \$2,500 per month. However, as of July 2019, Oklahoma no longer offers a timely discount to sales tax filers. In addition, Colorado did not have a cap on the timely discount amount until January 2020, when a cap of \$1,000 per filing period was established.

Amounts of timely discounts are not routinely reported

The DOR is not required to report, and does not routinely report the amount of timely discounts retained by businesses to the GA, local governments impacted, or the general public. DOR officials have stated this data is provided upon request. However, this information could be useful to the GA when making various budget decisions and ensuring the state and local policymakers and the general public are informed of the continuous cost of these discounts.

1.2 Internet sales

Missouri is one of two states with statewide sales taxes that have not passed legislation to allow for the collection of sales tax on online purchases made from out-of-state sellers or to participate in the Streamlined Sales and Use Tax Agreement (SSUTA), costing the state millions in potential sales tax revenue. While legislation was proposed during the 2020 legislative session to address this issue, it failed to become law.

Other states have taken action to update sales tax laws related to online sales

State law currently requires Missouri businesses to collect use tax on online sales only if the business has a physical presence in the state. On June 21, 2018, the United States Supreme Court ruled in *South Dakota v. Wayfair, Inc.*, 585 U.S. (2018), that states may charge tax on purchases made from out-of-state sellers, even if the seller does not have a physical presence in the taxing state. This decision overturned *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992), which restricted state taxation of interstate commerce. Following the *South Dakota v. Wayfair, Inc.* ruling, 43 of 45¹² states with statewide sales taxes have adopted collection and remittance obligations for remote sellers, with Missouri and Florida being the only 2 states that still require a physical presence in the state.

¹¹ "Timely Filing Discount Costs Missourians Millions," <<http://www.mobudget.org/timely-filing-discount/>>, (October 2016), accessed on September 18, 2017.

¹² Jared Walczak and Janelle Cammenga, "State Sales Taxes in the Post-Wayfair Era," <<https://taxfoundation.org/state-remote-sales-tax-collection-wayfair/>>, (December 2019), accessed on May 21, 2020.



Online sales increasing

With the increasing popularity and usage of online shopping, e-commerce sales have grown significantly in recent years. Estimates from the U.S. Census Bureau¹³ show e-commerce sales for the fourth quarter 2019 now account for approximately \$158 billion of \$1.39 trillion in total retail sales (approximately 11 percent), up from approximately \$44 billion in the fourth quarter 2010. As reported in our audit of state tax incentives and exemptions, several studies have estimated the state is forgoing sales tax revenues in the hundreds of millions of dollars by not consistently collecting sales tax revenue on out of state internet sales. These studies also noted local vendors face a competitive disadvantage because consumers who make purchases online avoid paying sales/use taxes. In addition, the recent COVID-19 pandemic has resulted in increased online shopping. The acceleration of this trend may impact the state's sales and use tax revenues.

Streamlined Sales and Use Tax Agreement

The SSUTA, adopted in November 2002, is a cooperative effort among states, local governments, and businesses to simplify and make more uniform the sales and use tax collection and administration for retailers and states. The SSUTA aims to minimize costs and administrative burdens on retailers that collect sales tax, while also encouraging out-of-state sellers to collect tax on sales to customers in member states. Forty-four states, including Missouri, participated in the Streamline Sales Tax project. However, only 24 of these states (member states) have enacted legislation to conform to at least part of the SSUTA, which allows them to collect sales taxes from vendors in other states.

Recommendations

The General Assembly:

- 1.1 Evaluate the necessity of a timely sales tax discount. If such a discount is deemed necessary, consider the implementation of a monthly cap on the amount of discount retained, and also consider changes to current state laws to require the DOR annually report the reduction of state revenue related to the timely discount to the General Assembly, applicable political subdivisions, and to the general public.
- 1.2 Continue to pursue legislation to collect sales taxes from out-of-state sellers.

Auditee's Response

Due to these recommendations being legislative in nature, no management response can be obtained. While the recommendations are not addressed to the DOR, department officials provided a written response. That response is included at Appendix A.

¹³ U.S. Department of Commerce, "Quarterly Retail E-Commerce Sales 4th Quarter 2019," <https://www.census.gov/retail/mrts/www/data/pdf/ec_current.pdf>, accessed on March 19, 2020.

