

**Performance Audit  
Sales Tax Study Follow-Up**

January 2007

**City Auditor's Office**

**City of Kansas City, Missouri**



## Office of the City Auditor

21st Floor, City Hall  
414 East 12th Street  
Kansas City, Missouri 64106



2006  
(816) 513-3300  
Fax: (816) 513-3305

January 17, 2007

Honorable Mayor and Members of the City Council:

We conducted this audit as a follow up to our February 2001 Sales Tax Study. We found that sales and use tax refunds and adjustments have grown and remain significant; that Kansas City is maintaining a proportionate share of the metropolitan area's retail sales; and that internet sales probably have not had a significant impact on the city's tax revenues.

Refunds and adjustments offset more than a quarter of Kansas City's sales and use tax revenues between 2002 and 2005. Kansas City vendors and taxpayers submitted sales and use tax returns for refunds or obtained adjustments amounting to about \$246 million during the four-year period. Because sales tax is an economic indicator that staff use to estimate revenues as a part of the budget process, the reasons that millions in sales and use tax dollars are being refunded or credited to a small number of vendors should be monitored. The Law Department should work with the Finance Department and the Office of Management and Budget to follow up with the state to identify and verify the reasons for substantial vendor refunds and adjustments. The city should also include in its legislative agenda state legislation that would require vendors to return sales and use tax refunds, adjustments, and interest to the original purchaser rather than permitting vendors to retain these windfalls for themselves.

Kansas City continues to "pull" retail sales into the city, indicating that people come to Kansas City to shop. Over the last seven years, the retail "pull" has remained fairly consistent. The city ranks fifth among seventeen metropolitan area cities in its ability to attract retail sales into the city.

Internet and other remote sales present compliance challenges for sales and use tax administrators. Studies suggest, however, that internet sales have had a limited, but uncertain impact on state and local government sales tax revenue.

The draft report was sent to the city manager and finance director on December 14, 2006. Management's response is included as an appendix. We appreciate the assistance of staff from the City Development, Finance, and Law departments and the Office of Management and Budget. The audit team for this project was Vivien Zhi and Nancy Hunt.



Gary White  
Acting City Auditor

---

# Sales Tax Study Follow-up

---

## Table of Contents

Introduction	1
Objectives	1
Scope and Methodology	1
Background	2
Legislative Authority	2
Sales and Use Taxes	2
Growth in Sales and Use Tax Revenues Is from New Taxes	3
Special District Sales Taxes	5
Findings and Recommendations	7
Summary	7
Refunds and Adjustments Remain Significant	7
Refunds and Adjustments Total \$246 Million in Four Years	7
City Staff Should Investigate Reasons for Significant Refunds	9
State Legislation Should Restrict Sales Tax Windfalls for Vendors	10
Kansas City Continues to Attract Retail Sales	10
Internet Sales Have Limited, But Uncertain Effect on Sales Tax Revenues	11
Recommendations	12
Appendix A	13
City Manager's Response	13

---

## List of Exhibits

Exhibit 1. Components of the Current City Sales Tax	3
Exhibit 2. Sales and Use Tax Revenues by Type (\$ millions), Fiscal Years 1999-2005	4
Exhibit 3. Capital Improvements and Public Mass Transit Sales Tax Revenues in 1999 Dollars (Millions)	4
Exhibit 4. Special Taxing Districts' Additional Sales Tax Rates	5
Exhibit 5. Pull Factor Analysis, 1995, 1999 and 2005	11

---

## Introduction

---

### Objectives

We conducted this follow up audit of our February 2001 Sales Tax Study under the authority of Article II, Section 216 of the Charter of Kansas City, Missouri, which establishes the Office of the City Auditor and outlines the city auditor's primary duties.

A performance audit systematically examines evidence to independently assess the performance and management of a program against objective criteria. Performance audits provide information to improve program operations and facilitate decision-making.<sup>1</sup>

We followed up on the findings in our 2001 report by answering these questions:

- Are sales and use tax refunds and adjustments still significant?
- Is Kansas City attracting a proportionate share of retail sales?
- Are internet sales affecting the city's sales tax revenue?

