



**Alaska Remote Seller Sales Tax Commission
Board Meeting
February 24, 2021 9:30 a.m. – 11:30 a.m.**

Attendees:

- Jeff Rogers
- Mike Tvenge
- Stephanie Queen
- Scott Bloom
- Melissa Haley
- Troy Tankersley
- Brandi Harbaugh

1. Call to order
2. Approval of the Agenda
3. Approval of the Minutes
 - a. 1.13.2021 Meeting minutes
4. New Business
 - a. Discussion on member responses to Uniform Code Updates
 - b. Action on proposed Uniform Code Updates
 - i. Memo from Landye Bennet
 - ii. Services Scenarios
 - iii. Summary of Uniform Code updates
 - c. Annual review & approval of AML / Commission Service Agreement
 - d. Penalty Waiver Policy approval
5. Comments
6. Adjournment



ARSSTC Board Meeting
January 13, 2021, 9:30am-11:00am, Virtual

Board Present:

- Scott Bloom, City of Kenai
- Melissa Haley, City of Sitka
- Brandi Harbaugh, Kenai Peninsula Borough
- Jeff Rogers, City and Borough of Juneau
- Troy Tankersley, City of Wasilla
- Mike Tvenge, City of Kodiak

Board Absent:

- Stephanie Queen, City of Soldotna

Others in Attendance:

- Nils Andreassen, AML Executive Director
- Teresa Bowen, City and Borough of Juneau
- Erin Russell, City and Borough of Juneau
- Kara Johnson, AMSTP Sales Tax Administrator
- Karl Kaufman, Landye Bennett Blumstein
- Sean Kelley, Kenai Peninsula Borough
- Clinton Singletary, AMSTP Sales Tax Director
- Dawn Wesley, AML Shared Services Manager

1. Call to order
 - a. Meeting started at 9:31am
2. Approval of the Agenda
 - a. Motion to approve by Troy Tankersley
 - b. Second by Scott Bloom, no objection
3. Approval of the Minutes
 - a. 10/20/20 Board meeting minutes
 - i. Motion to approve by Mike Tvenge
 - ii. Second by Troy Tankersley, no objection
 - b. 11/10/20 Board meeting minutes
 - i. Motion to approve by Scott Bloom
 - ii. Second by Troy Tankersley, no objection



4. Old Business
 a. Financials Update/Progress to Date

Clinton Singletary gave an update regarding November and December remittance activity and discussed projections for the upcoming months. ARSSTC is on target to reach budget goals for FY21, but the next few months will be important to establish trends. Request by Jeff Rogers to specify which month the charts are referring to; filing month or remittance month means.

Large registration outreach in November which resulted in increased registrations in December. We are ramping up and fine tuning our outreach to targeted large names. Jeff Rogers asked who are the names. Kara Johnson provided list of top 30 businesses. If we are getting 80/month, that is significant and we are growing pool of sellers. We have focused on national sellers, not yet on Alaskan sellers. That will also grow our pool.

5. New Business
 a. Uniform Code Updates

Clinton Singletary gave a summary of the work done to update the Uniform Code. The Code Working Group met four times in December 2020 to discuss code updates. Staff had accumulated a list of code changes over the past year. The Working Group reviewed the changes and generally agreed upon the revisions. Staff drafted the changes and there is a summary of material changes included in the agenda packet. Once the updated code is adopted, all member jurisdictions will be required to adopt the changes.

Troy Tankersley had questions on parity. Karl Kauffman noted we are not concerned about discrimination for instate sellers, but more concerned about treating out of state less favorably. Absent an alignment between local sales tax code and the remote sellers uniform code, there will always be a risk, but that is the point of the savings clause which will prevent whole code from being jeopardized.

Question raised about AirBnB, Uber, Lyft and collection of sales tax as marketplace facilitators. Definition in Uniform Code excludes rental in definitions. Uber/Lyft similar argument – local driver is not remote seller, they are physically in jurisdiction performing services.

New definition of professional services: where did it come from? Does definition have any other consequences on the Code? Many municipalities define professional services. Services definition had professional services in there, so we broke it out. Meant for clarification purposes. Recommend jurisdictions review def and ensure no conflict with local code.