Department of Revenue

Sales and Use Tax

Organization and Statistical Information

The Department of Revenue (DOR) was created by Article IV, Section 12, Missouri Constitution as the central collection agency for state revenues. The Director of Revenue is appointed by the Governor, with the advice and consent of the Senate, and is responsible for all operations and policies. DOR responsibilities include:

1. Administering and collecting state taxes and fees, including sales and use tax and motor vehicle sales tax.
2. Collecting certain taxes and fees for local governments, including local sales and use tax.
3. Titling and licensing motor vehicles, trailers, and boats.
4. Licensing motor vehicle operators.

The DOR consists of 3 divisions, the General Counsel's office, and the Director's office.

Motor Vehicle and Driver Licensing Division: This division collects motor vehicle sales and use taxes and consists of 3 bureaus. (1) The Motor Vehicle Bureau issues titles and registers motor vehicles, trailers, all-terrain vehicles, manufactured homes, and marine craft. The bureau also issues registration certificates to motor vehicle and salvage dealers and leasing companies. (2) The Driver License Bureau issues, renews, suspends, revokes, and reinstates driver and nondriver licenses and driving permits. The bureau processes and maintains records relating to license issuance, traffic violation point assessments, failure to appear in court for traffic violations, and administers the alcohol and abuse laws for alcohol/drug offenders. (3) The License Offices Bureau manages the operations of the contract license offices throughout the state. These local offices provide driver licensing and motor vehicle services and are operated by individuals or businesses approved through the state of Missouri bid process.

Taxation Division: This division consists of 5 bureaus that collect taxes and administer state tax law. (1) The Processing Bureau processes returns and payments for individual income, corporate income, property tax credit, sales, use, employer withholding, insurance, financial institution tax, and tire and lead-acid battery fees. This bureau also processes business tax registration applications, business tax account updates, MyTax portal communications, and handles tax-related cashiering functions. (2) The Income Tax Bureau administers individual, corporate, property tax credit, fiduciary, and partnership taxes. This bureau's functions include manually reviewing exceptions, processing incoming correspondence, returned refunds and returned mail, answering correspondence, responding to protests, and identification of non-filers and under-reporters for income tax. The bureau is also responsible for the administration of several tax credit programs and the redemption of tax credits claimed by individual and corporate taxpayers. This bureau also identifies and works to prevent individual income tax fraud. (3)



Department of Revenue
Sales and Use Tax
Management Advisory Report - State Auditor's Findings

The Business Tax Bureau administers motor fuel, cigarette and other tobacco products, financial institutions, sales and use, and employer withholding taxes, along with multiple county, and tire and battery fees. Administrative functions include answering correspondence, processing sales and use tax exemptions, responding to protests, and distribution of funds to both state and local jurisdictions. (4) The Collections and Taxpayer Assistance Bureau provides tax assistance to individuals and businesses and follows procedures for unpaid tax liabilities. This bureau is comprised of 3 main areas of focus: call center, taxpayer assistance, and collections enforcement. The overall focus is account resolution and customer assistance. (5) The Field Compliance Bureau conducts audits to help educate Missouri businesses on their sales, consumer use, vendor use, employer withholding, and corporate income taxes, in addition to tire and battery fee obligations. The bureau also conducts audits of certain large sales and use tax refund claims. The Nexus section identifies taxpayers who have not complied with the business tax laws of Missouri and works with those taxpayers to become compliant. The Electronic Services section maintains the electronic interfaces between Missouri taxpayers, taxpayer representatives, and software developers. This section also handles the system administration functions for several internal and contracted applications.

Administration Division: This division provides administrative support to all other areas of the DOR and consists of 2 bureaus. (1) The Human Resources and Total Rewards Bureau is responsible for the DOR's personnel matters, process improvements, and training. (2) The Financial and General Services Bureau is responsible for all accounting, procurement, banking, and general service matters. This bureau also coordinates space and location needs, telecommunications, safety issues, maintenance, and improvement of the work environment within the DOR.

