

City Council Agenda Items
and
Contracts, Leases or Agreements

2/5/2013

City Council Meeting Date
Agenda Items Only

Don Marr & Paul Becker
Submitted By

Chief of Staff/Finance
Division

Chief of Staff/Finance Internal Serv
Department

Action Required:

Approving a Resolution supporting legislation to Improve Sales Tax Collection information from the Arkansas Department o Finance & Administration

\$ No Cost
Cost of this request

\$ Not Applicable
Category / Project Budget

Program Category / Project Name

Account Number

\$ Not Applicable
Funds Used to Date

Program / Project Category Name

Project Number

\$ -
Remaining Balance

Fund Name

Budgeted Item

Budget Adjustment Attached

[Signature]
Department Director 1-3-13
Date

Previous Ordinance or Resolution #

Original Contract Date:

Original Contract Number:

[Signature]
City Attorney 1-3-13
Date

Paul a. Becker
Finance and Internal Services Director 1-3-2013
Date

Received in City Clerk's Office 01-03-13A11:45 RCVD
[Signature]

[Signature]
Chief of Staff 1-3-13
Date

Received in Mayor's Office
ENTERED 1/3/13
[Signature]

[Signature]
Mayor 1/4/13
Date

Comments:



City Council Meeting Date:
February 5, 2013

City Council Agenda Memo

To: Mayor and Members of the City Council
From: Don Marr, Chief of Staff *DM*
Paul Becker, Chief Financial Officer *PAB*
Thru: Mayor Jordan *JJ*
Date: January 3, 2013
Subject: Resolution Supporting Legislation to Improve Sales Tax Collection Information

Recommendation:

The City Staff and Administration recommend on behalf of the Mayor's office that the City Council of the City of Fayetteville, AR pass a resolution in support of the State Legislators passing legislation that would allow the Arkansas Department of Finance & Administration to provide details & totals that will agree or reconcile to the related tax collections distributed by the State Treasury to a local government and will provide updated details to subsequent adjustments due to refunds, rebates, additional tax payments. We believe this will provide all cities useful data to successfully monitor, evaluate, budget and project local tax collections.

Background:

The Arkansas Municipal League contacted all cities in Arkansas including the City of Fayetteville, seeking support for amendments to Arkansas laws to authorize and require sales tax information by individual business to be provided to the Mayor or his designate that would permit cities to fully and successfully monitor, evaluate, budget and project local tax collections.

Neighboring states (Oklahoma, Missouri, Texas) currently authorize and require the release of information that is satisfactory to serve the needs of local governments by providing tax collections identified by specific taxpayer.

Currently the State of Arkansas only provides a single payment of taxes, with no details by specific tax payer, specific rebates/refund details late payments, etc.

The State of Arkansas Department Finance & Administration currently withholds an administrative fee of 3% from local tax collections to fund the cost of such service.

Budget Impact:

There is no anticipated impact to the City's Budget. The fees paid and detailed collections are already in place, and would only provide that DF&A provide those details to an assigned individual at the City.

RESOLUTION NO. _____

A RESOLUTION STATING THE SUPPORT OF THE CITY OF FAYETTEVILLE TO STATE STATUTORY AMENDMENTS AUTHORIZING IMPROVEMENTS IN THE INFORMATION PROVIDED TO LOCAL GOVERNMENTS BY THE STATE RELATED TO COLLECTIONS OF LOCAL SALES AND USE TAXES

WHEREAS, the Arkansas Department of Finance and Administration (DF&A) collects sales and use taxes levied by cities and counties in Arkansas under the same tax administration system that is used to collect State sales and use taxes, and as such, local taxes are “piggy backed” along with the collection of State sales and use taxes; and

WHEREAS, the State withholds an administrative fee of three percent (3%) from local sales and use tax collections to fund the cost of such collection service which totaled approximately thirty million dollars (\$30,000,000.00) in 2011; and

WHEREAS, all taxing entities are entitled to have information about the collections produced by the taxes levied in order to monitor, evaluate, budget and project the sales and use tax collections they are entitled to receive; and

WHEREAS, existing State law does not authorize or require DF&A to provide information to local governments that is useful and satisfactory to monitor, evaluate, budget and project local sales and use tax collections; and

