SALES TAX VENDOR ALLOWANCE

EVALUATION SUMMARY

JULY 2019
2019-TE26

THIS EVALUATION WILL BE INCLUDED IN COMPILATION REPORT SEPTMEBER 2019

YEAR ENACTED	1935
REPEAL/EXPIRATION DATE	None
REVENUE IMPACT	$107million TAX YEAR 2018
NUMBER OF TAXPAYERS	110,984
AVERAGE TAXPAYER BENEFIT	$964
IS IT MEETING ITS PURPOSE?	Yes, in some circumstances

WHAT DOES THIS TAX EXPENDITURE DO?

The Sales Tax Vendor Allowance (Vendor Allowance) allows retailers that collect and remit Colorado state sales tax to retain 3.33 percent of the amount of state sales tax collected when they file their sales tax returns on time.

WHAT IS THE PURPOSE OF THIS TAX EXPENDITURE?

The enacting legislation [House Bill 35-984] and current statute [Section 39-26-105(1)(c)(I)(A), C.R.S.] state that the purpose of the Vendor Allowance is "to cover the vendor's/retailer's expense in the collection and remittance of said [state sales] tax."

WHAT DID THE EVALUATION FIND?

We determined that the Vendor Allowance is meeting its purpose in some circumstances because some retailers likely have their sales tax collection and remittance costs covered by the Vendor Allowance. However, we found that sales tax collection costs vary among retailers, and some smaller retailers may not have all of their sales tax collection and remittance costs covered by the Vendor Allowance. In contrast, some larger retailers have likely received an allowance in excess of their actual sales tax collection and remittance costs.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

We did not identify any policy considerations for this evaluation.

SALES TAX VENDOR ALLOWANCE

EVALUATION RESULTS

WHAT IS THE TAX EXPENDITURE?

The Sales Tax Vendor Allowance (Vendor Allowance) allows retailers that collect and remit Colorado state sales tax to retain 3.33 percent of the amount of state sales tax collected when they file their sales tax returns on time.

Statute [Sections 39-26-105(1)(a)(I)(A) and (b)(I), C.R.S.] requires retailers that are doing business in the state to collect Colorado sales tax at a rate of 2.9 percent on all taxable Colorado purchases and file a sales or retailer's use tax return with the Department of Revenue to remit the sales tax collected. Under statute [Section 39-26-102(3), C.R.S.], retailers are considered to be doing business in the state if they have a physical presence in Colorado or, beginning June 1, 2019, have more than $100,000 in sales of tangible personal property, commodities, or services in Colorado in the previous calendar year or year-to-date in the current calendar year. Therefore, Colorado sales tax collection and remittance responsibilities fall on in-state retailers and some out-of-state retailers that have more than $100,000 in sales in Colorado. Retailers with an obligation to collect and remit sales tax in Colorado are required to apply for and receive a sales tax license from the Department of Revenue every 2 years.

The Vendor Allowance was enacted in 1935 with the same legislation [House Bill 35-984] that created the state sales tax in Colorado. In 1970, the Vendor Allowance was amended to allow only retailers that file their sales or retailer's use tax returns and remit their sales tax on time to claim it. Since its enactment, the Vendor Allowance rate has fluctuated between 5 percent and 0 percent, as shown in EXHIBIT 1.1. House Bill 19-1245, which was enacted during the 2019 Legislative Session, increased the Vendor Allowance rate to 4 percent of the sales tax reported, but capped it at $1,000 per filing period per retailer beginning January 1, 2020. This means that the most retailers can claim for the allowance is $12,000 annually. For purposes of applying the $1,000 cap, retailers with more than one location (e.g., retail chain stores) are considered one retailer and must register all locations under a single sales tax account with the Department of Revenue. Prior to this change, retailers with multiple locations were allowed to retain 3.33 percent of the amount of state sales tax collected at each store. Depending on the amount of sales tax due, retailers may file their returns and remit sales taxes annually, quarterly, or monthly. However, the $1,000 cap only impacts monthly filers because less frequent filing is only available for retailers with under $300 in monthly sales tax collections. This is the first time Colorado has placed a cap on the Vendor Allowance since it came into existence.

