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City officials seek answer to Internet sales tax hole

KELSI ANDERSON *Mar 7, 2016*



Residents submitted a petition Monday to recall Fifth Ward City Councilwoman Laura Nauser.

Taylor Glascock/Missourian File

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City Council candidate Q&A: Eroding sales tax

COLUMBIA — The city is losing \$10 million per year in sales tax revenue to online purchases, and city officials say the time has long since passed to do something about it.

Online retailers aren't required to collect sales tax on purchases from people in states where the businesses have no physical presence. The steady increase in online shopping means fewer purchases at local brick-and-mortar stores and declining sales tax revenue for cities such as Columbia.

"Brick-and-mortar stores are suffering because more people are buying the things that they need online," Fifth Ward Councilwoman Laura Nauser said. "When you shop online, and you think that you're getting a good deal because you're not paying sales tax. ... That sales tax that you're not paying is reducing the ability of the community to provide some of the essential services that they need."

Sales taxes comprise about 28 percent of budgeted revenue for the city's general fund in fiscal year 2016, or about \$23.8 million. That would be a 3 percent increase over the \$23.1 million the city collected last year. The general fund pays for day-to-day operations, including public services such as police, firefighters and road maintenance. Public safety spending takes up almost 49 percent of the general fund, according to the fiscal 2016 adopted budget.

City Manager Mike Matthes said lagging sales tax income is a direct cause of the city's inability to hire more police and firefighters.

Leaning on sales tax

Nauser noted the city's heavy reliance on sales tax revenue. By comparison, about 9.1 percent of city general fund revenue, or about \$7.7 million, comes from property tax.



Fifth Ward councilwoman Laura Nauser said, "Communities like the city of Columbia thrive or decline based upon our sales tax revenue."

Taylor Glascock/Missourian File

“Communities like the city of Columbia thrive or decline based upon our sales tax revenue,” Nauser said. “It’s what we utilize for many essential services.”

Total sales tax in Columbia is nearly 9 percent, but only 2 percent actually goes to the city. Here’s how it breaks down:

- One-quarter cent for capital improvements, which are major projects that fall outside the city’s normal annual budget.
- One-eighth-cent permanent sales tax for Parks and Recreation Department operations.
- One-eighth-cent temporary sales tax for park, trail and greenbelt projects and land acquisition.
- One-half cent for transportation, which provides money not only for streets but also for the bus system and Columbia Regional Airport.
- 1 cent for the general fund.

Despite the loss of revenue from online sales, Columbia’s sales tax revenue across all funds was \$47.2 million in 2015, an increase of more than \$1.4 million from 2014, according to Columbia’s 2015 Comprehensive Annual Financial Report. Sales tax income actually was projected to drop 0.6 percent this fiscal year, to \$46.9 million, because of a short lapse in the temporary parks sales tax.

Columbia’s 10-year Financial Trend Manual shows sales tax revenue increased 29.33 percent between fiscal 2005 and 2014, or 6.69 percent when adjusted for inflation. City Finance Director John Blattel said that in the overall picture, growth isn’t enough.

Looking at sales tax revenue per capita leads to a more meaningful number. Sales tax per capita dropped by 14.35 percent in the same period. Adjusted for inflation, that means the average person who paid \$94.40 in sales taxes in 2006 paid only \$80.85 in 2014, according to the trend manual.

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So, even though revenue is technically increasing every year, it isn’t keeping pace with population growth and inflation.

“All things being equal,” Blattel said, “if you assume people are gonna buy the same amount of items year after year, your sales tax should go up as much as the consumer price index and the population growth, but it’s going up less than that.”

Matthes said untaxed Internet sales get the blame for much of the sales tax erosion. And since Missouri makes heavy use of sales tax, Matthes said, this affects the city first.

“In Missouri overall, local governments tend to rely on sales tax. Almost every city has a sales tax,” Matthes said.

Missouri has one of the most complex sales tax systems in the U.S. As of 2014, the tax policy research group Tax

Foundation reported that 1,242 of the U.S.' 9,998 sales tax collecting jurisdictions were in Missouri. That’s more sales tax jurisdictions than any state but Texas. Twelve states collect no local sales taxes at all.

“A lot of other cities (in other states) don’t even charge sales tax, you know. It’s all property tax,” Matthes said. “They don’t feel these ripples as strongly as we do.”

Matthes cited “Amazon and Empty Storefronts,” a January study by the research group Civic Economics, which found that online retail giant Amazon avoided \$625 million in state and local sales taxes in 2014 alone.

Amazon has no physical presence in Missouri, so it collects no sales taxes on Missouri purchases. According to the study, Missouri lost more than \$67 million in taxes to Amazon in 2014: \$60 million of that was from sales tax, and \$7 million was property tax loss due to the reduction in demand for retail space caused by the shift to online sales.

The study found that Missouri lost more sales tax revenue than any other state. It also lost the most tax revenue overall.

