



Taxation & Revenue Department

Update to the Revenue Stabilization and Tax Policy Committee

Stephanie Schardin Clarke, Cabinet Secretary

Clinton Turner, Tax Policy Director

June 11, 2019

Executive Leadership Team

Office of the Secretary
Cabinet Secretary: Stephanie Schardin Clarke
Deputy Cabinet Secretary: Emily Oster
Tax Policy Director: Clinton Turner
Chief Legal Counsel: **Vacant**
Director of Communications: Charlie Moore
Chief Security Officer: Raja Sambandam
Taxpayer Advocate: Tiffany Smyth
Chief Economist: **Vacant**
Local Government Liaison: David Montieth

Property Tax Division
Director: Donna Maestas
Deputy Director:
Michael O'Melia

**Revenue Processing
Division**
Director: Charlene Trujillo
Deputy Director: **Vacant**

Motor Vehicle Division
Director: Alicia Ortiz
Deputy Director Field
Operations: Jerry Valdez
Deputy Director Central
Admin: **Vacant**

**Tax Fraud
Investigation**
Director: **Vacant**
Deputy Director:
Vacant

**Information
Technology**
CIO: Mike Baca
Deputy CIO:
Darshana Kanabar

**Administrative
Services**
Director: Denise Irion
Deputy Director:
Vacant

**Audit &
Compliance**
Director: Aysha
Mora
Deputy Director
Audit: **Vacant**
Deputy Director
Compliance: Lisa
Trujillo

Vision

- Fair, consistent, professional Tax Administration for all New Mexico taxpayers
- How will we achieve this?
 - Fill vacancies
 - Support employees, improve retention
 - Training and professional development
 - Deliver quality customer service
- Guiding principles of integrity, ethics, respect, collaboration, communication: Do the right thing!

A Fresh Approach to Customer Service

- Taxpayers: deserve fair audits and assessments, prompt resolution of protests, consistent application of laws and regulations, responsiveness on questions, security of taxpayer data from fraudsters
- Legislators: deserve quality information on revenue trends and forecasts, resolution of constituent issues, budget needs, performance reporting,
- Local Governments/Political Subdivisions: deserve timely and accurate distributions, responsive answers to questions about distributions, proactive assessment of State-assessed properties to capture property taxes due
- State Agencies: deserve a collaborative partner that shares data, guides policymaking, informs on trends
- CPAs and Tax Attorneys: deserve collaborative partner to resolve taxpayer issues and identify and implement process improvements.

Agency Budget and Staffing

- Annual budget of \$89.6M in FY19, \$91.7M in FY20, an increase of 2.4%
- TRD is organized into 7 divisions with 1,072 FTE
 - As of June 3, 2019: 780 employees, 292 vacancies

Administrative Services (Office of the Secretary, Legal/Protest, Tax Policy/Research, Office of Internal Oversight, and 10 HR positions at SPO)	29 vacant / 103 FTE = 28% vacant
Information Technology Division	25 vacant / 71 FTE = 35% vacant
Audit and Compliance Division	86 vacant / 356 FTE = 24% vacant
Revenue Processing Division	54 vacant / 142 FTE = 38% vacant
Property Tax Division	13 vacant / 39 FTE = 33% vacant
Motor Vehicle Division	76 vacant / 340 FTE = 22% vacant
Tax Fraud Investigations Division	9 vacant / 21 FTE = 43% vacant
TOTAL ALL TRD	292 vacant / 1,072 FTE = 28% vacant

Significant Vacancy Challenges

- Perpetual challenges recruiting and retaining the following staff members:
 - Lawyers – specialized tax and litigation experience preferred, salaries not competitive with private sector
 - IT professionals – State salaries not competitive with private sector
 - Appraisers – TRD salaries not competitive with County Assessor offices
 - MVD and ACD call centers staff – many minimum wage positions
 - Permian basin area – competition with extraction industries

Our Mission: Tax Administration

- Dozens of tax programs administered under the Tax Administration
- Revenue Processing Division
 - Receives, sorts, and deposits e-filed and mailed tax payments
 - Heavily automated processes, reliance on specialized equipment
 - Temp workers assist during PIT return season
 - Average work flow volumes:
 - 51,500 outgoing letters per week
 - 24,500 incoming pieces of mail per week
 - 16,500 checks processed per week, \$160 million average deposit per week
 - Nearly 3 million tax returns processed annually for about 20 tax programs
- Information Technology Division
 - Facilitates routine upgrades and programming development of TRD's GenTax Tax Administration software
 - Consults with other divisions on system design requirements

