Electronic Commerce, Sales Tax, & the Implications for Missouri

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The internet is an ever-growing source of information, services, products, communication, and income for millions of people around the world. With these growing capabilities comes the issue of how to tax goods and services bought via the internet. According to the Internet Tax Freedom Act of 1998, electronic commerce (e-commerce) is defined as *"any transaction conducted over the internet or through internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information"* (Advisory Commission, 2000). E-commerce is important to state and local governments due to the large volume of sales conducted via the internet and the potential inability to tax and collect sales tax revenue from these transactions.

CENSUS BUREAU ESTIMATES OF E-COMMERCE

Beginning in 1999, the United States Census Bureau calculates statistics on electronic commerce sales for each quarter and yearly totals. These data are collected from four surveys conducted annually by the U.S. Census Bureau: the Annual Survey of Manufactures, the Annual Trade Survey, the Service Annual Survey, and the Annual Retail Trade Survey. Total e-commerce sales for 2006 were estimated at $108.7 billion, an increase of 23.5 percent from 2005. Total retail sales in 2006, including traditional and online, increased 5.8 percent from 2005. E-commerce sales in 2006 accounted for 2.8 percent of total retail sales, whereas e-commerce sales in 2005 accounted for 2.4 percent of total retail sales (U.S. Census Bureau).

TABLE 1 shows the breakdown of total retail sales and electronic commerce sales for each quarter in 2006 and the last quarter of 2005, with the percent changes from the same quarter in the previous year. As can be seen from the table, e-commerce sales as a percent of total retail sales increased incrementally throughout 2006, with an increase of 21–25 percent from the same quarter a year ago. This information reflects the increased use of the internet for retail sales.

FIGURE 1 shows the trends in electronic commerce sales as a percent of total retail sales for each quarter from the fourth quarter 1999 through the fourth quarter 2006. Adjusted sales indicate that the retail sales reflect seasonal variation and holiday and trading-day differences, but not price changes. As can be seen from the graph, e-commerce sales have gradually increased during the previous six years. E-commerce sales have increased from 0.6 percent in 1999 to 3 percent of total retail sales in 2006.

ESTIMATES OF REVENUE LOSSES

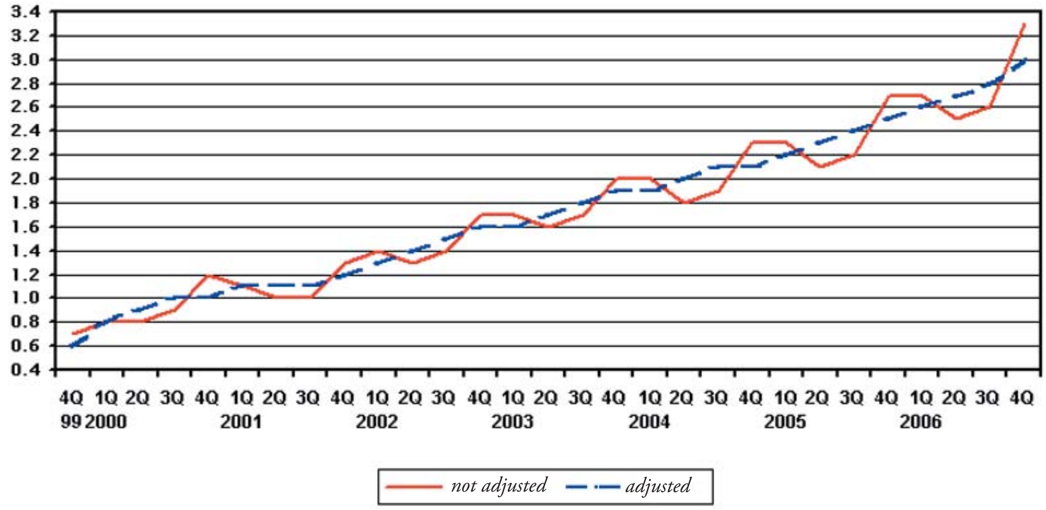
There is very little information collected by any organization on exactly how much e-commerce sales tax should be collected for any state in a given year. Despite the limited data, Bruce and Fox (2004) calculated 2003 and 2008 projected state and local losses due to e-commerce, using data for each of the fifty states. TABLE 2 shows the estimated losses to Missouri and surrounding states due to electronic commerce. The low-growth scenario assumes that business-

TABLE 1. *Estimated Quarterly U.S. Retail Sales: Total & e-Commerce*

Quarter	*Retail sales (in millions)*		*e-Commerce as a percent of total sales*	*Percent change from same quarter a year ago*	
	Total retail	*e-Commerce*		*Total retail*	*e-Commerce*
4th quarter 2005	$946,903	$23,506	2.5%	6.2%	22.8%
1st quarter 2006	976,652	25,190	2.6	8.2	25.2
2nd quarter 2006	984,548	26,304	2.7	6.5	22.8
3rd quarter 2006	992,603	27,544	2.8	5.3	21.1
4th quarter 2006	990,835	29,286	3.0	4.6	24.6

Source: U.S. Census Bureau

FIGURE 1. *Quarterly U.S. Retail e-Commerce Sales as a Percent of Total Quarterly Retail Sales: 4th Quarter 1999 – 4th Quarter 2006*



to-business sales rise at the same rate as the nominal gross domestic product each year. The high-growth scenario assumes that business-to-business transactions account for 92 percent of all electronic commerce activity. Estimates of business-to-consumer sales are the same in both scenarios. As can be seen from the table, Missouri is estimated to lose between $259 and $405 million in sales tax revenue.