Discussion around Services definition:

We need to treat service providers the same instate and out of state – either destination based or origin based. We structured Uniform Code definition to be destination based. Local jurisdictions will need to



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modify local code so local providers are not treated differently. Many local tax use origin basis i.e. where the services are performed. Hub communities with service providers have historically taxed locally even if service is rendered to other communities. How much sales activity has been taxed that we might be locally taxed anymore? Those smaller communities will be able to tax those remotely delivered services. But we will be able to tax out-of-state services such as streaming services and that will compensate for the loss of local taxation. Would rather lose taxation of local attorneys, architects and gain taxation of streaming services. Have more to gain than lose.

Nationwide, remote sales taxation is still a moving target so we need to watch trends and might need to adjust code in future based on trends. Scott Bloom requested for a memo from Commission for Assemblies to explain/justify changes.

What happens if a jurisdiction does not pass the code within 120 days? We are working on different scenarios with benefits and consequences of what that looks like for jurisdictions or sellers. Should we present draft form to assemblies first to see if there are any big challenges? What are the risks of not adopting?

The conflict with services lies not in the Uniform Code but the local codes that tax services using origin based. By adopting Uniform Code, jurisdictions are not changing the local sales tax code. If a challenge arose, it would only be against a local jurisdiction and not affect other Commission members. The Uniform Code has a savings clause says local code overrules remote sales tax code. Jurisdictions carry the risk of litigation if they do not update their local codes to destination based for services. What's the risk of not making changes to local origin based taxation? Risk is born by individual taxing jurisdiction that a out of state remote seller could turn off taxation for services into that community.

Timing of making these changes might be challenging to convince jurisdictions to give up local taxes in favor or remote taxes.

- 1) AMSTP Staff to communicate to all members with changes summary and rational
- 2) Jurisdiction representatives to respond if they think their local jurisdiction will pass the updated code within 120 days
- 3) If code seems unlikely to pass, representatives identify what issues were raised

Motion by Scott Bloom, Second by Mike Tvenge directing staff to send a communication to all members with a summary of the proposed changes and explaining changes and ask for reply by mid-February.

b. Refunds/Credits Policy Approval

Clinton Singletary gave overview of the different kinds of refund/credit scenarios staff have encountered.

Buyers should first work with the seller to get a refund. If that does not work, the buyer should reach out to the local jurisdiction or the Commission. The Commission is developing the process for amended



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returns in the MUNIRevs filing program. Brandi Harbaugh recommended requiring sellers submit refund/reimbursement plan with their refund request.

6. Comments

Mike Tvenge: feels good to come back, been gone awhile but glad to be a part of this

Troy Tankersley: thank Clinton and staff for Policy Committee/Code Review meetings, difficult to work through this stuff and have the Board do what they are doing. Don't think this is the trend for the Board, this is an exception.

Scott Bloom: thanks to the Code change committee, Clinton and Karl for their detailed work.

7. Adjournment 11:11am

- a. Motion by Troy Tankersley to adjourn, no objection

Respectfully submitted, Clinton Singletary, AMSTP Sales Tax Director

Approved:	
Melissa Haley, ARSSTC Board Secretary	Date



Memo: Summary of Member Responses on Uniform Code updates

Kenai Peninsula Borough

-No major issues with passing Uniform Code changes.

City & Borough of Juneau

-Borough Assembly is generally fine with the changes.

-Is looking into new exemption for "Sales Subject to Tax in Another Jurisdiction".

City of Houston

-No red flags were raised. Asked numerous clarifying questions about the updates.

City of Thorne Bay

-120-day adoption window would not be an issue.

-No anticipated opposition from City Council.

Ketchikan Gateway Borough

-No significant feedback

-Currently analyzing a variety of theoretical transactions to judge impact. Current taxation is based on if the transaction "commenced or terminated" in the Borough.

MEMORANDUM

Client: Alaska Municipal League

Date: February 18, 2021

From: Matt Mead
Karl Kaufman

Re: Remote Sales Taxation of Services

We recommend revising the current definition of “Services” in the Uniform Remote Seller Sales Tax Code (the Code) to avoid significant litigation risk for the Commission.

