



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: BONNIE MOINET, FINANCE DIRECTOR
RE: AGREEMENT REGARDING DEPARTMENT OF REVENUE SALES AND USE TAX SOFTWARE
DATE: MARCH 9, 2021

Summary and Background: Colorado's tax system is a very complex landscape, which has made it difficult for online retailers to comply with the many different tax rates and requirements of the state's multiple governmental entities. To address these complexities, a sales and use tax simplification task force was created in 2017 to find ways to streamline the manner in which sales and use tax is collected and remitted in Colorado. In 2019, the Colorado General Assembly passed SB19-006 which required the Colorado Department of Revenue and the Office of Information Technology to collaborate to deliver a sales and use tax system (SUTS) that would be a single web portal where businesses could both look up sales and use tax information by entity and file and remit to all Colorado jurisdictions at once. That system is now in place and Town Council directed staff at the 2/23/2021 Council meeting to prepare and present appropriate agreements necessary for the Town to participate in this system. Those documents are included with this staff memo.

Analysis: Currently, the Town self-collects its sales taxes and the Town currently requires a sales tax license for all businesses doing business with residents of the town. The Town's code definition of retail sales as stated in our code is sufficient to meet the definitional SUTS requirements of economic nexus and no revision to that part of the code is needed to allow the Town to participate in SUTS. However, under SUTS, the Town will no longer be allowed to require a separate license, outside of the SUTS system license, for any business without a physical location in the town. Non-physical businesses will only be required to report and remit sales taxes per Town code through the SUTS portal. This licensing change required an ordinance to amend Town code to reflect this exclusion from licensing and Ordinance 21-04 was approved on first reading at the 2/23/2021 Council meeting.

Additionally, in order to participate in the State's SUTS system, the Town must enter into an agreement with the State for the purpose of permitting the Town access to the system. The system permits online retailers to file returns and remit payments through a single web portal, which are then remitted to the Town. The system generates detailed reports, provides support and retains the sales and use tax data for a period of 3 years. The State has contracted individually with third party vendors to manage the portal and associated filings for the benefit of the jurisdictions. The agreement with the State is ongoing but can be terminated by either party for any reason upon 90 days written notice.

Financial Impact: There are no fees associated with use of the system, as the State funded the development of the program. There will be some fees the Town will incur related to transaction banking fees but these will be minimal and netted with the proceeds the Town receives.

In light of the many online retailers who are not currently voluntarily remitting taxes to the Town due to the complexity of the Colorado sales tax system as it exists today, the Town can expect to generate additional sales tax revenues by participating in this program. It is difficult to predict what kind of increase that may be and no forecast is presented as part of this report. Should the Town participate in this new system, staff will provide comparative reports as they become available over time.

Alignment with Strategic Plan: Participation in the SUTS requires online retailers to file and remit electronically, furthering Council's goal to digitize government services throughout Town operations.

Environmental Sustainability: Participation in the SUTS requires online retailers to file and remit electronically, furthering Council's goal to digitize government services throughout Town operations.

Staff Recommendation: Staff recommends Council approve the Agreement Regarding Department of Revenue Sales and Use Tax Software and further approve on 2nd reading, Ordinance 21-04 to amend portions of Town Code Chapters 110 and 160 to allow the Town to participate in the SUTS system.

Approved By:

Nancy Kerry, Town Manager
Bonnie Moinet, Finance Director
[[Insert Department Director here]]

Attachments:

Ordinance 21-04 Amending Chapters 110 and 160 of the Code of Ordinances of the Town of Frisco

Agreement Regarding Department of Revenue Sales and Use Tax Software