“When things like the Internet sales happen, we (Missouri) feel it, I think, before others,” Matthes said. “We’re sort of like a canary in a coal mine, right? We’re a sign that ‘Hey, something bad’s happening here.’”

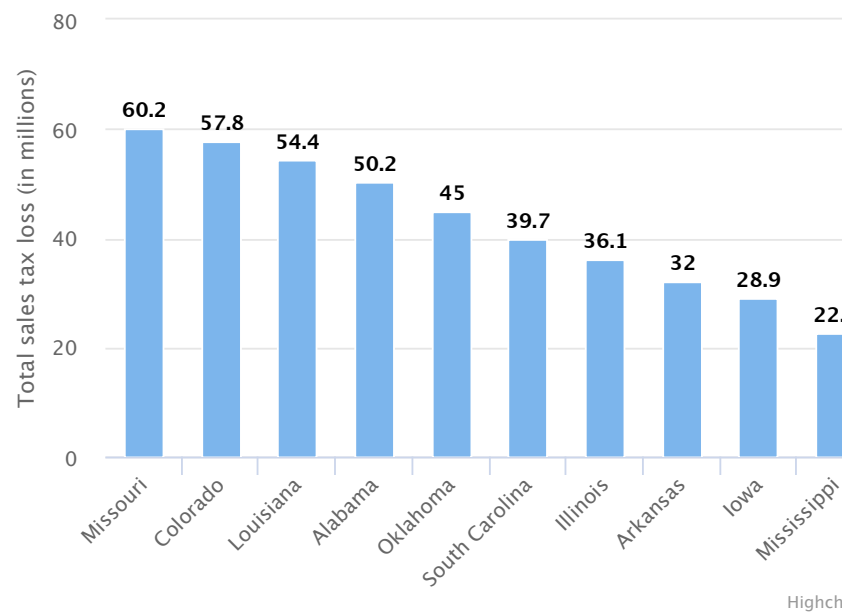


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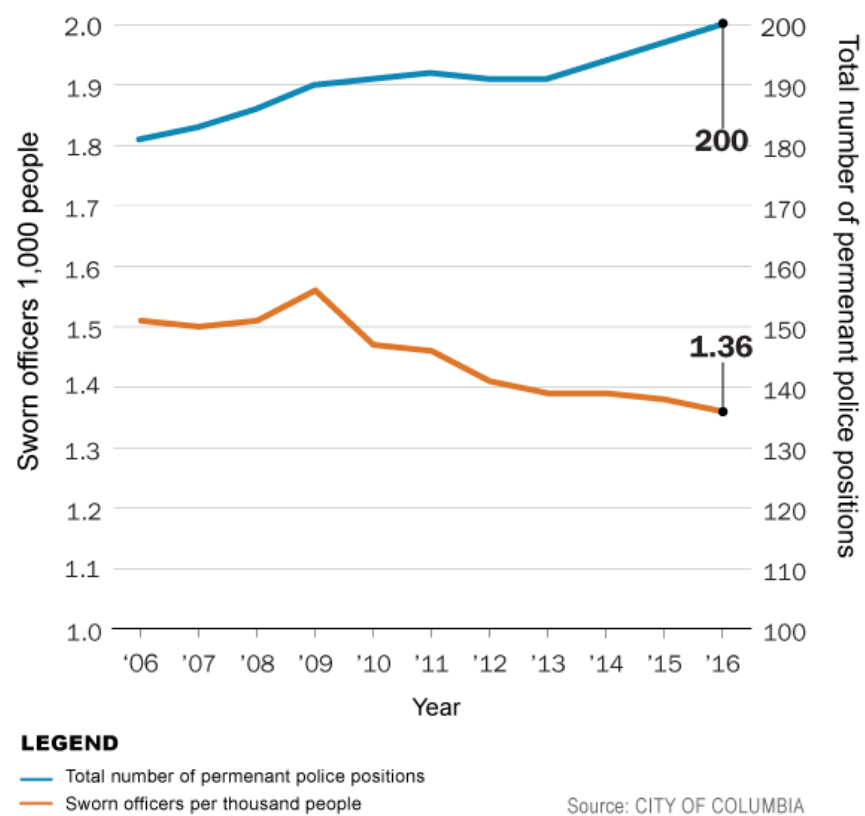
Sales tax revenue lost to Amazon

Missouri lost more tax revenue to Amazon in 2014 than any other state.
Source: CIVICECONOMICS.COM



“What you really have here is a giant subsidy to Amazon at the expense of brick-and-mortar stores in town here, and the city government,” Matthes said. He cited the dropping ratio of police per 1,000 residents as an example.

Columbia has 1.36 officers per 1,000 residents, down from 1.51 in 2006, according to the fiscal 2016 budget. “It’s a direct result of the sales tax (bringing in low revenue),” Matthes said.



