Skimming the Sales Tax:

How Wal-Mart and Other Big Retailers (Legally) Keep a Cut of the Taxes We Pay on Everyday Purchases

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by

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Executive Summary

No shopper enjoys seeing sales tax added to the bill at the checkout. We tolerate the expense because the funds pay for vital public services. Yet most of us don't realize that in a majority of states with a sales tax, a portion of the money actually goes into the pocket of the retailer under programs set up by state and local governments.

In this first-ever comprehensive national analysis of the subject, Good Jobs First finds that the public sector is losing more than $1 billion a year through these sales-tax diversions.* A large share of revenue gets redirected to giant retailers such as Wal-Mart, a company we estimate pockets more than $70 million a year in sales tax revenues.

The main way sales tax collections are "skimmed" from public coffers is through policies that allow all retailers to keep a portion of what they collect on behalf of state and local governments.* The practice, known by terms such as "vendor discount" and "dealer collection allowance," is essentially a service fee meant to compensate store owners for the time and trouble of recording sales tax collections and remitting them to revenue agencies. States first adopted retailer compensation policies when shopkeepers kept records by hand, but they remained in place even after the advent of electronic cash registers and computers.

Today about half the states provide such compensation, which is typically calculated as a percentage of the sales tax collected and is limited to retailers who make their tax payments in a timely fashion. Of the 26 states that provide compensation, 13 put a ceiling on the amount any individual store or chain can receive. These ceilings range from less than $1,000 a year to more than $10,000 a year; Michigan, with a maximum of $240,000, is far and away the highest.

The 13 states *without* a ceiling end up giving away substantial amounts of sales tax revenue in retailer compensation. Illinois leads the list with an annual revenue loss of $126 million. Texas is second at $89 million, followed by Pennsylvania at $72 million and Colorado at $68 million. Combining those with and without ceilings, we estimate that the 26 states providing retailer compensation lose a total of just over $1 billion a year.

The compensation issue became more complicated and more contentious with the rise of mail order and online retailing, in which the buyer and seller are usually located in different jurisdictions with different sales tax policies. After a period of time in which many remote transactions went untaxed, costing states more lost revenue each year, there has been movement toward a new system under which interstate retailers collect taxes on all their shipments based on more streamlined and consistent policies across the states. In exchange, the retailers expect compensation from all the states involved. Hence the issue of what constitutes fair vendor compensation will be a major policy issue for the states, with decisions about these interstate rules likely to affect state revenues for decades to come.

* In this report, "diversion" and "skimming" are not used in a criminal sense. None of the practices we describe involve violations of law.

Retailer compensation is not the only cause of leakage in government sales tax collections. Local governments, as allowed by some states' laws, also use sales tax revenue to finance economic development projects involving big-box stores and malls. This occurs in two main forms. Some localities sign deals that allow big retailers to keep a substantial portion of the local share of the sales tax generated by a new store. In some cases, the locality advances money to the company before the store even opens. Such subsidies are known as sales tax rebates or refunds.

In other cases, localities divert a portion of the sales tax generated by a new retail project to finance tax-free, low-interest bonds that directly subsidize the retailer or pay for infrastructure improvements at the site of the new store or shopping center. This is known as sales tax increment financing or STIF.

There are no national figures on the amount of sales tax revenue diverted through rebates or STIFs. Instead, we take a look at the available information on these practices (as well as retailer compensation) relating to the country's largest retailer, Wal-Mart.

We estimate that Wal-Mart collects about $60 million a year in retailer compensation in the 26 states that provide those payments. The highest amounts are in Missouri ($10 million), Colorado ($9 million), Illinois ($8.5 million) and Texas ($7.5 million). In a few states, Wal-Mart by itself accounts for more than 10 percent of the total amount paid out in retailer compensation. In Missouri, Wal-Mart's estimated share is 25 percent.

Although there is no comprehensive data source on Wal-Mart's use of economic development subsidies, Good Jobs First has done extensive research on the subject. Here we isolate those subsidy deals that involve a sales tax rebate or STIF. We find that over the past decade Wal-Mart projects have been given about $130 million in such subsidies, or an average of about $13 million a year. Combining retailer compensation and subsidies, we find that Wal-Mart accounts for the diversion of about $73 million in state or local sales tax revenue each year.

Our findings impel several policy recommendations. We urge states with retailer compensation to modernize those practices in light of technological advances. In particular, we urge those states with no ceilings on the compensation to consider placing caps on what is now a windfall for giant retailers such as Wal-Mart. Even if some amount of compensation is deemed appropriate, the economies of scale enabled by computerization remove much of the justification for limitless payments.

States will also need to review their practices if they decide to join the streamlined system for interstate transactions. Legislation before Congress would require such states—including those that currently do not have vendor compensation programs—to provide "reasonable compensation" not only for interstate sales but for *all* transactions. Since the legislation would

leave it up to the states to decide what is reasonable, state policymakers will have to confront the issue directly. We urge them to be prudent in the compensation policies they adopt and to be sure that the amount available to any given retailer is not open-ended.

As for economic development subsidies, we have long argued that it is not good public policy to subsidize any retail projects, except in those limited instances in which they help bring necessities such as food, clothing and prescription drugs to communities that are demonstrably underserved. Elsewhere, sales tax rebates and STIFs have played a detrimental role in encouraging retail overbuilding in much of the country and should probably be discontinued.

Sales taxes are an integral part of most states' and cities' "three-legged stool" of revenue, along with property and income taxes. Allowing a significant portion of that income stream to be skimmed serves only to enrich private interests at the expense of essential public services.

Introduction

All but a handful of states apply a tax to many of the goods and services their residents purchase every day. In addition to general sales taxes, states impose selective levies on items such as alcoholic beverages, tobacco products and motor fuels. Retail sales taxes began to appear in some states in the 1930s, when the Depression dried up revenue from other taxes. The levies on purchases gradually spread to most other states after the Second World War.[1]

Sales taxes are a major source of revenue for state and local governments. According to the U.S. Census Bureau, states took in about $345 billion in sales taxes in 2007—their largest single revenue source (income taxes were second at $319 billion). Of that amount, general sales and gross receipts taxes accounted for $236 billion, while selective sales taxes brought in $109 billion. Overall sales tax receipts represent about 46 percent of total state tax collections.[2]

Census also collects data on the combined revenue of state and local governments. Those numbers show that localities collect another $65 billion in general sales and gross receipts taxes.[3] This is dwarfed by the amount local governments receive from property taxes, but sales tax revenue is an essential component of public finances in many parts of the country.

In most cases, purchasers do not submit sales tax payments directly to the state or local government. Instead, the tax is collected by the retailer at the time of the transaction and later remitted to the revenue authorities.

