



THE VOICE OF COLORADO'S CITIES AND TOWNS

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To: Finance Directors of Self-Collecting Municipalities
From: Dianne Criswell, Legislative and Policy Advocate
Date: July 31, 2017
Subject: Standardized Sales Tax Definitions Project

The standardized definitions (attached to the invitation email) were developed by municipal tax professionals as part of a sales tax simplification effort, at the request of the business community and the Colorado General Assembly. It has long been recognized, by government and business alike, that various home rule municipalities giving the same term different meanings is a source of complexity in our tax system for businesses that operate in multiple municipalities. Use of "standardized" definitions, such as those attached, can help minimize this complexity.

The purpose of this memo is to briefly explain how and why these definitions were developed, so as to inform your possible adoption of these definitions. If you have questions or would like more details do not hesitate to call Jeff Hansen, Finance Director for the City of Golden (who served on the Steering Committee) or me at CML (contact information at the end).

BACKGROUND

Colorado municipalities are heavily dependent on the sales tax, deriving on average 73% of their general purpose tax revenues from this source. Virtually unique among the states, Colorado home rule municipalities may require local businesses to remit directly to a municipality (known as "local collection"), decide their own tax base, and audit local businesses directly. Colorado's sixty-nine locally collecting municipalities collect over 90% of the municipal sales tax paid in our State.

While our system is generally well received by taxpayers, and quite effective for municipalities as a revenue raiser, it is regarded by multi-jurisdictional businesses as complex and burdensome. CML has sought to engage the business community constructively by taking the lead in accomplishing simplifications. Simplification must also preserve municipal interests by being revenue neutral (meaning little or no fiscal impact on the municipality) and maintaining basic integrity of our principal revenue raising mechanism.

The heavy lifting in all of our tax simplification projects was done initially by the municipal tax professionals on the CML Sales Tax Simplification Committee, who represented each of Colorado's locally collecting municipalities (a copy of the Committee roster is attached).

STANDARD DEFINITIONS PROJECT

During the 2014 session the Colorado General Assembly, a bi-partisan group of Senators and Representatives spent a considerable amount of time attempting to fashion a referred constitutional amendment that would have required all locally collecting home rule municipalities to use standardized definitions developed and maintained by a special State board. After being stymied by a variety of issues, the General Assembly instead adopted Senate Joint Resolution

(SJR) 14-038, asking CML to develop a package of standardized definitions, reprising a successful effort led by CML in 1992. CML supported SJR14-038.

Under the direction of former CML Staff Attorney Rachel Allen and General Counsel Geoff Wilson, the Sales Tax Committee developed the enclosed definitions. The Committee began with the 1992 definitions (which had been adopted by each locally collecting municipality in that year), supplemented with additional definitions for terms that polling revealed were defined in three or more jurisdictions.

The twin goals in developing these definitions were to add clarity about current tax practices without triggering a TABOR election. As the updated definitions simply reflect current tax practices, no new tax is levied and no increase in tax revenue is expected. An additional goal was that these definitions could be adopted without any difference in tax treatment being experienced by local businesses.

Once the draft package of definitions was developed, it was reviewed by a committee of business tax experts and attorneys, as well as by a committee of municipal attorneys. The municipal attorneys were supportive of the project, while emphasizing the need to work with tax staff in their client jurisdictions to determine revenue neutrality and to determine which definitions would need to be adopted. The business tax experts were also supportive of the overall project, while quibbling at times about individual definitions (for example, a given business or their tax accountant thinks the *current* tax treatment of software violates TABOR, so naturally they object to a municipality clarifying its definition to make such taxation explicit).

Following the meetings with business and municipal tax and legal experts, several final revisions were made to the package and it was finalized by the full Sales Tax Committee.

ADOPTION OF THE DEFINITIONS

As mentioned above, our goal was to develop definitions that your municipality could adopt without a TABOR election and without losing revenue. We urge you to give serious consideration to adopting these definitions in your jurisdiction. The more locally collecting jurisdictions that adopt these definitions, the more profound will be the benefits for business and municipalities alike.

Your municipality probably will not need to adopt all of these definitions; only those that relate to your particular tax base would be necessary. The committee made a conscious effort to avoid embedding tax exemptions in the definitions themselves. Amendments to the definitions, transactions subject to tax, and exemptions sections of your tax code would need to be part of adopting this package.

KEEPING STANDARDIZED DEFINITIONS STANDARDIZED

CML's Sales Tax Committee will revisit these definitions, seeking to add new definitions or update old ones, as necessary. A municipality developing a definition first will likely have that definition be the recommended "standard" definition, unless modified by consensus of the committee. The Committee will soon be working out the details of a process to maintain standardization and consensus in these definitions over time.

WHICH CITIES AND TOWNS HAVE ADOPTED?

As of July 31, 2017, the following self-collecting home rule municipalities have adopted the standardized definitions: Arvada, Aurora, Avon, Denver, Edgewater, Fort Collins, Golden, Greenwood Village, Longmont, Louisville, Parker, Westminster, and Wheat Ridge.

LEGISLATIVE TASK FORCE – HB17-1216

House Bill 1216 (2017) established a legislative task force to examine the complexities of the sales tax system in Colorado and to explore options for simplification. While the Standardized Definitions Project is not expressly included in the legislation creating the task force, it is a good example of the best practices that self-collecting municipalities adopt to improve our local tax systems.

At the first meeting of the task force, it was clear that the legislators on the task force are looking at the adoption of the standard definitions as a sign that the municipalities are doing their part to help simplify the tax process for the business community, pointing out that only 13 of 70 self-collecting municipalities have adopted the definitions. Getting more municipalities to adopt the definitions will go a long way in helping CML and the municipal representatives on the task force to persuade the task force on issues that are in our best interests.

Please make it a priority to adopt the standard definitions as soon as possible. If you are facing obstacles in getting this done, please contact Jeff Hansen or Dianne Criswell (contact information below) for assistance and guidance.

CONTACTS

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