



**Alaska Remote Seller Sales Tax Commission  
Board Meeting  
June 22, 2021 9:00 am – 11:00 am**

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. 5.18.2021 Meeting minutes
4. New Business
  - a. Approval of revised Interpretation 2020.05 – Sourcing of Goods
  - b. Approval of new Interpretation 2021.03 – Digital Goods & Services
  - c. Approval of revised Filing Frequency Policy
  - d. Board expectations on seller registration extension requests
  - e. Board representation on Policy Committee
5. Information / discussion items
  - a. Memo re: unregistered sellers collecting member sales tax
  - b. Protest / Refund request form
6. Comments
7. Adjournment



**ARSSTC Board Meeting  
May 12, 2021 1:00 pm – 2:00 pm, Virtual**

Board Present:

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

Others in Attendance:

- Nils Andreasson, AML Executive Director
- Kara Johnson, AMSTP Sales Tax Administrator
- Clinton Singletary, AMSTP Sales Tax Director

1. Call to order
  - a. Meeting started at 1:02pm.
2. Approval of the Agenda
  - a. no objection to agenda.
3. Approval of the Minutes
  - a. 2/24/21 Board meeting minutes approved, no objection.
4. New Business
  - a. FY22 ARSSTC proposal/discussion

Finance Committee recommended a conservative approach with reduced expenses and a focus on building the fund balance. This includes delaying staffing increases and software implementations. There is concern that with aggressive projections, the fund balance could become negative. The Board can pass a conservative budget now and make an amendment later in the year if needed.

Discussion around excluding from budget discussion the MUNIREvs software proposal. Agreement to discuss/ approve budget separate from software proposal.

Concern about ARSSTC staff supporting other AML Shared Services programs. If ARSSTC staff are at capacity, how can they also contribute to new programs.



Jeff had concern about alcohol tax revenues, is it worth it for the staff effort? Overall, program is growing and projecting revenue increases over year.

Mike comments: prefers Alt2.

Stephanie comments: appreciate budget alternatives, should budget conservatively, issue of staff expanding to support other programs is important. Preference that AML think hard about that, protect resources for ARSSTC. Commission was set up to do things that communities couldn't do themselves.

Troy comments: similar thoughts as Stephanie. Not excited about increasing fees to members. Think Fund Balance Policy is important, should adhere to it. Prefer Alt2. Little apprehensive about staffing. How much time in outreach efforts for shared services?

Scott comments: believe will reach \$10 mil threshold. Would prefer to amend budget at a later date if need arises. Support Alt2.

Brandi comments: echo Stephanie's comments. Annual performance review later in year. Don't want to increase rate. Prefer Alt2 and hold off on expenditures. Audit should provide insight that Commission resources are used for remote sales instead of brick and mortar program.

Jeff comments: CBJ forecasted 20% growth over FY21 for remote sales. Possible to see impact of people returning to shop at brick and mortar, but might not be that significant. Believes remote sales will continue to go up considerably year to year. Would be shocked if we don't easily exceed \$10 million in FY22. Staff focusing on some very large service sellers. Don't want to increase Commission fee. Think the Fund Balance Policy is important and want to stick to it. Need to have clear understanding of when staff start working on non-Commission projects. Prefer Alt2.

Nils comments: hearing that Board wants greater clarity over staffing duties for Commission and Shared Services. AML can provide that. Outreach has been beneficial to Commission.

Stefanie Queen motion to adopt FY22 Budget Alternative #2. Seconded by Scott Bloom. No objections.

b. MUNIRevs software proposal for members

Clinton: Primarily targeting MLM companies. Looking for green light to roll proposal out to members. Keep it limited to MLM companies. We have about 20 MLM registered, as get more, could let them know about this option.

Board questions: If the local agent is reporting sales tax, what is the benefit of this approach? Companies sell to others outside of agent-facilitated sales. \$13,500 is a lot of money, is it worth it? Will the Commission ever be able to recoup those funds? Is it possible to restructure proposal with no upfront costs? Benefit to the businesses, not necessary to put in front of members. Let Policy Committee or Board make the decision.



Jurisdictions only delegated authority for remote sales tax. Commission resources should only be used for remote sales. Question legal authority. Don't want to create a situation which could create confusion for sellers. Think the proposal will create confusion if not all jurisdictions agree. Maybe worth to pursue in the future after more information. Refer issue to Policy Committee for further review and more detailed proposal.

c. Update on member progress re: adopting Uniform Code updates

All jurisdictions are working towards adoption with resolutions and ordinances drafted. 21 adopted by reference, 15 adopted Uniform Code in full. Seven members have not responded to survey. Three will miss the 6/24/21 cutoff by a couple of weeks, but they are working on it and don't expect any issues. Several cities are tackling the services sourcing issue in their local codes.