General Counsel's Office: This office ensures the DOR's compliance with law and internal policies, advises the director and divisions on legal matters relative to the DOR, and represents the DOR in courts and administrative tribunals. This office also consists of 2 investigation bureaus. (1) The Criminal Tax Investigation Bureau investigates and develops information leading to local prosecution of individuals and businesses suspected of violating state statutes related to sales, withholding, and income tax. (2) The Compliance and Investigation Bureau conducts investigations involving allegations of fraud relating to motor vehicle sales tax, titling and registration, odometer, and motor fuel sales tax as well as cigarette tax fraud, driver's license fraud and license plate fraud. The bureau also ensures the compliance of motor vehicle dealers, salvage businesses, and marine dealers with statutes and licensure regulations. In addition to external investigations, the bureau conducts internal audits and investigations of the DOR and contract license offices.



Department of Revenue
Sales and Use Tax
Management Advisory Report - State Auditor's Findings

Director's Office: This office includes the Director, Chief Operating Officer, and key administrative staff responsible for the overall guidance and direction of the DOR. This office includes the Public Information Office, the Legislative Office, and the Communications Office. The Public Information Office develops and maintains positive media and public relations for the DOR. The Legislative Office serves as the DOR's liaison to the General Assembly. The office provides technical assistance, develops fiscal and revenue estimates on proposed legislation, and monitors the progress of bills through the Legislature. The Communications Office develops and maintains department forms, policies, and procedures. The office also maintains the public and internal website, as well as manages the DOR's social media accounts.

Joel W. Walters served as Director of Revenue from April 2017 through March 22, 2019. Kenneth J. Zellers was appointed Acting Director of Revenue on March 22, 2019, and appointed Director of Revenue on October 2, 2019.



Appendix A
Department of Revenue-Sales and Use Tax
Department of Revenue Response



MICHAEL L. PARSON
GOVERNOR

KENNETH J. ZELLERS
DIRECTOR OF REVENUE

MISSOURI DEPARTMENT OF REVENUE
POST OFFICE BOX 311
JEFFERSON CITY, MISSOURI 65105-0311
PHONE: (573) 751-4450
FAX: (573) 751-7150
WEBSITE: www.dor.mo.gov

July 2, 2020

Nicole Galloway, CPA
Missouri State Auditor
Missouri State Auditor's Office
PO Box 869
Jefferson City, MO 65102

Dear Ms. Galloway:

The Department of Revenue acknowledges the recommendations of the Missouri State Auditor's report on Sales and Use Tax.

Recommendation 1.1 — The General Assembly evaluate the necessity of a timely sales tax discount. If such a discount is deemed necessary, consider the implementation of a monthly cap on the amount of discount retained, and also consider changes to current state laws to require the DOR annually report the reduction of state revenue related to the timely discount to the General Assembly, applicable political subdivisions, and to the general public.

Recommendation 1.2 — The General Assembly continue to pursue legislation to collect sales taxes from out-of-state sellers.

DOR Response — If the General Assembly passes legislation that requires action, the Department of Revenue will incorporate those provisions into our processes and comply with any state laws regarding these recommendations.

If you have any questions, please contact me at 751-1115, or Joshua.Shope@dor.mo.gov.

Sincerely,

Ken Zellers

KZ/jks

c: Lynn Kempker Joel Allison Maria Sanders
 Spencer Bartlett Mark Godfrey Esta Zaring

Appendix B

Department of Revenue
 Sales and Use Tax
 Combined Statement of Receipts and Distributions - State Funds
 Year Ended June 30, 2019

	General Revenue Fund	Aviation Trust Fund	Conservation Commission Fund	State Highways and Transportation Department Fund	Parks Sales Tax Fund	School District Trust Fund	Soil and Water Sales Tax Fund	State Road Bond Fund	State Road Fund	State Transportation Fund	Total (Memorandum Only)
RECEIPTS											
Marine/ATV/Manufactured sales and use tax	\$ 8,263,870	0	339,570	0	135,828	2,715,975	135,829	0	0	0	11,591,072
Motor vehicle sales and use tax ¹	4,092,907	0	13,886,286	(3,022)	5,554,520	55,570,806	5,554,521	166,641,801	162,196,725	4,443,781	417,938,325
Sales and use tax	2,218,506,378	6,840,745	106,516,975	0	42,606,840	848,358,580	42,606,622	11,354,306	11,051,471	302,768	3,288,144,685
Total Receipts	<u>2,230,863,155</u>	<u>6,840,745</u>	<u>120,742,831</u>	<u>(3,022)</u>	<u>48,297,188</u>	<u>906,645,361</u>	<u>48,296,972</u>	<u>177,996,107</u>	<u>173,248,196</u>	<u>4,746,549</u>	<u>3,717,674,082</u>
DISTRIBUTIONS											
Transmitted to State Treasurer	2,230,863,155	6,840,745	120,742,831	(3,022)	48,297,188	906,645,361	48,296,972	177,996,107	173,248,196	4,746,549	3,717,674,082
Total Distributions	<u>2,230,863,155</u>	<u>6,840,745</u>	<u>120,742,831</u>	<u>(3,022)</u>	<u>48,297,188</u>	<u>906,645,361</u>	<u>48,296,972</u>	<u>177,996,107</u>	<u>173,248,196</u>	<u>4,746,549</u>	<u>3,717,674,082</u>
RECEIPTS OVER (UNDER) DISTRIBUTIONS	\$ <u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

