



# Sales and Use Tax in Colorado

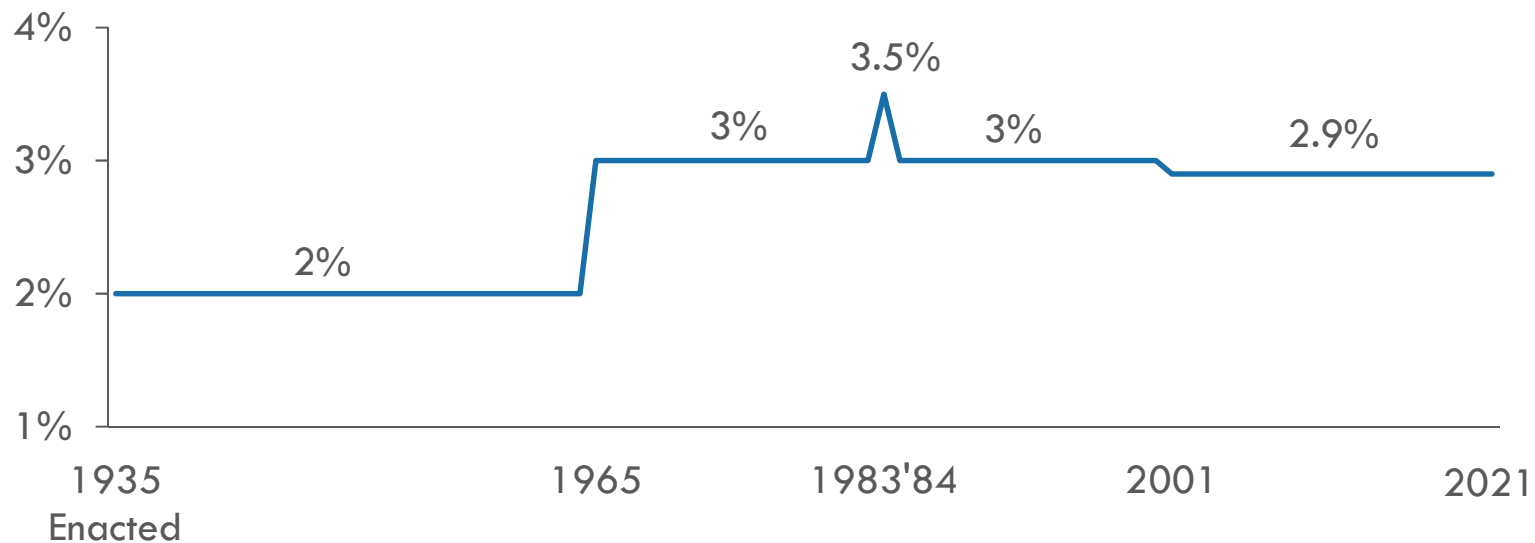
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Presentation to the Task Force Concerning Tax Policy