5. Comments

Stephanie – exciting to see the trends, appreciate the reports and progress in registering sellers.

Jeff – appreciate the reporting. Remittances are clear. Frustrating that the revenues are reported as the month collected by the Commission rather than the month collected by the seller.

Brandi – thank you to Clinton, staff communicates well with her staff.

6. Adjournment 2:16pm



## 2020-05 INTERPRETATION

### SOURCING FOR GOODS

**This interpretation addresses drop shipments, freight forwarding from out of state, and delivery of goods via a common carrier within the State of Alaska. This interpretation only applies to the sourcing of sales of goods. It is not intended to address the sourcing of services.**

#### Issue:

Many companies do not ship directly to Alaska. To get products, residents instruct the company to deliver merchandise to a freight-forwarding company (usually) in Washington State which then ships the merchandise to the Alaskan community. Within Alaska, many companies sell products to remote communities and the products are either picked up by or delivered to a local common carrier for subsequent shipment of the good(s) to the Alaskan community.

What is the point of delivery for sales of goods when a drop shipper, freight forwarder or a common carrier is used in the delivery of the goods?

#### Discussion:

Point of Delivery is defined as the location where receipt by the purchaser occurs. Under the definition of “receive” and “receipt”, goods are “received” by the purchaser when the purchaser takes possession of the good(s). In addition, the definition of “receive” & “receipt” specifically states that temporary possession of goods by a shipping company does not constitute receipt. It is important to note that the point of delivery is not impacted by which party to the transaction hired the common carrier / shipping company.

Accordingly, the point of delivery for sales of goods is the location (as known to the seller) where the purchaser takes possession of the goods. When the point of delivery is in a member jurisdiction, remote sales are subject to the member jurisdiction’s sales tax.

#### Guidance:

Under the Uniform Code, temporary possession of goods by a shipping company does not constitute possession by the purchaser. As a result, the point of delivery is the location where the purchaser actually takes possession of the goods. The remote seller must collect and remit the sales tax for the final destination as known to the seller, regardless of whether the shipping company was hired by the seller or the purchaser.

#### Rationale:

The Code addresses this question in Section 230 – Sellers with Physical Presence and Section 250 – Definitions

##### SECTION 230 – Sellers with a physical presence in the taxing jurisdiction

- A. *Sellers with a physical presence in a Taxing Jurisdiction and no remote or internet-based sales shall report, remit, and comply with standards, including audit authority, of the Taxing Jurisdiction.*
- B. *Sellers with a physical presence in a Taxing Jurisdiction that also have remote or internet-based sales where the Point of Delivery is in a different Taxing Jurisdiction shall*
  - i. *report and remit the remote or internet sales to the Commission; and*

*Approved 11.10.2020 by ARSSTC Board*





Examples: *Examples assume companies have already met the economic threshold for remote sales.*

1. A Wasilla resident travels to Anchorage (which is a non-sales tax jurisdiction) to buy a snowmachine from AAA Sports. The buyer purchases the machine at the store in Anchorage and loads the machine on a trailer and drives back to Wasilla. AAA Sports does not charge sales tax since the transfer of goods happened at the storefront which is in a non-sales tax jurisdiction.
2. A Palmer resident purchases a snowmachine via AAA Sports online store and arranges to have a friend pick up the machine at the storefront. AAA Sports does not charge sales tax since the transfer of goods to the purchaser's recipient, designated as such by the purchaser, happened at the storefront which is in a non-sales tax jurisdiction and the machine was not delivered to the purchaser via shipping company.
3. A Bethel resident purchases a snowmachine via AAA Sports online store. AAA Sports does not offer delivery to Bethel and instead delivers the snowmachine to TTT Transport Company at the local airport. AAA Sports knows they are delivering to a shipping company that will ship the machine to the purchaser in Bethel. AAA Sports charges Bethel sales tax and remits through the Commission.
4. A Houston resident purchases a snowmachine via AAA Sports online store and arranges for TTT Transport Company pick up the machine at the storefront and deliver it to Houston. AAA Sports knows a shipping company is picking up the machine and will deliver it to the purchaser in Houston. AAA Sports charges Houston sales tax and remits through the Commission.
5. A Girdwood resident purchases a snowmachine via AAA Sports online store and arranges for TTT Transport Company pick up the machine at the storefront and deliver it to Girdwood. AAA Sports knows a shipping company is picking up the machine and delivering it to Girdwood which is a non-sales tax jurisdiction. AAA Sports does not charge sales tax since the point of delivery was in a non-sales tax jurisdiction.
6. A Yakutat resident orders from XYZ Furniture who does not deliver to Alaska. The resident has the product delivered to FFF Freight Company in Kent, Washington. XYZ Furniture knows that they are delivering to a shipping company that will ship the product to the purchaser in Yakutat. XYZ Furniture charges sales tax for Yakutat and remits through the Commission.
7. A tourist visits HHH Company storefront in Homer and makes a purchase for herself. She also purchases five separate gifts and has the store deliver the goods to friends around Alaska. HHH Company charges the Homer and Kenai Peninsula Borough sales taxes for all sales purchased at the storefront, regardless of destination, and remits directly to the Kenai Peninsula Borough.
8. A Saint Paul resident purchases a product via HHH Company online store and has it delivered to Saint Paul. HHH Company charges Saint Paul sales tax and remits through the Commission.
9. A Seattle, Washington resident purchases a product via HHH Company online store and has it delivered to Seattle. Since this is an out-of-state sale, the Commission's remote seller sales tax rules do not apply. HHH

