Source: City Manager

Agenda Item No: REP 10-14

To: City Council
From: City Manager and Staff

Council Meeting Date: Jan 21, 2014

Re: Use Tax Report

EXECUTIVE SUMMARY:

Mayor McDavid asked staff for a report on the impact of passing a local use tax following the 12/2/2013 Pre-Council presentation by Mike Sutherland concerning the Streamlined Sales Tax Agreement and the taxation of Internet sales.

DISCUSSION:

Based on the Monthly Retail Trade Survey by the US Census Bureau e-commerce sales are estimated to comprise 5.9% of all retail sales nationwide for Q3 of 2013, additionally Q3 of 2013 online sales are up 17.5% from the Q3 of 2012. The push to tax online sales has been ongoing since beginning of e-commerce. There are currently two major legislative issues in the state and federal governments that are at the forefront of taxing online sales: the Streamlined Sales and Use Tax Agreement (SSUTA), and the Marketplace Fairness Act. The SSUTA is a collection of states participating at various levels in a joint effort to standardize their sales tax codes thus enabling them to collect taxes from participating remote sellers (online, catalogs, etc.). Momentum is growing in Missouri to become a full member state. The latest version of The Marketplace Fairness Act in Congress would give states the power to collect sales tax from remote sellers as long as states simplify their tax codes by either becoming full members of SSUTA or meeting the conditions outlined in the bill (which would most likely have the same effect as joining the SSUTA).

Missouri needs to become a SSUTA full member to benefit from the passage of the Marketplace Fairness Act. Columbia needs to pass a local use tax to benefit from Missouri becoming a SSUTA full member and/or Missouri becoming a full member and the passage of The Marketplace Fairness Act. While state and federal efforts on these legislative items are strengthening the recent impetus for many Missouri cities and counties to seek a local use tax is driven by the Missouri Supreme Court decision in January 2012. The decision eliminates the local sales tax on vehicles purchased out-of-state. Local jurisdictions must have a local use tax to capture out-of-state vehicle and marine sales.

Table 1 provides estimates for annual revenue based on local, state, and federal legislative and ballot outcomes. It is important to understand that the benefits are not mutually exclusive. Columbia must pass a local use tax to benefit from Missouri becoming a full member of the SSUTA, Missouri must become a full member of the SSUTA to benefit from the passage of the Marketplace Fairness Act.

A local use tax is a tax imposed on out-of-state purchases and its rate must mirror the taxing jurisdictions sales tax. An increase or decrease to the sales tax rate requires an equal increase or decrease for the use tax rate. The state, numerous counties and some cities already have a use tax in place. In response to the Supreme Court's 2012 decision many Missouri counties and cities have put a use tax on their ballots with mixed success (Table 2). Local officials have cited confusion among citizens about the use tax, and a lack of sufficient education about use tax as reasons for some of the overwhelming defeats. Two local use tax ballot initiatives (1996 and 1998) have been defeated in Columbia.

Past Columbia Local Use Tax Ballots and Results
August, 1996

Shall the City of Columbia impose a local use tax at the same rate as the total city sales tax rate, currently 1.75%, provided that if the city sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? A use tax return shall not be required to be filed by

persons whose purchases from out of state vendors do not in total exceed two thousand dollars ($2,000.00) in any calendar year?

Yes: 4,846
No: 6,758

November, 1998

Shall the City of Columbia impose a local use tax at the same rate as the total city sales tax rate, currently 1.75%, provided that if the city sales tax rate is reduced or raised by voter approval , the local use tax rate shall also be reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out of state vendors do not in total exceed two thousand dollars in any calendar year?