October 7, 2021

# Colorado State Sales and Use Tax

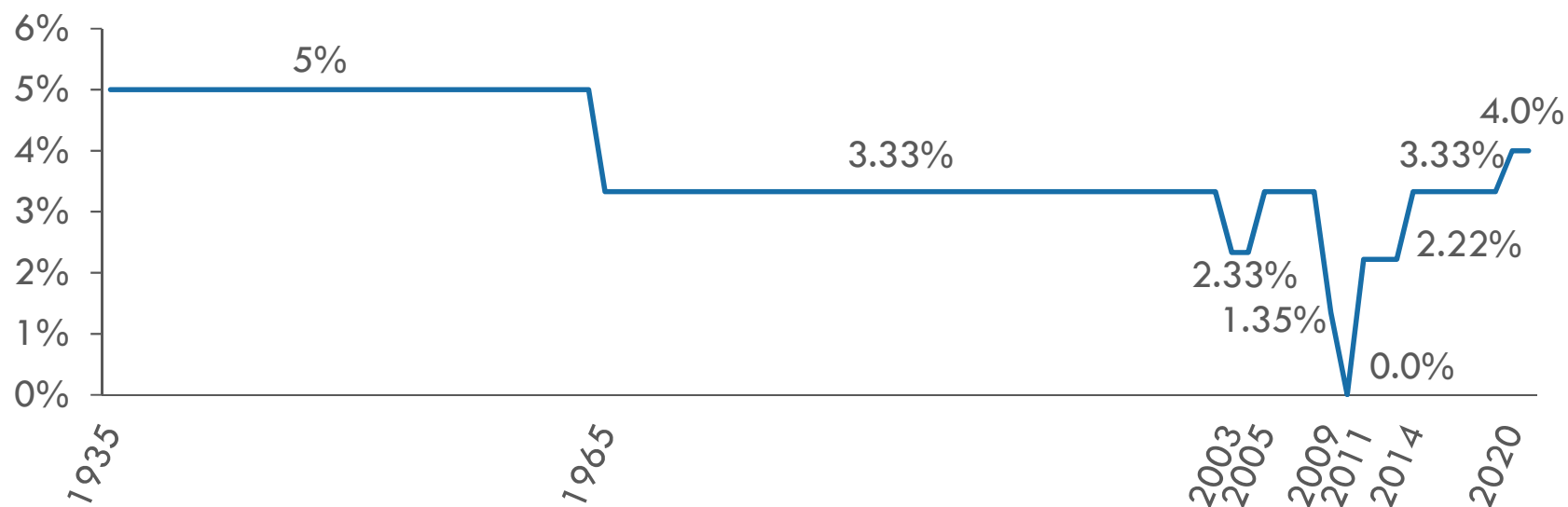
Sales and use tax rate history



- Consumption tax levied on sales of tangible personal property
- Some services are also taxable including gas and electric service for commercial use, telephone services, food and drink sold by restaurants, and lodging.

# Vendor fee

## Vendor fee rate history



- Retailers are allowed to retain 4 percent of sales tax collections. This “vendor fee” offsets vendors’ costs for collecting and remitting sales tax to the state.
- The vendor fee is capped at \$1,000 per filing period per retailer.
- Starting January 1, 2022, only retailers with less than \$1 million in sales during a filing period may retain the fee.

# Sales and use tax exemptions

- There are 80 sales and use tax exemptions
- Many exemptions are to avoid tax pyramiding, other exemptions include goods that are subject to excise taxes, such as gasoline and diesel fuel. There are also exemptions for government and school district purchases
- Wholesale sales exemption, Colorado's largest exemption (\$2.7 billion in 2019)
- Sales to government, schools, and charitable organizations exemption (\$361.7 million in 2019)
- Food for home consumption and sold in vending machines exemption (\$333.6 million in 2019)
- Gasoline and special fuels exemption (\$312.9 million in 2019)
- Prescription drugs and medical equipment (\$253.9 million in 2019)
- Fuel for residential heat, light, and power (\$106.8 million in 2019)

# Where does sales and use tax revenue go?

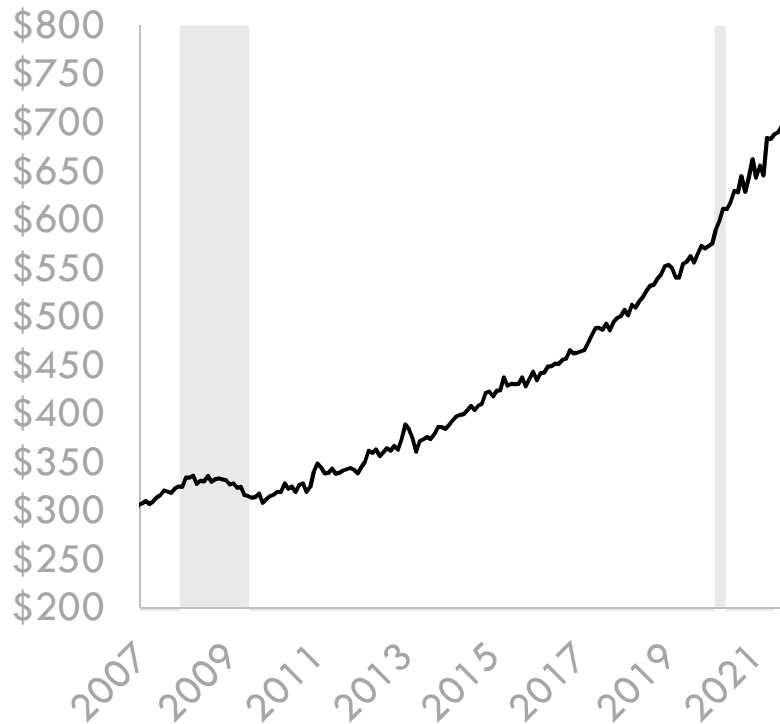
- Sales and use tax is mostly allocated to the General Fund
- Sales and use tax revenues are also credited to the Marijuana Tax Cash Fund and Aviation Fund
  - In FY 2020-21, about \$15.4 million collected for retail and medical marijuana was deposited in the Marijuana Tax Cash Fund
  - In FY 2020-21, about \$14.8 million in tax imposed on aviation fuels was deposited in the Aviation Fund
- Sales and use taxes are subject to the TABOR limit on state revenue and spending