Columbia has added 19 police positions since 2006, while the number of sworn police officers per 1,000 people has decreased from 1.51 to 1.36. Columbia officials say sales tax revenue lost to Internet sales prevents the city from hiring more police.

JASMINE YE HAN/MISSOURIAN

Nausier said the Police and Fire departments are feeling the biggest impact from Internet sales. “Minus a few grants we receive every once in a while, (they) are completely funded by sales tax revenue.”

Legislative solutions

Matthes thinks the city has to take some sort of action to combat Internet sales' erosion of tax revenue.

“I believe it’s reached the point where we just can’t kick the can down the road anymore,” he said. “We’ve gotta fix this problem.”

One solution lies in the hands of the federal government. The Marketplace Fairness Act would allow states to require out-of-state retailers to collect local sales taxes and use taxes from purchasers. Blattel said it's an important measure.

"I think the reason we're looking at this so intently is because we keep hearing from the citizens that they would like more police officers, more firefighters and better roads," Blattel said. "If that Marketplace Fairness Act passed, we could provide those services without any other type of tax increase. It would be that significant."

The U.S. Senate passed the Marketplace Fairness Act in 2013, but it stalled in the House and is still pending. The bill has 67 cosponsors: 42 Democratic and 25 Republican.

Kyle Buckles, spokesman for 4th District U.S. Congresswoman Vicky Hartzler, R-Missouri, said in an email that Hartzler supports the act.

"The Congresswoman (believes) the Marketplace Fairness Act is an issue of fairness," Buckles said. "The Act would help level the playing field for Main Street retailers in Missouri and across America. It does not create a new tax — it simply allows states to collect sales taxes they are already owed from out-of-state and online businesses, if they choose to do so."

If they grow tired of waiting on federal action, state legislators can take action into their own hands. States are technically allowed to require sales tax collection from online retailers, but if there's no significant "nexus," or connection, between the retailer and the state, then the retailer has no enforceable obligation to collect taxes.

The Congressional Research Service reports that a number of states have passed "Amazon laws" to get around these limitations and collect sales taxes on Internet purchases. This is usually done in two ways:

- "Click-through nexus" statutes. Some online retailers pay people commissions to advertise for them using click-through links. A notable example is Amazon's program, Amazon Associates. "Click-through nexus" statutes can make out-of-state retailers responsible for collecting state sales tax for purchases made through click-through purchases. New York was the first to pass a click-through nexus statute in 2008.
- "Notification laws," which require out-of-state sellers to tell customers of their obligation to pay taxes and send detailed information about residents' purchases to their states' revenue departments.

Missouri has already gone the state-level route for taxing Internet sales. In July 2013, SB 23 was passed and signed into law by Gov. Jay Nixon. That law established an affiliate nexus statute, which redefines the definition of a "vendor" to include anyone who "engages in business within this state," increasing the obligation of retailers, including those who pay commissions for click-through advertising, to collect sales taxes.

Before the law was to take effect, though, Amazon shut down its Amazon Associates program in Missouri to avoid collecting sales taxes, according to the St. Louis Post-Dispatch.

There also has been argument over whether Amazon laws are constitutional. There are claims, for example, that it is burdensome to make retailers responsible for tracking the U.S.' patchwork of sales tax systems.

In 2012, Amazon and Overstock.com challenged the New York statute, but the New York's Court of Appeals rejected it.

A local fix

Outside federal or state legislation, Matthes said a local solution is to increase property tax.

Columbia's property tax is 41 cents per \$100 of assessed value. Voters in November 2014 rejected a ballot issue that would have raised the property tax by 30 cents to pay for 40 more police officers and 15 firefighters.

During a public seminar in October, Mayor Bob McDavid said the city's property tax is low in comparison with Missouri's average rate of 71 cents per \$100. McDavid said that this, in conjunction with low sales tax revenue, is responsible for underfunding of essential services.

Matthes said that the best-case scenario would be for Congress to pass the Marketplace Fairness Act. "We really want (the federal government) to pass this Marketplace Fairness Act because it solves the problem. It's fair for business, and we don't have to ask for another ballot."

Barring that, Matthes said the city would have to consider another proposal to boost property tax.

"If they don't pass it, we've reached a point where as a servant to the community, I have to put (a ballot) back on there again and ask the question, 'Do you want more officers or not? If you do, here's a way to do it,'" Matthes said.

Nauser doesn't think the community would support another sales tax initiative, but she supports another property tax ballot. She said that property taxes remain more consistent during economic downturns and that they're more relevant to the services being funded.

"Police and firefighters protect property and lives, so I think it makes sense to increase our property taxes slightly to compensate," Nauser said.

Absent a solution, Matthes said, Columbia residents will have to come to terms with the city's current level of service.

"If there's one thing I could wish for that the community could really, profoundly understand, is that we either have to get Marketplace Fairness Act to pass or we have to ask for another ballot," Matthes said.

"Or the community has to accept much lower service than you used to have."

Supervising editor is Scott Swafford.

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