The City intends to spend the funds raised by this local use tax for public safety (police, fire and joint communications) personnel, equipment, training and capital improvements

Yes: 8,773
No: 11,445

Recent election results from across the state and in Columbia's history with use tax ballots indicate that any future ballot will require a clear focus, a comprehensive education initiative, and an effective campaign. The Missouri Municipal League offers a guide and additional materials to aid cities and counties with passing a use tax. Below are examples of ballot language provided by the Missouri Municipal League and from successful cities and counties. It is important to remember that passage depends far more on education and awareness than language. Several counties have had success bringing a local use tax back to the public only 6-18 months after the first attempt failed. These counties have attributed their success to a more comprehensive education campaign.

The ballot language below reflects the focus used by each of the jurisdictions whether it was unfairness created by the lack of a use tax (Randolph County), how a use tax would help fund needed services (Kirksville), or even the specific services the revenue would go towards Adair County).

Missouri Municipal League

Shall the (Municipality's Name) impose a local use tax at the same rate as the total local sales tax rate, currently ..... (insert percent), provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state vendors do not in total exceed two thousand dollars in any calendar year.

Randolph County, April 2013

Shall the County of Randolph impose a local use tax on out of state purchases at the same rate as the total local sales tax rate, currently 1.000%, provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action?

A use tax return shall not be required to be filed by persons whose purchases from out of state vendors do not in total exceed two thousand dollars in any calendar year.

The purpose of the proposal is to eliminate the current sales tax advantage that Non-Missouri vendors have over Missouri vendors.

Adair County, Nov. 2012

Shall the County of Adair, for the purpose of funding the Road and Bridge Department services, impose a local use tax on out of state purchases at the same rate as the total local sales tax rate, currently 1.000%, provided that if the local sales tax rate is reduced or raised by voter approval, the local use tax rate shall also be reduced or raised by the same action? The purpose of the proposal is to eliminate the current sales tax

advantage that Non-Missouri vendors have over Missouri vendors. A use tax return shall not be required to be filed by persons whose purchases from out of state vendors do not in total exceed two thousand dollars in any calendar year.

Kirksville, Nov. 2012

Shall the City of Kirksville, for the purpose of funding core municipal services including police, fire and street maintenance, impose a local use tax for the purchase of tangible personal property from out-of-state vendors at the same rate as the local sales tax, currently at a rate of 2.25% provided that, if any local sales tax is repealed, reduced or raised by voter approval, the respective local use tax also shall be repealed, reduced or raised by the same action? A use tax return shall not be required to be filed by persons whose purchases from out-of-state-vendors do not in total exceed two thousand dollars in any calendar year.

There are numerous reasons to pursue a local use tax: taxing fairness, closing the gap between revenue and growth, leveling the retail playing field for local businesses, funding core services, and ensuring a community is ready to benefit from future state and federal legislation. The challenge is communicating these reasons and explaining how the use tax works.

Possible Council Actions

- Place the creation of a local use tax on a future ballot
- Direct lobbying efforts towards State and Federal legislators
- Support local, state, and national efforts for taxing e-commerce sales.

FISCAL IMPACT:

Current estimates range from $500,000 to over $3,000,000 of annual revenue (see attachment, Table 1).

VISION IMPACT:
http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php

SUGGESTED COUNCIL ACTIONS:

Informational

FISCAL and VISION NOTES:					
City Fiscal Impact Enter all that apply		**Program Impact**		**Mandates**	
City's current net FY cost	$0.00	New Program/ Agency?		Federal or State mandated?	
Amount of funds already appropriated	$0.00	Duplicates/Expands an existing program?		**Vision Implementation impact**	
Amount of budget amendment needed	$0.00	Fiscal Impact on any local political subdivision?		Enter all that apply: Refer to Web site	
Estimated 2 year net costs:		**Resources Required**		Vision Impact?	
One Time	$0.00	Requires add'l FTE Personnel?		Primary Vision, Strategy and/or Goal Item #	
Operating/ Ongoing	$0.00	Requires add'l facilities?		Secondary Vision, Strategy and/or Goal Item #	
		Requires add'l capital equipment?		Fiscal year implementation Task #	

