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RESOLUTION 5142: AUTHORIZATION TO ENTER INTO A MODIFICATION TO THE INTERGOVERNMENTAL AGREEMENT (C-6636) WITH THE ARIZONA DEPARTMENT OF REVENUE RELATING TO THE ADMINISTRATION OF CERTAIN TAXES

Staff Contact: Vicki Rios, Director, Budget and Finance

Purpose and Recommended Action

This is a request for City Council to waive reading beyond the title and adopt a resolution authorizing the City Manager to enter into a modification to an existing intergovernmental agreement (IGA) C-6636 with the Arizona Department of Revenue (DOR) regarding the administration of certain taxes imposed by the City which are commonly referred to as Transaction Privilege (Sales) Taxes. The modification to the intergovernmental agreement is retroactive to July 1, 2016.

Background

In October 2008, the City Council authorized entering into an intergovernmental agreement (C-6636) with the DOR for taxpayer joint audits and a uniform method of administration, collection, audit and licensing of transaction privilege tax, use tax, jet fuel excise and use tax and rental occupancy taxes (collectively referred to as TPT) imposed by the State or Cities or Towns.

In June 2013, Governor Brewer signed into law House Bill (HB) 2111 with an implementation date of January 1, 2015. In 2014, HB 2389 adopted several statutory changes as a clean-up amendment to HB 2111. The intent of this legislation is to simplify and centralize transaction privilege (sales) tax administration for businesses

operating in Arizona. Upon full implementation, responsibility for tax licensing, remittance, collection, and return processing will shift from the City to the DOR. In addition, this legislation included provisions for sales tax auditing to be coordinated by the State and made changes to the taxability of Prime Contracting.

In October 2014, the implementation of portions of this legislation was delayed. Nevertheless, the changes to auditing moved forward on the original implementation date of January 1, 2015.

Analysis

Local Transaction Privilege Tax (TPT) administration is governed by A.R.S. § 42-6001. This statute was modified for the purpose of tax simplification with the passage of House Bill 2111 in 2013 and House Bill 2389 in 2014. This statute now requires the DOR to administer the transaction privilege and use taxes imposed by all cities and towns, and to enter into an IGA with each city and town to reflect these changes and clearly define the working relationship between DOR and Arizona cities and towns.

At the June 23, 2015 Voting Meeting, City Council authorized entering into an intergovernmental agreement (C-10091) with the DOR regarding the administration, collection, audit and/or licensing of TPT. The original IGA covers all aspects of administration after the DOR takes over for all cities and towns, but it also includes language allowing self-collecting cities to continue their own tax and license programs until such time that the DOR is able to perform the administrative functions and supply the data required by the statutes. Based on the most recent updates from the DOR, state administration is expected to begin in January 2017.

Attorneys and sales tax administrators from the cities, towns, and DOR formed a working group in conjunction with the League of Arizona Cities and Towns to update the IGA with the DOR. The working group agreed upon modifications and the city is required to adopt them. The modifications which are summarized below:

9.6 Adjustments to Reported Taxes: If the Department of Revenue determines that a payment by a taxpayer incorrectly identifies the city or town to which the payment should be made, the Department of Revenue may temporarily hold the payment until the distribution of the payment is corrected so that the appropriate city or town receives the payment.

9.7 Taxpayer Rulings and Uniformity: Requires the Department to include at least two representatives of the municipalities as regular members of any group established to respond to such taxpayer ruling requests and to issue such uniform interpretations and guidance promulgated by the Department in instances when there is an issue raised that solely involves the Model City Tax Code.

10. Financing Collection of Taxes. Clarifies that the costs incurred by the DOR in administering the IGA shall be financed through the State general fund appropriation to the Department. This provision does not relieve City/Town of any financial obligation imposed by statute.

28.1 Clarifies that the term of this Agreement shall be from July 1 through June 30 of each year and provides for automatic renewal.

28.5 Provides for an annual review of the IGA by a committee made up of equal parts representatives of the DOR and representatives of the municipal taxing jurisdictions.

Previous Related Council Action

At the June 23, 2015 Voting Meeting, City Council authorized entering into an intergovernmental agreement (C-10091) with the DOR regarding the administration, collection, audit and/or licensing of transaction privilege tax, use tax, severance tax, jet fuel excise and use taxes and rental occupancy taxes imposed by the State, cities, or towns.

At the December 18, 2014 Voting Meeting, City Council authorized entering into a modification to the intergovernmental agreement with the DOR to provide for and interim method for disclosure of information and taxpayer auditing.

At the October 28, 2008 Voting Meeting, City Council authorized entering into an intergovernmental agreement (C-6636) with the DOR for taxpayer joint audits and the uniform method of administration, collection, audit and licensing of transaction privilege tax, use tax, jet fuel excise and use tax and rental occupancy taxes imposed by the State or Cities or Towns.

Community Benefit/Public Involvement

The modifications to the IGA with the ADOR continues to define the roles and responsibilities between the city and the state regarding the administration, collection, audit and/or licensing of TPT.

Budget and Financial Impacts

This agreement will not result in any budgetary impact to the City.