

Internet Marketplace Act

• Conclusion

- Gains to NYS and NYC from the Internet Marketplace Act appear to be far larger than the payments they make to the MTA related to the IMA and internet sales more generally.
- Current IMA-related payments to MTA are approx \$157m NYS, \$178m NYC (\$335m total).
- Current gains from IMA and internet-related sales appear to be about over \$500m for NYS and about \$280m for NYC.
- Thus "excess" gains are over \$300m annually for NYS and about \$100m for NYC.
- Some portion of excess gains could be diverted to MTA.
- This would not be an increase in tax revenue but rather a diversion of revenue from NYS and NYC to MTA.

• Option summary

- Under 2019-20 NYS budget legislation (L2019 C59 Part G), NYS and NYC direct a portion of their sales taxes to the MTA. Justification was that MTA should benefit from NYS and NYC sales tax gains related to the Internet Marketplace Act (IMA). I have been unable to find precise statements of intent (e.g., were the payments supposed to be related just to the IMA, or also to broader impacts of the Wayfair decision that facilitated the IMA?)
- IMA required internet platforms to collect and remit NYS and local sales taxes from sellers on their site. Examples: Amazon, eBay, Etsy, Walmart. These were taxes already owed, often by small sellers on the sites, but not generally collected. Applied to sales transactions on/after June 1, 2019.
- Diversions were \$170m NYC, \$150m NYS (\$320m total) in first full state fiscal year. Required to grow 1% annually.
- Gains from IMA appear to be substantially greater than current payments to the MTA
- Under this option, payments to MTA by NYS and NYC related to NYS and NYC IMA gains would be increased to reflect fact that gains exceed current payments.

• Methodology

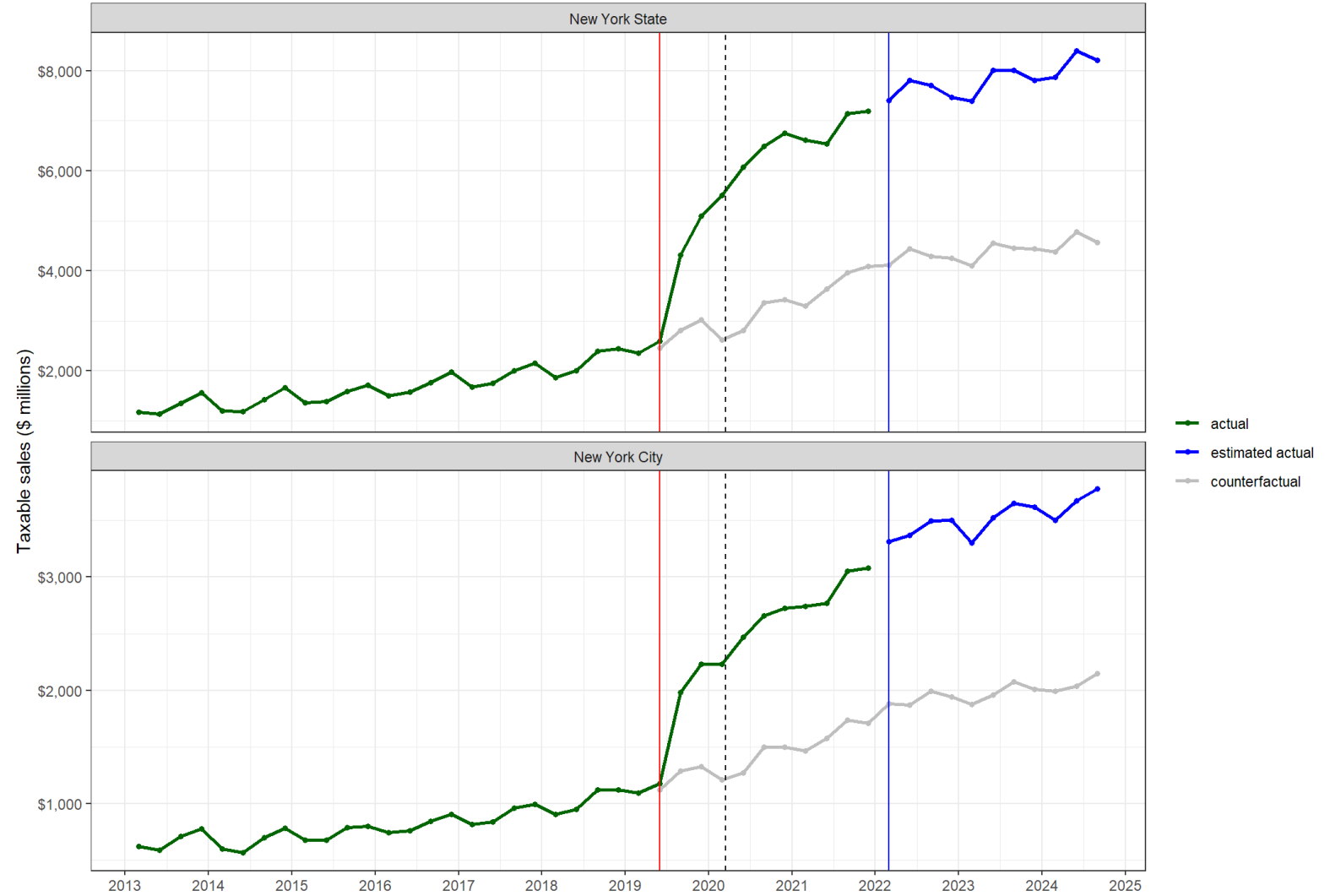
- Overview
 - Estimate marketplace-related taxable sales for NYS and NYC from pre-IMA period through most recent data available
 - Estimate "counterfactual": what these sales would have been absent the IMA
 - Compute difference between actual taxable sales and what sales would have been absent IMA; apply NYS and NYC tax rates to estimate gain from IMA.
 - Compare (1) estimated gains to NYS and NYC from IMA to (2) payments by NYS and NYC from IMA.
 - Consider some portion of "excess gains" as potential additional payments by NYS and NYC to MTA
- Potentially major complicating factors and how I dealt with them:
 - No direct data on internet marketplace sellers
 - DTF does not appear to have published any data on internet marketplace platform providers (the large firms such as Amazon, ...) or their sellers. We don't know how many of them there are or what they collected before and what they collect now. Inside-government analysts might be able to get this information from DTF but I could not find anything and they are not responsive to me.
 - Thus we are left trying to infer what happened by looking at how internet-related sales in general (marketplace plus non-marketplace) changed after IMA went into effect.
 - I can't separate growth related to IMA to other factors, but the internet-related sales post-IMA grew remarkably.
 - Data reclassification:
 - NYS Dept Tax and Finance (DTF) data on vendors making internet taxable sales had been recorded in NAICS 4541 in the 2017 NAICS classification system.
 - Census Bureau's 2022 NAICS classification eliminated NAICS 4541 and reclassified sales to retailers based on the kinds of products they sell, not the kind of retailer.
 - DTF started converting to NAICS 2022 beginning in 2022-23 sales tax year