It is not unusual for private parties to act as tax collectors for government. That is something employers do all the time when they deduct payroll taxes from the paychecks of their workers. While employers accept that tax withholding is a cost of doing business, in many states retailers long ago convinced policymakers that they should be compensated for their role as sales tax collector.

The practice of allowing vendors to keep a portion of the taxes they collect first appeared in Colorado and Ohio in the 1930s.[4] It eventually spread to other states but was far from universally adopted. In a tally for their 1983 book *Sales Taxation*, John F. Due and John L. Mikesell found that the 45 states with a retail sales tax were almost equally divided between those that compensated retailers and those that did not.[5] In a more detailed look at the issue two decades later, Mikesell found that the number of states with vendor compensation had risen to 26 and those without had dropped to 19.[6]

When they need to close a budget gap, state legislators may decrease retailer compensation as a way to increase revenue. Indiana, for example, lowered its compensation rates in 2007 and 2008. Yet lawmakers must then contend with the wrath of retailers who regard the compensation as an entitlement. This has led to some flip flops. Ohio, for instance, reduced its rate in 1993, increased it in 2003 and then decreased it again in 2007.

The compensation question has been a major issue in the debate over how to collect sales taxes on online transactions. Retail industry advocates emphasize the difficulty of keeping track of tax policies that vary not only from state to state but from locality to locality. A 1999 report by accounting firm Ernst & Young claimed that for small retailers selling nationwide, the cost of collecting taxes was equal to 87 percent of the amount they collected. In other words, if they were fully compensated for their effort, governments would receive only 13 cents of every dollar collected. The estimates for medium and large retailers were put at 48 percent and 14 percent, respectively.[7]

Because of findings such as these, retailer compensation is being discussed as a key feature of an overhaul of sales tax collection systems to deal with remote transactions. The overhaul is meant to address an impasse between interstate retailers that were collecting sales tax from customers only in states where they had a physical presence and state officials who lacked the authority to collect from remote sellers. This situation gave rise to the Streamlined Sales Tax Project, an effort by a group of states to better synchronize and simplify their sales tax practices as an inducement for remote sellers to collect taxes on more of their sales.

The Project drafted the Streamlined Sales and Use Tax Agreement (SSUTA), which became official in 2005. Almost all states that have sales taxes have participated in the streamlining discussions, but so far only 19 states have fully adopted and implemented the provisions of the SSUTA.[8] The agreement does not include specific recommendations for retailer compensation. That issue is still under consideration by a task force convened by the Streamlined Sales Tax Governing Board. Proposed federal legislation (H.R. 3396 and S.34) that would authorize states to collect taxes from remote sellers (with an exception for small businesses) includes a provision requiring states participating in the streamlined system to provide "reasonable compensation" to all retailers, including those not selling across state lines via mail order or the internet. The bill leaves it up to each state to decide what is reasonable.

To assist in that process, states and industry groups have sponsored more research on retailer collection costs. The definitive work is said to be a 2006 study by PriceWaterhouseCoopers.[9] Based, like other reports in this field, on a survey of retailers, it found that the average cost of collecting sales tax on transactions of all kinds ranged from 13.47 percent of the tax collected by small retailers to 5.20 percent for medium retailers and 2.17 percent for large retailers, with a weighted average of 3.09 percent overall.[10] These numbers take into account the *benefits* retailers receive from being sales tax collectors, including the ability to invest tax revenues between the time they are collected and when they have to be remitted (the float).

Because the compensation policies issues relating to the SSUTA are still undecided, this report focuses on the existing practices of the states, especially those states that put no ceiling on the amount of compensation a given retailer can receive. In the following chapters, we look at this issue in general and then with regard to the country's largest retailer, Wal-Mart.

Some states also divert portions of their sales tax into economic development subsidies that are meant to lure big retailers and developers to a particular community. We examine this other form of sales tax leakage in general terms and then again with a special focus on Wal-Mart.

We conclude with policy recommendations designed to help states and cities reduce sales tax leakage and target economic development subsidies more effectively.

Chapter 1: Retailer Compensation Today

The practice of compensating vendors for collecting sales taxes originated during the 1930s, a time when cash registers were primitive and computers were unknown. Chain stores were becoming a significant factor in the retail sector—generating intense opposition[11]—but in 1939 retail establishments linked to chains accounted for only about 7 percent of the 1.8 million stores in existence. Among the rest, some 753,000 establishments, or 46 percent, were too small to have any employees on payroll.[12]

When stores were small and records were mostly kept by hand, a plausible case could be made that retailers deserved some financial assistance from states to offset the costs associated with sales tax collection and remittance. But even then, policymakers in many states never accepted the argument.