EXHIBIT 1.1.
HISTORY OF THE VENDOR ALLOWANCE RATE

Dates	Vendor Allowance Rate
March 1, 1935, to June 30, 1965	5%
July 1, 1965, to June 30, 2003	3.33%[1]
July 1, 2003, to June 30, 2005	2.33%
July 1, 2005, to February 28, 2009	3.33%
March 1, 2009, to June 30, 2009	1.35%
July 1, 2009, to June 30, 2011	0%
July 1, 2011, to June 30, 2014	2.22%
July 1, 2014, to December 31, 2019	3.33%
January 1, 2020, and ongoing	4%, capped at $1,000 per monthly filing period

SOURCE: Office of the State Auditor analysis of legislative history of the Vendor Allowance.
[1] The decrease in the Vendor Allowance rate from 5 percent to 3.33 percent in 1965 corresponded with an increase in the state sales tax rate from 2 percent to 3 percent.

To claim the Vendor Allowance, a retailer must file the Colorado Retail Sales Tax Return (Form DR 0100) and pay the sales tax due on time. Out-of-state retailers that make sales in Colorado generally file the Retailer's Use Tax Return (Form DR 0173) to claim the Vendor Allowance. The Vendor Allowance is subtracted from the amount of sales tax collected, and then the retailer remits the sales tax collected minus the Vendor Allowance to the Department of Revenue.

The amount of the Vendor Allowance is based on the Colorado sales tax collected and remitted to the Department of Revenue. Therefore, any exempt or nontaxable sales made by the retailer on which state sales tax is not collected (e.g., sales to charitable organizations, exempt items such as food for home consumption, and nontaxable sales to customers outside the taxing jurisdiction) are not part of the tax base on which the Vendor Allowance is calculated. On both the retail sales and use tax returns, the Vendor Allowance is generally calculated as follows:

Gross Sales and Services – Nontaxable Sales (e.g., exempt items, wholesale sales, sales out of the taxing area)
=
Net Taxable Sales

Net Taxable Sales x 2.9%
=
Amount of Sales Tax

Amount of Sales Tax x 3.33%
=
Vendor Allowance

Amount of Sales Tax – Vendor Allowance
=
Sales Tax Due

WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Statute does not explicitly identify the intended beneficiaries of the Vendor Allowance. Based on the language in statute regarding who is responsible for collecting and remitting Colorado sales tax, we inferred that the intended beneficiaries of the Vendor Allowance are retailers that collect Colorado sales tax on behalf of the state. Prior to the U.S. Supreme Court's 2018 decision in *South Dakota v. Wayfair, Inc.* [138 S. Ct. 2080, 2018], only retailers with a physical presence in the state were required to collect and remit sales tax. Generally, a retailer was considered to have a physical presence if it had property (e.g., a storefront or warehouse) or payroll (e.g., employees) in the state. However, the decision in *South Dakota v. Wayfair, Inc.*, provides that out-of-state retailers with no physical presence in a state may be required to register with the state and collect and remit sales tax if they conduct a substantial amount of business in the state. In response to the decision in *South Dakota v. Wayfair, Inc.*, in 2019, the General

Assembly enacted House Bill 19-1240, which provides that, beginning June 1, 2019, retailers with no physical presence in Colorado that have more than $100,000 in sales of tangible personal property, commodities, or services in Colorado in the previous calendar year or year-to-date in the current calendar year are required to register with the Department of Revenue and collect and remit Colorado sales tax. Therefore, beginning in June 2019, the Vendor Allowance may benefit additional out-of-state retailers that make sales in Colorado.

WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

The enacting legislation [House Bill 35-984] and current statute [Section 39-26-105(1)(c)(I)(A), C.R.S.] state that the purpose of the Vendor Allowance is "to cover the vendor's/retailer's expense in the collection and remittance of said [state sales] tax." Additionally, in 2019, the General Assembly passed House Bill 19-1245, which included a legislative declaration stating that "[t]he purpose of the state sales tax vendor fee [Vendor Allowance] is to assist Colorado retailers in complying with the obligation to collect and remit sales tax . . ."

IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We determined that the Vendor Allowance is meeting its purpose in some circumstances because it likely covers some retailers' sales tax collection and remittance costs. Furthermore, to the extent that retailers have state net taxable sales, all retailers that file on time and remit their sales tax that is due, receive some financial assistance from the Vendor Allowance. However, we also found that sales tax collection costs vary among retailers, and some smaller retailers likely do not have all of their sales tax collection and remittance costs covered. In contrast, some large retailers have likely received a Vendor Allowance in excess of their actual sales tax collection and remittance costs.

Statute does not provide quantifiable performance measures for this tax expenditure. Therefore, we created and applied the following performance measure to determine if the Vendor Allowance is meeting its purpose:

PERFORMANCE MEASURE: *To what extent does the Vendor Allowance cover retailers' expenses incurred in the collection and remittance of Colorado sales tax?*

RESULT: The extent to which the Vendor Allowance covers the cost of collecting and remitting the State's sales tax varies considerably based on the size of the retailer, although all retailers that submit their sales taxes on time benefit from the allowance. Furthermore, the extent of this benefit will change considerably for some retailers beginning in Tax Year 2020 under the changes implemented through House Bill 19-1245.

To conduct our analysis, we compared retailers' estimated costs for collecting and remitting sales taxes to the actual Vendor Allowance they received. We relied on a 2006 national study conducted by PricewaterhouseCoopers (PwC) for the average cost to collect sales taxes. Because the study is not recent or specific to Colorado, the cost estimates we used from the study may vary from the costs Colorado retailers actually incur. However, we did not identify any studies or other sources to estimate the typical costs of sales tax collection in Colorado.

PwC's findings on sales tax collection and remittance costs by retailer size are summarized in EXHIBIT 1.2.

EXHIBIT 1.2.
SUMMARY OF PRICEWATERHOUSECOOPERS' FINDINGS ON SALES TAX COLLECTION AND REMITTANCE COSTS BY RETAILER SIZE

RETAILER SIZE	COMPLIANCE COSTS AS A PERCENTAGE OF SALES TAX COLLECTED
$150,000 or less in annual retail sales	Not studied
Over $150,000 and up to $1 million in annual retail sales (small)	13.47%
Over $1 million and up to $10 million in annual retail sales (medium)	5.20%
Over $10 million in annual retail sales (large)	2.17%

SOURCE: Office of the State Auditor analysis of *Retail Sales Tax Compliance Costs: A National Estimate* conducted by PricewaterhouseCoopers for the Joint Cost of Collection Study on April 7, 2006.

The PwC study identified the following costs associated with the collection and remittance of sales taxes:

- Point-of-sale transaction costs, including documenting tax-exempt sales and customer service relating to sales tax issues
- Training personnel on sales taxes
- Programming point-of-sale equipment/sales tax-related software and license fees
- Sales tax audits and audit-related costs, including appealing audit decisions
- Preparing and filing returns and related costs (e.g., sales tax research)
- Debit and credit card fees that are charged on the sales tax portion of a debit or credit card transaction

The PwC study found that the most significant costs for small and medium-sized retailers relate to filing sales tax returns, remitting sales taxes, processing refund credits, conducting sales tax research, and documenting tax-exempt sales. For large retailers, the study found that the most significant cost is credit and debit card fees. Because credit and debit card fees are partially based on a rate charged on the total transaction amount, which includes the amount collected for sales tax, the sales tax causes an increase in the fee. As of June 2019, the rates for Visa and MasterCard credit card fees ranged from 1.51 percent to 2.95 percent, depending on the type of card and whether the card is swiped or the credit card number is manually keyed in by the retailer. Visa and MasterCard debit card fees ranged from 0.05 percent to 2.45 percent.

We consulted with stakeholder organizations that represent different retail industries in Colorado, and they stated that the most significant costs for their retail members in Colorado are training employees, documenting tax-exempt sales, dealing with sales tax audits, and programming and updating their software or databases based on different sales tax rates and taxability of items in different jurisdictions.