¹ Negative receipts are due to the timing of adjustments for coding corrections.

Source: DOR records

Appendix C

Department of Revenue

Sales and Use Tax

Combined Statement of Receipts, Distributions, and Changes in Cash and Investments - Local Funds

Year Ended June 30, 2019

	Local Fuel Tax and Bond Trust Fund	Local Sales and Use Tax Trust Fund	Total (Memorandum Only)
RECEIPTS			
Motor fuel taxes and fees	\$ 209,987,974	0	209,987,974
Sales tax	55,547,266	3,540,325,565	3,595,872,831
Use tax ¹	(431)	172,662,042	172,661,611
Miscellaneous tax	0	42,924,543	42,924,543
Protested tax	0	67,824	67,824
Motor fuel bond	3,000	0	3,000
Motor fuel pool bond	9,515	0	9,515
Interest income	208,809	6,405,039	6,613,848
Total Receipts	<u>265,756,133</u>	<u>3,762,385,013</u>	<u>4,028,141,146</u>
DISTRIBUTIONS			
Political subdivisions	274,961,367	3,710,857,090	3,985,818,457
General Revenue Fund	6,500	35,985,600	35,992,100
Protest settlements	0	44,911	44,911
Total Distributions	<u>274,967,867</u>	<u>3,746,887,601</u>	<u>4,021,855,468</u>
RECEIPTS OVER (UNDER) DISTRIBUTIONS	(9,211,734)	15,497,412	6,285,678
CASH AND INVESTMENTS, JULY 1	26,317,968	477,356,213	503,674,181
CASH AND INVESTMENTS, JUNE 30	<u>\$ 17,106,234</u>	<u>492,853,625</u>	<u>509,959,859</u>

¹ Negative receipts are due to the timing of adjustments for coding corrections.

Source: DOR records

Appendix D

Department of Revenue

Sales and Use Tax

Combined Statement of Additions, Deductions, and Changes in Cash and Investments - Custodial Accounts

Year Ended June 30, 2019

	Compliance Clearing Account ¹	Motor Vehicle Clearing Account ¹	Sales Tax Bond Account ²	Total (Memorandum Only)
ADDITIONS				
Miscellaneous tax collections	\$ 6,673,305	1,118,162,136	0	1,124,835,441
Protested tax collections	0	0	0	0
Bond collections	0	0	537,190	537,190
Interest income	13,940	338,742	0	352,682
Total Additions	<u>6,687,245</u>	<u>1,118,500,878</u>	<u>537,190</u>	<u>1,125,725,313</u>
DEDUCTIONS				
Miscellaneous taxes and interest	6,062,758	1,118,313,850	0	1,124,376,608
Protested taxes and interest	0	0	0	0
Bonds and interest	0	0	16,883,409	16,883,409
Total Deductions	<u>6,062,758</u>	<u>1,118,313,850</u>	<u>16,883,409</u>	<u>1,141,260,017</u>
ADDITIONS OVER (UNDER) DEDUCTIONS	624,487	187,028	(16,346,219)	(15,534,704)
CASH AND INVESTMENTS, JULY 1 ³	<u>1,067,085</u>	<u>26,957,934</u>	<u>26,906,814</u>	<u>54,931,833</u>
CASH AND INVESTMENTS, JUNE 30	<u>\$ 1,691,572</u>	<u>27,144,962</u>	<u>10,560,595</u>	<u>39,397,129</u>

¹ Held by the department in trust.