# The largest General Fund streams at or exceeding pre-pandemic trend growth including sales and use tax

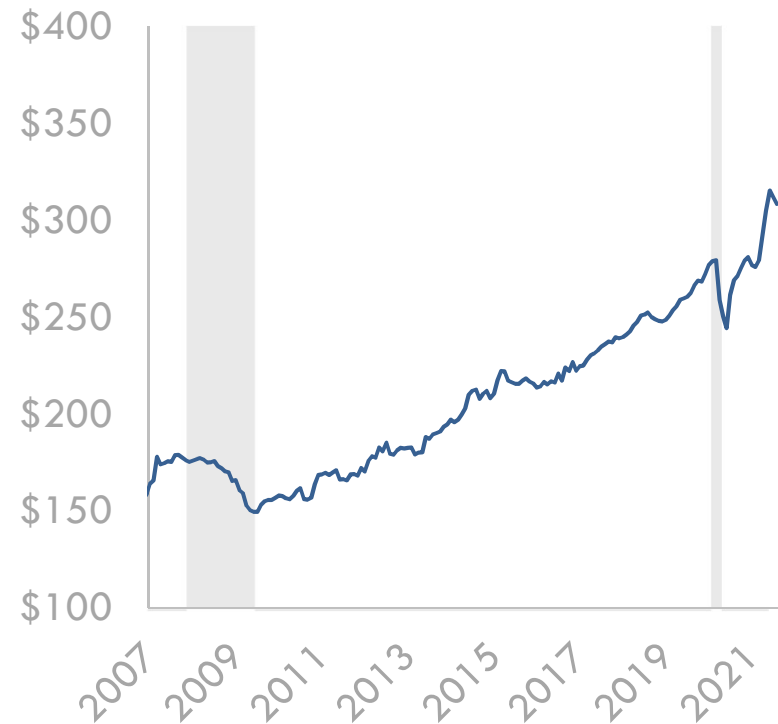
## Monthly General Fund Collections from Selected Sources

