



ALASKA
MUNICIPAL
LEAGUE

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2025 Tax Conference

“Build Tax Better”

Modernization of
Sales Tax Code

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Modernizing Municipal Sales Tax Ordinances

Municipal Sales Tax Code Updates

This session will address the following topics:

1. Model Code
 - Standard language for updating w/ ability for customizing.
2. Tax Levy Clarification
 - Being specific about when transactions are subject to your local sales tax.
3. Enforcement Provisions
 - Ensuring non-compliant businesses can be effectively pursued.
4. National trends
 - Code updates addressing modern issues.
5. Other Local challenges / things to consider

Model Municipal Sales Tax Code

Background

- Many municipal tax codes were initially written in the 70s or 80s; many have not been updated since then.
- In 2020, Landye Bennett Blumstein LLC in cooperation with AML developed a Model General Sales Tax Municipal Code.
- Goal was to provide communities with a solid template for updating outdated tax codes.
- Introduces standard language & definitions, plus comprehensive administrative provisions.
- Brings in standard sales tax exemptions along with state & federally mandated exemptions.
 - Examples of mandated exemptions include: Food Stamp Program sales, WIC sales, Orbital Space Facilities, State awarded construction contracts,
- The Model Code can be customized in a number of areas to keep elements that are important and specific to the community.
 - Keep existing tax rate(s); Keep community-specific exemptions such as fuel or utilities or groceries; Keep penalty & interest provisions.

Model Municipal Sales Tax Code

Sales Tax Exemptions - standard

- Some of the standard / expected exemption categories are:
 - Resale of goods
 - Casual & isolated
 - Medical – medical services, prescriptions, assisted living services, medical apparatus specifically manufactured for patient
 - Financial institutions (banking fees)
 - School transportation
 - School lunchroom food
 - Nonprofits (sales to or by organization, nonprofit dues / fees)
 - Government sales – to or by Federal / State / Local
 - Constitutionally prohibited sales
 - Long-term residential rentals

Model Municipal Sales Tax Code

Sales Tax Exemptions – optional / community-specific

- Some of the optional or community-specific exemption categories are:
 - Tax Caps – level of cap, and scope of cap
 - Sales to or by Federally Recognized Tribes
 - Utilities
 - Transportation services
 - Vehicle sales
 - Construction services / building materials
 - Sales of real property

Model Municipal Sales Tax Code

Sales Tax Exemptions – Room for increased uniformity

The following exemption categories are widespread across the state with varying scopes. Following the variances across communities can be difficult for businesses that operate statewide.

- Tax Caps – variances in:
 - Cap amounts ranging from \$250 up to over \$12k
 - Scope of cap, i.e. single item vs single service vs single transaction vs type of item
 - Difference in definition of single item / single service / single transaction
- Nonprofit Organizations
 - Which types of nonprofit organizations are allowed to be exempt vary across communities
 - Some communities don't specify which types of nonprofits qualify for exemption
- Federally Recognized Tribes
 - Varies widely across communities exempting either sales to tribes, sales by tribes or neither.

Levy & Transaction Sourcing

- One of the most important sections of a sales tax code is the levy section. This section outlines what types of transactions are subject to sales tax. It can also add guidance as to where the transaction should be sourced.
- “Sourcing” refers to the location where the sale should be taxed.
- Origin-based sourcing – sales are taxed based on where the seller is located.
- Destination-based sourcing – sales are tax based on where the buyer takes possession.

In general, transactions should be sourced using either origin or destination-based sourcing for all transactions subject to local sales tax. However, many local codes don’t clearly outline their sourcing rules, leading to either a mixed approach or zero guidance.

For example, how should goods / services / rentals be taxed under the following language?: ***“The tax levied by this chapter applies to all sales, rentals and services made in the city unless specifically exempted.”***

Levy & Transaction Sourcing

“The tax levied by this chapter applies to all sales, rentals and services made in the city unless specifically exempted.”

- The taxation in this example is solely reliant on defining “made in the city” ...which is at best a vague line to draw.
- It is also common to use language such as “sales made in the city” and “services rendered”.
- “Services rendered” is especially problematic as it tends to be used to signify where the service is performed.
- In local codes, sales of goods are commonly taxed using destination-based sourcing (*customer takes possession at store in community*).
- Services are commonly taxed using origin-based sourcing (*where the service is physically performed*).
- Origin-based sourcing for services is a significant point of conflict with the ARSSTC code which uses destination-based sourcing for all transactions.
 - ARSSTC member jurisdictions should seriously consider shifting from origin-based sourcing for local services to negate the conflict with ARSSTC code.

Levy & Transaction Sourcing

There are two common approaches to outlining “destination-based” sourcing in sales tax codes:

1. Using / defining “Point of Delivery” in code

- Provide a detailed definition of point of delivery for goods, services and rentals
 - Example: “Point of Delivery” means the location at which a product, service or rental is received.
- Provide a definition of “receive” and “receipt”
 - Example: “Receive” or “Receipt” for purposes of the definition of “Point of Delivery” means:
 - A. Taking Possession of Product
 - B. making first use of services
 - C. Making first use of rental property
- Revise the levy section to levy sales tax on goods, services and rentals where the point of delivery is located in the city.
 - Example: A sales tax of X% of the sales price is levied on all sales, rentals and services with a point of delivery within the city

Levy & Transaction Sourcing

2. Code section specific to sourcing

- **Adds a section of code that outlines how sales of goods (retail sales), services and rentals are to be sourced.**
 - **Example excerpts for retail sales, rentals and services**
 - A. The retail sale, excluding lease or rental, of a product shall be sourced as follows:
 1. When the product is received and paid for by the purchaser at a business location of a seller located in the city, the sale is sourced to the purchaser at the business location.
 - B. The lease or rental of tangible personal property and real property shall be sourced as follows:
 1. The lease or rental of tangible personal property requiring recurring periodic payments shall be sourced to an address provided by the lessee where the property will be located.
 - C. Services shall be sourced as follows:
 1. When the service is received and paid for by the purchaser at a business location of a seller located in the city, the sale is sourced to the purchaser at the business location.
 - D. For products, services or rentals transferred electronically, or other sales where the seller lacks a delivery address for the purchaser, the sale should be sourced to the billing address of the buyer.
- **Revise the levy section to levy sales tax on goods, services and rentals that are sourced to the city.**
 - A sales tax of X% of the sales price is levied on all sales, rentals and services sourced to a location within the City in accordance with the sourcing rules outlined in Section XXX of this chapter.