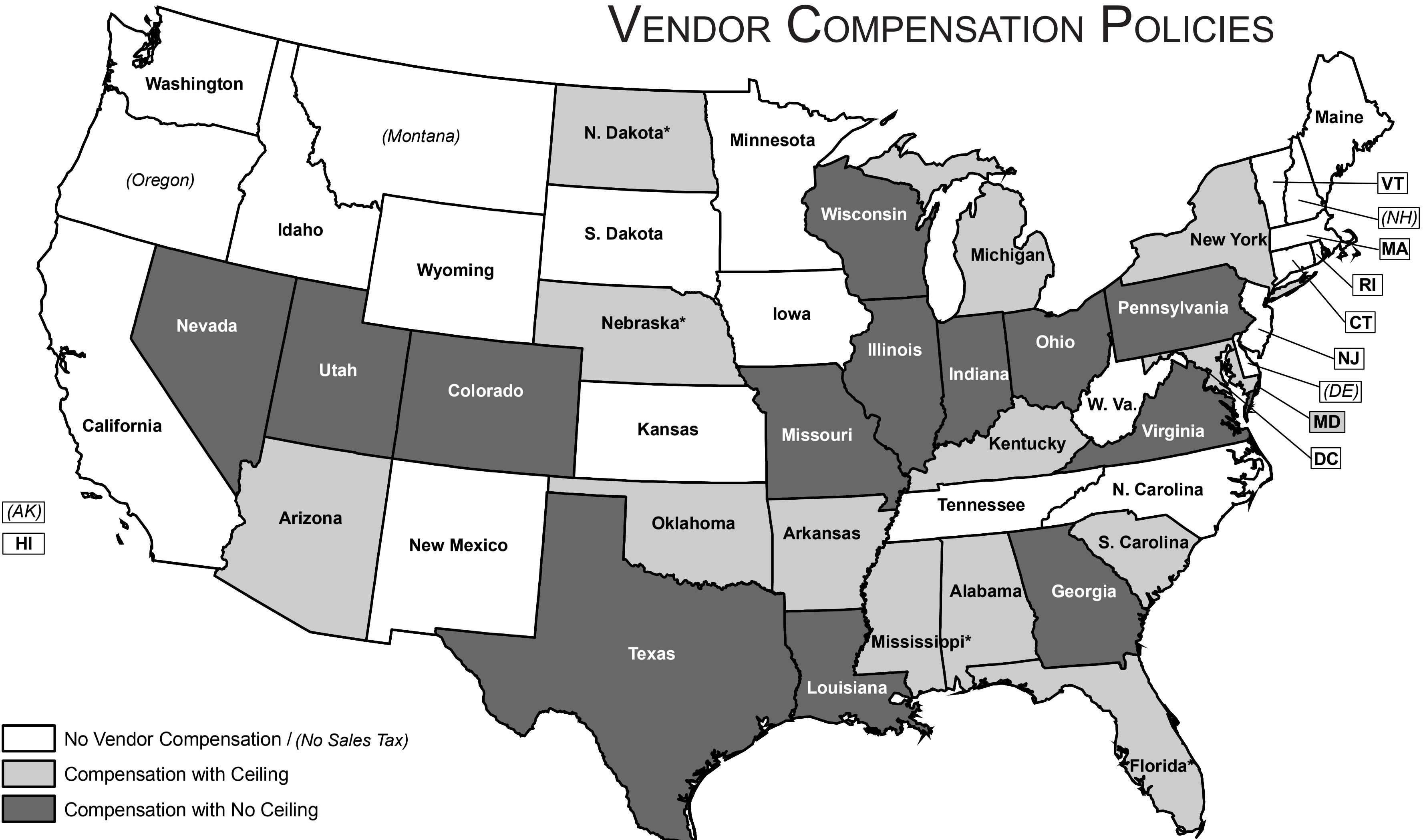
Fast forward to today. Chain stores are ubiquitous and retail sales are far more concentrated than ever before. As Stacy Mitchell notes in her book *Big-Box Swindle*, the top ten retail chains "have doubled their market share since 1996 and now capture almost 30 percent of the more than $2.3 trillion Americans spend at stores each year."[13] At the same time, even the smallest locally owned businesses use electronic cash registers and computers to track their receipts and sales tax collections.

Retailers respond that, even with modern equipment, they face new costs such as fees on credit and debit card transactions that are inflated by the amounts collected for sale tax. They also cite the complications involved in handling tax-exempt transactions and preparing sales tax returns.

Arguments such as these have helped keep retailer compensation alive in a majority of the states. Officials in those states also justify the practice in another way. It is now standard practice to provide compensation only when the retailer submits the tax payment in a timely manner (Michigan even provides a higher percentage discount for earlier payments). The compensation is thus seen as a way to encourage faster payment and thereby improve a state's cash flow. Yet this may come at a high price.

As the map on the following page illustrates, 26 states currently provide some form of vendor compensation, while 19 states and the District of Columbia do not. Five states (Alaska, Delaware, Montana, New Hampshire and Oregon) have no state sales tax.

Vendor Compensation Policies



States with Some Form of Vendor Compensation (26)

Alabama	Georgia	Maryland	Nevada	Pennsylvania
Arizona	Illinois	Michigan	New York	South Carolina
Arkansas	Indiana	Mississippi	North Dakota	Texas
Colorado	Kentucky	Missouri	Ohio	Utah
Florida	Louisiana	Nebraska	Oklahoma	Virginia
				Wisconsin

* Ceiling allowed for each retail outlet

Forms of Retailer Compensation

Vendor compensation is typically calculated as a percentage of the sales tax collected by the retailer. This is a longstanding practice based on the traditional notion that the higher the volume of receipts, the more trouble it is for the retailer to keep track of collections and remit them to state and local governments. The percentages currently range from five percent (in New York) to less than one percent in eight of the states. Some states apply different percentages depending on the amount (usually reducing the rate as sales tax collections increase), while some use higher rates to encourage retailers to file early and/or electronically. See the Appendix for details on each state.

A key distinction is whether the compensation rate is applied to the entire amount of sales tax collected by a retailer or is capped. The 26 states with some form of retailer compensation are evenly split on this issue. As the map shows, 13 states apply the rate (or rates) to the full amount, while the other 13 have some kind of ceiling.

In states with ceilings the amount varies enormously. In some the maximum annual retailer compensation is effectively capped at only a few hundred dollars. However, five states allow $10,000 or more; Michigan, with a limit of $240,000, is by far the highest. Table 1 lists all the ceilings.

Table 1: Retailer Compensation Ceilings (in annual terms)

State	Ceiling	State	Ceiling
Alabama	$4,800	Michigan***	$240,000
Arizona	$10,000	Mississippi*	$600
Arkansas	$12,000	Nebraska*	$900
Florida*	$360	New York	$800
Kentucky	$18,000	North Dakota*	$1,020
Maryland	$6,000	Oklahoma	$39,600
		South Carolina**	$3,100

* Ceiling allowed for each retail outlet
** If filing electronically; otherwise the limit is $3,000
*** If taxes submitted by 12th of the month; $180,000 ceiling for those filing by the 20th of the month.

Most of these states apply the ceiling to the entirety of a retailer's operations. However, four states (Florida, Mississippi, Nebraska and North Dakota) allow each location operated by a chain retailer to qualify for the maximum.

Cost of Retailer Compensation

Among the 26 states with some form of retailer compensation, in 18 we were able to obtain figures on the annual cost from state officials or official reports. For the other eight we estimated the amounts from available data (see the appendix and the accompanying notes for details). The costs vary greatly from state to state, reflecting both variations in the forms of compensation

(the rates and whether or not there is a ceiling) and differences in the volume of retail sales. The latter, of course, is a function of population size and income levels.

We estimate that the 26 states together lose just over $1 billion a year in revenue. As Table 2 shows, the states with the highest cost figures are Illinois ($126.1 million), Texas ($89.6 million), Pennsylvania ($72 million) and Colorado ($68.6 million)—all of which have no ceilings on the amount a single retailer can receive. Among the states with ceilings, Florida has the highest cost at $65.2 million, reflecting the sheer size of the state's retail sector.

We see there is substantial disagreement among the states on whether to provide retailer compensation, and among those doing so, there is a great deal of variation in both the rates and the use of ceilings. The states that have joined the streamlined sales tax system discussed in the Introduction have not changed their practices with regard to retailer compensation, but those states that currently offer no compensation may be compelled to do so in the future.[14] The exact nature of that compensation is still an open question.