One stakeholder mentioned that dealing with items that are exempted by the State, but optional for state-collected local jurisdictions under Section 29-2-105(1)(d)(I)(A) through (P), C.R.S., can be particularly difficult for some software to accommodate. Stakeholders also mentioned that credit and debit card fees, both in general and on the portion of the sales tax collected, are a large cost to retailers.

We compared the average sales tax collection cost percentages from the PwC study to Department of Revenue taxpayer data for retailers that had claimed the Vendor Allowance in Tax Year 2018 to determine whether the Vendor Allowance covers the estimated sales tax collection and remittance costs of retailers. Specifically, we consolidated Department of Revenue taxpayer data into the same retailer size categories used by PwC in its study, determined the average Vendor Allowance provided per retailer in each category, and calculated the average compliance costs per retailer in each category using the PwC sales tax collection cost percentages. We also conducted the same analysis using the 4 percent Vendor Allowance with a $1,000 monthly cap under House Bill 19-1245 to determine whether the new Vendor Allowance rules that go into effect January 1, 2020, would have covered the sales tax collection and remittance costs of retailers had they been in place in Tax Year 2018.

As shown in EXHIBIT 1.3, on average, we found that prior to House Bill 19-1245, the Vendor Allowance did not fully cover the average costs of state sales tax collection for retailers with less than $10 million in annual state net taxable sales and provided more than the collection costs to retailers with $10 million or more in annual state net taxable sales. This is because larger retailers generally have lower tax collection costs as a percentage of taxable sales. Applying the Vendor Allowance amounts under House Bill 19-1245, we found that they do not fully cover the average costs of collection for any of the categories of retailers, although the percentage covered will continue to vary based on the retailers' size.

EXHIBIT 1.3.
PROPORTION OF SALES TAX COLLECTION COSTS COVERED BY THE VENDOR ALLOWANCE FOR TAX YEAR 2018 AND PROJECTED BASED ON HOUSE BILL 19-1245

Annual State Net Taxable Sales Categories	Average Annual Compliance Costs Per Retailer	Average Annual Vendor Allowance Provided Per Retailer, Tax Year 2018	Estimated Percentage of Retailers' Compliance Costs Covered, Tax Year 2018	Projected Average Annual Vendor Allowance Provided Per Retailer Under House Bill 19-1245	Projected Percentage of Retailers' Compliance Costs Covered under House Bill 19-1245
Less than $150,000	Could not determine [1]	$29	Could not determine [1]	$35	Could not determine [1]
$150,000 to $999,999	$1,687	$417	25%	$501	30%
$1,000,000 to $9,999,999	$3,873	$2,480	64%	$2,979	77%
$10,000,000 and more	$31,537	$48,396	153%	$12,000	38%

SOURCE: Office of the State Auditor analysis of sales tax compliance costs using PricewaterhouseCoopers sales tax collection and remittance cost percentages and Department of Revenue Tax Year 2018 taxpayer data.

[1] We were not able to make a determination for retailers with less than $150,000 in annual state net taxable sales because the PricewaterhouseCoopers study did not address the sales tax collection costs for this group of retailers.

WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

According to Department of Revenue data, the Vendor Allowance resulted in approximately $107 million in forgone revenue to the State in Tax Year 2018, with an equal amount retained by retailers. However, the net revenue impact of the Vendor Allowance is likely slightly lower than $107 million to the extent that the amount retained by retailers for the allowance must be included in retailers' Colorado taxable income. Any amount included in Colorado taxable income would result in additional income tax revenue for the State. For example, if the entire amount of the Vendor Allowance was taxed, it would result in $5 million of additional income tax revenue for the State. However, since some retailers that received the allowance likely incurred a loss for the year and had no tax liability, the actual figure is likely lower.

With the enactment of House Bill 19-1240, beginning in Tax Year 2019, the revenue impact of the Vendor Allowance may increase due to more out-of-state retailers collecting and remitting Colorado sales tax and consequently claiming the Vendor Allowance, although we lacked data to determine how substantial this increase may be.