WHEREAS, laws in neighboring states authorize and require the release of information that is satisfactory to serve the needs of local governments which includes sales and use tax collections identified by the specific taxpayer, and that experience in such states demonstrates that related procedures and reports can be efficiently administered and produced, and that similar laws can be adopted and administered in this State;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby supports amendments to Arkansas state law which will authorize and require information to be provided to the Mayor or the Mayor’s representative that will permit the City to fully and successfully monitor, evaluate, budget and project local sales and use tax collections, that any information attributable to a specific taxpayer should only be released following an agreement to keep such information confidential, and that specific taxpayer information should be exempt from release under the Arkansas Freedom of Information Act.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby determines that any information provided which can be identified to a specific taxpayer should be made available for the monthly collection and calendar year to date by regular mail, email or by a dedicated online account at the option of the local government in an electronic worksheet or PDF format, not later than thirty (30) days following the most recent monthly tax distribution. The information should include details and totals that agree or reconcile to the related sales and use tax collections distributed by the State Treasurer to a local government for each given month, and the information should be updated as required by subsequent adjustments due to refunds, rebates, additional sales and use tax payments or any other matter affecting the sales and use tax collected for a particular period.

PASSED and APPROVED this 5th day of February, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

Local Sales Tax Collection Information: Part 3

Some information is made available by the state, but it is simply not satisfactory to serve the legitimate interests of local governments. Good management of city revenues requires that city officials be able to monitor local sales tax collections and understand trends. This article—the third in a three-part series—makes recommendations for improvement.

By Paul Young, League staff

Cities have expressed for many years a need for detailed, historic sales tax collection information as a basis for budgeting future revenues. Also, many have experienced great frustration when they are faced with significant fluctuations in monthly collections without satisfactory explanation or a means of understanding the cause. Since local sales tax collections are “piggy backed” on the state sales tax system, cities have no part in the collection process and therefore have no access to taxpayer information. For the cost of administration, the state withholds 3 percent of total collections before the funds are remitted to cities and counties. The total amounted to almost \$28 million for 2011.

When I was previously working in public finance and handling sales tax bond issues for cities, I would often be asked by a rating agency for a list of the top 10 sources of sales tax receipts for a city. The question was intended to identify the overall economic stability of the tax and any risk inherent in the pledged revenue stream associated with concentration in a few sources. Cities have a similar interest in evaluating the reliability of tax revenues to support ongoing operations, but unfortunately no such information is currently available.

In the January and February issues of *City & Town*, we provided an overview of information available to cities (and counties) from the Department of Finance and Administration (DF&A) about local sales tax collections. The January issue provided a listing of specific information that cities can access online or by request, as well as specific staff contacts who are available to provide assistance. In the February issue, we provided an overview of information available from DF&A on a quarterly basis that provides a listing of local sales tax collections by business code according to the North American Industry Classification System (NAICS). This information has been provided as an accommodation by DF&A for the past 10 years but is not governed by written policy or procedures.

Sales tax revenues currently produce a significant portion of city revenues. As such, we believe that cities

levying local sales taxes are entitled to satisfactory information about their tax collections. That goal is currently not possible due to unnecessarily restrictive statutory provisions that prevent anyone outside DF&A from receiving tax information that can be specifically identified with a particular taxpayer. Additionally, DF&A does not currently have dedicated staff or information resources necessary to do the job. Staff members that currently assist cities with the business code listing do so on the basis of time available. In fact, individuals other than those previously provided by DF&A and mentioned in the January article have responded to inquiries since that time. Without specific procedures for the preparation of the listing of business code information, it tends to be prepared in an inconsistent manner. And a taxpayer’s business code is not required for the state collection system and therefore not subject to procedures to insure accuracy. The impact of these problems is compounded by the lack of dedicated staffing and resources for this activity.