Table 2: Retailer Compensation Costs (for most recent fiscal year available)

State (alphabetic)	Total compensation	State (rank)	Total compensation
Alabama	25,000,000	Illinois	126,084,000
Arizona	24,500,000	Texas	89,600,000
Arkansas	15,000,000	Pennsylvania	72,000,000
Colorado	68,582,000	Colorado	68,582,000
Florida	65,200,000	Florida	65,200,000
Georgia	53,077,000	Virginia	64,300,000
Illinois	126,084,000	Ohio	61,200,000
Indiana	45,000,000	New York	54,000,000
Kentucky	11,000,000	Georgia	53,077,000
Louisiana	33,795,000	Indiana	45,000,000
Maryland	31,000,000	Missouri	39,000,000
Michigan	15,982,000	Louisiana	33,795,000
Mississippi	6,000,000	Utah	33,000,000
Missouri	39,000,000	Maryland	31,000,000
Nebraska	12,694,000	Alabama	25,000,000
Nevada	5,000,000	South Carolina	24,684,000
New York	54,000,000	Arizona	24,500,000
North Dakota	3,597,000	Wisconsin	22,000,000
Ohio	61,200,000	Michigan	15,982,000
Oklahoma	12,000,000	Arkansas	15,000,000
Pennsylvania	72,000,000	Nebraska	12,694,000
South Carolina	24,684,000	Oklahoma	12,000,000
Texas	89,600,000	Kentucky	11,000,000
Utah	33,000,000	Mississippi	6,000,000
Virginia	64,300,000	Nevada	5,000,000
Wisconsin	22,000,000	North Dakota	3,597,000
Total	$1,013,295,000	Total	$1,013,295,000

Chapter 2: Other Forms of Sales Tax Skimming†

Vendor compensation is not the only way in which some of the sales tax revenue collected on behalf of governments ends up benefiting retailers instead. In some states, economic development agencies subsidize new retail projects by diverting sales tax revenue generated by the stores in those projects.

This may happen directly or indirectly. The direct approach is to allow retailers or developers to keep all or part of the sales tax they collect for a specified period of time. The indirect approach is to set up a tax increment financing (TIF) district in which a portion of the sales tax generated by the project is diverted to subsidize the cost of building the store and/or surrounding infrastructure such as streets and sewer lines.

Local Sales Tax Rebates and Refunds

When faced with a "site fight" controversy that often attends a proposed new big-box store or shopping center in a community, public officials invariably emphasize the sales tax revenue the project will generate as a prominent public benefit. Yet in many cases those officials give away a substantial portion of the local share of the sales tax in the form of an economic development subsidy. These deals, known as sales tax rebates or refunds, undermine much of the rationale for the projects in terms of the public interest. Yet big-box retailers and shopping center developers do not hesitate to seek such bonanzas. Here are some examples:

- **Simon Property Group**, the nation's largest owner and operator of shopping malls, negotiated one of these deals with the city of Garland, Texas (north of Dallas) in connection with the Firewheel Town Center, which opened in 2005. The city was to keep the first $5 million of the local share of sales tax revenue, but then Simon starts to receive a portion. For the next five years, Simon keeps all sales tax revenue above $750,000 per year. Beginning in the sixth year, Simon keeps all collections in excess of $1 million a year and continues to do so until it has received a total of $12.7 million.[15]

- **General Growth Properties**, the nation's second largest shopping mall operator, won a deal with the city of Sugar Land, Texas (a suburb of Houston) in 2005 under which it is to receive a 10-year sales tax rebate worth up to $6.9 million to subsidize the expansion of the First Colony Mall.[16]

- **Target Corp.** made a deal with the Chicago suburb of South Elgin in 2003 under which the company was given a 10-year sales tax rebate for a new Super Target store. Target originally wanted the entire projected amount of the rebate ($1.95 million) in advance.

† In this report, "diversion" and "skimming" are not used in a criminal sense. None of the practices we describe involve violations of law.

When the village said it could not afford that, Target agreed to collect the amount over time but only if it got a 4.8 percent upward adjustment each year, raising the total amount it will receive to $2.5 million.[17]

- **Ikea** was given a $1.8 million sales tax rebate by the city of Tempe, Arizona in 2003, and the developer of the site containing the home furnishings store received an additional $5 million. The payments were to be made by setting aside 50 percent of the local sales tax generated by the store each year.[18]

- **Home Depot** was given a $900,000 sales tax rebate by the Chicago suburb of Carpentersville in 2004. The company refused to accept a proposal that would have required it to repay the money if it left the site within five years.[19] Three years later, Home Depot received a $3.5 million sales tax rebate for another store located only a few miles away in Huntley.[20]

For numerous examples of sales tax rebates involving the country's largest retailer, Wal-Mart Stores, see Chapter 3.

Tax Increment Financing Using Sales Tax Revenue

Tax increment financing is a way of subsidizing an economic development project by diverting a portion of future taxes generated by new development activity within a "TIF district." The practice is allowed in every state (except Arizona) and in Washington, D.C.[21] TIF is authorized at the state level and then administered by local governments, which designate the geographic boundaries of the TIF district (sometimes also called by other names such as tax increment development district, or TIDD).

In most cases, TIF pays for public infrastructure improvements (such as streets, sewers, or parking garages) in the area around a private development. In some states, TIF can also be used for acquiring land (including eminent domain), paying for planning expenses (legal fees, studies, engineering, etc.), demolishing and rehabbing buildings, cleaning up contaminated areas, or funding job training programs. Some states allow TIF to directly pay for private development expenses.[22]

In most cases, TIF diverts only the incremental growth in local property taxes, but about a dozen states and the District Columbia allow for TIF to be applied to sales tax revenues, in which case it is often known as STIF.[23] Most of those states allow only the local share of the sales tax to be used in STIFs or place other limitations on the practice. To our knowledge, there are no national figures on the total amount of funds made available for development projects through TIF or

STIF deals. Yet we are aware of numerous cases in which large national retailers and shopping centers owners have been the beneficiaries of STIF deals. Here are two examples:

- **Cabela's** received a $9.95 million subsidy in 2006 for one of its giant outdoor sporting goods stores in East Hartford, Connecticut. The payment was financed through bonds backed by sales tax revenues.[24]

- Cabela's rival **Bass Pro** received $25 million in STIF financing in 2006 for a $70 million project in Independence, Missouri that included a 160,000-square-foot store as well as a hotel and restaurant.[25]

Wal-Mart has been involved in numerous STIFs. See Chapter 3 for details.

STIFs as well as TIFs are highly controversial. TIFs were originally designed as a tool for redeveloping blighted urban areas and were supposed to meet a "but for" test, meaning they could not be used unless a development would not be financially feasible without it. In many parts of the country, TIFs have essentially been deregulated, meaning that they are made available to projects in areas that cannot reasonably be called blighted, while the "but for" test is not rigorously applied.[26] TIFs have also been repeatedly implicated in suburban sprawl; opponents also charge that they effectively shift the burden for the cost of local services away from TIF-subsidized companies onto everyone else in the locality.