---

### Scope and Methodology

In the 2001 sales tax study, we identified two factors that contributed to lower than expected and erratic growth in sales tax revenue: refunds and adjustments on individual returns, and the loss of sales to other jurisdictions. This audit followed up on the findings in the 2001 study. Our methods included:

- Interviewing city staff.
- Reviewing state statutes related to sales and use taxes, reports prepared by the Office of the Missouri State Auditor, and academic studies and U.S. Census Bureau reports related to e-commerce.

---

<sup>1</sup> Comptroller General of the United States, *Government Auditing Standards* (Washington, DC: U.S. Government Printing Office 2003), p. 21.

- Analyzing Missouri Department of Revenue monthly databases of sales and use tax returns filed by Kansas City vendors and taxpayers between January 2002 and April 2006.
- Comparing the city's per capita sales tax collections to those of other jurisdictions in the metropolitan area.

We conducted our work in accordance with generally accepted government auditing standards.

In accordance with state law, confidential taxpayer information is not included in this report. The tax rates and tax collections of the special taxing districts are not included in this audit's analyses and calculations. No other information is omitted from this report because it was deemed privileged or confidential.

---

## **Background**

### **Legislative Authority**

The state constitution and statutes give cities the authority to impose sales and use taxes. Voter approval is required to institute new taxes or raise current taxes.

### **Sales and Use Taxes**

The city assesses sales and use taxes on retail activity. Vendors collect sales taxes at the time of purchase. Businesses and individuals are required to pay use tax for taxable purchases made from out-of-state vendors who are not required to collect sales tax. For example, a Missouri resident who made untaxed catalog purchases totaling more than \$2,000 in a calendar year is required to file a use tax return with the state.

The city currently levies a total sales tax of 2.375 percent. (See Exhibit 1 for the individual components of the city's sales tax rate.) The use tax rate is the same as the city's sales tax rate.

Exhibit 1. Components of the Current City Sales Tax

Tax	Rate	Effective Date	Expiration Date
Public Mass Transit	0.500%	10/01/1973	No sunset
Capital Improvements	1.000%	01/01/2001	12/31/2008
Fire	0.250%	01/01/2002	12/31/2016
Public Safety	0.250%	10/01/2002	06/30/2011
Kansas City Area Transportation Authority <sup>2</sup>	0.375%	04/01/2004	03/31/2009

Source: City Code and Ordinances.

**The state administers sales and use tax collections.** Vendors submit returns and sales tax collections to the state on a schedule (four times a month, monthly, quarterly or annually) based on sales volume. Businesses and individuals also submit use tax returns and payments to the state on a schedule based on sales volume. Businesses are allowed to keep two percent from the total sales or use tax remitted on or before the due date to cover their collection costs.<sup>3</sup> The state distributes sales and use taxes to the city each month. The state retains one percent of all local sales and use taxes to cover collection costs.<sup>4</sup>

### **Growth in Sales and Use Tax Revenues Is from New Taxes**

The city's combined sales and use tax revenue increased 70 percent between 1999 and 2005. This growth is the result of new sales taxes. When sales tax rates are held constant and adjusted for inflation, tax revenues have fluctuated.

### **Sales tax revenues have fluctuated when adjusted for rate increases.**

The city's combined sales tax rate has increased since the original audit. In 2001, the sales tax rate was 1.5 percent. The combined sales tax rate increased to the current rate of 2.375 percent as Fire, Public Safety, and the Kansas City Area Transportation Authority sales taxes were added. Excluding tax increases, sales tax revenue fluctuated in the early years of the decade, while growing slightly in more recent years. Use tax revenue also fluctuated. (See Exhibit 2.)

<sup>2</sup> The Kansas City Area Transportation Authority sales tax will be replaced by a 25-year light rail tax once this sales tax expires in 2009.

<sup>3</sup> RSMo 144.140 and RSMo 144.170.

<sup>4</sup> RSMo 92.421.1, RSMo 94.550.1 and RSMo 144.759.1.