Our Mission: Tax Administration (continued)

- Audit and Compliance Division:
 - Audits and makes assessments of tax, penalty, and interest due
 - Oversees TRD response to civil fraud cases
 - Reviews and approves/denies requests for refunds, credits
 - Incentivizes voluntary compliance
 - Places liens on property for taxes due
- Protest Office/Legal Services Bureau of Office of the Secretary
 - Attempts to resolve protests of assessments/denied refund claims informally
 - If Protest Office is unable to resolve informally, Legal Services Bureau represents TRD in hearings before the Administrative Hearings Office
 - Legal Services Bureau represents TRD in court if necessary
 - Currently working over 600 protests totaling over \$500 million
- Administrative Services Division
 - Distributes \$8-9 billion per year to State, local, and tribal governments

Our Mission: Tax Fraud Investigation Division

- Ensures that those who break criminal tax laws are held accountable. Work focuses on tax fraud and evasion, white collar crime, identity theft
- Staff expertise includes fraud examiners, forensic accounting, commissioned law enforcement officers.
- Collaborate with various federal, state and local law enforcement agencies and prosecuting agencies as needed
- Conduct internal affairs investigations to review allegations of policy violations, respond to insider threat concerns

Our Mission: Motor Vehicle Division

- Administer driver's licensing and motor vehicle registration laws
- Operate 33 MVD state-owned Field Offices statewide, oversee 40 Municipal MVD offices, and 15 privately-operated partner MVD Field Offices statewide
- Support more than 1,300 MVD-related business partners
- Roughly 50% of all NM credentials are now Real-ID – One millionth Real ID issued June 5, 2019
- Role in voter registration
- Provide information critical to law enforcement
- Register individuals for organ donation
- Average MVD Field Office wait times are back to pre-Real ID times
- Staffing struggles particularly in call center and areas affected by Permian labor market shortages

Our Mission: Property Tax Division

- Assists County Assessors and County Treasurers in administration and collection of property taxes
- Appraisal Bureau:
 - Appraises and reviews appraisals of real property values
 - Evaluates County Assessors annually and ensures their compliance with property tax statutes and rules
- Delinquent Property Bureau:
 - Collects delinquent property taxes and brings delinquent properties to auction
 - Currently working through HB88 (2018) – created special property sale method related to abandoned subdivision in Valencia County involving Tome Land Grant
- State Assessed Bureau:
 - Assesses values for properties that cross county lines: railroads, communications, pipelines, utilities, etc.
 - Committed to collaborating with counties to locate and assess omitted assets that have been absent from tax rolls

Our Mission: Unclaimed Property

- Act as custodian of abandoned assets, including real property, account balances, securities, personal property
- Property is held in custody for perpetuity
- Claims are validated to prevent fraud
- Process over 4,000 claims per year
- Pay out \$8 - \$10 million in claims per year
- Deposit about \$30 - \$34 million new property per year
- Major uptick in claim activity following May 2019 news story: received over 10,000 emails from which 4,933 claims were initiated

Ongoing Priorities

- Fill vacancies, train new staff
- Implement 2019 Legislation into IT Systems (GenTax and Tapestry)
 - As of June 6, 2019, we estimate we are 68% complete implementing measures effective June 14 and July 1, 2019
 - TRD estimated implementation cost of \$27.4 million, identified \$7.5 million available funding
 - Migrate Insurance Premiums Tax from Office of Superintendent of Insurance to TRD January 1, 2020
- RFP currently issued for TRD's Albuquerque office space (currently Bank of West Building)
- Data Analytics
 - Phase I underway will enhance GRT audit selection, expected to go live July 2019
 - Phase II will focus on preventing internal and external threat and predictive analytics/forecasting
- Property Tax Division System Modernization: \$2 million for modernization and automation of the property tax business system
- Complete projects to restore payment card acceptance functionality at TRD call centers
- Work through legal protest backlog
- Standardize agency operating procedures to ensure consistent application of laws and regulations