This estimate is important to state and local governments. State and local governments are increasingly facing budget constraints. These estimates indicate the potential magnitude of the loss and result in less revenue for the goods and services funded by sales tax revenue. These findings have implications for the quality of services provided by states and local governments.

The inability to collect sales taxes on e-commerce unfairly penalizes traditional businesses. If traditional storefront businesses are required to collect the sales tax, but online businesses are not required to collect the tax, consumers may increasingly turn to electronic commerce to purchase their products. This puts traditional businesses at a disadvantage with potential for lost revenue (Tokin, 2003). Also, the sales tax may become more regressive, as those without internet access, who are usually of lower socio-economic status, are paying for more of the total sales tax revenue than those who purchase their goods via the internet.

MISSOURI SALES AND USE TAX LAWS

In Missouri, a sales tax on the price of an item is imposed for storing, using or consuming within this state any tangible personal property: *"Every vendor making a sale of tangible personal property for the purpose of storage, use or consumption*

TABLE 2. *Estimated total revenue losses from e-commerce 2008**

State	*Low-growth scenario*		*High-growth scenario*		*Revenue losses as a percent of 2003 total tax collections*	
	State	*Local*	*State*	*Local*	*State*	*Local*
Iowa	$155.5	$14.8	$243.2	$23.2	3.1%	4.8%
Illinois	621.7	79.8	972.2	124.8	2.8	4.4
Kansas	173.8	41.6	271.7	65.1	3.5	5.4
Missouri	259.4	118.8	405.7	185.8	3.0	4.7
Oklahoma	138.6	84.8	216.7	132.6	2.3	3.7
U.S. TOTAL	$17,800	$3,753.3	$27,836.7	$5,841.4	NA	NA

**in millions of dollars*
Source: Bruce & Fox

in this state shall collect from the purchaser an amount equal to the percentage on the sale price imposed by the sales tax law in section and give the purchaser a receipt" (Missouri Revised Statutes). Sales tax is required on all sales made from a physical location within the state of Missouri.

For the purposes of Missouri sales tax laws, an entity must maintain a place of business in the state in order to be forced to collect and remit Missouri sales tax revenue. This is defined in Missouri Statutes as occupying an office, place of distribution, sales room, warehouse, or other place of business within the boundaries of Missouri. Therefore, an online retailer is required to collect Missouri sales tax revenue if it maintains a place of business in the state.

A business is not required to collect Missouri sales tax on sales made to Missouri residents if it meets all of the following requirements:

- Total gross receipts did not exceed $500,000 in Missouri, or $12.5 million in the entire United States, in the previous calendar year;
- The business maintains no place of business in this state; *and*
- The business has no selling agents in Missouri.

For example, a salsa business located in San Antonio that has no physical location or selling agent in Missouri and does not have total sales that exceed $500,000 in Missouri or $12.5 million nationwide would not be required to collect and remit Missouri sales tax revenue to the state.

The burden falls upon the individual consumer to remit a use tax for purchases where the seller is not required to collect the tax.

A use tax is a tax imposed on the storage, use, or consumption of tangible personal property that is purchased by a consumer from an out-of-state seller who does not collect the sales tax at the time of purchase. The state use tax rate is imposed at the same rate as the sales tax. In addition, cities and counties may impose a local use tax, which is the same as local option sales tax rates. Either the out-of-state seller will collect and remit the use tax directly to Missouri or the purchaser is responsible for remitting the tax. This is because Missouri cannot require out-of-state companies that do not have a place of business within the state or do not meet the financial requirements previously described to collect and remit the use tax. Therefore, the burden falls upon the individual consumer to report and remit the appropriate use tax.

Citizens of Missouri are not required to file a use tax return if their purchases for which taxes were not paid do not exceed $2,000 during the calendar year (Missouri Revised Statutes). This $2,000 is a threshold for filing and not an exemption. Therefore, once the $2,000 threshold is met, the consumer is required to pay the use tax on the entire amount. For example, if you purchase a computer for $3,500 and you make other purchases valued at $1,000, you owe consumer's use tax on the total value of these out-of-state purchases, $4,500 in this case.

DISCUSSION

In terms of Missouri's sales tax laws, the Bruce and Fox estimates may not be completely accurate for our state. According to Missouri laws, many electronic commerce sales are already subject to sales and use tax. Due to the $500,000/$12.5 million rule and "place of business" definitions, the sales tax revenue losses may be less than projected by Bruce and Fox. In addition, the individual use tax law requires those who purchase items over $2,000 to pay use tax if a sale was not subject to sales tax at the time of the transaction.

Simultaneously, there may be loopholes in Missouri's laws where revenue is not being collected. Digital products, such as songs, software, and books are not considered tangible property by Missouri statutes and therefore are not subject to sales tax laws. Businesses not located in Missouri that have gross receipts less than $500,000 in Missouri and $12.5 million nationwide are not subject to collecting sales tax revenue in our state. In addition, the $2,000 exemption for individual purchases reduces revenue.

Data in this report suggest that Missouri state and local governments can expect to lose between $378 million and $591 million in 2008 due to interstate e-commerce. These losses are significant and they are increasing. Consequently, they add another challenge for state and local budgets.

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