1. The Current Definition of Services

The current definition of Services in the Code is as follows:

“Services” means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise outside the taxing jurisdiction (but excluding any that are rendered physically within the taxing jurisdiction, including but not limited to:

- A. *Professional services;*
- B. *Services in which a sale of property or product may be involved, including property or products made to order;*
- C. *Utilities and utility services not constituting a sale of property or products, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services;*
- D. *The sale of transportation services;*
- E. *Services rendered for compensation by any person who furnishes any such services in the course of his trade, business, or occupation, including all services rendered for commission;*
- F. *Advertising, maintenance, recreation, amusement, and craftsman services.*

We understand that the Commission’s intent in drafting the above definition was twofold:



- First, the Commission intended to allow member jurisdictions to tax remote services performed outside Alaska but delivered into the member jurisdiction. For example, the Commission would collect remote seller sales tax where an accounting firm in Washington conducts an audit for a client located in Alaska (assuming the firm met one of the threshold tests).
- Second, the Commission also intended the above definition to allow a member jurisdiction to tax services if those services were physically performed in a member jurisdiction. For example, if an accounting firm in a member jurisdiction performs accounting services.

The current services definition does not satisfy the commerce clause discrimination test and presents a significant litigation risk to the Commission under the Commerce Clause.

2. The Internal Consistency Doctrine.

The United States Supreme Court has held that a tax violates the Commerce Clause of the United States Constitution if it “discriminates against interstate commerce.” According to the Supreme Court, discrimination “simply means differential treatment of in-state and out-of-state economic interests that benefits the former and burdens the latter.”¹ One aspect of the discrimination test is called the “internal consistency doctrine.”

Under the internal consistency doctrine, a tax must be structured so that if every State were to impose an identical tax, no multiple taxation would result.”² In other words, will a tax result in multiple jurisdiction taxing the same taxable event? The current Services definition most likely fails the internal consistency doctrine. Consider the following example:

Accounting Firm A is located in Seattle and provides audit services to a client in a member jurisdiction. Under the internal consistency doctrine, we assume that every state has adopted the Code. If Seattle adopted the Code’s definition of “Services” (as described above), the accounting firm would be taxed twice:

- First, Accounting Firm A would be taxed by Seattle on the audit services it physically rendered within the taxing jurisdiction—Seattle.

¹ *Oregon Waste Sys., Inc. v. Department of Envtl. Quality*, 511 US 93, 99 (1994).

² The Commerce Clause also requires a tax to be “fairly apportioned”—meaning that state may tax only its fair share of a multi-interstate transaction. The internal consistency doctrine is separately analyzed under the apportionment test.

- Second, it would be taxed by the Alaska member jurisdiction on the remote audit services it delivered into the member jurisdiction.

In contrast, if Accounting Firm B was located in an Alaska member jurisdiction, it would only be taxed once on the provision of audit services. (We understand this is the intended operation even if Firm B was providing services to a client in another Alaska jurisdiction.)

The Services definition is internally inconsistent because, if every state were to adopt the Code, an interstate seller would be taxed twice while an Alaska seller making sales only in Alaska would be taxed once.

The issue here is that the definition of Services results in alternate taxes. (I.e., if a seller is a remote seller delivering into Alaska, it is taxed on a destination-basis but if a seller is an Alaska seller, it is taxed on an origin basis.) A number of cases throughout the United States have struck down alternated taxes under the internal consistency doctrine.

For example, a New York State sales tax on services with alternate taxable events was struck down due to the internal consistency doctrine. New York imposed a sales tax on the gross receipts from the service of (i) picking up, (ii) transporting, and (iii) disposing of waste. The tax applied if any one of the three alternate taxable events occurred. The New York Tax Appeals Tribunal considered a case where the taxpayer's waste was picked up in New York and transported to Arkansas, where it was disposed by incineration.

The tribunal struck down the tax under the internal consistency doctrine. The tribunal observed that, on the assumption that every state had adopted New York's scheme, "Arkansas could also impose a tax on both the transportation and waste treatment charges paid by petitioner." The scheme would thereby subject the taxpayer to twice the tax imposed on an operation occurring only within New York with an identical volume of gross receipts.

3. Recommendation

We recommend that the Code should clearly define remote Services to be taxed to the place of destination. This would resolve the litigation risk involving Alaska sellers providing services into another Alaska jurisdiction.

Alternatively, the provision of a tax credit for taxes paid to other states on the same tax base will generally provide a complete defense to any allegation that a tax is internally inconsistent. The credit thus shields the interstate business from the risk of multiple taxation that the internal consistency doctrine was designed to prevent. This alternative would likely result in a reduction of the tax base.