Dollars in Millions

### Individual Income Tax Withholding



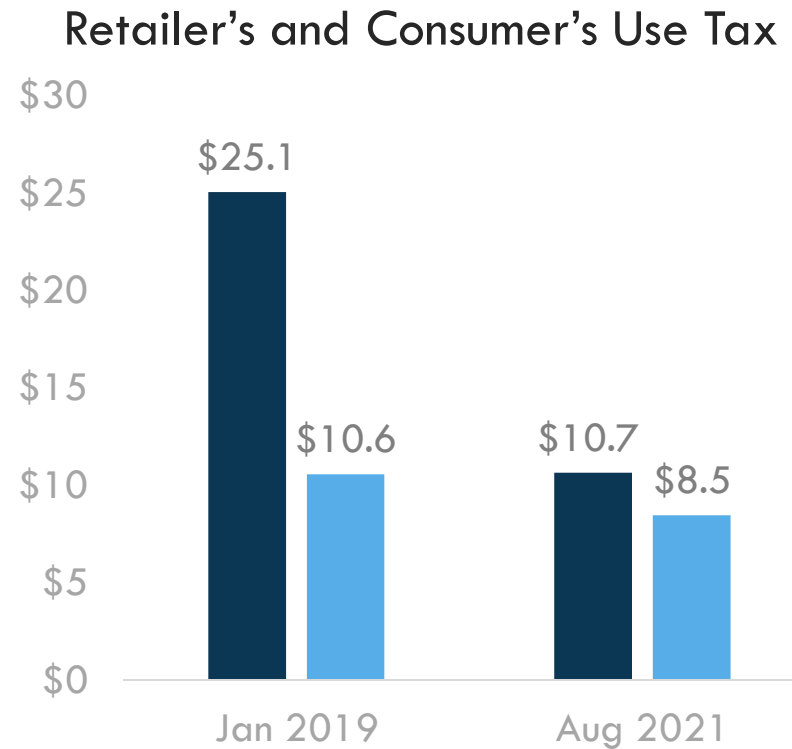
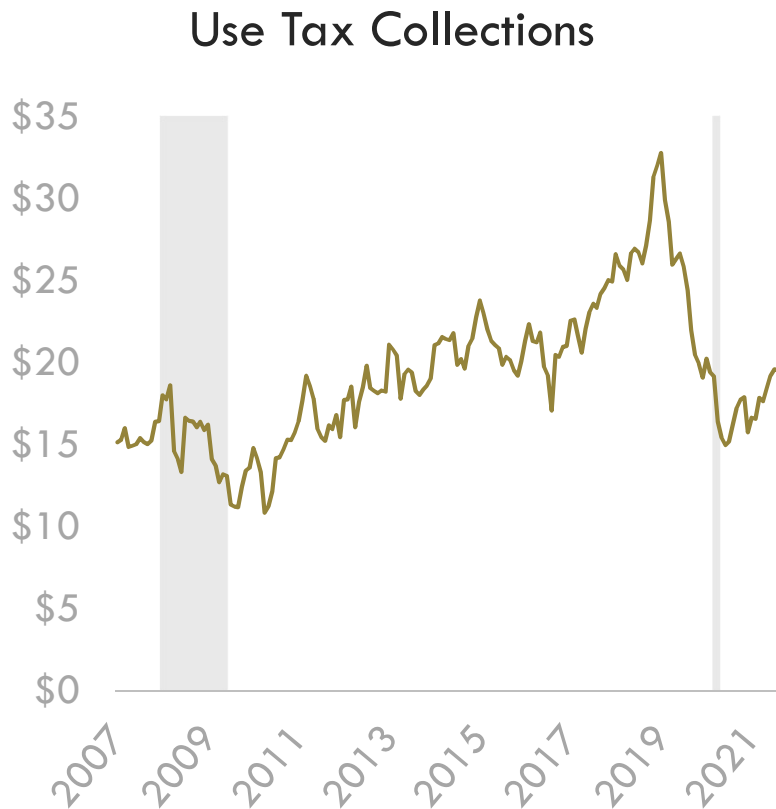
### Sales Tax Collections



Source: Colorado Office of the State Controller with Legislative Council Staff seasonal adjustments. Data shown as three-month moving averages through August 2021. July and August 2021 data are preliminary.