*Approved 11.10.2020 by ARSSTC Board*



Company must check with Washington state's sales tax office to ascertain if there is a remote seller nexus requirement. If so, HHH Company needs to assess if they are required to collect and remit sales tax for that state.

10. A Ketchikan resident purchases building supply material from SSS Supply which is located in Juneau. SSS Supply does not offer delivery to Ketchikan and instead delivers the materials to CCC Cargo Company at the local dock. SSS Supply knows they are delivering to a shipping company that will ship the materials to the purchaser Ketchikan. SSS Supply charges sales tax for Ketchikan and Ketchikan Gateway Borough and remits through the Commission.
11. A Craig resident purchases building supply material from SSS Supply and arranges for SSS Supply to deliver the materials to the local dock where his friend will load them onto a private boat returning to Craig. SSS Supply charges local Juneau sales tax since the transfer of materials to the purchaser's recipient, designated as such by the purchaser, happened in the local jurisdiction and the materials were not delivered to a shipping company. SSS Supply remits directly to Juneau.
12. A Seldovia resident buys furniture from ABC Furniture which is located in Anchorage. ABC Furniture delivers the furniture to the buyer in Seldovia. ABC Furniture charges Seldovia and Kenai Peninsula Borough sales tax and remits through the Commission.
13. An Adak resident buys furniture from ABC Furniture and arranges to have TTT Transport Company pick up the furniture at the storefront and deliver it to Adak. ABC Furniture knows a shipping company is picking up the furniture to be delivered to the purchaser in Adak. ABC Furniture charges Adak sales tax and remits through the Commission.



## Interpretation 2021.03

### TAXATION OF SOFTWARE DOWNLOADS, SPECIFIED DIGITAL PRODUCTS, STREAMING & OTHER ONLINE SERVICES

#### **Issue:**

Are the following transactions subject to sales tax as remote sales?

- Software downloads
- Specified digital products
- Access to Cloud-based software (SaaS)
- Streaming Services
- Subscription based access to the above
- Other online / digital services

#### **Discussion:**

Section 030(A) of the Uniform Code requires collection of sales tax on remote sales delivered into a member jurisdiction.

Section 270 of the Uniform Code defines “remote sales” as *sales of goods or services by a remote seller or marketplace facilitator.*

The question then to be answered is are the transactions listed above considered to be sales of goods or services subject to sales tax as a remote sale?”

#### **Interpretation:**

##### **Software downloads & Specified digital products**

Section 270 of the Uniform Code provides the following definition:

*“Property” and “product” and “good” means both tangible property, an item that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses; and intangible property, anything that is not physical in nature (i.e.; intellectual property, brand recognition, goodwill, trade, copyright and patents).*

Since software downloads and specified digital products are “perceptible to the senses” they are considered tangible personal property and subsequently are subject to sales tax as a remote sale when delivered into a member jurisdiction. In addition, the purchase of a software license is considered the purchase of intangible property.

The purchase of access to cloud-based software / SaaS is considered taxable in the same manner as software downloads.

##### **Streaming Services / Online Services**

Section 270 of the Uniform Code provides the following definition:

*“Services” means all services of every manner and description, which are performed or furnished for compensation, and delivered electronically or otherwise into a member jurisdiction including but not limited to:*

- A. Professional services;



### **Interpretation 2021.03**

- 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.*

Based on the above definition of services, streaming services and other online services are considered a remote sale, subject to sales tax when delivered electronically into a member jurisdiction.