Scenario #	Location of Service Provider (Jurisdiction A)	Service Destination (Jurisdiction B)	Jurisdiction A Sourcing for local services	Jurisdiction A Sourcing for remote services	Jurisdiction B Sourcing for local services	Jurisdiction B Sourcing for remote services*	Taxable in Jurisdiction A?	Taxable in Jurisdiction B?	Comments
1	Member A	Member B	destination	destination	destination	destination	no	yes-as remote sale	
2	Member A	Member B	origin	destination	destination	destination	yes-as local sale	yes-as remote sale	problematic-double taxation
3	Member A	Member B	origin	destination	origin	destination	yes-as local sale	yes-as remote sale	problematic-double taxation
4	Member A	Member B	destination	destination	origin	destination	no	yes-as remote sale	
5	Non-member A	Member B	unknown	n/a-is not a member	destination	destination	probably	yes-as remote sale	
6	Non-member A	Member B	unknown	n/a-is not a member	origin	destination	probably	yes-as remote sale	
7	Member A	Non-member B	destination	destination	origin	n/a-is not a member	no	no-is not a member	problematic-no one gets revenue
8	Member A	Non-member B	origin	destination	origin	n/a-is not a member	yes-as local sale	no-is not a member	
9	Non-taxing A	Member B	none	none	origin	destination	no	yes-as remote sale	
10	Non-taxing A	Member B	none	none	destination	destination	no	yes-as remote sale	
11	Outside Alaska	Member B	n/a	n/a	destination	destination	n/a	yes-as remote sale	
12	Outside Alaska	Member B	n/a	n/a	origin	destination	n/a	yes-as remote sale	

**For sourcing of remote services, it is assumed that all member jurisdictions will adopt the Uniform Code updates. The update to the definition of services specifically will ensure collection of sales tax revenue from online service providers.*

***For intra-state remote services, it is assumed that the seller meets the needed threshold criteria.*



To: ARSSTC Members

From: Clinton Singletary, Statewide Municipal Sales Tax Director

Re: Draft Uniform Code Updates – January 2021

Over the months of December & January, Commission staff met weekly with representatives from member jurisdictions to discuss and work through numerous code updates that Commission staff have been accumulating over the last year. Many of these needed updates are more clerical in nature, but several are more substantive and will have a clear impact on the Commission and/or member jurisdictions.

Following is a breakdown of the more substantive updates that were agreed upon by the Code Update Working Group, including a brief justification / background of why the update is being recommended.

Code Section	Description	Justification / Background
Section 040(A)	Threshold calculation updated to include current year, not just previous calendar year.	Not as limiting a timeframe since there are now two time windows to be examined in determining threshold.
Section 050	Was the old Section 230; renamed section to more accurate description; included language for local sale.	No change to the original intent of this section. Section title better describes goal of section and inclusion of “local sale” better describes the type of transaction. “Local Sale” was also added as a new definition.
Section 080 A & B	Remove registration requirement for marketplace sellers who only sell on marketplaces.	Tax would already be collected by the marketplace, the seller would have nothing to report. Versions of this can be found in other states. Added affidavit requirement.
Section 080 (H)	Member jurisdiction business license clarification	Add language explaining that registration as remote seller satisfies jurisdiction business license requirements, but only if seller does not have physical presence in jurisdiction. Common question from sellers.
Section 090 (B)	Allow for annual filing frequency, dependent on member jurisdiction code allowances.	Will be modifying filing frequency change policy to only grant annual if no taxable sales.
Section 110 (A)	Clarifies rounding language	Specifies that only gross sales and exempt sales should be rounded.
Section 120 (C)	Interest on refund requests	Specifies that the Commission will not pay interest on refund requests.
Section 170 (A)	Late Filing fee language	Update late filing fee to max out at 4 months, same as penalty in C.