# Large shift in use tax collections following change in sourcing rules and economic nexus

Monthly General Fund Collections  
Dollars in Millions



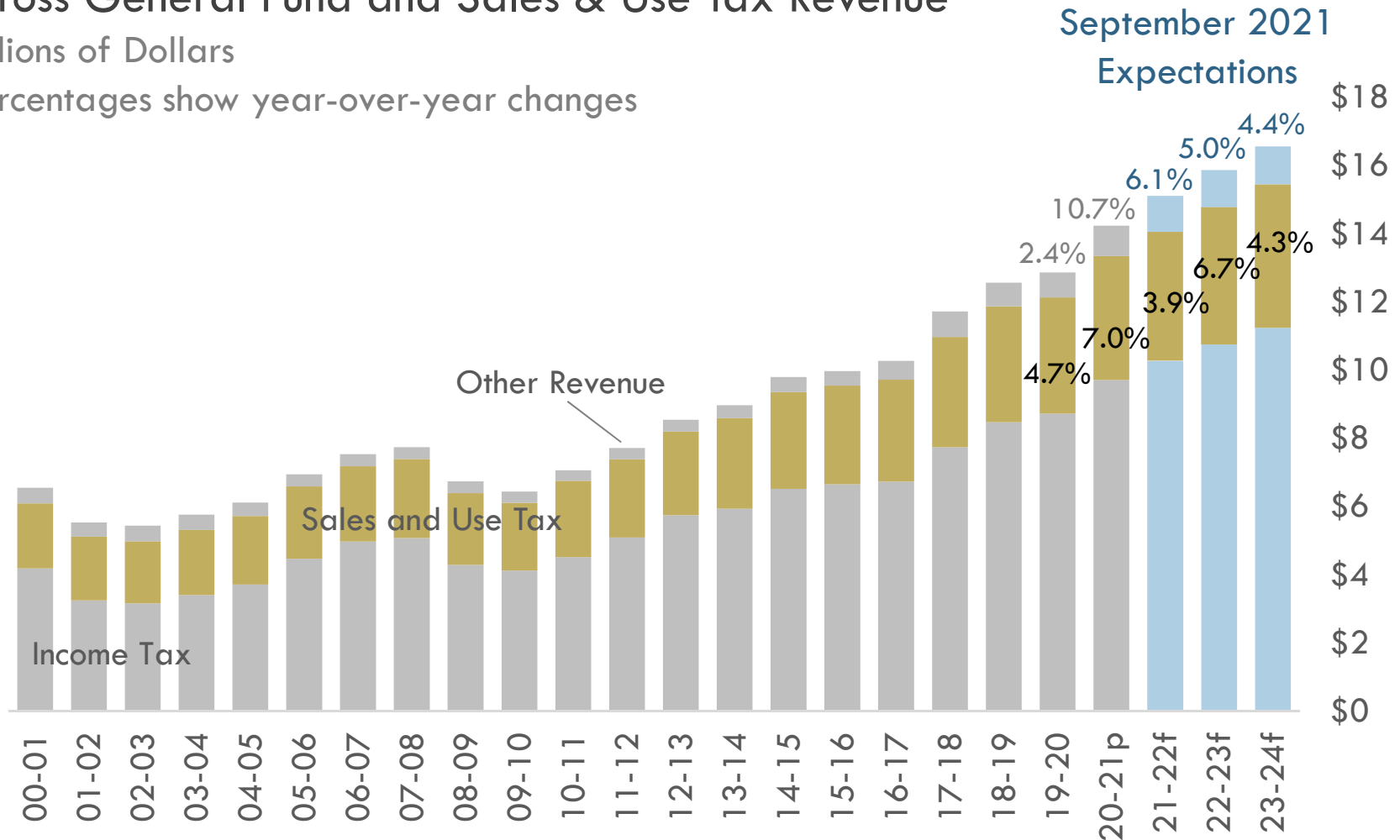
Source: Colorado Office of the State Controller. Data shown as three-month moving averages through August 2021. July and August 2021 data are preliminary.

# Sales and use taxes are the second-largest source of General Fund revenue

## Gross General Fund and Sales & Use Tax Revenue

Billions of Dollars

Percentages show year-over-year changes



Source: Colorado Office of the State Controller and Legislative Council Staff September 2021 forecast.



# Local sales and use taxes

Cities, counties, and special districts in Colorado can impose sales and use tax on sales made within their boundaries

Local sales tax revenue is subject to local government TABOR limitations

There are more than 400 different combinations of Colorado taxing jurisdictions between the state, counties, statutory, and home rule municipalities

Two broad categories, state administered and locally administered

- State administered local sales taxes include:
  - Counties
  - Statutory municipalities
  - Special Districts