Chapter 3: How Wal-Mart Contributes to Sales Tax Skimming

There are retailers and then there is Wal-Mart. The behemoth from Arkansas is far and away the largest retailer in the United States—or the world, for that matter. In 2007 the company booked worldwide revenues of $378 billion and profits of more than $12 billion. In revenue terms it is six times the size of its largest domestic rival, Target Corp.

To understand the problem of sales tax leakage, it makes sense to take a close look at the country's largest collector of sales tax. Wal-Mart reports that in 2007 its U.S. stores generated a total of $12.8 billion in sales tax revenue.[27] But how much of what it collects stays in its own coffers rather than being transferred to state and local governments?

In an attempt to answer that question, this chapter looks at the extent to which Wal-Mart benefits from state retailer compensation programs as well as sales-tax-based economic development subsidies.

Wal-Mart and Retailer Compensation

Wal-Mart has stores in every state of the nation, so it benefits from all the retailer compensation programs in existence. No state reports how much it pays to specific retailers, even the largest, so we have to estimate Wal-Mart's share.

First, in Table 3, we look at those states that put a ceiling on the amount of compensation paid to a given retailer. Where the ceiling is a flat amount per company, Wal-Mart, given its size, no doubt receives the maximum, as detailed for each state in the Appendix. Florida, Mississippi, Nebraska and North Dakota apply their ceiling to each location for chain stores. In those cases, we multiply the ceiling by the number of Wal-Mart stores in the state to arrive at the estimate.[28]

Table 3: Wal-Mart Retailer Compensation in States with Ceilings

States with ceilings on retailer compensation	Amount of sales tax Wal-Mart reports it collects[29]	Estimated compensation Wal-Mart receives
Alabama	556,800,000	4,800
Arizona	336,500,000	10,000
Arkansas	396,600,000	12,000
Florida	781,900,000	96,480
Kentucky	234,800,000	18,000
Michigan*	221,100,000	240,000
Mississippi	290,500,000	43,200
Nebraska	86,300,000	27,900
New York	344,200,000	800
North Dakota	35,000,000	14,280
Oklahoma	483,500,000	39,600
South Carolina**	256,100,000	3,100
Total	$4,023,300,000	$510,160

* Michigan amount assumes payment is made 12th of the month.
** South Carolina amount assumes filing is done electronically.

Next, in Table 4, we look at those states that do not put a ceiling on the amount a given retailer can receive. We make these calculations by using the rates in the Appendix and the state-by-state sales tax collection figures Wal-Mart has voluntarily disclosed.[30] The company does not make it clear whether the amounts it reports are net of the retailer compensation. We thus provide two sets of estimates: Estimate A assumes the figures reported by Wal-Mart are the gross amount collected *before* the deduction for retailer compensation. Estimate B assumes the figures reported by Wal-Mart are the net amounts submitted to the state *after* the deduction for retailer compensation.

Table 4: Wal-Mart Retailer Compensation in States Without Ceilings

States with no ceiling on retailer compensation	Amount of sales tax Wal-Mart reports it collects	Estimate of Wal-Mart compensation (A)	Estimate of Wal-Mart compensation (B)	Wal-Mart share of total state compensation*
Colorado	262,500,000	8,663,000	8,958,000	13.1%
Georgia	509,200,000	2,546,000	2,559,000	4.8%
Illinois	476,100,000	8,332,000	8,480,000	6.7%
Indiana**	286,800,000	1,620,000	1,729,000	3.8%
Louisiana	490,400,000	5,394,000	5,454,000	16.1%
Maryland***	126,700,000	1,140,000	1,151,000	3.7%
Missouri	491,100,000	9,822,000	10,022,000	25.7%
Nevada	129,900,000	650,000	653,000	13.1%
Ohio	452,000,000	3,390,000	3,416,000	5.6%
Pennsylvania	307,800,000	3,078,000	3,109,000	4.3%
Texas	1,500,000,000	7,500,000	7,538,000	8.4%
Utah	160,300,000	2,100,000	2,128,000	6.4%
Virginia	277,400,000	4,161,000	4,224,000	6.6%
Wisconsin	192,200,000	961,000	966,000	4.4%
Total	$5,662,400,000	$59,357,000	$60,387,000	

* Calculated using Estimate B and state totals from Chapter 1.
** Indiana changed its rates in 2007 and 2008. We applied the 0.83 percent rate in effect during the first half of calendar 2007 to half the amount Wal-Mart reported for that year, and the 0.3 percent rate in effect during the second half of 2007 to the rest.
*** Maryland imposed a ceiling beginning in January 2008.

We estimate that Wal-Mart receives a total of approximately $60 million in retailer compensation in the 26 states that provide such payments. There is enormous variation from state to state. In those that impose ceilings, the amounts received by Wal-Mart are in most cases less than $50,000 a year. By contrast, in the states without ceilings, Wal-Mart receives as much as $10 million.

The total of about $500,000 received by Wal-Mart in the states with ceilings represents little more than one-hundredth of one percent of the sales tax collected by the giant retailer in those states. In the states with no ceiling, the $60 million collected by Wal-Mart is more than one full percent of the amount it collects.

It is also remarkable, as Table 4 shows, that a single company apparently accounts for such a large portion of the retailer compensation paid out in some non-ceiling states, especially Missouri, where we estimate Wal-Mart receives one-quarter of the total. In three other states—Colorado, Louisiana and Nevada—we estimate that Wal-Mart accounts for more than 10 percent of the state's retailer compensation payments.

Wal-Mart and Sales Tax Subsidies

Good Jobs First has in recent years done extensive work analyzing the economic development subsidies given by state and local governments to Wal-Mart facilities around the country. In 2004 we compiled our research in a report entitled *Shopping for Subsidies*.[31] In 2007 we updated that research and placed all our data into a searchable database on our website Wal-Mart Subsidy Watch (www.walmartsubsidywatch.org). Given the absence of centralized reporting, we cannot say that our lists are complete, but they do represent the best data publicly available.

Our database covers a wide variety of subsidies received by Wal-Mart. Here we extract the key deals that involve the diversion of sales tax revenues, either for rebates or for sale tax TIFs.

Table 5 summarizes the data for sales tax rebates and refunds received directly by Wal-Mart or by the developers responsible for projects anchored by a Wal-Mart store during the past decade. For details on how we derived our estimates, see the entry for each deal on the Wal-Mart Subsidy Watch website.