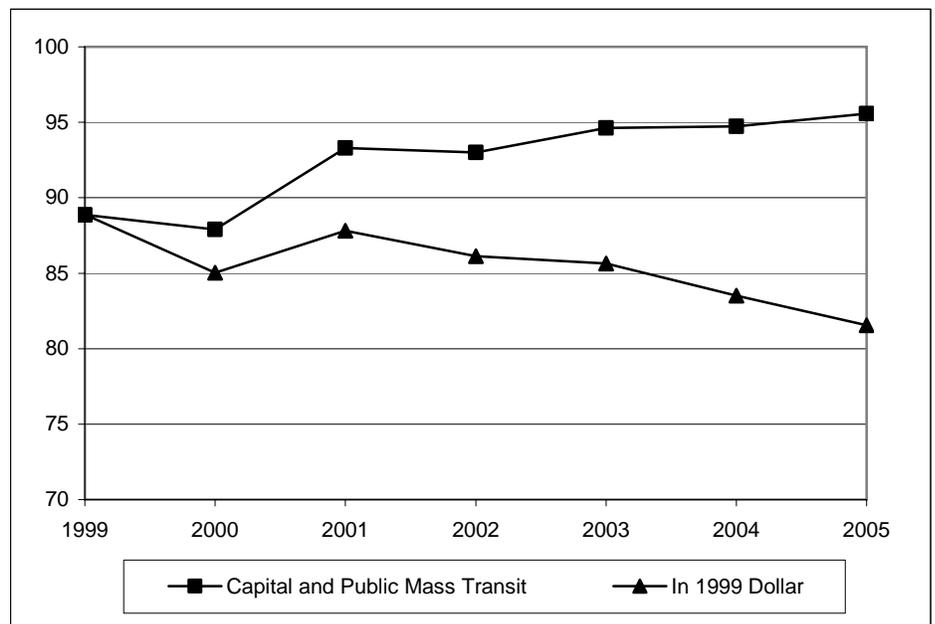
Exhibit 2. Sales and Use Tax Revenues by Type (\$ millions), Fiscal Years 1999-2005

	1999	2000	2001	2002	2003	2004	2005
Capital Improvements (1%)	61.7	61.1	64.7	64.7	65.7	65.8	66.3
Public Mass Transit (0.5%)	27.1	26.8	28.6	28.3	28.9	28.9	29.2
<b>Subtotal of Constant Rate Taxes</b>	<b>88.9</b>	<b>87.9</b>	<b>93.3</b>	<b>93.0</b>	<b>94.6</b>	<b>94.7</b>	<b>95.6</b>
Fire (0.25%)	-	-	-	4.8	15.4	15.5	15.7
Public Safety (0.25%)	-	-	-	-	8.7	15.5	15.8
Kansas City Area Transportation Authority (0.375%)	-	-	-	-	-	1.9	23.6
Liberty Memorial (0.5%)	-	28.5	17.2	-	-	-	-
<b>Total Sales Tax</b>	<b>88.9</b>	<b>116.4</b>	<b>110.5</b>	<b>97.8</b>	<b>118.7</b>	<b>127.7</b>	<b>150.6</b>
Use Tax	16.4	29.3	24.7	24.8	23.4	25.4	28.3
<b>Total Sales and Use Taxes</b>	<b>105.2</b>	<b>145.7</b>	<b>135.2</b>	<b>122.6</b>	<b>142.1</b>	<b>153.1</b>	<b>178.9</b>

Source: Comprehensive Annual Financial Reports, 1999-2005.

**Sales tax growth lags inflation.** The city's sales tax revenues have not kept pace with inflation after adjusting for rate increases. The sales tax revenue for the city's capital improvements and public mass transit sales taxes, both of whose rates have remained constant, decreased over 8 percent between fiscal years 1999 and 2005 when adjusted for inflation. (See Exhibit 3.)

Exhibit 3. Capital Improvements and Public Mass Transit Sales Tax Revenues in 1999 Dollars (Millions)



Source: CAFR 1999-2005 and CAO adjustments for inflation.

### Special District Sales Taxes

The state constitution provides that taxing power may be exercised by the state, counties, and other political subdivisions. Political subdivisions, such as Transportation Development Districts (TDD) and Community Improvement Districts (CID),<sup>5</sup> may impose sales taxes on retail sales made in defined geographic areas or districts.<sup>6</sup> Exhibit 4 lists fourteen Kansas City, Missouri, special taxing districts we could identify. Special taxing district rates are charged in addition to the city's current 2.375 percent sales tax rate. Special taxing district collections are not included in this audit's analyses and calculations.