Section 170 (F)	Penalty Waivers	The code specifies the timeframe in which a waiver can be requested and limits the waiver to one a year. Waiver policy will be developed to fine-tune the number of waivers allowed and the circumstances that will qualify for a waiver.
Section 180	Remote Reseller Certificate	Codifies the existence of the remote reseller certificate
Section 240	Penalty cleanup / clarification	Paragraph A was added to defer to member jurisdiction penalties if the member penalty is different. Removed old paragraph E on late filing fees since that is a duplicate of Section 170.
Section 260	Savings Clause	Provides discrimination protection.
Section 270 – Definitions		
	Local sale	Used in Section 050
	Marketplace	Used in conjunction with definition of marketplace seller, for purposes of Section 080
	Marketplace Seller	For purposes of Section 080
	Point of Delivery	Added paragraph C specific to POD for services
	Remote Seller	Cleaned up definition to focus on a seller making sales into jurisdiction where the seller does not have physical presence. Applies to both in-state & out of state sellers.
	Services	Updated definition to specify any service provided which is delivered into a member jurisdiction.

Other Changes throughout the Uniform Code

- Throughout the code the use of the term jurisdiction was updated to focus on either taxing jurisdiction or member jurisdiction. These definitions were updated such that taxing jurisdiction is just a jurisdiction in Alaska with a sales tax. Member jurisdiction is a taxing jurisdiction that has adopted the Uniform Code.
- Sections 100(C), 130(C), 150(E), and 200 were all standardized for a 3-year timeframe, instead of the varying years.

MEMORANDUM OF AGREEMENT

Provision of Professional Services for the Alaska Remote Seller Sales Tax Commission

Section 1. Purpose. This Memorandum of Agreement (this “MOA”) is effective as of the 21st day of January, 2020 (the “Effective Date”), between the Alaska Municipal League (“AML”), an Alaska intergovernmental, not-for-profit organization, and the Alaska Remote Seller Sales Tax Commission (the “Commission”), an interlocal governmental entity, to set forth the terms for AML to provide administrative and support services to the Commission.

Section 2. Scope of Services. AML will provide the following services for the Commission, and/or as directed by the Board of Directors (the “Services”):

1. Support Commission Board, Subcommittee, and Member meetings, activities, and communications, including the following tasks:
 - a. Make meeting arrangements, and provide for notice in conformance with Commission Bylaws
 - b. Provide agenda support
 - c. Prepare meeting minutes
 - d. Provide compliance oversight
2. Support member meetings, activities, and communications, including the following tasks:
 - a. Maintain Commission member list
 - b. Administer annual member meeting
 - c. Conduct annual rate, boundary, and member Code review
 - d. Send monthly emails with updates on compliance, reporting, and software development
 - e. Establish a Commission website with information available to members, taxpayers, and prospective members
 - f. AML will provide or organize the provision of legal support, at the direction of the Commission, when legal services are needed for code enforcement actions or on behalf of the Commission.
3. Enter into and manage software contracts necessary for collection, remittance, and reporting, and all other services as required by the Commission, with the provision that all contracts may revert to the Commission if the Alaska Municipal League no longer acts as the administrator on behalf of the Commission. The Commission shall be notified 90 days prior to contract change or conclusion, and have the opportunity to assume, terminate or change the contract.
 - a. MUNIRevs Support – as required by contract attached as Exhibit A
 - b. TTR Support – as required by contract attached as Exhibit B
4. Coordinate Commission decision-making and operational activities through AML’s Executive Director

- a. Communicate staffing roles and responsibilities
5. Manage day-to-day operations of the Commission, including the following tasks:
 - a. Conduct outreach to online retailers and national contacts
 - b. Conduct outreach to Alaska businesses
 - c. Establish and manage separate accounting.
 - i. Reconcile accounts on a daily basis
 - ii. Remit net revenue to members on an agreed-upon and consistent date
 - iii. Report – review in partnership with members
 - d. Follow the policies and procedures as set out by the board
 - e. Manage and respond to legal or other questions from or directed to the Commission
 - f. Seller Compliance – review in partnership with members
 - g. Contract for a compliance audit and prepare required materials for audit
 - i. Make available the auditor to present to the board, and provide to the board the audit and oversight documents
 - h. Maintain (including, without limitation, backing up its computer files, and maintaining facilities and procedures for safekeeping and retaining documents) books and records of the Commission and its operations
 - i. Provide an annual report

Section 3. Equipment and Supplies. AML will provide all necessary equipment and facilities to timely and efficiently perform the Services.

Section 4. Standard of Care. AML agrees, at all times, to complete the Services in a professional and timely fashion. In performing the Services, AML must exercise all due care and caution in accordance with the best industry practices. The Commission will cooperate fully to ensure that AML is capable of timely performing the Services.