Table 5: Known Wal-Mart Sales Tax Rebate/Refund Deals 1998 - 2008

State	City	Year	Total Amount
Arizona	Mesa	2007	11,700,000
Arizona	Oro Valley	2006	11,600,000
Colorado	Westminster	2006	5,000,000
Illinois	Country Club Hills	2004	6,000,000
Illinois	Evergreen Park	2005	5,250,000
Illinois	Huntley	2007	4,200,000
Illinois	Lincoln	2005	585,000
Illinois	Moline	1998	2,700,000
Illinois	New Lenox	2007	3,400,000
Illinois	Orland Hills	2007	12,000,000
Illinois	Romeoville	2006	3,500,000
Illinois	Vandalia	2002	1,000,000
Illinois	Wood River	2004	2,000,000
Illinois	Zion	2007	1,000,000
Missouri	De Soto	2004	1,000,000
Texas	Frisco	2006	2,500,000
Total			$73,435,000

Wal-Mart projects have also benefited from sales tax increment financing. Table 6 provides a list of those projects we know about during the past decade.

Table 6: Known Wal-Mart STIF Deals

State	City	Year	Total amount
Colorado	Commerce City	1999	1,400,000
Colorado	Lafayette	2005	2,100,000
Illinois	Collinsville	2004	9,500,000
Kansas	Gardner	2004	5,700,000
Kansas	W. Kansas City	2006	18,900,000
Missouri	Branson	2006	12,125,000
Missouri	Monett	1998	1,750,000
Missouri	Raytown	2006	4,000,000
Mississippi	Olive Branch	2000	1,700,000
Total			$57,175,000

Together then, Wal-Mart projects have received about $130 million in sales tax diversions over the past decade. While not all these amounts can be annualized, we can say roughly that Wal-Mart projects are being granted an average of $13 million in new sales tax diversions each year.

If we combine the estimated $60 million in retailer compensation Wal-Mart received last year and the roughly $13 million a year it gets from sales-tax-related economic development subsidies, we conclude that the country's largest retailer benefits from some $73 million in sales tax revenue diverted away from state and local governments each year.

Chapter 4: Policy Options

In some respects, retailer compensation is a relic of pre-computer times. When shopkeepers kept records by hand, there was a reasonable case for providing some financial assistance, at least to smaller shop owners. Even then, numerous states declined to do so.

Today, the situation is more complex. On the one hand, virtually all U.S. retailers have access to electronic cash registers and computerized accounting systems that make sales tax collection and computation much easier. Even small companies use professional accountants to help prepare their income tax returns, so it is not much more trouble for the CPAs to prepare sales tax filings.

On the other hand, modern retailers face new costs such as credit card and debit card fees that are linked to the total amount collected from customers. Retailers selling to customers via mail order and the internet—which now include a significant number of small businesses—have to deal with a wide range of sales tax variations in the destination jurisdictions, though the process is greatly simplified with specialized commercial software programs.

Deliberations over the Streamlined Sales and Use Tax Agreement seem to be moving in the direction of wider use of retailer compensation. Proposed federal legislation (H.R. 3396 and S.34) that would enable SSUTA states to collect taxes from remote sellers (with an exception for small business) would mandate "reasonable compensation" for retailers engaged in brick-and-mortar as well as mail order and online transactions.

The question then, is the definition of "reasonable," which each state will have to decide for itself. Retailers are using the results of research such as the PriceWaterhouseCoopers study cited in the Introduction to press for substantial compensation rates. The problem is that PWC's estimates and those of similar reports are all based on what retailers themselves—who are hardly disinterested parties—claim are their costs of compliance. While items such as increased software costs may be legitimate, it is difficult to accept claims that there are significant expenses associated with training employees on sales tax matters. Aren't those issues handled by electronic cash registers and accounting systems? Other items such as transaction fees, preparation of sales tax returns and preparing for audits are normal costs of doing business.

Perhaps more important than the rate of compensation is the issue of whether some limit is placed on the amount a single retailer can receive. When compensation systems were first adopted, no one could have imagined that a company could grow as large as Wal-Mart is today. When some retailers have reached unprecedented dimensions, it does not make sense to go on providing compensation based on a flat percentage of sales tax collections.

Even retailer-friendly research such as the PWC report indicates that there are major economies of scale. Compliance costs are much lower per dollar collected for large retailers than for mom-and-pop operations. At the very least, then, compensation rates for the big guys should be

substantially lower than for their smaller counterparts. Yet lower rates are probably not enough to prevent a windfall for the retail leviathans. The only way to protect against that is to adopt strict ceilings.

The need to protect against large giveaways of sales tax revenue also applies to economic development deals. The use of sales tax rebates and STIFs have played a particularly detrimental role in encouraging retail overbuilding in much of the country, so there is no justification for their continued use except perhaps in those limited instances in which communities are underserved by retail outlets selling essentials such as food, clothing and prescription drugs.

Therefore, states should consider these policy options:

- *Put Limits on Current Retailer Compensation.* States with retailer compensation should review those practices to be sure they are not giving away too much tax revenue to major companies. In particular, states with no ceilings on the compensation should consider placing limits and eliminate what is now a windfall for the likes of Wal-Mart.

- *Plan for Prudent Compensation Levels Under SSUTA*. All states that have become SSUTA members or join it in the future will need to confront the retailer compensation issue. That process should not be done in haste. States should do a careful review of their existing retailer compensation practices and what changes might be appropriate under the SSUTA system. States that have compensation limits are advised to retain them and other states should adopt them.

- *Save Economic Development Subsidies for Truly Needy Areas*. Regarding job subsidies such as TIF and STIF, we argue that it is poor public policy to provide *any* sort of financial assistance to retail projects, except in those limited instances in which they are truly necessary to bring basic retail necessities such as groceries and prescription drugs to communities that are demonstrably underserved. In the vast majority of the country, the problem is not one of too few stores, but rather retail *over*building, so using taxpayer dollars to subsidize more retail development makes no sense.

When faced with “site fight” opposition, proponents of retail projects typically point to the projected sales tax revenue as a public benefit. However, giving away a significant portion of sales tax, either to compensate retailers or to incentivize them, undermines that benefit.

Sales taxes are an integral part of most states’ and cities’ “three-legged stool” of revenue, along with property and income taxes. Allowing a significant portion of that income stream to be skimmed enriches private interests at the expense of essential public services. With the long-term growth of online sales, the problem will only grow worse unless states make prudent decisions now about capping vendor compensation.

Endnotes

[1] John F. Due and John L. Mikesell. *Sales Taxation: State and Local Structure and Administration*. Baltimore and London: Johns Hopkins University Press, 1983, pp.2-3.

[2] http://www.census.gov/govs/statetax/0700usstax.html (viewed September 16, 2008)

[3] This amount is derived by subtracting the total state figure for general sales and gross receipts taxes for the 12 months ending December 2007 found at p.2 of http://ftp2.census.gov/govs/qtax/table2.pdf from the corresponding figure for combined state and local revenue at http://ftp2.census.gov/govs/qtax/table1.pdf (both viewed September 16, 2008).

