

E-Commerce Tax Revenue

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Electronic commerce or e-commerce is the buying and selling of goods and services using the internet. Sales generated from e-commerce continue to increase in the United States, and many states generate tax revenue through policies that target sellers without a physical presence within the respective states. The U.S. Supreme Court *South Dakota v. Wayfair* decision on June 21, 2018 opened the door for states to pass legislation that requires remote sellers to pay taxes. This [remote seller nexus chart](#) by the sales tax institute outlines legislation of this type passed by states. Nearly every state with a sales tax has passed some sort of remote seller targeted legislation.

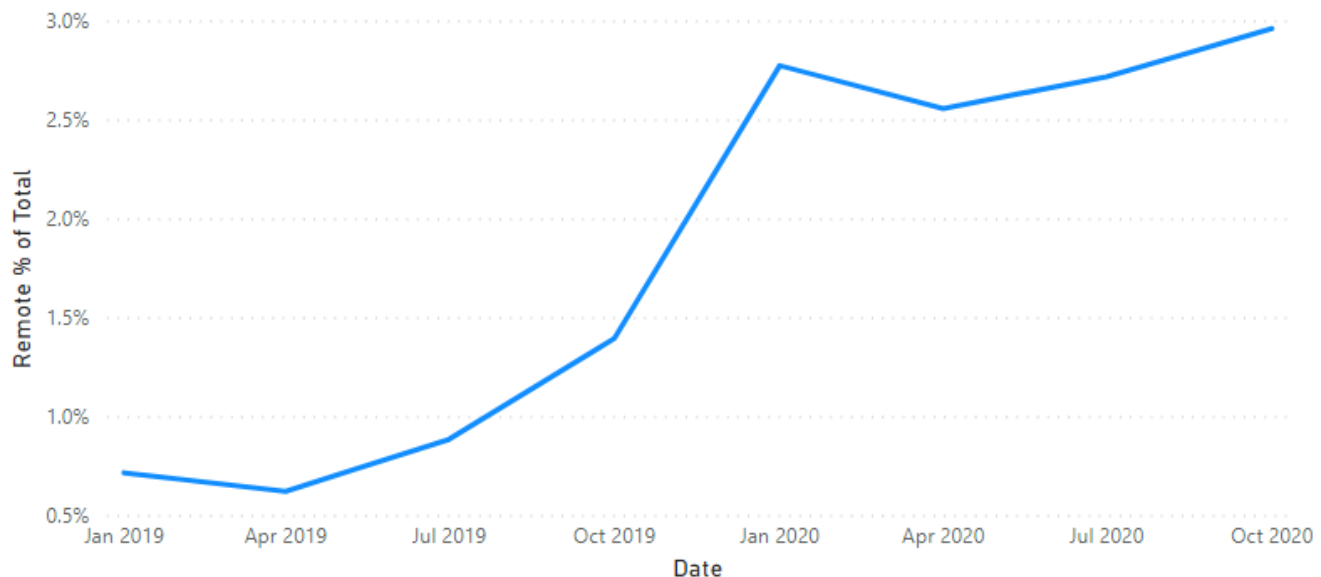
The following information contains data on sales tax collections for North Dakota and South Dakota, as well as an analysis of the Montana corporate income tax sales apportionment factor data in order to determine growth in e-commerce within the region and state. It is important to note that data are limited due to the recent *Wayfair* decision, and little to no data on e-commerce specifically within Montana.

