

CITY OF UNALASKA
UNALASKA, ALASKA

RESOLUTION 2019-03

A RESOLUTION OF THE UNALASKA CITY COUNCIL APPROVING FINANCIAL SUPPORT FOR THE ONLINE SALES TAX WORKING GROUP FORMED BY THE ALASKA MUNICIPAL LEAGUE IN THE AMOUNT OF \$5,000

WHEREAS, the U.S. Supreme Court issued a decision in the case of *South Dakota v. Wayfair* which provides the opportunity of collecting sales tax on online transactions; and

WHEREAS, the Supreme Court ruling included the requirement of a single state-level administration; and

WHEREAS, there are nearly one hundred municipalities in Alaska that levy sales tax, including the City of Unalaska; and

WHEREAS, these taxing municipalities are members of the Alaska Municipal League (AML); and

WHEREAS, the mission of AML is to support its members and local government; and

WHEREAS, AML formed a Working Group to respond to the interests of Alaska Municipalities in regard to collecting sales tax on online sales; and

WHEREAS, AML requested financial support from the City of Unalaska and other Alaska municipalities for this effort; and

WHEREAS, the Unalaska City Council deems it important to support the efforts of AML in this regard and be involved in the Working Group so that an informed decision can be made about collecting sales tax from online sales in the City of Unalaska.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council approves funding for the AML Working Group regarding online sales tax in the amount of \$5,000.

PASSED AND ADOPTED by a duly constituted quorum of the Unalaska City Council on January 22, 2019.



Dennis M. Robinson
Vice Mayor

ATTEST:



Marjie Veeder
City Clerk



MEMORANDUM TO COUNCIL

To: Mayor and City Council Members
From: Thomas Thomas, City Manager
Date: January 22, 2019
Re: Resolution 2019-02, supporting the Alaska Municipal League Working Group regarding collection of sales tax from online transactions by Alaska municipalities

SUMMARY: The Alaska Municipal League (AML) requests the City of Unalaska's financial support of their Working Group to advance the possibility of collection of sales tax from online transactions by Alaska municipalities. They are requesting \$7,500 to assist in this effort.

PREVIOUS COUNCIL ACTION: During the council work session on January 8, 2019, Council discussed AML's funding request. Several council members voiced support of being involved with the AML Working Group and council directed the City Manager to prepare a resolution approving funding for council's consideration.

BACKGROUND: AML requests the City of Unalaska's support of their Working Group to advance the possibility of online sales tax collection by Alaska municipalities. They are requesting \$7,500 from the City to assist in their efforts.

AML has commitments secured from like-minded municipalities, including the cities of Ketchikan, Bethel, Soldotna and Kenai, the Ketchikan Gateway Borough, and the City and Borough of Juneau. They expect other taxing jurisdictions to follow soon, in support of their fundraising goal of \$100,000.

AML will prepare for a single state-level administration, led by municipalities, by:

- Compiling and reviewing municipal tax codes
- Identifying and reviewing definitions and exemptions, and compare these with SSUTA (the Simplified Sales and Use Tax Agreement)
- Developing a tax variability matrix to account for caps and exemptions
- Negotiating between municipalities for agreed definitions
- Developing a solicitation for a sales tax administrator ("middle-man") to provide sales tax boundary mapping and software
- Developing a governance authority
- Producing public outreach materials and a municipal FAQ

AML will use this funding to engage a contractor to complete the bulk of this work, and supplement staff time as they convene municipalities, help with negotiations, and otherwise support the effort.

DISCUSSION: I believe that it is important for the City of Unalaska to be involved in the AML Working Group to research this issue and the potential formation of a statewide body to administer the collection of sales tax from online transactions within the state.

The guidance from the Supreme Court, as it relates to online sales tax, requires single state-level administration. Since Alaska does not have a statewide sales tax, and since we have nearly 100 taxing municipalities, this requires a different kind of coordination. All taxing jurisdictions are members of the Alaska Municipal League, and AML has the mission to support members and local governments. The best way AML can do this is to help coordinate the cooperation between municipalities toward the formation of a body that can collect and remit online sales tax on behalf of municipalities. The City of Unalaska derives a significant amount of revenue from its sales tax, and the potential to increase that from online sales tax collection is an important next step. AML can ensure that Unalaska stays at the table in helping to decide what this looks like in Alaska, even as AML works with Unalaska to answer questions to inform the decision to implement.

ALTERNATIVES: The Council can decide to financially support AML's Working Group or take no action.

FINANCIAL IMPLICATIONS: Council has sufficient funding in their operating budget to cover this expenditure.

LEGAL: There are no legal issues.

PROPOSED MOTION: I move to adopt Resolution 2019-02.

CITY MANAGER COMMENTS: I recommend Council adopt Resolution 2019-02.

ATTACHMENTS: AML's funding request and working group memorandum.



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As you know, AML has been working to respond to municipal interest in the online sales tax opportunities now that *Wayfair* decision has been issued by the Supreme Court. This decision allows for taxation of internet sales with strict program requirements.

An initial working group has outlined the following steps that need to be conducted in preparation for single state-level administration:

- Compilation and review of municipal tax codes
- Identification and review of definitions and exemptions, and comparison with SSUTA
- Tax variability matrix to account for exemptions
- Negotiation of agreed-to definitions
- Solicitation for a sales tax administrator (“middle-man”) to provide sales tax boundary mapping and development of software
- Development of governance authority
- Production of public outreach materials and municipal FAQ

The goal is to establish a municipal-driven, independent arm of AML, that would conduct all online sales tax administration on behalf of municipalities, thereby fulfilling the terms outlined in *Wayfair*. This might evolve, but we believe it has the most potential for success.

In order to move forward, AML invites those municipalities that stand to benefit from successful implementation to contribute financial support. AML will then engage a contractor to complete the bulk of this work, even as staff assist by convening municipalities, help with negotiations, and otherwise support the effort.

Please consider contributing to this effort. The budget is estimated to be \$100,000 to complete the majority of initial tasks. Those who contribute will be included in the analysis matrix. We’ve designed the following levels to help us meet our budget for this activity:

- Over \$25 million in sales tax revenue \$12-15,000
- \$10-25 million in sales tax revenue \$7,500-10,000
- \$5-10 million in sales tax revenue \$4,000-5,000
- \$1-5 million in sales tax revenue \$1,000-2,500
- Over \$200,000 in sales tax revenue \$500-1,000

We hope that you will be able to contribute in a meaningful way, consistent with your budget and ability to support our work. Please don’t hesitate to contact me with questions or to discuss the scope of work and contribution.

Sincerely,

Nils Andreassen

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