

## **AML Working Group: Online Municipal Sales Tax**

**Purpose of Working Group:** Review, research and discuss outstanding online sales tax questions, and provide a potential pathway for implementation in Alaska that is responsive to municipal interests.

### **Goals of Working Group:**

- Ensure local tax authority and choice is respected
- Maximize municipal government revenue options
- Balance municipal revenue with costs to citizens
- Avoid statewide sales tax by State of Alaska, or displacement of local rates

### **Background on Online Sales Tax:**

- Recent Supreme Court *Wayfair* decision extinguishes physical presence requirement
  - Continued national and legal challenges potentially, but states generally moving forward
- Case establishes some requirements for implementation
  - Meeting the “threshold” of sales
  - Streamlining
    - Single state-level administration
    - Uniform definitions
    - Simplified rates
    - Software/safe harbor
- Alaska one of five states where municipalities have taxing authority, and only one without statewide sales tax
  - Other states ahead of Alaska in addressing – municipalities working with state to implement, have formed commissions to work through issues
- Sales tax in Alaska is implemented by a majority of incorporated municipalities, and a significant source of their annual budget
  - Online sales are estimated by DoR at \$1 billion, with 50% of that in Anchorage and Fairbanks (without sales tax); total revenue would be estimated within the individual municipalities
  - While an online sales tax levels the playing field for Alaska businesses, and increases potential revenue for municipalities, Alaskans are ultimately paying this – some municipalities may not want this and may choose not to participate
  - The view elsewhere is that this is a tax that is currently due but hasn’t otherwise been collected, and is thus not a “new” tax

### **Options for Alaska municipalities:**

1. No action by AML – state action probable
2. Individual municipal implementation – AML to provide model code change but chance of success is minimal
3. AML develops (semi-) independent authority for implementation
  - a. AML to negotiate with municipalities streamlined exemptions and definitions
  - b. SSUTA requires state or state-designated administration
    - i. AML to propose Alaska Municipal Sales Tax Commission
4. State implementation – AML to work within state-driven process
  - a. Increased likelihood of statewide sales tax

- b. Potential requirements to decrease municipal sales tax levels and comply with state-determined definitions and exemptions

**Working Group recommendations to AML:**

- AML should work with members toward the establishment of an independent authority, operated as an arm of AML as a service program, or in close association (similar to JIA or AMLIP)

**Implementation**

1. If Alaska municipalities want to benefit from retailers remitting a municipal sales tax on online sales, several things need to occur. AML leading this effort toward a (semi) independent authority makes sense.
2. The following should happen simultaneously, or in lockstep
  - Determine the nexus/threshold of online sales at the state level – i.e.; at what level will online sales be considered applicable to sales taxes (how much business should a retailer have in the state, through online sales, before taxes set in; this protects small businesses). South Dakota, which argued the *Wayfair* case, set theirs at \$100,000.
  - Review and streamline all current municipal tax codes
    - Definitions – align with SSUTA as much as possible
    - Exemptions – this will be more difficult, and we may have to consider a mechanism for remand to taxpayers from different communities
    - Determine baseline items that are applicable to online sales tax, based on commonality between municipalities
  - Map (or collect maps of) sales tax boundaries – this doesn't currently exist in all communities, and not in one place, but will be essential to implementation
3. AML to work with members to determine governance of an independent body
4. AML to determine service provider – software, return, audit functions
5. Legislation may be needed to allow municipalities to enable this process and to participate in an authority/commission of this type.
6. Legislation may also be needed if the group elects or needs to join the SSUTA, which is named in *Wayfair*, but not essential to state-level administration