HB 162: Insurance Premium Tax Provisions

- Authorizes TRD to administer Insurance Premium Tax under the Tax Administration Act (TAA)
 - Gives TRD tools to audit taxpayers, reconstruct records
 - Gives taxpayers protections under Taxpayer Bill of Rights
- Clean-up from 2018 legislation
 - Reinstates distribution of premium tax revenue to Law Enforcement Protection Fund for local law enforcement needs
- TRD begins administering Insurance Premium Tax program January 1, 2020
 - Information sharing and collaboration with Office of Superintendent of Insurance- before, during and after transfer

HB 479: De-Earmark Local Option Gross Receipts

- Allows wider use of many municipal and county local option gross receipts tax increments
- Changes related to local option gross receipts tax increments that may be imposed by municipalities and counties
- Greater flexibility for municipalities and counties to manage their finances
- Not required to reduce from current rates (grandfathered in)

SB 2: Film Tax Credit Changes

- Replaces \$50M cap system with new model
 - TRD authorized to pay \$110M in credits each fiscal year (\$110M cash cap)
 - EDD manages project budget certification/credit application process to ensure that backlog does not exceed \$100M (\$100M maximum backlog)
- “Film Partners” that have made 10-year commitment to New Mexico excluded from cap
- Extra 5% credit available for rural film production
- Improved reporting and transparency required of TRD and EDD
- Appropriates \$195M to repay backlog of approved but unpaid film credits accrued under the prior \$50 million cap; first \$100M payments to go out in June 2019

SB 129: Tax Protests & Admin. Hearings Office

- Changes to timeline for protests and refund claims
 - Protests are filed with TRD, adjudicated informally through TRD Protest Office, and then Administrative Hearings Office (AHO) if necessary
 - 90 day time period for payment of undisputed amounts
 - Increases from 45 to 180 days the amount of time that taxpayers and TRD can work together to informally resolve protests, before escalation to AHO
- Two ways to dispute an assessed liability for taxes
 - File administrative protest, OR
 - Pay and then claim a refund
- Clarification of what must be included in a written protest
- Changes to Administrative Hearings Office Act
 - Tax protest procedures, who can represent taxpayers at AHO

HB 6: Tax Changes

- Internet Sales GRT and Local Compensating Tax
 - Two step: July 1, 2019 and July 1, 2021
 - Level playing field for local and online retailers
- Hospital GRT – levels the playing field between like hospitals

- Increase working families tax credit from 10% to 17% federal EITC
- Reduce capital gains PIT deduction from 50% to 40%
- Restores dependent deduction to offset recent federal tax changes
- Contingent Tax Year 2021 new top PIT bracket and rate, may go into effect dependent on FY2020 general fund recurring revenue growth

- Combined reporting of CIT

- Increases Motor Vehicle Excise Tax From 3% to 4%, increased Cigarette Tax rate, changes Tobacco Products tax, taxation of vaping products