Conversely, the changes made to the Vendor Allowance as a result of House Bill 19-1245, which are effective beginning on January 1, 2020, will substantially reduce the overall revenue impact of the Vendor Allowance beginning in Tax Year 2020. For example, if the Vendor Allowance had been raised to 4 percent and capped at $1,000 per taxpayer, per month in Tax Year 2018, the revenue impact of the Vendor Allowance in Tax Year 2018 would have been approximately $63.7 million, which is $43.3 million (40 percent) lower than the actual revenue impact. To calculate this revenue impact, we used Department of Revenue data based on the number of sales and retail use accounts. Currently, retail chain stores in Colorado may be registered under several accounts with the Department of Revenue. However, for the purposes of applying the $1,000 Vendor Allowance cap under House Bill 19-1245, beginning January 1, 2020, all retail chain stores will be required to register under a single sales or use account. Therefore, the revenue impact under House Bill 19-1245 could potentially be lower than our estimate because retail chain stores currently with more than one sales or use tax account will be consolidated into a single Department of Revenue sales tax account. Additionally, to the extent the $43.3 million was subject to Colorado income tax, the State would have received as much as $2.0 million less in income tax revenue.

In addition, retailers that do not file their sales tax returns and remit their sales taxes on time do not receive the Vendor Allowance and are subject to penalties and interest. Therefore, the Vendor Allowance may benefit the State by acting as an additional incentive to ensure that the State receives timely and complete sales tax collections from retailers.

WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

If the Vendor Allowance were eliminated, it would result in retailers being financially responsible for all of their sales tax collection and remittance costs. Retailers would then either have to absorb the cost previously covered by the Vendor Allowance or pass it on to customers in the form of higher prices. If the costs previously covered by the Vendor Allowance were passed on to consumers, it would result in less than a 0.1 percent increase in prices, or the equivalent of about $0.10 on a $100 purchase.

We consulted with stakeholder organizations that represent various retail industries in Colorado. Some stakeholders reported that retailers may try to absorb as much of the sales tax collection costs as possible so that their customers are not affected. Stakeholders also reported that some retailers would have difficulty passing the sales tax collection costs on to customers depending on the market. To the extent that small retailers (e.g., a mom and pop grocery store) compete with large retailers (e.g., chain grocery stores), the cost of collecting and remitting sales taxes could put the small retailers at a competitive disadvantage. If the retailers are not able to pass the costs on to customers, stakeholders reported that retailers might provide employees with fewer work hours or hire fewer employees.

We also examined Department of Revenue taxpayer data for Tax Year 2018 to determine the potential impact to retailers if the Vendor Allowance was eliminated, as shown in EXHIBIT 1.4.

EXHIBIT 1.4.
VENDOR ALLOWANCE BY RETAILERS' ANNUAL STATE NET TAXABLE SALES
TAX YEAR 2018[1] and PROJECTED UNDER HOUSE BILL 19-1245

State Net Taxable Sales Category	Total Sales and Use Tax Accounts	Total Vendor Allowance (Tax Year 2018)	Retailers' Average Annual Vendor Allowance (Tax Year 2018)	Projected Total Annual Vendor Allowance (House Bill 19-1245)	Projected Retailers' Average Annual Vendor Allowance (House Bill 19-1245)
$1 to $99,999	69,272	$ 1,249,000	$ 18	$ 1,848,000	$ 27
$100,000 to $999,999	29,769	$ 10,580,000	$ 355	$ 12,921,000	$ 434
$1,000,000 to $9,999,999	10,472	$ 26,050,000	$ 2,488	$ 31,304,000	$ 2,989
$10,000,000 to $99,999,999	1,375	$ 37,884,000	$ 27,552	$ 16,500,000	$ 12,000
$100,000,000 or more	96	$ 31,282,000	$ 325,854	$ 1,152,000	$ 12,000
TOTAL	110,984	$ 107,045,000		$ 63,725,000	

SOURCE: Office of the State Auditor analysis of Department of Revenue taxpayer data.
[1] Data for sales tax accounts is from actual claims of the Vendor Allowance on the DR 0100. Data for retailer's use tax accounts is calculated based on state taxable sales and does not represent actual claims of the Vendor Allowance on the DR 0173 because that data could not be extracted from GenTax, the Department of Revenue's tax processing system. Retailer's use tax accounts represent approximately 7 percent of the total sales and use tax accounts and approximately 6 percent of the Vendor Allowance in Tax Year 2018.