NORTH DAKOTA AND SOUTH DAKOTA REMOTE SELLERS TAX

North Dakota:

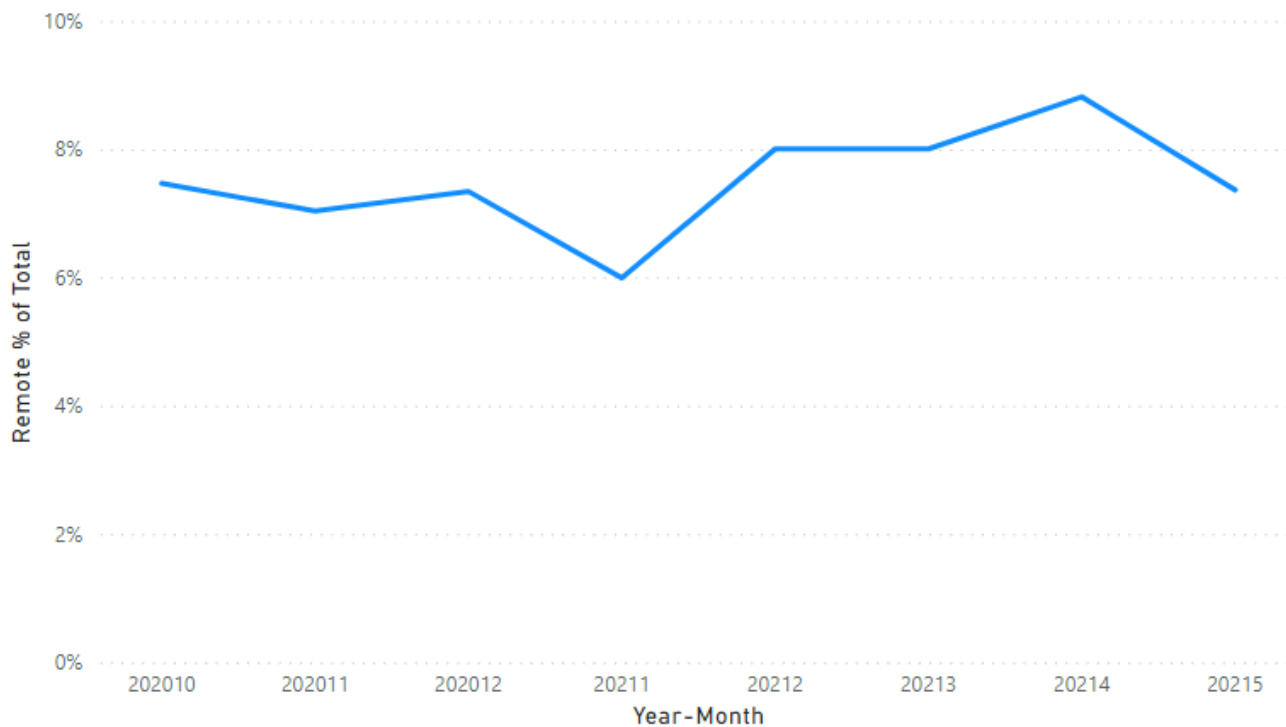
North Dakota began collecting a remote seller's tax at the beginning of CY 2019. Sellers are required to pay this tax if they have no physical presence in the state and sales in the state exceed \$100,000. Although this has only recently been implemented, collections have grown steadily, even during the Covid-19 pandemic. Total sales tax collections in North Dakota, on the other hand, experienced a large dip through the pandemic. Despite this, the remote sellers tax still only makes up around 3% of total sales tax collections, displayed in the graph below. Any definitive conclusion on remote sellers' tax impacts would require a longer time period of available data.

Remote % of Total by Date - North Dakota



South Dakota:

Remote % of Total by Date - South Dakota



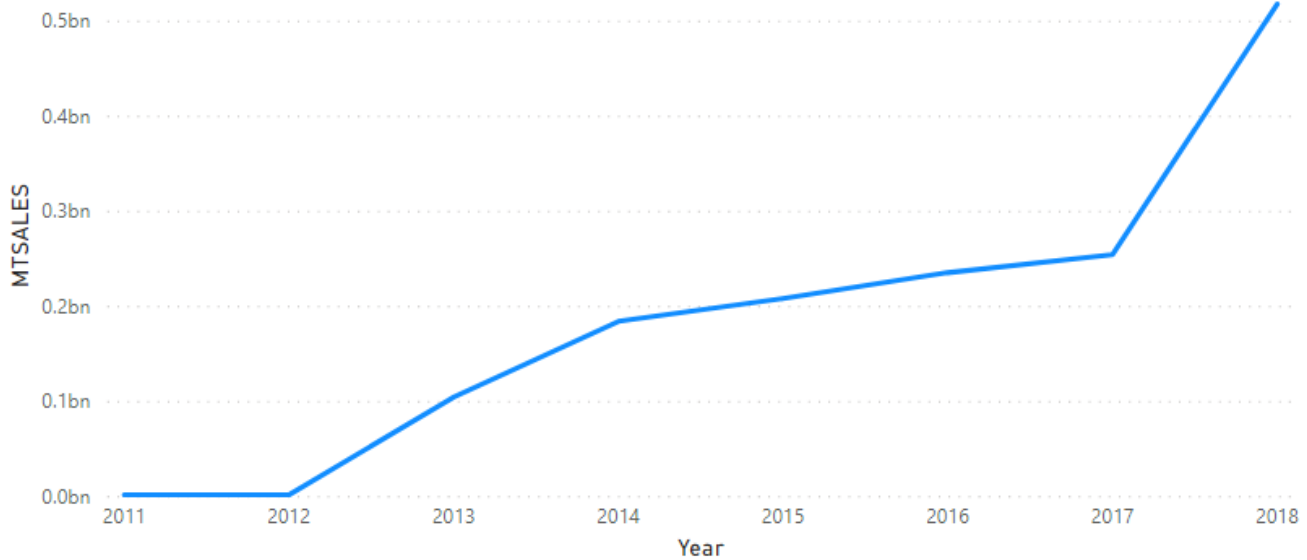
Like North Dakota, South Dakota also passed legislation that requires remote sellers to pay sales tax in the state. The criteria for paying the tax are either that the remote seller reports \$100,000 or more in revenue within South Dakota, or that they have made or exceeded 200 transactions in the state. The graph above displays the remote sellers tax collected as a percentage of the total sales tax collections in South Dakota. Once again, it is difficult to make any conclusions on ecommerce growth in South Dakota thus far due to the short time span of data.

MONTANA CORPORATE INCOME TAX DATA

The Montana corporate income tax data provides some information on how much e-commerce is growing within the state. By analyzing corporate tax return data apportionment factors of property, payroll and sales, patterns emerge that show how out of state companies are actively conducting business within the state. For example, if a company reports sales within the state but their property factor is reported as zero, that would imply that business is likely being conducted through some sort of online or remote mechanism. Additionally, because each company has an associated North American Industry Classification System (NAICS) code reported in the return data, comparisons between companies with and without an in-state presence can be done by industry code.

The first graph below shows sales reported in Montana by NAICS code 454110, which is the industry code for Electronic Shopping and Mail Order. Companies that fall within this NAICS classification do their business exclusively online; therefore, a look back at sales reported in Montana will show to some degree how much online shopping activity has grown in the state. As can be seen from the graph, there has been constant year to year growth, with the largest jump occurring from 2017 to 2018.

Corporate Tax: Yearly MT Sales by NAICS - Electronic Shopping and Mail Order (454110)



CONCLUSION

E-commerce has undoubtedly experienced growth in recent years, and this trend is likely to continue. Many states have been able to capture tax revenue from this growth through sales tax reform, as shown through the North Dakota and South Dakota sales tax data. However, a comparison directly to Montana through that data is difficult without a sales tax and comparable data within the state. It is clear through the corporate income tax data on electronic shopping that there is substantial growth within the state in e-commerce, as total Montana sales in the most recent available data was just over half a billion dollars. Although sales have grown substantially, the tax liability off of those sales is only about \$150,000, or 0.03% of total sales. To be able to capture tax revenue from e-commerce, some sort of tax reform would be required in Montana.