# Local sales and use taxes

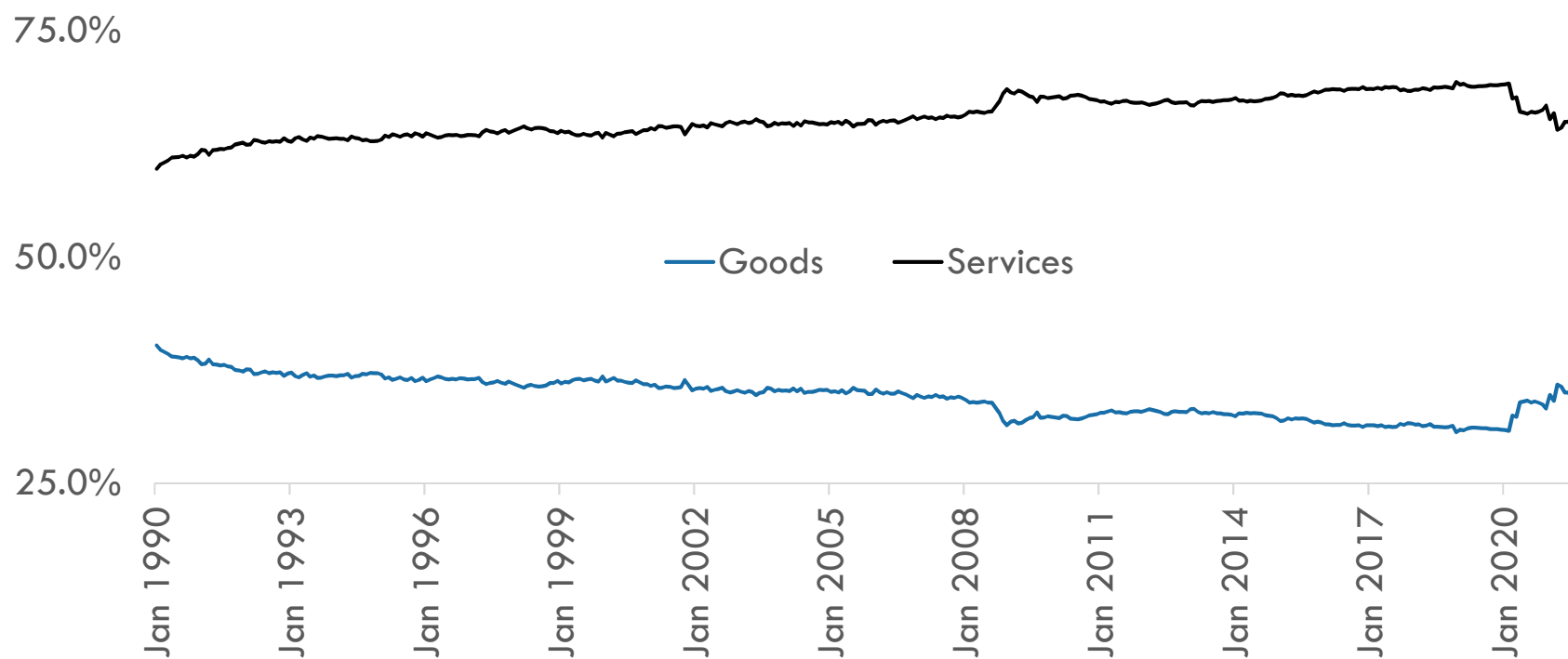
- Home-rule municipalities
  - Any municipality with a population of 2,000 people or more may adopt a home-rule charter with voter approval
  - Home-rule municipalities have broad latitude to govern themselves in matters of local concern that includes local sales and use tax
  - With voter approval, may assess sales and use taxes on a locally-determined collection of goods and services, differences with the state tax base includes both definitional differences as well as goods and services
  - 103 home-rule municipalities, 96 assess a sales tax and 70 collect and administer their own sales taxes

# Sales and Use Tax Simplification Task Force

- Created by House Bill 17-1216 and extended by House Bill 20-1022 through July 1, 2026
- Consists of 15 members including state legislators and representatives from business and local government stakeholder groups
- Charged with studying the necessary components of a simplified sales and use tax system for both state and local governments and solutions for:
  - Utilization of a single sales and use tax return for state and local jurisdictions as a part of the SUTS system
  - **Streamlining**
  - **Simplification**
  - **Uniformity**