[4] Neil H. Jacoby, "The Technique and Costs of Administration of Retail Sales Taxes," *Journal of Marketing*, April 1937, p.365. In Ohio the practice was to allow retailers to receive a discount on the purchase of the prepaid tax cards that in effect required vendors to submit sales tax receipts to the state before transactions took place.

[5] Due and Mikesell, *op. cit.*, p.327.

[6] John L. Mikesell, "The Structure and Role of Vendors' Discounts in State Sales Tax Systems," *State Tax Notes*, September 8, 2003, p.693.

[7] Robert J. Cline and Thomas S. Neubig, *Masters of Complexity and Bearers of Great Burden: The Sales Tax System and Compliance Costs for Multistate Retailers*. Ernst & Young Economics Consulting and Quantitative Analysis, September 8, 1999, p.21; online at http://govinfo.library.unt.edu/ecommerce/document/MastersOfComplexity.pdf

[8] The list of states can be found on the website of the Streamlined Sales Tax Governing Board at http://www.streamlinedsalestax.org/govbrdstates.htm. The page also lists three "associate member states."

[9] PriceWaterhouseCoopers, *Retail Sales Tax Compliance Costs: A National Estimate*, April 7, 2006; available online at http://www.streamlinedsalestax.org/DOCUMENTS/Cost%20of%20Collection%20Study/JCCS_Part_I_%20Final_Report_Vol%20I_20060407.pdf

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[11] Philip Mattera, "Fighting Chain Stores Past and Present: The Roots of the Campaign Against Wal-Mart," Corporate Research E-Letter, No. 54, July-August 2005; online at http://www.corp-research.org/archives/jul-aug05.htm.

[12] Calculated from data in U.S. Bureau of the Census, *Historical Statistics of the United States: Colonial Times to 1970*, Chapter T, Series T 79-196, p.843; online at http://www2.census.gov/prod2/statcomp/documents/CT1970p2-07.pdf (viewed September 17, 2008).

[13] Stacy Mitchell, *Big-Box Swindle*. Boston: Beacon Press, 2006, p.xii.

[14] However, all states that become full members of the SSUTA must agree to provide compensation to middlemen known as certified service providers to which some retailers are turning over their sales tax collection duties.

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[16] Flori Meeks, "Regional Mall Adds Open-Air Expansion," *Houston Chronicle*, October 20, 2005.

[17] Kara Spak, "South Elgin May Offer Deal to Super Target," *Daily Herald* (Arlington Heights, IL), May 20, 2003.

[18] Glen Creno and Alia Beard Rau, "Tempe Lands Ikea," *Arizona Republic*, August 15, 2003.

[19] Carolyn Rusin, "Home Depot Gets a $900,000 Break," *Chicago Tribune*, March 18, 2004.

[20] Jameel Naqvi, "Wal-Mart Newest Jewel in Route 47's Crown," *Daily Herald* (Arlington Heights, IL), July 20, 2007.

[21] http://www.cdfa.net/cdfa/cdfaweb.nsf/pages/understandingtif.html

[22] For links to each state's TIF statute, see the website of the Council of Development Finance Agencies at http://www.cdfa.net/cdfa/cdfaweb.nsf/pages/tifstatestatutes.html

[23] According to a chart in the June 2008 issue of *Tax Incentives Alert*, sales tax TIFs are allowed in Colorado, Connecticut, Florida, Illinois, Kansas, Mississippi, New Jersey, North Carolina, Oklahoma, Pennsylvania, Texas and Wyoming. To that list should be added Missouri (http://www.missouridevelopment.org/Community%20Services/Local%20Finance%20Initiatives/Tax%20Increment%20Financing.aspx) and the District of Columbia (http://www.cdfa.net/cdfa/cdfaweb.nsf/pages/tifindccases.html).

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[25] Jim Davis, "Bass Pro will Open Independence Store," *Kansas City Business Journal*, June 16, 2004.

[26] Alyssa Talanker and Kate Davis, *Straying from Good Intentions: How States are Weakening Enterprise Zone and Tax Increment Financing Programs*. Washington, DC: Good Jobs First, 2003; available online at http://www.goodjobsfirst.org/pdf/straying.pdf

[27] http://walmartstores.com/download/2322.pdf

[28] The number of stores for those states is taken from their respective pages at http://walmartstores.com/FactsNews/StateByState/

[29] Derived from each state's page at http://walmartstores.com/FactsNews/StateByState/

[30] Derived from each state's page at http://walmartstores.com/FactsNews/StateByState/

[31] Available online at http://www.goodjobsfirst.org/pdf/wmtstudy.pdf

Appendix

Summary of State Retailer Compensation Policies

State	Discount rate	Ceiling	Cost to state	Authority	Terminology
Alabama	5% of first $100 of sales tax liability, 2% of tax liability over $100 per month	$400 per month	$25,000,000 (Estimate by Good Jobs First) [i]	810-6-4-.03	Sales tax discount
Alaska*	Not applicable	n.a.	n.a.	n.a.	n.a.
Arizona	1.00%	$10,000 per year	$24,500,000	ARS 42-5017	Accounting credit
Arkansas	2.00%	$1,000 per month	$15,000,000	26-52-503	Prompt payment discount
California	None	n.a.	n.a.	n.a.	n.a.
Colorado	3.33%	None	$68,582,000	39-26-106	Vendors fee
Connecticut	None	n.a.	n.a.	n.a.	n.a.
Delaware*	Not applicable	n.a.	n.a.	n.a.	n.a.
District of Columbia	None	n.a.	n.a.	n.a.	n.a.
Florida	2.50%	$30 per month per location	$65,200,000	Florida Statutes Section 212.12 (1)	Dealer collection allowance
Georgia	3% on first $3,000; 0.5% thereafter	None	$53,077,000	O.C.G.A. § 48-8-50	Vendors compensation
Hawaii	None	n.a.	n.a.	n.a.	n.a.
Idaho	None	n.a.	n.a.	n.a.	n.a.
Illinois	1.75%	None	$126,084,000	35 ILCS 115/1-21 & 35 ILCS 110/1-21	Vendor/retailer discount
Indiana	0.73% for collections below $60,000; 0.53% from $60,000 to $600,000; 0.26% above $600,000	None	$45,000,000 (estimate by Good Jobs First) [ii]	IC 6-2.5-6-10	Collection allowance
Iowa	None	n.a.	n.a.	n.a.	n.a.
Kansas	None	n.a.	n.a.	n.a.	n.a.
Kentucky	1.75% of first $1,000 collected; 1% above that	$1,500 per month	$11,000,000 (state estimates $10-12 million)	KRS 139.570	Taxpayer compensation or reimbursement
Louisiana	1.10%	None	$33,795,000	Title 47 Sect 306	Dealer/vendor compensation

* Has no state sales tax.

