


Memo

Through: Hugh Bevan, Interim Administrator 
To: Assembly of the City and Borough of Sitka
From: Jay Sweeney, Chief Financial and Administrative Officer
Date: December 2, 2019
Re: Inter-Governmental Agreement For Remote Seller (e-commerce) Sales Taxation

Issue: The Assembly of the City and Borough of Sitka is being asked to pass a Resolution approving entry into a voluntary Intergovernmental Agreement with other Municipalities in Alaska for remote seller (e-commerce) sales taxation.

Essence of the Issue:

- (1) Sitka's ability to continue to collect sales tax on internet-based sales now rests on whether or not the City and Borough decides to enter into the proposed Intergovernmental Agreement with other Municipalities in Alaska. If the Assembly approves entering into the Agreement, the entity formed through the Agreement shall serve as the single Statewide reporting and collection point for all e-commerce sales in Alaska. Sitka would stand to collect additional sales tax revenue above the amount currently being voluntarily remitted. If, however, the Assembly does not approve entering into the Agreement, Sitka stands to lose the roughly \$300,000 a year in voluntary sales tax remittances from e-commerce merchants.
- (2) The financial/budgetary ramification of the decision is \$800,000 – from potentially losing the \$300,000 in annual voluntary sales tax remittances we are already receiving to increasing annual collections to \$500,000, when all e-commerce merchants begin remitting.

Background:

- (1) Attached to this Memorandum is a FAQ document prepared by the Alaska Municipal League in June, 2019, which provides excellent background.
- (2) The genesis of the current effort to collect sales taxes from e-commerce merchants stems from a United States Supreme Court decision in *South Dakota vs. Wayfair*. In that case, the Supreme Court ruled that States could pass legislation requiring sales taxes to be collected and remitted on e-commerce, so long as the legislation did not present an undue burden to interstate commerce. A reasonable burden was determined to be a centralized agency within each State for sales tax reporting and remittance, and, uniform definitions within each governing aspects of e-commerce.

- (3) Alaska is unique among the 50 States in that it is the only State to not have a Statewide sales tax, yet allows Municipalities to have local sales taxes. As a result, Alaska Municipalities have widely dissimilar sales tax codes, with no two the same. Legal counsel retained by the Alaska Municipal League opined that Alaska's patchwork system of different municipal codes does present an undue burden to internet commerce and, as a result, individual Municipalities would likely not prevail if they attempted to compel e-commerce merchants to collect and remit sales taxes. The legal counsel did advise, however, that if Municipalities organized an intergovernmental agency to serve as a single collection and reporting point for e-commerce sales taxation, that it would not present an undue burden.
- (4) Based on advice from its Legal Counsel, the Alaska Municipal League spearheaded an initiative to assist Municipalities in developing and forming an intergovernmental agency to serve as a single collection and reporting point for e-commerce sales taxation. That effort culminated with the ceremonial signing of participation conferences by the initial adopting Municipalities at the Alaska Municipal League Winter Conference in Anchorage, in November, 2019. Major entities who were initial adoptees of the agreement include the City and Borough of Juneau, Ketchikan Gateway Borough, Kenai Peninsula Borough, Kodiak City and City and Borough of Wrangell.
- (5) For the City and Borough of Sitka to participate in the intergovernmental agreement, the Assembly would need to initially pass a Resolution. The Resolution would signal the Municipality's intent to join, and, would commit the Municipality to accomplishing certain milestones within a stated period of time. These milestones would include the signing of the intergovernmental agreement, and, passage of an ordinance adopting uniform definitions as they apply to remote sellers and e-commerce. An example of the model Resolution recommended by the Alaska Municipal League is attached.
- (6) Following the passage of a resolution to join, the Municipality would be expected to pass an accompanying ordinance modifying its sales tax code to allow for sales taxation of remote sellers, and, to adopt uniform definitions as they apply to remote sellers and e-commerce.