Exhibit 4. Special Taxing Districts' Additional Sales Tax Rates<sup>7</sup>

<b>Community Improvement District</b>	<b>Rate</b>
39 <sup>th</sup> Street	0.5%
Antioch Center	1.0%
Brookside	0.5%
Kansas City/Martin City	0.5%
KCI Airport	1.0%
Performing Arts	1.0%
Renaissance Plaza	0.5%
Three Trails	0.5%
Westport II	0.5%
<b>Transportation Development District</b>	<b>Rate</b>
Country Club Plaza of Kansas City, Missouri	0.5%
Highway 210	1.0%
Missouri 150 & 135 <sup>th</sup> Street	0.5%
Platte County Missouri South I	1.0%
Platte County Missouri South II	1.0%

Sources: City Development, Finance, and Law departments; Missouri Department of Revenue; Missouri Department of Economic Development; and Missouri State Auditor's Office.

<sup>5</sup> CIDs can also be not-for-profit organizations, but only political subdivision CIDs may levy sales and use taxes.

<sup>6</sup> Neither TDDs nor CIDs can impose a district sales tax on motor vehicles, trailers, boats, or outboard motors. TDDs also are prohibited from collecting taxes on all sales of electricity, water, gas, and telephone subscribers. CIDs are prohibited from collecting taxes on sales to public utilities.

<sup>7</sup> Rates as of December 2006.



---

## Findings and Recommendations

---

### Summary

Kansas City vendors and taxpayers submitted sales and use tax returns for refunds or obtained adjustments amounting to about \$246 million between 2002 and 2005. These refunds and adjustments offset more than one quarter of the city's sales and use tax revenues for that period. The reasons for high dollar vendor refunds and adjustments should be examined. The city should also include in its legislative agenda state legislation that would require vendors to return sales and use tax refunds, adjustments, and interest to the original purchaser rather than permitting vendors to retain windfalls for themselves.

People come to Kansas City to shop. The city ranks fifth among seventeen metropolitan area cities in its ability to attract retail sales into the city, the same as it did in 1999.

Internet sales have had a limited but uncertain effect on the city's sales tax revenues. E-commerce has not been as robust a channel for goods and services as anticipated just a few years ago and many vendors have begun to collect sales and use taxes on remote sales.

---

### Refunds and Adjustments Remain Significant

Refunds and adjustments offset more than a quarter of Kansas City's sales and use tax revenues during the four-year period 2002 through 2005. Kansas City vendors and taxpayers submitted sales and use tax returns for refunds or obtained adjustments amounting to about \$246 million during that period. State law does not require vendors to return sale and use tax refunds to the original purchaser. As a result, vendors can receive an windfall from their customers and have an incentive to seek refunds.

#### **Refunds and Adjustments Total \$246 Million in Four Years**

Refunds and adjustments offset more than a quarter of Kansas City's sales and use tax revenues during the four-year period 2002 through 2005. Kansas City vendors and taxpayers submitted sales and use tax returns for refunds or obtained adjustments amounting to about \$246

million during that period. This was a substantial increase over the \$73 million in refunds and adjustments we identified for the five-year period 1995 through 1999 in our prior report.

The proportion of refunds and adjustments that offset sales tax revenues has also grown. Between 2002 and 2005, the proportion ranged from 24 to 32 percent. Between 1995 and 1999, the proportion ranged from 8 to 22 percent. Refunds and adjustments were a smaller proportion of use taxes in both periods.

### **Refunds and Adjustments**

Refunds can be due to overpayments, amended or audited returns, and credits. For example, a return amended to claim an exemption could result in a refund or credit to the vendor. In some cases, an adjustment would be offset by another transaction, such as amending a return to submit use tax instead of sales tax or to change the taxpayer ID number. For some refunds the vendor could be the original purchaser. Vendor overpayments and refunds could result from over-estimated sales, over paid taxes, or clerical errors on the return.