#### **Subscription-based access to software downloads, digital products, SaaS, streaming & other online services**

Each of these types of transactions are generally accessed either with payment of a one-time fee or through a subscription to allow for regular or continuous access to the product or service in question.

Section 270 of the Uniform Code defines “sale” as *any transfer of property or product or any provision of service(s) for consideration...*”

Based on the definition of sale, a subscription-based purchase of the product or service in question still meets the qualification of being a sale. The method or frequency of payment for access to the products or services in question does not change the overall nature of the transaction.

#### **Point of Delivery / Sourcing**

Under the definition of “Point of delivery” in Section of the Uniform Code, paragraph D states:

- D. *For products or services transferred electronically, or other sales where the remote seller or marketplace facilitator lacks a delivery address for the purchaser, the remote seller or marketplace facilitator shall consider the point of delivery of the sale to be the billing address of the buyer.*

By their nature, products or services that are transferred electronically can be accessed physically anywhere. However, in order to provide some standardization for sellers, if a product or service is purchased and transferred electronically, the buyer’s billing address is to be used as the point of delivery for determining the appropriate sales tax that is to be collected.

#### **Summary:**

Software downloads, specified digital products, SaaS, streaming services and other online services are subject to sales tax as a remote sale when delivered into an ARSSTC member jurisdiction. The broad definitions of “property” “product” & “good” as well as the broad definition of “services” allow these transactions to be considered in the definition of “remote sales”.

The definition of “point of delivery” specifies that the purchasers billing address is to be used as the point of delivery when the transaction is the purchase of goods or services delivered electronically.



## **Filing Frequency Change Guidelines**

Seller provides a written request for changes to filing frequency. Changes will be granted to coincide with the start of quarter (January, April, July or October).

### **Quarterly Filing**

A business may request quarterly filing if they meet the following criteria:

- Have less than \$10,000 in taxable sales across the state in the preceding 12 months **or**,
- Have fewer than 12 individual transactions across the state in the preceding 12 months.

### **Annual Filing**

A business may request annual filing if they meet the following criteria:

- Total gross sales across the state in the preceding 12 months were exempt from sales tax.

If a business files late, they will then revert back to the monthly filing schedule. A business may request a quarterly filing again if they demonstrate timely for the preceding 6 months.

### **Administrative process:**

1. AMSTP staff receive the request for reduced filing frequency.
2. AMSTP staff asks the business which communities they sell into.
3. AMSTP staff reviews the list of relevant communities for those which do not allow reduced filing frequency.
4. AMSTP staff will inform business of determination once community allowance is verified.
5. AMSTP will run annual audit to check that businesses remain within the criteria limits.



**To: ARSSTC Board**

**From: Clinton Singletary, Statewide Municipal Sales Tax Director**

**Date: June 22, 2021**

**Re: Remote seller registration compliance expectations**

**Discussion**

As registration outreach continues to expand, we are beginning to encounter businesses who are encountering significant difficulties with coming into compliance. Alaskan businesses tend to have the most significant challenges compared to national companies.

Section 080(C) requires seller registration within 30 days of meeting economic nexus threshold. Section 080(D) allows sellers to apply for an extension not to exceed 90 days.

The challenge with Alaskan businesses is that their POS systems and staffing resources are significantly different than the majority of non-Alaskan businesses that we work with. The common feedback from Alaskan businesses is that they rely on part-time and often student help during the summer. Businesses are concerned about the repercussions of heavily relying on their summer staff if the business has to manually calculate and determine the appropriate sales tax.

In addition, many of these businesses are using industry specific software that is not designed to handle more than just a few differing sales tax rates. We have found in several cases that the seller's POS software provider is either unwilling or unable to make the needed modifications to accept the API code that is offered by TTR.

It is my belief that businesses encountering these issues do have more manual options to come into compliance, but these options tend to not be very palatable for sellers. These options include using our tax look-up map to get specific rate and exemption information for specific addresses. Zip code-based tax rate sheets are also available to sellers.

I am looking to the Board for feedback in how it desires we handle the situation where a seller is not able to update its software within the 90-day extension period nor is the seller interested in taking a more manual approach to compliance using Commission resources.

**Summary**

The Uniform Code lays out an expectation that sellers have at maximum 90 days to register and begin collecting sales tax on their remote sales. Is the Board looking for strict adherence to this requirement? This would mean that the seller becomes liable for sales tax collection at the end of the 90-day period regardless of whether the seller is prepared to collect correctly.

