



Legislation Text

File #: Ord 2295, **Version:** 1

AN ORDINANCE AMENDING THE COMMERCE CITY SALES AND USE TAX CODE, ARTICLE I OF CHAPTER 20 OF THE COMMERCE CITY REVISED MUNICIPAL CODE, TO EXEMPT THE PASSTHROUGH OF FEDERAL EXCISE TAX IMPOSED ON TRUCKS, TRAILERS, AND TRACTORS FROM TAXATION

Summary and Background Information:

The Federal Excise Tax or FET is a federally imposed tax of 12% on the first retail sale of certain trailers, tractors, and other large highway vehicles. 26 U.S.C. § 4051 *et. seq.* These taxes are intended to fund the Highway Trust Fund. While the purchaser generally pays the tax at the time of the retail sale, the seller is responsible for collecting the tax and remitting it to the federal government. The tax is based on the price for which the article is sold.

- Section 4051 imposes a tax on the first retail sale of the following articles:
 - (1) Automobile truck chassis and bodies.
 - (2) Truck trailer and semitrailer chassis and bodies.
 - (3) Tractors of the kind chiefly used for highway transportation together with a trailer.
- The basis for determining the FET on a tractor or trailer is the price including the total consideration paid for the article whether that consideration is paid in money, services, or other forms. This cost is excluding any direct taxes. While the truck or trailer dealer must collect and remit payment of the FET to the federal government, the actual tax is paid by the customer at the time of the vehicle sale and is based upon the purchase price negotiated with the customer.

Colorado Motor Carrier Association (CMCA) and Colorado Automobile Dealers Association (CADA) contacted staff to inquire as to whether or not our municipal tax code requires the application of city taxes to the amount charged for FET. Staff have confirmed that it does indeed apply. CMCA and CADA then requested that Commerce City exempt FET from being subject to city sales tax. The City and County of Denver approved a similar request exempting their local tax from the FET.

The request from CMCA/CADA is attached for your reference.

Based on City Council direction from the study session held 8/24 staff prepared the ordinance for consideration/action.

Staff Responsible (Department Head): Troy Smith, Deputy City Manager

Staff Member Presenting: Sheryl Carstens will be available for questions as needed

Financial Impact: Estimated at \$300,000 annually

Funding Source: Lost General Fund Revenue

Suggested Motion: I move to introduce Ordinance 2295 by council as seated and approve on first

reading.