Reasons for refunds or other adjustments can include:

- Exemption claims for nontaxable sales (farmers, resale, manufacturers)
- Sales to non-profit organizations
- Tax ID number or location code corrections
- Court or administrative hearing commission decisions
- Audit adjustments
- Corrected filings moving between sales and use taxes
- Corrected filings for overpayment due to clerical errors or estimate adjustments
- Changes in state law

Source: Missouri Department of Revenue and Office of the State Auditor of Missouri.

**A small number of vendors account for most of the refunds and adjustments dollars.** Between 2002 and April 2006, about 2 percent of the vendors filed for almost 90 percent of the total sales tax refund and adjustment dollars. A single vendor had over 60 percent of the total refunds or adjustments dollars. Twenty-nine vendors accounted for \$215 million in refund and adjustment dollars in that period.

The number of Kansas City vendors submitting negative returns has decreased. About 1,600 vendors submitted more than 35,000 returns for refunds or adjustments in 2002. In 2005, about 1,300 vendors submitted almost 50,000 refunds or adjustments. The proportion of vendors submitting returns for adjustment has decreased from about 20 percent in 2002 to 16 percent in 2005, while the number of refunds or adjustments has increased about 40 percent.

### **City Staff Should Investigate Reasons for Significant Refunds**

The Finance Department and the Office of Management and Budget both use the monthly sales and use tax revenue data supplied by the Missouri Department of Revenue. The Finance Department confirms that monthly revenue transferred from the state matches the database revenue totals and performs analyses comparing sales tax to withholding trends, sales tax data to the Mid-America Regional Council's economic forecasts, and vendors to the city's records.

In order to plan for city needs, the Office of Management and Budget incorporates monthly sales and use tax data into their estimates of revenues as a part of the budget process. Sale tax revenue is one of the economic indicators used in forecasting for budget purposes. Budget staff report performing periodic analyses, including looking at large refunds.

Identifying the reasons for significant sales and use tax refunds would provide additional information that could be useful in explaining fluctuations in sales and use tax revenues and in preparing forecasts. We identified 21 vendors each with refunds and adjustments totaling \$1 million or more between 2002 and April 2006 and asked the Missouri Department of Revenue for explanations. The Missouri Department of Revenue, however, did not provide the specific information we requested. We recommend that the Finance Department monitor large sales and use tax refunds and adjustments and that the Law Department work with the Finance Department and Office of Management and Budget to obtain information from the Missouri Department of Revenue explaining the reasons that some Kansas City, Missouri, vendors receive large refunds and adjustments.

### **State Legislation Should Restrict Sales Tax Windfalls for Vendors**

Missouri law does not require vendors to return sales and use tax refunds to the original purchasers. Because vendors may keep refunds, they have incentives to seek refunds.

The state auditor reported that vendors might be receiving a windfall because refunds are not always passed on to the original purchaser. The auditor also found that the six surrounding states required that refunds be passed on to the original purchaser and recommended similar legislation in Missouri. Legislation was introduced in 1997 and again in subsequent legislative sessions that would have prohibited a refund or adjustment unless it was demonstrated that the amount would be returned to the original purchaser. The General Assembly, however, did not approve the legislation.

To encourage the correct collection of sales and use taxes, the mayor and City Council should add to the city's state legislative agenda legislation requiring that sales and use tax refunds and adjustments and related interest be returned to the original purchaser. In situations in which it is not practical or possible to identify the original purchaser, these monies should be retained by the state, county, and city jurisdictions, to be used for the benefit of the general public rather than retained as a windfall by the vendor.

---

### **Kansas City Continues to Attract Retail Sales**

Kansas City's estimated share of the metropolitan area's retail sales has held relatively steady since 1999. The city continues to rank fifth among area cities in its ability to attract retail sales to the city.

We calculated a pull factor to measure how well the city is generating retail sales among 17 metro area cities.<sup>8</sup> A pull factor ratio greater than 1 indicates that the city is attracting business relative to the rest of the cities in the metro area and a ratio less than 1 indicates that the city is losing business relative to other cities. Kansas City's 2005 pull factor is 1.10, which means Kansas City is attracting shoppers to Kansas City.