Model Municipal Sales Tax Code

Key Enforcement Provisions

- Ability to prepare estimated assessments for non-filers
 - Provides municipality with an administrative method to establish a balance due against a business, so legal action can be taken against the business for collection of the amount due.
- Violations for failure to comply with sales tax code
 - Includes failure to file penalty, failure to pay penalty and interest on delinquent taxes.
 - Includes a variety of civil penalties such as:
 - \$50 penalty for each estimated filing,
 - \$500 penalty for knowingly submitting false information,
 - \$500 penalty for refusal to produce records
- Protest / disputes process
 - Method for seller to protest audit or assessment to the mayor or mayor's designee
 - Decision could be appealed to the superior court

Nationally Standard Updates

Taxation of Digital Goods/Services

- Taxation of digital goods & services are a continuing hot topic across the country.
- Alaska is ahead of the game with regards to digital services such as streaming.
 - Alaskan localities have always taxed services, and the formation of the ARSSTC allowed them to tax the remote digital services.
- States across the country are working to update their laws and guidance to support taxation of digital goods.
 - Language around taxation of “goods” has always focused on the physical (*perceptible to the senses*) aspect of goods
 - States have been working to expand their definition of goods to include digital goods
- Many local codes in AK also focus on the physical aspect of goods, leaving it unclear if they can tax sales of digital goods in their community.
- It is recommended that communities add a definition of “digital goods” to their code and ensure that their levy language is modified to include non-physical goods.
- This would work best in coordination with a sourcing update so that digital goods (*delivered electronically*) can be sourced appropriately.

Nationally Standard Updates

Remote Seller Sales Tax Collection

- Membership in the Alaska Remote Seller Sales Tax Commission (ARSSTC) would allow your community to collect your local sales tax from online sellers.
- This is an important step in leveling the playing field for your local businesses.
- Additional sales tax revenues could be used for special projects or other community needs.
- Participating in the ARSSTC is a simple process and can be done in conjunction with an overall tax code update.
- AML staff can provide more information on how to join the ARSSTC if you are interested.

Additional Local Updates

Bundled Transactions

- A bundled transaction is typically considered a transaction that consists of multiple elements, some of which may be taxable and some which may be exempt.
- A bundled transaction could also include different elements that are subject to different tax rates.
- Some common bundled transaction examples:
 - Repair Services – can include sale of good(s) and service(s)
 - Tours /Charters – can include flight portion which is prohibited from taxation
 - Lodges – usually sold as one package price; large portion of charge is lodging which could be subject to local bed tax.
- Bundled transactions can also be problematic when considering tax caps.

Additional Local Updates

Bundled Transactions – Solutions

- Define “bundled transactions” in local code.
 - ARSSTC has thorough definition based on nationally standard definitions.
- Include section outlining how bundled transactions are to be taxed.
 - **Example:** If the sales price of a bundled transaction is attributable to products or services that are taxable and products or services that are nontaxable, the portion of the sales price attributable to the nontaxable products may be subject to tax unless the seller can identify the nontaxable portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes.
- This example can also be modified to handle bed tax scenarios for lodges.

Additional Local Updates

Bundled Transactions – Solutions (Tax Caps)

- For communities with either a single item or a single service tax cap, bundles can be problematic.
- Consider adding a section of code that allows for separation of the bundle:
- Example: *A seller may separate the respective portions of a bundle for purposes of applying the city's single item or single service tax cap to each portion. The seller should identify the sales price attributed to each portion by reasonable and verifiable standards using its books or records that are kept in the regular course of business for other purposes.*

Additional Local Updates

Cross-Boundary Transactions

- These are services that cross into or out of more than one taxing jurisdiction (*or where only part of the service occurs within a single jurisdiction*).
- Most common examples of cross-boundary transactions are tours / charters.
- One common approach that some jurisdictions have used is to consider a tour taxable if it begins or ends in the jurisdiction.
 - This is an outdated approach that does not use the concept of “point of delivery”.
- Shifting to “point of delivery” would put the place of taxation where the buyer “makes first use services” which will generally be the starting point of the tour / charter.
- Important to note that if neighboring jurisdictions take different approaches to cross boundary transactions, both communities could consider the transaction taxable under their own code provisions.
- Neighboring jurisdictions interested in changing their approach should consider discussing impacts w/ each other.

Other Considerations

- Ensure local policy intent & practice match up with code.
 - For example, if a local non-profit is currently allowed exemption on its purchases, but tax code doesn't have such an exemption in code.
- Ensure code changes are fully implemented and communicated to impacted parties.
 - Develop necessary forms for new exemption categories.
 - Publish code updates in applicable local media; send mailers / letters to impacted parties.
- Ensure the code updates are reflected in any publicly published sources, such as MuniCode or other code libraries.
- Consider adding city code to the Alaska Dept of Commerce Local Government Resource Desk and their Municipal Code Library.

THANK YOU



Strengthening Local Governments