- However, good news: At least for a while, DTF is putting internet vendors formerly in NAICS 4541 into their unclassified code, NAICS 9999
- I estimate that about 74% of NAICS 9999 consists of sales by former NAICS 4541 vendors -- they dominate NAICS 9999.
- This gave me confidence to use NAICS 9999 growth rates to estimate growth in internet sales after NAICS 4541 disappeared. I also cross checked it for plausibility against Census Bureau national e-commerce sales and Census Bureau experimental NY retail sales for internet-related items.
- Near-in-time related events that could affect sales tax
 - 6/2018 Wayfair decision, economic nexus allowed. Dormant NYS statutory language from 1989 implicitly allowed NY to require economic-nexus firms to collect tax but DTF still needed to take action to get vendors to collect.
 - 1/15/2019 DTF notifies vendors with no physical presence they must register to collect sales tax if they meet economic nexus thresholds
 - 6/1/2019 Internet Marketplace Act takes effect, vendors required to collect
 - ~3/19/2020 COVID-related lockdown economic impacts (drastically reducing brick-and-mortar sales and increasing internet sales)
- Based on graphical analysis (explained in graph below) I believe the major factor affecting internet taxable sales was a sharp rise after the IMA went into effect. COVID undoubtedly contributed to an enduring shift in consumer buying habits from bricks-and-mortar to internet sellers. I have not tried to separate that from
- Estimating steps
 - Estimate historical marketplace-related taxable sales for NYS and NYC using DTF taxable sales data
 - History through 2021-22 sales tax year: Use NAICS 4541 (2017 basis) through 2021-22 sales tax year
 - 2022-23+: Splice growth rates in NAICS 9999 (unclassified) onto NAICS 4541 history to create one long series of estimated internet-related taxable sales