HB 6: PIT Tax Changes

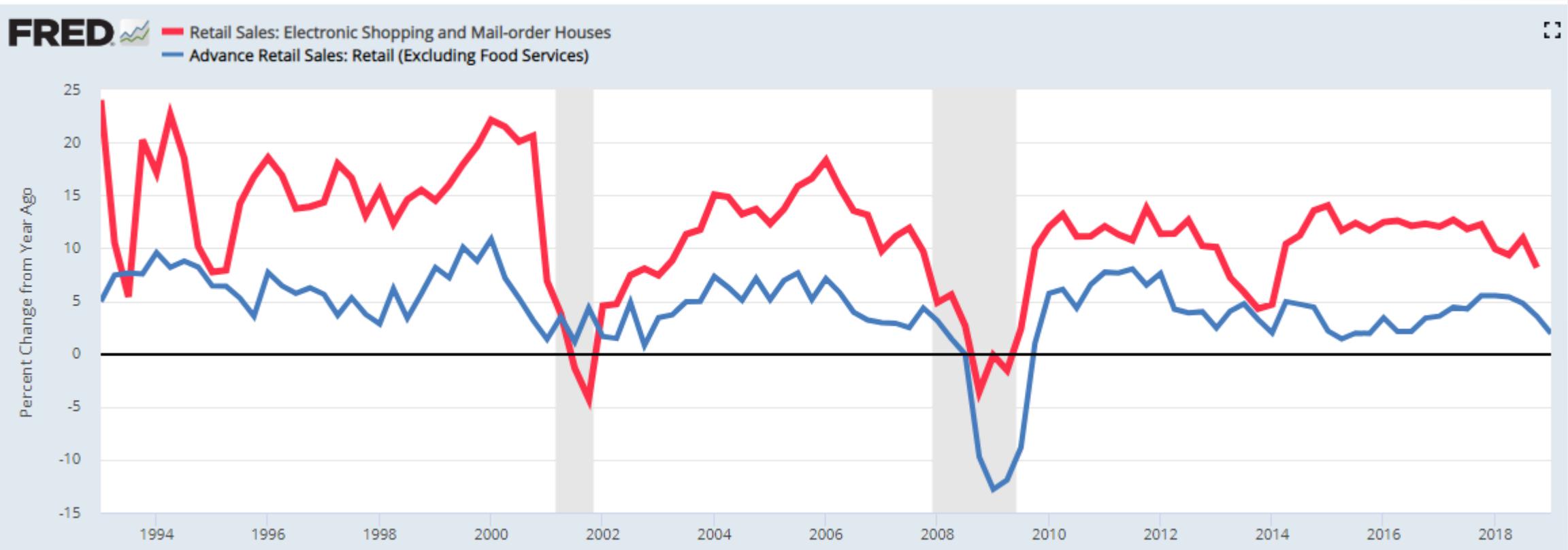
- Increase working families tax credit from 10% to 17% federal EITC
 - Will be tax cut for about 20% of New Mexico taxpayers at current participation rates (about 1 in 5 eligible taxpayers in New Mexico do not claim this tax benefit)
 - Combats regressivity inherent in consumption taxes, fights poverty, and encourages workforce participation
- Reduce capital gains PIT deduction from 50% to 40% on capital gains (beyond the annual \$1,000 capital gain income exclusion)
- Restores dependent deduction to offset recent federal tax changes
- Contingent Tax Year 2021 new top PIT bracket and rate of 5.9%, do not go into effect if FY20 recurring General Fund revenue exceed FY19 by five percent
 - New marginal rate could apply to about three percent of taxpayers
 - Single Filers – Minimum Gross Income > \$222,000 on taxable income over \$210,000
 - Head of Household/Married filing Jointly – Min. Gross Income > \$333,000 on taxable over \$315,000

HB 6: Cigarette/Tobacco Tax Changes

- Increases Cigarette Tax rate from \$1.66/pack to \$2.00/pack
- Limits Tobacco Products Tax on cigars at lower of 25% of wholesale/manufacturer value or 50 cents
- Taxation of E-Cigarette liquid under Tobacco Products Tax at 12.5% of wholesale/manufacture value
- Tax “closed system cartridge” such as a Juul Pod at 50 cents each
 - Or any other single-use, pre-filled, disposable cartridge with less than 5 ml of vape juice

Three Graphs:

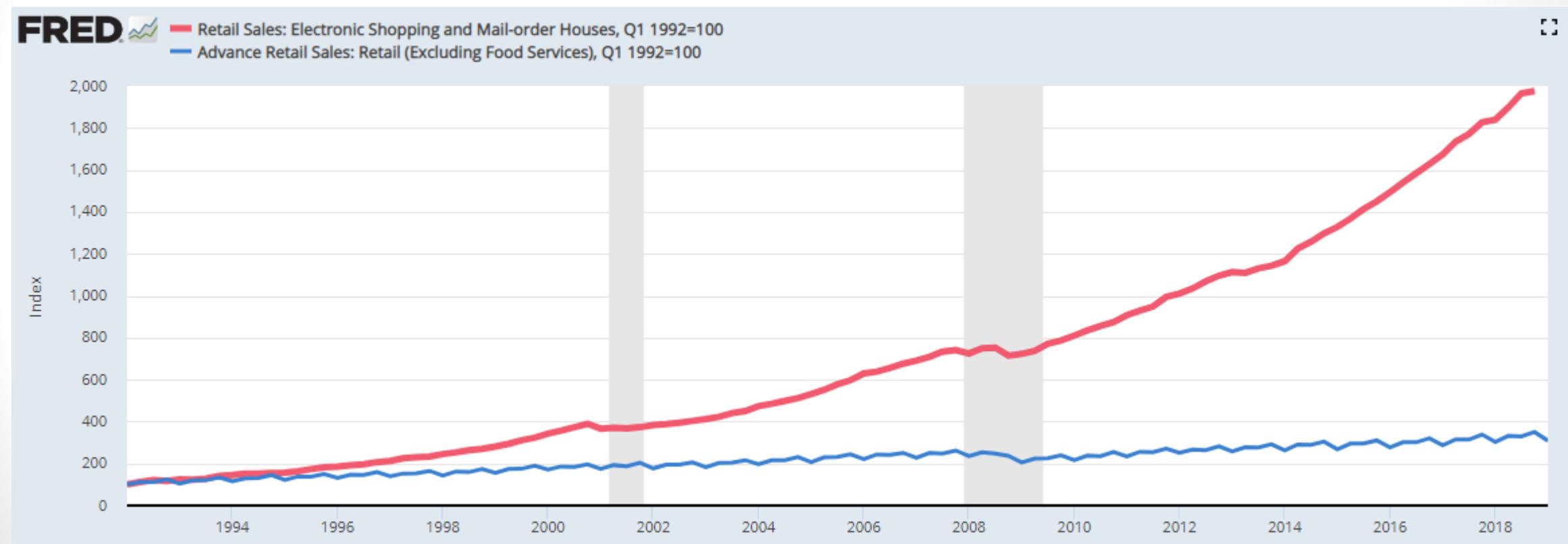
- In 1992 “remote” shopping mattered enough to make it to the US Supreme Court
 - Then it grew faster for a while



<https://fred.stlouisfed.org/graph/?g=nO3N>

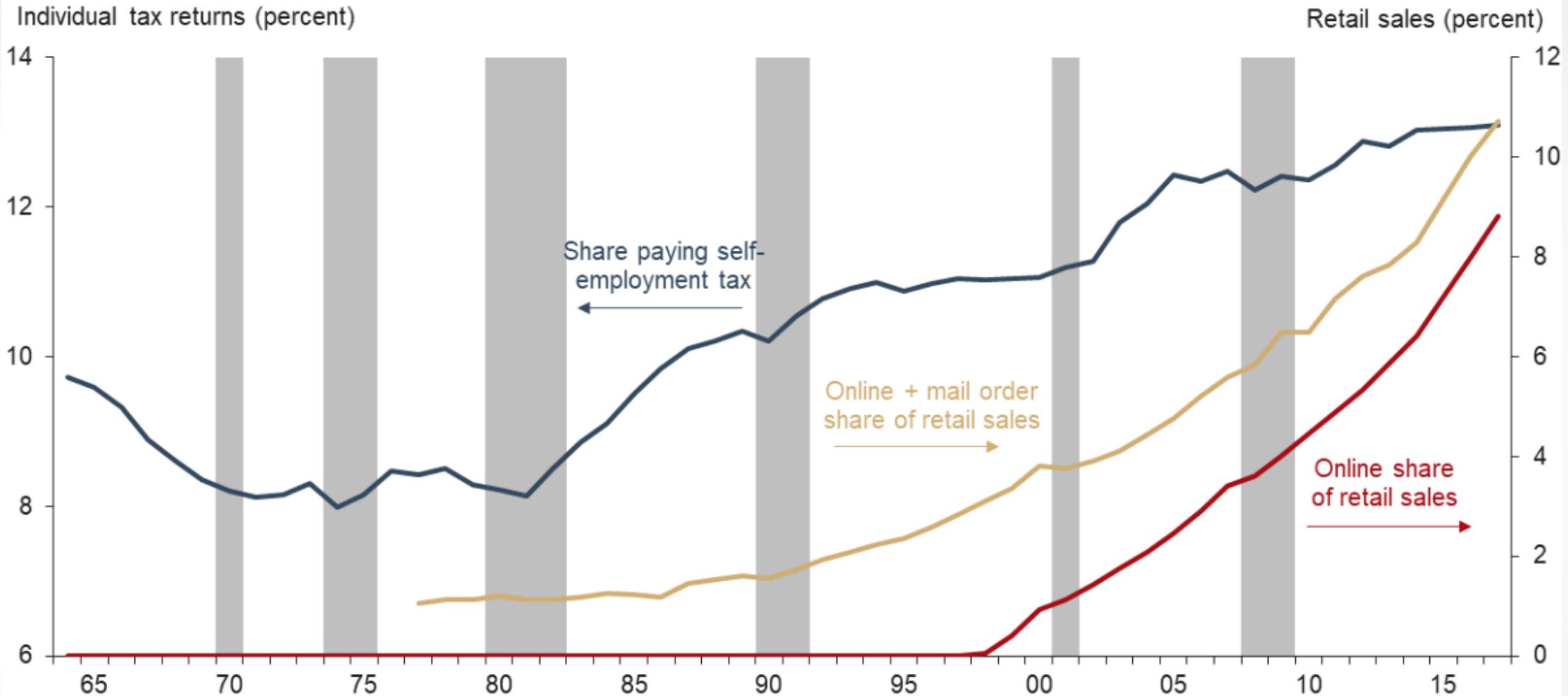
Three Graphs:

- Today Retail sales are three times the 1992 level and “remote” shopping sales are twenty times the 1992 level,



<https://fred.stlouisfed.org/graph/?g=nO3V>

Online Retailing, Self-Employment Increase Since 2000



NOTE: The shaded areas indicate National Bureau of Economic Research (NBER) recessions.

SOURCES: Annual Internal Revenue Service reports on individual income tax returns, and "Inflation and the Gig Economy: Have the Rise of Online Retailing and Self-Employment Disrupted the Phillip's Curve?" by John V. Duca, Federal Reserve Bank of Dallas Working Paper no. 1814, November 2014.

Federal Reserve Bank of Dallas

<https://www.dallasfed.org/research/economics/2019/0416>

HB 6: GRT and Compensating Tax Changes

- July 1, 2019: Taxes remote sales
- FY20 and FY21 out-of-state location code and current location reporting rules remain in place
 - In interim, local governments receive fixed \$24 million annually from General Fund apportioned by population
- July 1, 2021: applies local GRT increments via destination based sourcing and local compensating tax
 - Major administrative and compliance step for Department and thousands of taxpayers within and outside of the State.

2020 Legislative Session Brainstorming

- Seek funding to develop Insurance Premium Tax module in GenTax - \$6.9 million
- Plan to seek \$10 million contingent appropriation every year for costs of implementing any enacted legislation in GenTax/Tapestry
- More changes to 7-1-8.1 allowing TRD to share certain data between State agencies
 - HSD – share data on nursing facility payment of health quality surcharge
 - EDD – share additional detailed data on film credit for joint tracking purposes

External Outreach: Taxpayers

- Taxpayer Advocate: Tiffany Smyth
- Provides assistance to taxpayers, identifies systemic problems within TRD, and recommends long term solutions
- Assists in resolving issues when the normal process has broken down
- Ensures that the rights afforded to the taxpayer in the Taxpayer Bill of Rights are protected
- Permanent contact information
 - Tiffany.Smyth2@state.nm.us
 - Phone (505) 841-6565
 - From May – July 2019, contact instead:
 - David Monteith
tax.localgov@state.nm.us
Phone (505) 827-2588
 - April Vigil
April.Vigil@state.nm.us
Phone (505) 476-3454

External Outreach: Tax Practitioners

- Tax Practitioner Liaison: Vincent Caputo
- Provides assistance to tax practitioners, assists practitioners in navigating through processes administered by TRD
- Maintains Tax Practitioner's Hotline- strive for responses within 24 hours
- Assists in resolving issues when the normal process has broken down
- Provides training to stakeholders on statutes, regulations, policies, and procedures
- Contact information
 - Vincent.Caputo@state.nm.us
 - Phone (505) 795-4262

External Outreach: Local Governments

- Local Government Liaison: David Monteith
- First point of contact for municipalities, counties and tribal governments who need assistance from TRD
- Goal is to provide prompt answers to questions regarding services that are provided by TRD
- Contact information
 - tax.localgov@state.nm.us
 - Phone (505) 827-2588

Questions & Discussion?



Thank you!

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<http://www.tax.newmexico.gov/>