Or, is the Board willing to grant additional time to sellers, provided they are making honest progress towards a compliance solution?



**To: ARSSTC Board**

**From: Clinton Singletary, Statewide Municipal Sales Tax Director**

**Date: June 22, 2021**

**Re: ARSSTC Policy Committee**

**Discussion**

Is there interest by the ARSSTC Board in having a Board member serve on the Policy Committee? One of the goals would be to have the Board member act as an additional liaison between the PC and the Board.

Currently, the Policy Committee is made up of the following individuals:

- Camie Gillen, Petersburg Borough
- Erin Russell, City & Borough of Juneau
- Julie Liew / Susan Smith, City of Kodiak
- Justin Harris, City & Borough of Sitka
- Lauri Lingafelt, Kenai Peninsula Borough
- Maureen Graham, City of Wasilla
- Majorie Veeder, City of Unalaska
- Karl Kaufman, Landye Bennett Blumstein LLP

If the Board wishes to pursue having a Board member on the Policy Committee, AMSTP staff recommends that there not be duplicative jurisdiction participation in the Policy Committee.



## **Memo: Pursuing unregistered sellers that are collecting a member's sales tax**

**Issue:** If a seller is found to be collecting a member jurisdiction's sales tax and the seller is not registered with either the member jurisdiction or the ARSSTC, who (member jurisdiction or ARSSTC) is responsible for pursuing registration and remittance?

### **Discussion**

Typically, these situations come to the attention of the jurisdiction first usually due to a question / complaint by a local resident who was charged the sales tax. Or the seller will remit payment of sales tax to the jurisdiction without already being registered with the jurisdiction.

AMSTP staff believes that the jurisdiction should initiate contact with the business in question, acting in its role as the taxing authority. The taxing authority / member jurisdiction would be best suited to question the business on why it is collecting the local sales tax without being registered with the jurisdiction. Member jurisdictions have delegated the Commission authority to administer only remote seller registration and collection on the jurisdictions' behalf.

AMSTP staff have been given clear direction by the ARSSTC Board of Directors that matters relating to physical presence sellers are to be handled by the member jurisdiction. It is therefore proper for AMSTP staff to defer to the member jurisdiction to pursue registration on an unregistered seller who is not obviously a remote seller.

If, during the discussion with the business, the jurisdiction finds that the seller has no physical presence, then the jurisdiction should refer the business to the Commission website and/or AMSTP staff for registering as a remote seller and further follow-up. AMSTP would also be happy to help the member jurisdiction determine if the seller has physical presence, based on the information gathered by the member jurisdiction.

### **Summary**

AMSTP staff believes the best protocol to address this scenario is for the member jurisdiction to initiate contact with an unregistered seller when the seller is collecting the member jurisdiction's sales tax. AMSTP is happy to be a resource for the member if the member is uncertain about who the seller should register with after they contact the seller.

This approach will best allow the Commission and AMSTP staff to not overstep the authority vested by the member jurisdiction(s).



### Remote Sales Tax Refund Form

The ARSSTC Uniform Code Section 120 authorizes the ARSSTC to determine the correct tax rate for a transaction and allows for tax refund requests. Refund requests must be made within 180 days of the date of the transaction. Submit copies of all receipts related to this refund request to [AMSTP@akml.org](mailto:AMSTP@akml.org). Refunds may be issued by either ARSSTC or the seller.

Date of Sale: \_\_\_\_\_

Amount of requested tax refund: \_\_\_\_\_ Amount of Sale: \_\_\_\_\_

Buyer Name: \_\_\_\_\_

Delivery Address: \_\_\_\_\_

Buyer Phone: \_\_\_\_\_

Buyer Email: \_\_\_\_\_

**Basis for Claim:**

- I live outside of a taxing jurisdiction
- Seller did not accommodate the sales tax cap for my community
- I was charged the tax rate for a different community
- I am eligible for a tax exemption that was not honored (please submit proof of exemption along with receipt)
- Other: \_\_\_\_\_

**I have contacted the seller to request a refund:**

- Yes, but the seller could not accommodate my refund request
- No, (please list why not): \_\_\_\_\_

Seller/Business Name: \_\_\_\_\_

Seller Phone: \_\_\_\_\_

Seller Contact Name: \_\_\_\_\_

Seller Email: \_\_\_\_\_

I certify under penalty of perjury that I have not been reimbursed for incorrectly assessed sales tax by the above-mentioned business. I certify that this tax refund request (including any receipts and statements) has been examined by me and to the best of my knowledge and belief is true, correct, and complete.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date Signed