Additionally, the PwC study found that sales tax collection costs for small retailers were greatest for furniture and home furnishings retailers. For medium-sized retailers, food stores had the highest sales tax collection costs. Automotive dealers and gasoline service stations had the highest sales tax collection costs among large retailers. Therefore, to the extent that Colorado retailers in those industries have sales tax collection costs that are consistent with national averages, if the Vendor Allowance were eliminated, retailers in those industries could be most impacted.

ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

Of the 44 states (excluding Colorado) and the District of Columbia that have a retail sales or similar tax, 26 states have a vendor allowance. Of those 26 states, 17 put a cap on the total vendor allowance amount, meaning that there is a maximum vendor allowance that a retailer can claim per year or per filing period. EXHIBIT 1.5 summarizes the six different approaches that states with a vendor allowance use.

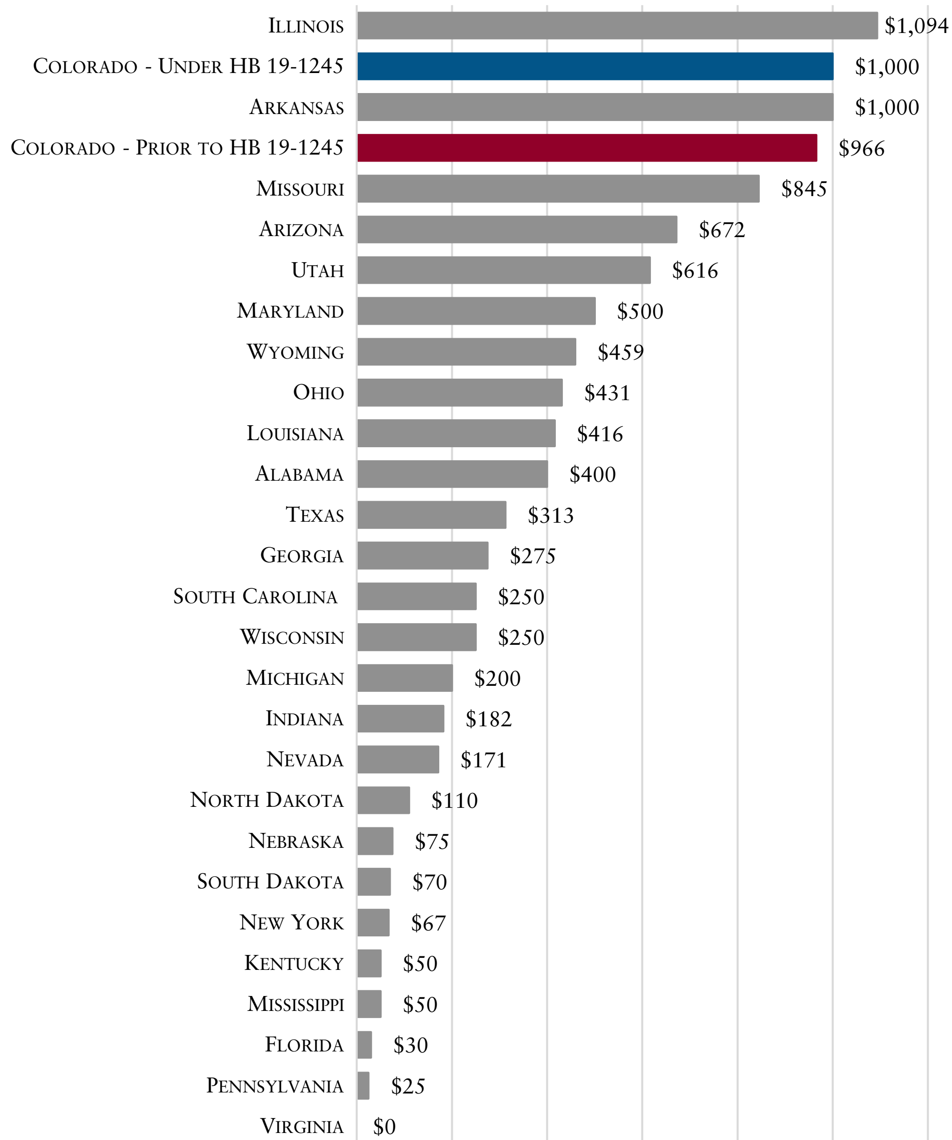
EXHIBIT 1.5.
COMPARISON OF VENDOR ALLOWANCE APPROACHES USED IN OTHER STATES THAT HAVE A VENDOR ALLOWANCE