# Services comprise a growing share of consumption

Monthly Share of Personal Consumption Expenditures



# State Taxation of Services

- Taxes on services vary widely among the states, five states do not have a state sales tax, several states tax services broadly including:
  - DE, HI, NM, SD, WA, and WV
  - Every state has a sales or excise tax on lodging services
- The most commonly taxed services include admissions and amusements, personal services, business services, and utilities
- The least taxed service category is professional services, such as accounting, architecture, dentistry, and engineering
- State services tax bases have largely been stable for decades
- NCSL recently reported a few states that have significantly expanded their bases including Connecticut and Utah

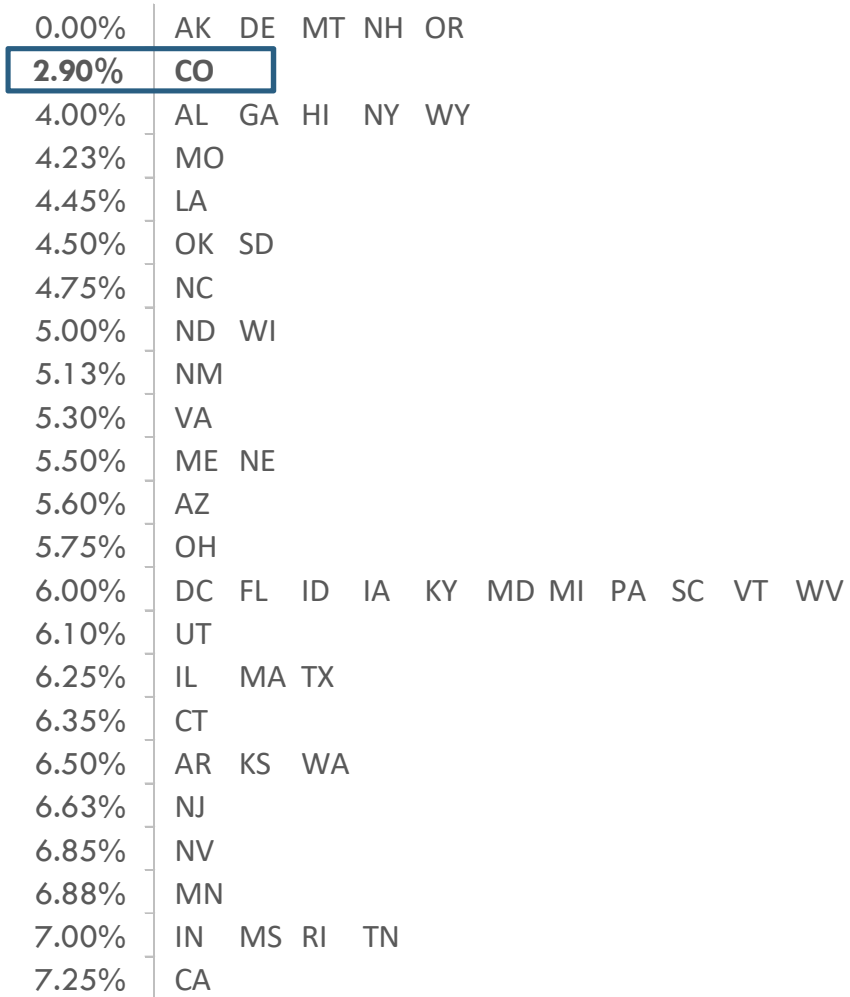
Source: Federation of Tax Administrators, Sales Taxation of Services: 2017 Update (<https://www.taxadmin.org/sales-taxation-of-services>). Brainerd, Jackson, "Services Targeted for Taxes: Lawmakers Consider Taxing Services as Consumers Spend Less on Retail Goods," National Council of State Legislatures, January 16, 2020.