² Held by the State Treasurer in trust.

³ The Protested Sales Tax General Revenue Account is not presented in this Appendix for fiscal year 2019. These protested sales tax monies are deposited into the General Revenue Fund.

Source: DOR records

Appendix E

Department of Revenue
Sales and Use Tax
Combined Statement of Distributions - Local Funds
Year Ended June 30, 2019

	Local Fuel Tax and Bond Trust Fund	City Sales Tax Trust Fund	City Alternate Sales Tax Trust Fund	St. Louis Capital Improvements Trust Fund	Public Mass Transportation Sales Tax Trust Fund	Local Option Use Tax Trust Fund	County Sales Tax Trust Fund	County Alternate Sales Tax Trust Fund	Districts Sales Tax Trust Fund	Total (Memorandum Only)
Cities ¹	\$ 158,119,319	645,508,505	723,344,618	36,969,551	281,015,932	120,365,211	0	0	0	1,965,323,136
Counties ¹	116,842,048	0	0	0	218,883,114	49,679,793	486,169,146	1,002,123,721	0	1,873,697,822
Districts ¹ :										
Ambulance Districts	0	0	0	0	0	0	0	0	57,995,103	57,995,103
Emergency Service Districts	0	0	0	0	0	0	0	0	14,855,612	14,855,612
Fire Protection Districts	0	0	0	0	0	0	0	0	19,686,410	19,686,410
Hospital Districts	0	0	0	0	0	0	0	0	586,903	586,903
Public Library Districts	0	0	0	0	0	0	0	0	1,718,768	1,718,768
Regional Jail Districts	0	0	0	0	0	0	0	0	1,087,843	1,087,843
Regional Recreation Districts	0	0	0	0	0	0	0	0	14,045	14,045
Tourism Community Districts	0	0	0	0	0	0	0	0	8,393,574	8,393,574
Zoological Districts	0	0	0	0	0	0	0	0	17,824,419	17,824,419
Transportation Development Districts	0	0	0	0	0	0	0	0	79,642,576	79,642,576
Community Improvement Districts	0	0	0	0	0	1,258,478	0	0	66,546,734	67,805,212
Port Improvement Districts	0	0	0	0	0	56,274	0	0	157,871	214,145
Total	\$ <u>274,961,367</u>	<u>645,508,505</u>	<u>723,344,618</u>	<u>36,969,551</u>	<u>499,899,046</u>	<u>171,359,756</u>	<u>486,169,146</u>	<u>1,002,123,721</u>	<u>268,509,858</u>	<u>4,108,845,568</u>

¹ Local sales and use tax distributions by political subdivision are available in the Department of Revenue's annual Financial and Statistical Report. However, the Department of Revenue does not report distributions for political subdivisions with less than 6 taxpayers. For this schedule, all local sales and use tax distributions have been included in the amounts reported. The Department of Revenue's annual Financial and Statistical Report is accessible through the Department of Revenue's website at <http://www.dor.mo.gov>.

Source: DOR records

Appendix F

Department of Revenue

Sales and Use Tax

Comparative Statement of State and Local Sales and Use Tax Collections

	Year Ended June 30,									
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
State Sales and Use Tax	\$ 2,951,026,637	3,007,369,328	3,131,793,823	3,192,624,294	3,331,915,714	3,430,314,960	3,588,844,184	3,659,746,431	3,742,345,985	3,786,770,305
Local Sales and Use Tax	2,298,017,458	2,522,963,128	2,657,636,085	2,710,095,629	2,950,216,388	3,134,151,262	3,277,995,153	3,312,491,891	3,552,265,312	3,713,055,431
Total Collections	\$ <u>5,249,044,095</u>	<u>5,530,332,456</u>	<u>5,789,429,908</u>	<u>5,902,719,923</u>	<u>6,282,132,102</u>	<u>6,564,466,222</u>	<u>6,866,839,337</u>	<u>6,972,238,322</u>	<u>7,294,611,297</u>	<u>7,499,825,736</u>

Source: DOR annual reports

Appendix G

Department of Revenue

Sales and Use Tax

Comparative Statement of State and Local Sales and Use Tax Collections - Adjusted for Inflation