- Estimate counterfactual -- what sales would have been by projecting the pre-IMA trends forward. I did this by excluding the spike in growth occurring in the 2 years after IMA implementation, instead extending prior growth rates in that period. After IMA transition is complete, I assumed counterfactual would have grown at same rates as we observed for internet-related sales.
- Graph below shows the results:
 - Top panel is statewide NYS internet-related taxable sales, bottom panel is NYC internet-related taxable sales.
 - Green line is *actual* internet-related taxable sales from DTF quarterly taxable sales data -- no estimates here, just data.
 - Blue line is my estimated extension of the green line -- my estimate of *actual* internet-related sales, obtained by splicing growth rates onto the green line as explained above.
 - The blue and green lines together constitute actual sales (including estimates during the blue period because of the NAICS change).
 - Note
 - Grey line is my estimate of the counterfactual -- what internet taxable sales would have been in absence of the IMA.
 - Vertical distance between the green-blue "actual" line and the grey "counterfactual" line is my estimate of the impact of the IMA on taxable sales. I show numbers, and estimated tax impacts, in a table below.
 - Red vertical line marks June 1, 2019 -- the IMA effective date
 - Grey dashed vertical line marks the approximate start of the COVID lockdown, spurring internet sales and causing other sales to fall. (Graphs of non-internet sales, not shown here, make it clear that other sales fell.)
 - Blue vertical line marks the start of the NAICS reclassification after which my numbers for taxable sales -- the blue line extending to the right from the green line -- are estimates.

Actual and estimated actual quarterly internet taxable sales (NAICS 4541, 2017 basis)

Internet Marketplace Act effective 2019-06-01; COVID-19 start ~2020-03-15; Sales reclassification 2022-03-01



- The table below shows the 4-quarter sums of estimated actual sales, (green-blue line), counterfactual sales (grey line), estimated taxable sales gain (vertical distance between green-blue and grey), and the sales tax impact.

Estimated tax revenue gains from Internet Marketplace Act, \$ millions				
Assuming 4% state and 4.5% city tax rates				
Four quarters ending	Estimated actual taxable sales	Counterfactual taxable sales	Estimated taxable sales gain	Estimated tax revenue gain
New York State				
May 2019	2,355	2,355	0	0
May 2020	17,502	10,919	6,581	263
May 2021	25,940	12,902	13,039	522
May 2022	28,277	15,803	12,474	499
May 2023	30,391	17,086	13,304	532
May 2024	31,701	17,821	13,880	555
New York City				
May 2019	1,094	1,094	0	0
May 2020	7,624	4,950	2,674	120
May 2021	10,596	5,740	4,857	219
May 2022	12,214	6,907	5,306	239
May 2023	13,674	7,686	5,987	269
May 2024	14,302	8,040	6,261	282

- Finally, the next table shows current payments to MTA:

Capital Program Funding from Lockbox Revenues						
Millions of dollars						
	Actual	November Forecast	Final Proposed Budget			
	2023	2024	2025	2026	2027	2028
Internet Marketplace Tax - NYS	\$154.2	\$155.7	\$157.3	\$158.8	\$160.4	\$162.0
Internet Marketplace Tax - NYC	174.7	176.5	178.2	180	181.8	183.0
	\$328.9	\$332.2	\$335.5	\$338.8	\$342.2	\$345.0
Percent change from prior	1.0%	1.0%	1.0%	1.0%	1.0%	1.0%
Source: MTA ANNUAL DISCLOSURE STATEMENT UPDATE RELATING TO THE 2024 NOVEMBER FINANCIAL PLAN						
December 3, 2024, https://mta.info/document/158721						

- To summarize,
 - Gains in NYS sales tax revenue from internet sales now appear to be well over \$500m and gains in NYC sales tax revenue about \$280m.
 - Payments to MTA by NYS and NYC are approximately \$157m and \$178m (table below) - about \$300m less than the state gain and \$100m less than the NYC gain
- This is reasonably consistent with and less optimistic than an [April 2023 OSC report](#) that concluded, "Two changes to New York State tax law regarding the definition of nexus and the application of internet marketplace sales tax may have contributed nearly \$540 million in sales tax revenue for New York City over sales tax years 2019-2020 and 2020-2021."
- These gains reflect more than just improved collection under the Internet Marketplace Act; they also reflect other actions related to the Wayfair decision and they reflect growth in internet sales more generally, which has been faster than other sales. Still, the sharp spike in the green line after the IMA went into effect says a major share of this is related to the IMA.
- I caution that I have been unable to talk to or obtain data from the Department of Taxation and Finance, so it does not reflect any data they may have on registered marketplace vendors or any knowledge they have.