Table 1 - Benefit to the City of Columbia	
Passage of a Local Use Tax	Retain $567,983.97[1] per year in Out of State Vehicle and Marine Sales Tax
MO Becomes Full Member of SSUTA	Low[2]: $574,202.82 High[3]: $725,128.29 per year[4]
Congress Passes Marketplace Fairness Act	Low[2]:$2,610,012.81 High[3]: $3,296,037.69 per year[5]

[1]Based on estimates from the Missouri Municipal League for the City of Columbia
[2]Calculated with avg of last four quarters (5.625%) of e-commerce as percent of total retail sales - Monthly Retail Trade Survey by the US Census Bureau
[3]Calcuated with 7% of e-commerce as percent of total retail sales.
[4]Estimate equals 22% of potential full e-commerce sales tax revenue calculated using US Census Bureau Monthly Retail Trade Survey. 22% estimate from: Mike Sutherland, *Enacting the Marketplace Fairness Act Will Help Missouri Retailers and the Missouri Budget*, The Missouri Budget Project, Feb. 8, 2013
[5]Based on 2013 estimate for total sales tax revenue for Columbia and average for last 4 quarters beginning with Q3 2013 for share of total retail sales for e-commerce from Monthly Retail Trade Survey by the US Census Bureau

Table 2 – Selected 2012-2013 Use Tax Ballot Results		
Jurisdiction	Election*	Pass/Fail*
Adair County	Nov. 2012	Pass
Belton	April 2013	Fail
Buchanan County	Nov 2012, April 2013	Fail, Pass
Callao	Nov. 2013	Fail
Camden County	April 2013	Pass
Camdenton	April 2013	Fail
Carthage	Nov. 2013	Fail
Christian County	Nov. 2013	Fail
Clark	Nov. 2012, April 2013	Fail, Pass
Cooper County	Nov. April 2013	Pass
Festus	April 2013	Fail
Greene County	Nov. 2013	Fail
Grundy County	Nov. 2013	Fail
Huntsville	April 2013	Pass
Jasper County	Nov. 2013	Fail
Joplin	Nov. 2013	Pass
Kirksville	Nov. 2012	Pass
La Plata	Nov. 2013	Fail
Macon	Nov. 2013	Pass
Macon County	Nov 2012, April 2013	Fail, Pass
Marshall	Nov. 2013	Pass
Mississippi County	Nov. 2013	Fail
Moberly	Nov. 2012	Pass
Morgan County	Nov. 201, April 2013	Fail, Pass
Mount Vernon	April 2013	Fail
New Cambria	Nov. 2012	Pass
Osage Beach	April 2013	Fail
Parkville	April 2013	Fail
Perry County	April 2013	Pass

Pleasant Hill	Nov. 2012, April 2013	Fail, Pass
Randolph County	Nov. 2012, April 2013	Fail, Pass
Saline County	Nov 2012	Pass
St. Joseph	Nov. 2012	Fail
Sullivan County	Nov. 2012, April 2013	Fail, Pass
Trenton	April 2013	Fail
Vernon County	Nov. 2012	Fail
Warren County	April 2013	Pass
Webster County	Nov. 2013	Fail
Webb City	Nov. 2013	Fail
Carl Junction	Nov. 2013	Fail
Alba	Nov. 2013	Fail
Oronogo	Nov. 2013	Fail
Airport Driver	Nov. 2013	Fail
Bolinger County	April 2013	Pass
Scott County	April 2013, Nov. 2013	Fail, Pass
Stoddard County	April 2013	Fail
Fayette	April 2013	Pass
Perryville	April 2013	Pass
Crystal City	April 2013	Fail
Dexter	April 2013	Fail
Osage County	Aug. 2012	Pass
Putnam County	April. 2013	Pass
Tarkio	Aug. 2012	Fail
Fairfax City	Aug. 2012	Pass
Laurie	Aug. 2012	Fail
Success Rate on First Attempt	**34%**	
Success Rate on Second Attempt	**100%**	
*Results were pulled from various news sources and county websites. Numerous reports on elections and results were conflicting.		