	Year Ended June 30,									
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
State Sales and Use Tax	\$ 3,449,284,896	3,440,477,146	3,486,743,218	3,494,220,474	3,590,517,718	3,675,583,085	3,818,131,613	3,820,040,372	3,816,610,925	3,786,770,305
Local Sales and Use Tax	2,686,020,115	2,886,308,941	2,958,845,671	2,966,108,994	3,179,193,329	3,358,243,630	3,487,422,769	3,457,576,363	3,622,758,198	3,713,055,431
Total Collections	\$ <u>6,135,305,011</u>	<u>6,326,786,087</u>	<u>6,445,588,889</u>	<u>6,460,329,468</u>	<u>6,769,711,047</u>	<u>7,033,826,715</u>	<u>7,305,554,382</u>	<u>7,277,616,735</u>	<u>7,439,369,123</u>	<u>7,499,825,736</u>

Source: DOR annual reports, SAO analysis of Consumer Price Index data from <<https://fred.stlouisfed.org/series/CPIAUCSL>>

Appendix H

Department of Revenue
Sales and Use Tax
Comparative Statement of Distributions - Local Funds

	Year Ended June 30,									
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Cities ¹	\$ 1,302,336,515	1,375,434,603	1,472,512,205	1,479,663,181	1,556,763,139	1,702,603,661	1,751,813,928	1,743,115,737	1,870,426,160	1,965,323,136
Counties ¹	1,084,318,714	1,190,874,338	1,273,528,036	1,275,642,722	1,336,010,850	1,477,149,378	1,521,425,739	1,520,155,318	1,645,773,164	1,873,697,822
Districts ¹										
Ambulance Districts	35,834,162	37,614,539	40,232,711	40,622,866	43,754,650	49,247,153	53,054,189	54,854,636	57,517,087	57,995,103
Emergency Service Districts	3,887,078	7,143,953	7,519,253	7,524,813	10,430,448	13,184,536	13,813,028	14,101,642	14,829,750	14,855,612
Fire Protection Districts	11,767,709	13,060,004	14,105,320	14,207,178	15,240,684	16,945,905	17,701,780	17,955,973	19,333,947	19,686,410
Hospital Districts	0	0	97,546	329,590	383,322	394,732	417,350	403,102	369,693	586,903
Public Library Districts	0	0	0	623,720	1,064,213	1,202,701	1,227,514	1,194,950	1,520,400	1,718,768
Regional Jail Districts	857,842	872,570	925,244	895,020	936,890	1,035,556	1,058,124	1,081,865	1,079,528	1,087,843
Regional Recreation Districts	0	0	1,029	3,146	3,857	5,383	3,528	4,639	13,888	14,045
Tourism Community Districts	7,089,429	7,451,557	6,052,170	7,401,168	7,531,710	7,936,743	8,217,319	8,127,822	8,359,606	8,393,574
Zoological Districts	0	0	4,542,779	14,249,348	14,986,687	16,515,801	17,239,588	17,131,267	17,862,598	17,824,419
Transportation Development Districts	14,144,062	45,774,991	51,150,119	51,515,254	60,401,992	71,639,918	74,911,843	74,945,567	78,091,563	79,642,576
Community Improvement Districts ²	15,047,449	18,518,718	24,057,173	27,846,354	30,357,558	40,712,899	46,456,789	49,905,510	62,795,570	67,805,212
Community Development Districts	3,048,250	2,896,714	3,131,750	3,177,621	3,238,916	3,607,775	3,770,163	3,854,222	0	0
Port Improvement Districts	0	0	0	0	0	0	131,268	205,849	278,081	214,145
Total Districts	91,675,981	133,333,046	151,815,094	168,396,078	188,330,927	222,429,102	238,002,483	243,767,044	262,051,711	269,824,610
Total Local Distributions	\$ 2,478,331,210	2,699,641,987	2,897,855,335	2,923,701,981	3,081,104,916	3,402,182,141	3,511,242,150	3,507,038,099	3,778,251,035	4,108,845,568

¹ For fiscal years prior to fiscal year 2015, sales and use tax distributions for political subdivisions with less than 6 taxpayers are not included in the amounts reported.

² In fiscal year 2018, the Department of Revenue combined Community Development Districts with Community Improvement Districts.

Source: DOR records