---

<sup>8</sup> The pull factor is the ratio of city per capita sales tax collections to the combined metro cities' per capita collections, adjusted for difference in sales tax rates. We selected cities in the metro area with populations greater than 20,000 for comparison. Because the city's metropolitan area straddles the state line, we constructed a pull factor with per capita sales tax in these 17 cities combined as the base.

The city's rank among area cities remained unchanged from the 1999 ranking we reported in our original report. (See Exhibit 5.)

Exhibit 5: Pull Factor Analysis, 1995, 1999 and 2005

City	1995		1999		2005	
	Pull Factor	Ranking	Pull Factor	Ranking	Pull Factor	Ranking
Overland Park, KS	1.75	2	1.75	2	1.66	1
Lenexa, KS	2.13	1	2.04	1	1.58	2
Olathe, KS	1.06	4	1.44	3	1.35	3
Leawood, KS	0.60	16	1.14	4	1.31	4
<b>Kansas City, MO</b>	<b>1.13</b>	<b>3</b>	<b>1.07</b>	<b>5</b>	<b>1.10</b>	<b>5</b>
Lee's Summit, MO	0.71	13	0.84	12	1.09	6
Shawnee, KS	0.91	7	1.04	6	1.09	7
Independence, MO	0.91	6	0.99	7	1.04	8
Blue Springs, MO	0.89	8	0.99	8	0.93	9
Grandview, MO	0.87	9	0.88	11	0.87	10
Kansas City, KS	0.75	11	0.75	14	0.87	11
Gladstone, MO	0.78	10	0.93	9	0.86	12
Liberty, MO	0.93	5	0.93	10	0.82	13
Belton, MO	0.53	17	0.58	17	0.81	14
Prairie Village, KS	0.68	14	0.69	15	0.71	15
Raytown, MO	0.72	12	0.80	13	0.67	16
Leavenworth, KS	0.62	15	0.64	16	0.62	17

Source: Missouri and Kansas Departments of Revenue, U.S. Census Bureau, and CAO calculations.

## Internet Sales Have Limited, But Uncertain Effect on Sales Tax Revenues

Studies estimate that internet sales have had a limited, but uncertain impact on state and local government sales tax revenues. According to a 2004, University of Tennessee study, "e-commerce has been a less robust channel for transacting goods and services than anticipated..."<sup>9</sup> The study estimates that by 2008, revenue losses from e-commerce as a percentage of Missouri's total 2003 sales tax collection could range from 3 to 4.7 percent. In 2004, the U.S. Census Bureau estimated e-commerce sales as a share of total retail sales at about 2 percent, up from 1.7 percent in 2003.<sup>10</sup> And, in a 2000, United States General Accounting Office report, the tax loss from Internet sales, not replacing other remote sales, was estimated at less than two percent of general sales tax

<sup>9</sup> *State and Local Sales Tax Revenue Losses From E-Commerce: Estimates as of July 2004*, University of Tennessee,

<sup>10</sup> E-Stats, U.S. Census Bureau, May 25, 2006.

revenues.<sup>11</sup> Uncertainty continues in estimating the impact of Internet and other remote sales on local tax revenues.

Internet and other remote sales present compliance challenges for sales and use tax administrators. Tax liabilities for Internet sales are generally the same as for other sales, however, collection and remittance responsibilities may differ. Vendors with a substantial presence in a taxing jurisdiction are responsible for collecting and remitting sale taxes. When the vendor does not, purchasers are responsible for remitting use taxes. Officials and experts believe that sales and use tax compliance is highest for in-store sales and lowest for remote sales, including the Internet, when vendors do not have a substantial presence in the taxing jurisdiction. Many more vendors, however, have begun to collect sales and use taxes on remote sales according to the University of Tennessee study.

---

## **Recommendations**

1. The director of finance should monitor large sales and use tax refunds and adjustments.
2. The city manager should direct the city attorney to work with the director of finance and budget officer to obtain information from the Missouri Department of Revenue explaining the reasons that some Kansas City, Missouri, vendors receive large sales and use tax refunds or adjustment.
3. The city manager should submit for inclusion in the city's legislative agenda state legislation requiring vendors to return refunds, adjustments, and associated interest to the original purchaser. In situations in which it is not practical or possible to identify the original purchaser, these monies should be retained by the state, county, and city jurisdictions, to be used for the benefit of the general public.