Section 5. Commission Scope of Responsibilities. The Commission shall act in good faith in the execution of this MOA, the Commission Bylaws, and the Intergovernmental MOA. The Commission acknowledges the legal status of the Alaska Municipal League. The Commission has the following duties and authority:

- Review and work with AML to develop a budget consistent with the administrative needs of the Commission; and approve as determined by the Board
- Review and approve annual staffing plan (recognizing the Commission has no direct authority over AML staff), consistent with the budget, in support of necessary Commission functions
- Approve contracts valued over \$10,000
- Direct all Board and Commission inquiries and requests through the Executive Director of AML or designee
- Establish administrative policies and procedures for the operations of the Commission
- Review and approve a marketing and communication plans and strategies
- Approve implementation and amendment process of the MOA and Code
- Participate in and receive the annual audit report and oversight documents

- Conduct an annual performance review of AML's activities

Section 6. Term. The initial term of this MOA shall be one year from the Effective Date. After the initial term, the parties will review the MOA and may amend the MOA as mutually desired and renew. After the initial term, the MOA (amended or not) will renew for two additional years, unless sooner amended or terminated as provided below in this MOA.

Section 7. Amendment. This MOA may be amended at any time by mutual written agreement of the parties.

Section 8. Renewal. AML and the Commission may mutually agree to renew this MOA for successive terms after the first three years of this MOA.

Section 9. Termination for Convenience. This MOA may be terminated by either party upon 120 days' advance written notice. In the event that this MOA is terminated, all finished or unfinished documents, data compilations, reports, and/or other materials prepared by AML under this Agreement are the property of the Commission and AML hereby agrees to peaceably return all such items to the Commission by or upon the effective date of termination and as may be further instructed by the City. AML shall be entitled to receive compensation for invoiced work performed to the effective date of the termination.

Section 10. Remediation. If the Commission determines that AML has failed to fulfill in a timely and proper manner the obligations of this MOA, the Commission will notify AML in writing of these deficiencies, work with AML to take action to address deficiencies within thirty (30) days, with expected remediation within ninety (90) days.

Section 11. Termination for Cause. If, through any cause, AML shall fail to fulfill in a timely and proper manner the obligations under this MOA, unresolved within ninety (90) days and determined to be significantly detrimental to the governance or fiduciary oversight of the Commission, then the Commission shall thereafter have the right to immediately terminate this MOA, upon a vote of the Board of Directors, by giving written notice to AML and specifying the effective date thereof. The Commission reserves the right to terminate for cause within thirty (30) if Board determines that circumstances necessitate. In either event, all finished or unfinished deliverable items under this MOA prepared by AML shall, at the option of the Commission, become its property, and AML shall be entitled to receive just and equitable compensation for any satisfactory work completed on such materials prior to the effective date of termination. In such event, AML shall not be relieved of liability to the Commission for damages sustained by the Commission by virtue of any breach of this MOA, and the Commission may withhold any payment due AML for the purpose of setoff until such time as the exact amount of damages due the Commission from such breach can be determined.

Section 12. Fees. Fees will be applied to total revenues upon collection each month, deducted according to these terms, and the remainder of the revenue remitted to the member annual revenues are determined by the Commission's fiscal year.

- A. MUNIREvs. AML will facilitate payment of the Commission’s MUNIREvs contracts fees, which may be reviewed and amended after five years after the Commission’s contract (November 2024).

\$0-\$10M	\$10M-\$20M	\$20M+
12%	8%	4%

- B. TTR. AML will facilitate payment of the Commission’s TTR contract fees, which may be reviewed and amended after three years after the Commission’s contract (November 2022). The Commission recognizes the a \$100,000 up front payment made by AML, to be repaid to AML as a \$1,000 fee from members, either upon adoption of the Uniform Code or as part of subsequent collection of sales tax revenue; any remainder balance – the difference between the number of members and total amount of loan shall be addressed through interest earnings on the fund balance or revenues received, as determined by the Board through the budget process. TTR’s fees are addressed within the following fee structure on annual gross sales tax collected.

