

## AUDIT PROPOSAL

### Online Sales Tax: Reviewing Issues Related to Online Sales Tax Laws in Kansas

#### SOURCE

This audit proposal was requested by Senator Robert Olson.

#### BACKGROUND

In Kansas, businesses collect sales tax when they sell a tangible good such as groceries, a car, or a computer. When these types of item are purchased in a store in Kansas, the business collects sales tax for the state, plus any local sales taxes levied by the city or county. If an item is purchased in a store but delivered to an address in another town, the business collects the sales tax at the rate charged in the area the item is delivered to. However, if an item is purchased online, the business may not be required to collect sales tax at all.

Kansas law places a number of requirements on retailers and consumers for when they must collect or pay sales tax on online purchases. Kansas law currently requires an online business with a physical presence in the state to collect sales tax. For example, if a business is based in California but has an office in Wichita, that business is required to collect sales tax for purchases made in Kansas. Kansas law also requires online retailers with no physical presence in the state to collect sales tax if they sold more than \$10,000 to Kansas customers in the preceding 12 months. Finally, state law requires Kansas customers to pay a compensating use tax if they purchase an item online and the seller does not collect sales tax. However, this tax is self-reported by the consumer. Despite these laws, the League of Kansas Municipalities estimated online sales resulted in almost \$51 million in lost sales tax revenue in 2015. To address this issue, many states have created new laws to force online businesses to collect sales tax.

Legislators have expressed concern that Kansas online sales tax laws leave many online transactions untaxed and could result in a significant amount of forgone tax revenue.

#### AUDIT OBJECTIVES AND TENTATIVE METHODOLOGY

*The audit objectives listed below represent the questions that we would answer through our audit work. The proposed steps for each objective are intended to convey the type of work we would do, but are subject to change as we learn more about the audit issues and are able to refine our methodology.*

##### **Objective 1: How does Kansas' online sales tax laws compare to those in a sample of other states?**

Our tentative methodology would include the following:

- Work with Department of Revenue officials to understand what laws Kansas currently has regarding online sales tax collection.

- For a sample of states, interview officials and review document to understand their online sales tax laws.
- Interview industry experts and review literature to identify any best practices related to sales tax collection for online purchases.
- Compare Kansas' law to those in other states to identify areas where Kansas is not aligned with other states.

**Objective 2: How much revenue would the state generate under a sample of additional online sales tax laws?** Our tentative methodology would include the following:

- Interview officials in other states to determine what revenue their online sales tax policies have generated over the last few years and any benefits or challenges associated with those laws.
- Work with Department of Revenue officials and other officials as necessary to understand any additional scenarios where current Kansas law does not require businesses to collect sales tax.
- Based on what we learned above, estimate the potential revenue the state might generate under a sample of additional online sales tax laws.

#### **ESTIMATED RESOURCES**

We estimate this audit would require a team of **three (3) auditors** for a total of **four (4) months** (from the time the audit starts to our best estimate of when it would be ready for the committee).