[i] Alabama does not publish a figure for the cost of the vendor discount. The Alabama Legislative Fiscal Office reports that the state general fund receives about $14 million of sales tax revenue that represents an extra amount collected because of the cap on vendor discounts (http://www.lfo.state.al.us/pdfs/Tax%20Guide%202007/Tax%20Guide%20For%20Web_Links%20Included_11.30.06.pdf on page 386). If there were no ceiling and the 2% discount were applied to the entire $1.97 billion collected by the state in sales tax revenue (according to p. 327 of the same report), the discount would be about $39 million. We subtracted the $14 million from that to obtain the $25 million estimate.

[ii] Indiana does not publish a figure for the cost of the collection allowance. We reached our estimate by multiplying the $5.4 billion in sales tax revenue reported by the state for FY 2007 (http://www.in.gov/dor/reference/files/07rprt_report07.pdf on p.18) by the rate of 0.83 percent that was in effect throughout FY 2007 for all retailers.

Summary of State Retailer Compensation Policies Continued

State	Discount rate	Ceiling	Cost to state	Authority	Terminology
Maine	None	n.a.	n.a.	n.a.	n.a.
Maryland	1.2% of first $6,000 collected; 0.9% thereafter	$500 per month	$31,000,000 (estimate by Good Jobs First for FY 2007 before $500 cap beginning in '08)[iii]	§11–105	Vendor allowance or collection fee or timely discount
Massachusetts	None	n.a.	n.a.	n.a.	n.a.
Michigan	Applies to 2/3 of tax collected. Those paying by 12th of month get a discount of 0.75% of tax due; those paying by 20th get 0.5%.	$20,000 per month for those getting 0.75%; $15,000 per month for those getting 0.5%	$15,982,000	MCL 205.54 & MCL 205.94f	Taxpayer discount
Minnesota	None	n.a.	n.a.	n.a.	n.a.
Mississippi	2.00%	$50 per month per location	$6,000,000 (estimate by Good Jobs First)[iv]	MS AC 35.IV.1.05	Taxpayer discount
Missouri	2.00%	None	$39,000,000 (estimate by Good Jobs First)[v]	Sec. 144.710, RSMo	Timely payment allowance
Montana*	Not applicable	n.a.	n.a.	n.a.	n.a.
Nebraska	2.50%	$75 per month per location	$12,694,000	77-2708(1)(d)	Collection fee
Nevada	0.50%	None	$5,000,000 (estimate by Good Jobs First)[vi]	NRS 372.370	Reimbursement for collection
New Hampshire*	Not applicable	n.a.	n.a.	n.a.	n.a.
New Jersey	None	n.a.	n.a.	n.a.	n.a.
New Mexico	None	n.a.	n.a.	n.a.	n.a.

* Has no state sales tax.

iii Maryland does not publish a figure for the cost of the vendor allowance. We reached our estimate by multiplying the $3.47 billion the state collected in sales tax revenue in FY 2007 (http://www.marylandtaxes.com/publications/fiscalrprts/crr-07.pdf on p.21) by the 0.9 percent discount rate. The estimate applies to the period before the $500 monthly cap took effect in January 2008.

iv Mississippi does not publish a figure for the cost of the discount. We reached our estimate by multiplying the $600 annual maximum amount by the total number of retail establishments in the states according to the most recent (2002) Economic Census (http://www.census.gov/econ/census02/data/ms/MS000_44.HTM). From the total of 12,651 establishments we subtracted the figures for gasoline stations and nonstore retailers to reach a figure of 10,000. Note that the Census figures include only stores with a payroll, which we assumed ruled out very small retailers whose sales were too low to reach the $50 per month ceiling.

v Missouri does not publish a figure for the cost of the allowance. We reached our estimate by multiplying the $1.97 billion collected by the state in FY07 (http://dor.mo.gov/cafr/financialstatreport07.pdf on p.12) by the 2 percent rate.

vi Nevada does not publish an estimate of the cost of the reimbursement. We reached our estimate by multiplying the $1 billion collected by the state in FY 2007 (http://tax.state.nv.us/documents/AnnualReport2007.pdf) by the 0.5 percent rate.

Summary of State Retailer Compensation Policies Continued

State	Discount rate	Ceiling	Cost to state	Authority	Terminology
New York	5%	$200 per quarter	$54,000,000	1137.3(f) (2)	Vendor collection credit
North Carolina	None	n.a.	n.a.	n.a.	n.a.
North Dakota	1.50%	$85 per month per location	$3,597,000	57-39.2-12.1	Compensation discount
Ohio	0.75%	None	$61,200,000	ORC 5739.12	Vendor discount
Oklahoma	1.25% (2.25% if filing electronically)	$3,300 per month	$12,000,000 (estimate by Good Jobs First)[vii]	Sales Tax Report 13-23 (not in code)	Sales tax discount
Oregon*	Not applicable	n.a.	n.a.	n.a.	n.a.
Pennsylvania	1.00%	None	$72,000,000	72 P.S. §7227	Discount
Rhode Island	None	n.a.	n.a.	n.a.	n.a.
South Carolina	3% on tax liability up to $100, 2% thereafter	$3,000 per year if filed on paper; $3,100 per year for electronic filing	$24,684,000	12-36-2610	Discount for timely payment of tax
South Dakota	None	n.a.	n.a.	n.a.	n.a.
Tennessee	None	n.a.	n.a.	n.a.	n.a.
Texas	0.50%	None	$89,600,000	151.423	Timely filing discount
Utah	1.31%	None	$33,000,000	Title 59, Chapter 12, Part 1	Seller discount
Vermont	None	n.a.	n.a.	n.a.	n.a.
Virginia	3% of taxes collected up to $62,500; 2.25% of taxes up to $208,000; 1.5% if taxes above $208,000	None	$64,300,000	Va. Code Ann. § 58.1-622	Dealers discount
Washington	None	n.a.	n.a.	n.a.	n.a.
West Virginia	None	n.a.	n.a.	n.a.	n.a.
Wisconsin	0.50%	None	$22,000,000	77.61 (4)(c)	Retailers discount
Wyoming	None	n.a.	n.a.	n.a.	n.a.

* Has no state sales tax.

[vii] Oklahoma does not publish a figure for the cost of the discount. We reached our estimate by multiplying the total of $1.96 billion collected in state sales taxes in 2007 (http://www.census.gov/govs/statetax/0737okstax.html) by the lower discount rate of 1.25 percent and then dividing in half on the assumption that half the sales were above the ceiling.

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