\$0-\$10M	\$10M-\$20M	\$20M+
1.25%	1.0%	.75%

- C. Commission. The Commission’s fees will be collected monthly, applied as an annual, board-approved percent of revenue to gross sales tax collected, consistent with the budget. The total percent collected from fees (between MUNIREvs, TTR and AML) should be limited to not more than 20% in any one month, with the maximum preferred limit at 15% (and the intent to work toward lowering fees as quickly as possible). The Commission as a whole may approve a higher percentage if circumstances demand.

D. AML Expenses

AML will submit monthly reports of expenses to the Board, and the Commission will pay AML’s direct expenses and 8% overhead expenses upon approval by the board or designee. Overhead will be applied to direct expenses as compensation for rent, computers and electronic equipment, telecommunication equipment and services, and indirect staff time in proportion to the Commission’s share of each line item as approved in the budget. Direct and indirect expenses will be evaluated annually to ensure appropriate allocation. Cost beyond costs approved in the budget are not a reimbursable direct expense and must be approved by the board of directors. AML’s direct expenses include, and as provided for in the annual budget are:

1. Staff who are directly responsible for Commission programs. Costs include salary and benefits.
2. Contracts, insurance, and miscellaneous costs directly related to AML’s performance of the Services

3. Any Commission-approved loan or start-up capital by AML will be repaid in subsequent years in a manner as determined by the Board and in agreement with AML, to include any agreed upon interest.
4. AML expenses paid by the Commission may not exceed the approved budget in any fiscal year, unless a prior request to amend and increase the budget has been received and approved by the Board of Directors.

Section 13. Insurance.

AML will maintain general (currently \$2,000,000) and professional liability insurance coverages at all times during this MOA with limits and retention amounts in commercially-prudent amounts consistent with industry standards to cover any loss arising as a result of any real or alleged negligence, errors, or omissions on the part of AML's officers, agents or employees (minimum \$1,000,000) in any aspect of the performance of services under this MOA. Notwithstanding, the commercial general liability must include minimum coverage of \$1,000,000.

The policy must name the Commission as an additional insured and provide that the policy may not be cancelled without 30 days' prior written notice to the Commission. Upon reasonable request, the Commission shall be furnished with a certificate evidencing issuance of such policy of liability insurance, and such certificate shall recite that said policy may not be canceled without 30 days' prior written notice to the Commission.

AML shall also maintain Worker's Compensation and Employers Liability Insurance (with minimum limits of \$100,000 per accident). Worker's compensation insurance and employers' liability insurance shall be in compliance with the statutory requirements of the State of Alaska, and any other statutory obligation, whether federal or state pertaining to compensation of injured employees. The worker's compensation insurance and employers' liability insurance shall contain a waiver of subrogation provision in favor of the Commission.

Section 14. Indemnification.

- A. AML's Obligation to Indemnify. AML shall, indemnify, defend and hold the Commission harmless, including its directors, officers, employees, representatives, affiliates, successors, and permitted assigns (the "Commission Indemnified Parties") from and against all liability, damages, demands, penalties, fines, causes of action, losses, costs, or expenses, including attorneys' fees asserted against, imposed upon or incurred by any Commission Indemnified Party arising out of or resulting from: (a) any breach or nonfulfillment by AML of, or any failure by AML to perform, any of the covenants, terms, or conditions of, or any of its duties or obligations under, this MOA, including without limitation any failure of AML to assume responsibility for any of the Services in a timely manner in accordance with this MOA except to the extent that such breach, nonfulfillment, or failure is caused by the actions of any Commission Indemnified Party; (b) any negligent acts or omissions or willful misconduct related to this MOA; or (c) any successful enforcement of this indemnity.

- B. The Commission's Obligation to Indemnify. To the extent allowed by law and subject to availability and appropriation of funds by Members, the Commission shall indemnify and hold harmless AML and its directors, officers, employees, representatives, affiliates, successors, and permitted assigns (the "AML Indemnified Parties") from and against all liability, damages, demands, penalties, fines, causes of action, losses, costs, or expenses, including attorneys' fees asserted against, imposed upon or incurred by any AML Indemnified Party arising out of or resulting from: (a) any breach or nonfulfillment by the Commission of, or any failure by the Commission to perform, any of the covenants, terms or conditions of, or any of its duties or obligations under, this MOA except to the extent that such breach, nonfulfillment, or failure is caused by the actions of any AML Indemnified Party; (b) any negligent acts or omissions or willful misconduct related to this MOA; or (c) any successful enforcement of this indemnity.