DESCRIPTION OF APPROACH	EXAMPLE FROM A STATE USING THIS APPROACH	STATES USING THIS TYPE OF APPROACH
Single Rate, No Limit on Amount Allowed to be Claimed (i.e., No Cap)	2% of all the sales tax collected	CO (prior to January 1, 2020), IL, MO, NV, OH, TX, UT
Single Rate, On a Certain Amount of Sales Tax Collected [1]	2.5% on the first $1,200 of sales tax collected in the reporting period	FL, NE
Single Rate, But Only on a Portion of the State's Actual Sales Tax Rate	0.5% of the first 4% of sales tax due (when the state's sales tax rate is 6%)	MI [2], VA [3]
Single Rate, With a Maximum Amount Allowed to be Claimed (i.e., a cap)	1.5% of the sales tax collected, not to exceed $110 per month	AR, AZ, CO (beginning January 1, 2020), LA, MS, NY, ND, PA, SD, WI
Sliding Scale Rates Based on the Amount of Sales Tax Collected in the Current Period	3% of the first $3,000 of sales tax collected and 0.5% of the sales tax collected that exceeds $3,000	AL [2], GA, KY [2], MD [2], SC [2], WY [2]
Sliding Scale Rates Based on the Amount of the Retailer's Sales Tax Liability in the Current or Previous Year	Retailers with $60,000 or less in sales tax liability in the previous year have a vendor allowance rate of 0.73%; retailers with greater than $60,000 but less than $600,000 have a rate of 0.53%; retailers with $600,000 or more have a rate of 0.26%	IN, VA[3]

SOURCE: Office of the State Auditor analysis of other states' vendor allowance provisions.
[1] This structure effectively operates as a cap on the vendor allowance.
[2] These states also place a cap on the amount of the vendor allowance that a retailer can claim per filing period or per year.
[3] Virginia disallows any vendor allowance for a retailer whose average monthly sales tax liability exceeds $20,000.

We compared Colorado's Vendor Allowance under the pre-January 1, 2020, rate (3.33 percent) and the Vendor Allowance rate that begins on January 1, 2020, (4 percent, capped at $1,000 per filing period) to the vendor allowances provided in other states when a retailer has $1 million and $100 million in monthly taxable sales since the allowance amounts can vary based on total taxable sales. The states ranked by highest to lowest vendor allowance are shown in EXHIBITS 1.6 and 1.7.

EXHIBIT 1.6.
VENDOR ALLOWANCE PER RETAILER IN EACH STATE WHEN THE RETAILER HAS $1,000,000 IN TAXABLE SALES IN 1 MONTH



SOURCE: Office of the State Auditor of Colorado and other states' vendor allowance provisions.

EXHIBIT 1.7.
VENDOR ALLOWANCE PER RETAILER IN EACH STATE WHEN THE RETAILER HAS $100,000,000 IN TAXABLE SALES IN 1 MONTH

SOURCE: Office of the State Auditor analysis of Colorado and other states' vendor allowance provisions.