The solution to this problem will require statutory changes to modify the existing confidentiality restrictions while protecting the legitimate business interests of confidentiality. We recommend the following guidelines for specific information that should be available monthly in electronic worksheet or other suitable format to the chief executive officer or designee of a county, city or town that levies a local sales and use tax:

1. A schedule of net sales and use tax collections with totals for each taxpaying or collecting entity identified by account identification number, accurate NAICS code, legal name, business name and reporting address;
2. A schedule of sales and use tax rebates and refunds with totals for each taxpaying entity identified by account identification number, accurate NAICS code, legal name, business name and reporting address;
3. A schedule of tax collected related to automobiles and other personal property when the tax is paid by the purchaser when registered with the state in

one amount for each separate category of personal property;

4. The combined totals of tax collections per the schedules above plus totals for any other collection source or expense for any month should agree or reconcile to—and provide supporting details for—the related total tax collections distributed by the State Treasurer to the particular county, city or town for that particular month;
5. A schedule of total collections grouped by an accurate NAICS code category that agrees with the total reflected on the schedule described in item 4;
6. Taxpayers with no tax due may be excluded from the report; and
7. The above schedules will be updated as required by subsequent adjustments due to refunds, rebates, additional tax payments and any other adjustments to the tax collected for a particular period.

As illustrated by the accompanying table, authority exists in neighboring states (Missouri, Oklahoma and Texas) that would satisfy most of the goals and objectives listed above. We believe the Oklahoma model best serves our needs with two levels of information available. The initial level of information is similar to what is currently in place in Arkansas but more accurate and reliable. The higher level fully supports the goals listed above, including the ability to support and reconcile with actual

receipts as described in item 4, and is available if taxpayer specific information is kept confidential. The Oklahoma state tax structure is also similar to Arkansas’s, which will likely make implementation easier. And their system is governed by an ongoing cooperative effort between the Oklahoma Tax Commission and the Oklahoma Municipal League. A similar arrangement in Arkansas should help the system work more successfully over time.

As stated in our previous articles, the ultimate goal would be to produce information that is reliable and informative, permitting the user to understand what generates tax revenues and monitor trends, as well as facilitate a sound basis for budgeting future collections. Also, it should be consistently prepared in a useful format.

Thanks to Cindy Frizzell of our staff whose experience in multi-state tax administration was invaluable in obtaining information about how neighboring states deal successfully with this issue. We welcome your comments and suggestions, as well as indication of your support for the legislative changes that will be required.



Paul Young is the League's Finance Director. Contact Paul at 501-374-3484 Ext. 125, or email pyoung@arml.org.

Sales Tax Reporting for Local Governments Arkansas compared to surrounding states

	Admin Fees	Information Format	Reconciliation Process	Frequency	Confidentiality Agreement Required	Confidentiality violation	Actual Business Details	Local Caps	Miscellaneous
Arkansas (CURRENT)	3%	Electronic Spreadsheet	No	Quarterly - Upon Request	Not required - Current law severely restricts access to information	N/A	No details - Grouped by NAICS Codes but not reliable or complete	Local cap of purchases over \$2,500 causes subsequent rebate payments	No staff or technology resources dedicated to support information for local governments
Arkansas (PROPOSED)	3%	Electronic Spreadsheet or other useful format	Yes - Total Collections	Monthly	Yes, if agree to confidentiality - like Oklahoma	Oklahoma and Texas provide guidance for what would be appropriate.	Dependent upon whether a public report (no) or confidential report (yes) like Oklahoma	No change	Dedicated staff and resources to perform necessary tasks.
Oklahoma - Public Reports	1%	Available on Public Website in table format	Yes - Total Collections	Monthly	No	N/A	No details - Grouped by SIC* codes by local Governments	No local caps, thus, no issue on reporting of subsequent rebate payments	Similar to current Arkansas info but reliable and useful
Oklahoma - Confidential Reports	1%	Electronic Spreadsheet	Yes - Total Collections	Monthly	Yes	Removed from office/job; fine and/or imprisonment	Business name, account number, address, SIC*, collections	No local caps, thus, no issue on reporting of subsequent rebate payments	No serious breaches of confidentiality noted to date
Missouri	1%	CD	Yes - Total Collections	Upon Request - Annually Free/Available Monthly for fee	Yes	Felony Conviction	Business name, account number, address, SIC*, collections	No local caps, thus, no issue on reporting of subsequent rebate payments	A local government has access to all tax records
Texas	None	Electronic Spreadsheet	No - Only includes businesses that annually remit more than \$5,000	Monthly	Yes	Misdemeanor Conviction	Business name, account number, address, SIC*, collections	At the point of sales tax collection, a maximum of 2% local tax is applied. No confidentiality rebate payment to consider.	State tax structure relies heavily on property taxes. No serious breaches of confidentiality noted to date.

*SIC means Standard Industry Code which is in the process of being replaced by NAICS.