---

<sup>11</sup> *Sales Tax: Electronic Commerce Growth Presents Challenges; Revenue Losses Are Uncertain*, United States General Accounting Office, June 30, 2000.

---

## **Appendix A**

---

### **City Manager's Response**





## Office of the City Manager

29th Floor, City Hall  
414 East 12th Street  
Kansas City, Missouri 64106



(816) 513-1408  
Fax: (816) 513-1363

**DATE:** January 8, 2007  
**TO:** Gary White, Acting City Auditor  
**CC:** Deb Hinsvark, CFO/ Director of Finance  
**FROM:** Wayne Cauthen, City Manager <sup>W.A.C.</sup>

JAN 8 2007

**SUBJECT:** Response to Draft Performance Audit Sales Tax Study Follow-up

The recently completed follow-up audit on the sales tax study conducted by your department yielded three recommendations. I have reviewed your audit, and respectfully submit to you the following:

*Recommendation: The director of finance should monitor large sales and use tax refunds and adjustments.*

Response: Agree. The Finance Department has already commenced conversations with the State of Missouri to provide detailed data to the City of Kansas City that would facilitate our ability to gather the information necessary to monitor large sales and use tax refunds.

*Recommendation: The city manager should direct the city attorney to work with the director of finance and budget officer to obtain information from the Missouri Department of Revenue explaining the reasons that some Kansas City, Missouri vendors receive large sales and use tax refunds or adjustments.*

Response: Agree in part. The Revenue Division of the Finance Department interacts with the Missouri Department of Revenue, and should be able to obtain such information. The activity suggested by this recommendation is a natural corollary to the activities suggested in the first recommendation of this audit, and will be fulfilled with closer coordination of the legal representative assigned to the Finance Department. The Revenue Division in fact maintains the primary relationship with the Missouri Department of Revenue, thus I would respectfully direct the Revenue Division of Finance to obtain the information, and only engage their legal professional, and budget office when necessary.

*Recommendation: The city manager should submit for inclusion in the city's legislative agenda state legislation requiring vendors to return refunds, adjustments, and associated interest to the original purchaser. In situation in which it is not practical or possible to identify the original purchaser, these monies should be retained by the state, county and city jurisdictions, to be used for the benefit for the general public.*

Response: Agree In Part. I would like to amend this recommendation to act upon if and only if an affirmative legal opinion is obtained from both the City Attorney for the City of Kansas City, but also from the State's Attorney General. Adopting and correctly implementing this recommendation would take extensive research, and even closer coordination between the city and the Missouri Department of Revenue to calculate and identify businesses and individuals to whom refunds were due. Instances in which we are unable to identify an original purchaser does not mean the original purchaser will not be unable to, at some point, discover that he or she is owed a refund from a business, and our efforts should not prevent a purchaser from recovering their funds. Also, there may be statues of limitation that affect to our ability to recapture those refunds for our own use, and I would want to ensure that as city, county and state financial organizations we are only acquiring monies due us. As such, I would not feel comfortable introducing such legislation until next year's legislative session, and only upon receiving affirmative legal opinions from the City Attorney, and the State Attorney General.

Attachment



Office of the City Manager

29th Floor, City Hall  
414 East 12th Street  
Kansas City, Missouri 64106



(816) 513-1408  
Fax: (816) 513-1363

DATE: January 8, 2007  
TO: Galen Beaufort, City Attorney  
FROM: Wayne A. Cauthen, <sup>W.A.C.</sup> City Manager  
RE: Request for Legal Opinion

The recently complete draft of the Sales Tax Study Follow-up Audit yielded three recommendations, the third of which called for the city to consider introducing legislation to retain refunds due purchasers if the original purchasers cannot be found.

I would like to seek an official legal opinion from you to provide insight on the legality of such an endeavor. I would also like for you to work with the state Attorney General's Office to ensure that they corroborate our findings in the soundness of introducing legislation to pursue such activities.

For your convenience, I have attached my response to the City Auditor's audit recommendations. Recommendation #3 has precipitated my request of your legal opinion.

Please advise me as to when you will be able to provide a response to this request.

Thank you.

Attachment