# State Taxation of Services

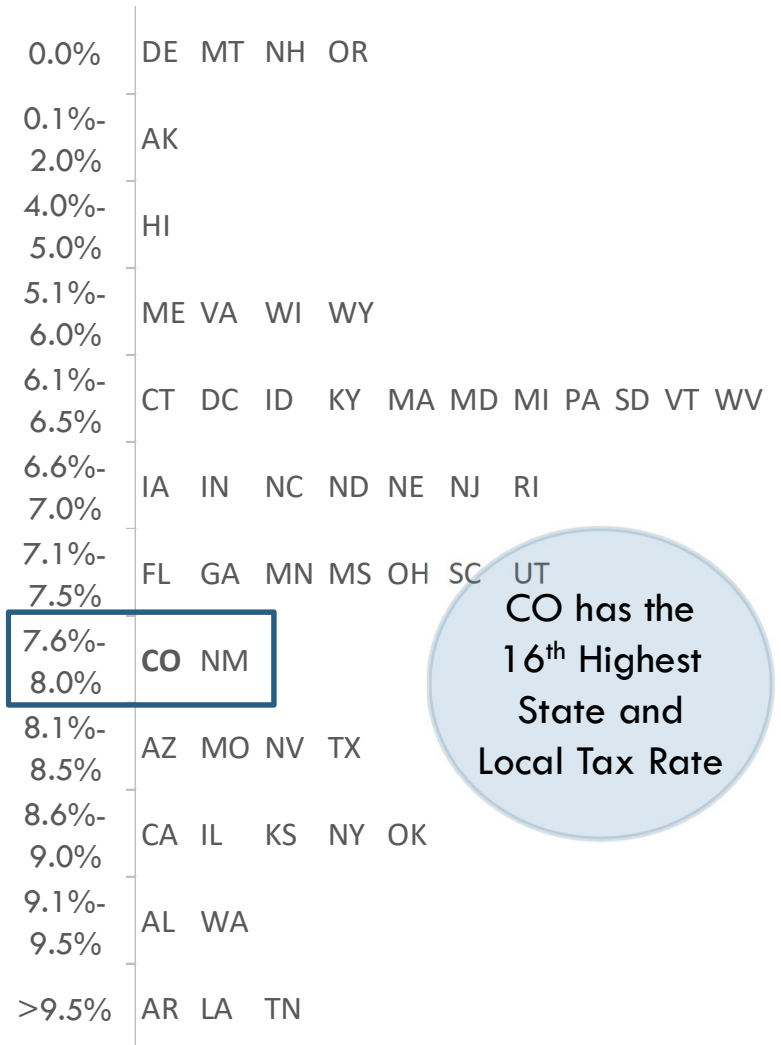
- Colorado taxes services at a lower prevalence than all but six states
- Based on a 2017 survey from the Federation of Tax Administrators, Colorado only taxes 19 of the 176 services surveyed
- Colorado taxation of services included:
  - Utilities
  - Printing and photo finishing
  - Book, music, and video downloads
  - Equipment rentals
  - Vehicle leases

# Where does Colorado's Sales Tax Rate Rank?

## State Tax Rates



## State & Avg. Local Tax Rates



**CO has the 16<sup>th</sup> Highest State and Local Tax Rate**





# Recent legislative changes

- House Bill 19-1240, Sale and Use Tax Administration
  - Established economic nexus for retailers without physical presence in the state, codified DOR's destination sourcing rule, and required marketplace facilitators to collect and remit sales tax
- House Bill 19-1245, Affordable Housing Funding From Vendor Fee Changes
- Senate Bill 19-006, Electronic Sales and Use Tax Simplification System
- House Bill 21-1312, Insurance Premium Property Sales Severance Tax
  - Codified DOR rules for digital goods, expanded sales tax to mainframe computer access, photocopying, and packing and crating, and disallowed vendor fee for retailers with more than \$1 million in sales per filing period

# Resources

- Title 39, Article 26 of the Colorado Revised Statutes
- Colorado Department of Revenue, Sales Tax Guide  
<https://tax.colorado.gov/sales-tax-guide>
- Colorado Legislative Council Staff, Online Tax Handbook  
<https://leg.colorado.gov/agencies/legislative-council-staff/sales-and-use-taxes%C2%A0>
- Colorado Department of Revenue, Tax Profile and Expenditure Report  
<https://cdor.colorado.gov/data-and-reports/tax-profile-and-expenditure-reports>

# Questions?

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