When a retailer reports $1 million in net taxable sales in a month, under Colorado's pre-January 1, 2020, Vendor Allowance, two states (Illinois and Arkansas) provide a higher vendor allowance than Colorado. When a retailer reports $100 million in net taxable sales in a month, only Illinois provides a higher vendor allowance. Under the Colorado Vendor Allowance rate and cap that begins on January 1, 2020, at $1 million in net taxable sales in a month, one state (Illinois) provides a higher vendor allowance, and at $100 million in net taxable sales in a month, 10 states provide a higher vendor allowance.

In Colorado, the Colorado Vendor Allowance applies only to state sales taxes. Some local jurisdictions, both state-collected and self-collected, offer their own vendor allowances on the local sales taxes collected. The above analysis does not take into account vendor allowances provided by local jurisdictions in Colorado. Likewise, the analysis does not take into consideration vendor allowances provided by local jurisdictions in other states.

ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

Most of the municipalities and counties in Colorado with state-collected local sales taxes provide a vendor allowance that applies to the local municipal and county sales tax collections only. As of December 2018, 120 out of the 151 municipalities with state-collected municipal sales tax had a vendor allowance ranging from 1.5 percent to 3.33 percent. Additionally, 42 out of the 51 counties with state-collected county sales tax provide a vendor allowance ranging from 0.5 percent to 3.33 percent. Based on the population-weighted average revenue impact of the vendor allowance for state-collected local jurisdictions of 1.5 percent and $1.7 billion in local taxes collected by the State in Fiscal Year 2018, we estimate that retailers received about $25.6 million in local vendor allowances (in addition to those provided by the State) for state-collected jurisdictions. Additionally, home rule municipalities established under Article XX, Section 6 of the Colorado Constitution that collect their own sales taxes have the authority to set their own tax policies independent from the State. We reviewed the local tax laws of the 15 most populous home rule, self-collected cities and found that five of them (Broomfield, Centennial, Longmont, Loveland, Thornton) provide a vendor allowance ranging from 2 to 3 percent of the local sales tax collected, and all five cap their vendor allowance at between $25 and $200 per filing period. Aurora and Arvada repealed their vendor allowances in 2018 and 2019, respectively.

Recently, there have been initiatives and legislation passed in Colorado that seek to simplify Colorado's sales tax system that could reduce the cost of collecting sales taxes, including:

- In 2017, with House Bill 17-1216, the General Assembly created the Sales Tax Simplification Task Force (Task Force), an interim committee intended "to study the necessary components of a simplified sales and use tax system for both the state and local governments, including home rule municipalities and counties."

- In 2019, the Task Force sponsored and the General Assembly passed Senate Bill 19-006, which requires the Governor's Office of Information Technology and the Department of Revenue to procure an electronic sales and use tax simplification system with the goal of having all municipalities, including home rule municipalities, voluntarily use the system within 3 years.

- In 2019, the General Assembly passed House Bill 19-1240, which allows in-state retailers with $100,000 or less in revenue to source their sales to the retailer's location rather than the buyer's location until an electronic system that can help them source their sales to the destination is put in place by the Department of Revenue. Beginning October 1, 2019, House Bill 19-1240 also requires marketplace facilitators (e.g., Amazon, Etsy, eBay) to collect and remit sales tax on behalf of marketplace sellers when a marketplace seller enters into a contract with the marketplace facilitator that manages the sale of the marketplace seller's tangible personal property. In the case of marketplace facilitators collecting sales tax on behalf of their marketplace sellers, House Bill 19-1240 provides that the marketplace facilitator is eligible for the Vendor Allowance.

WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

Because neither the State nor a third party has conducted a study on the cost of sales tax collection and remittance in Colorado, we did not have current information on the costs of sales tax collection specific to

Colorado retailers. This information would allow us to more accurately compare the vendor allowance amount to the costs it is intended to cover. However, at the time of this evaluation, we determined that conducting such an analysis would not be cost-effective or likely to yield accurate results because of the significant recent and ongoing changes to the State's sales tax system that are discussed in this report, which would potentially skew the results of such an analysis.

WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

We did not identify any policy considerations related to this tax expenditure.