Section 15. Miscellaneous. This MOA does not create, and shall not be construed as creating, any rights enforceable by any person or entity not a party to this MOA. Nothing in this MOA shall be deemed or construed to create the relationship of principal and agent, or of partnership, or of joint venture, or of any association between the Commission and AML. This MOA may not be assigned without the prior written consent of the other party, which may not be unreasonably withheld. This MOA represents the entire agreement and understanding between the parties with respect to the subject matter of this MOA and supersedes all prior or contemporaneous, express or implied, written or oral MOAs, representations, and conditions between the parties with respect to the subject matter of this MOA. This MOA may be executed in any number of counterparts, including by electronically transmitted signature, and each counterpart shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same MOA. This MOA may only be modified upon mutual MOA in writing by both parties. The failure of the Commission to enforce a provision of this MOA shall in no way constitute a waiver of the provisions of this MOA or a waiver of any subsequent breach of the same or similar condition or provision of this MOA, nor shall it in any way affect the validity of this MOA. If any section or clause of this MOA is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, it is the intent of the parties that the remainder of this MOA shall remain in full force and effect.

Section 16. Contract Administration. The Commission Board President, or the President's designee, shall be the representative for administering this MOA on behalf of the Commission. The Executive Director of AML shall be the representative for administering this MOA on behalf of the Commission.

[SIGNATURE PAGE FOLLOWS]

The parties have executed this MOA effective as of the Effective Date.

The Commission:

ALASKA REMOTE SELLER
SALES TAX COMMISSION

By: _____

Its: _____

AML:

ALASKA MUNICIPAL LEAGUE

By: _____

Its: _____



One Sealaska Plaza, Ste. 200, Juneau, AK 99801

P: (907)790-5303, F: (907)463-5480 www.arsstc.org

ARSSTC Penalty Waiver Policy

The Uniform Code allows for waivers of the late filing fee and late payment penalty provided for in Section 170. The Uniform Code requires that any waiver request be submitted within 45 days after the date of delinquency. The request must be submitted with full payment of taxes, interest and any penalty otherwise owed by the seller.

In addition, a maximum of one waiver may be granted in any one calendar year.

Following is a more detailed waiver policy that will be applied in accordance with the above Uniform Code guidelines.

Waiver Policy

The Commission will only approve penalty waiver requests for one of the following two reasons:

- History of good compliance or,
- Circumstances outside the control of the seller directly leading to the delinquency.

Waiver for history of good compliance

If a seller has a history of filing and remitting in full and in a timely manner, a waiver of the late payment penalty and/or late filing fee may be granted within the following guidelines:

- Waiver request must be submitted within 45 days of the date of delinquency,
- Taxes and interest must be paid in full with the waiver request and,
- Within the prescribed look-back periods below, seller **must not have**:
 - Been assessed any late filing fees or late payment penalty or,
 - Received any waiver of late filing fees and/or late payment penalty.

Look-back periods for Good Compliance Waiver	
Filing Frequency	Period
Monthly	Preceding 12 calendar months
Quarterly	Preceding 2 calendar years (24 months)
Annual	Preceding 3 calendar years (36 months)

Waiver for circumstances outside the control of the seller

A seller may request a waiver for delinquencies caused by circumstances outside the control of the seller. These circumstances are generally immediate, unexpected, or emergency in nature.

The following circumstances **are not** considered beyond the control of the seller:

- Financial hardship,
- Misunderstanding or lack of knowledge of tax liability,
- Mistakes or misconduct on the part of employees or other persons contracted with the seller.

Circumstances beyond the control of the seller include, but are not necessarily limited to:

- Death or serious illness of the seller or the seller's immediate family.
- Death or serious illness of the seller's accountant or tax preparer or their respective families.
- Unavoidable absence of the seller or key employee immediately prior to the filing. "Unavoidable absence" does not include absences such as business trips, vacations, personnel turnover, or termination.
- Destruction by fire or other casualty of the seller's place of business or business records.

A request for waiver due to circumstances beyond the control of the seller should include all pertinent facts and information necessary to prove the circumstances in question. Requests should be made in writing and submitted within 45 days of the date of delinquency. Waivers due to circumstances beyond the control of the seller are not subject to the above lookback periods; however only one waiver of this type may be allowed every 12 calendar months.

DRAFT