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To: Finance Directors of Self-Collecting Municipalities  
From: Laurel Witt, CML Associate Counsel  
Date: August 2021  
Subject: Update on the Standardized Sales Tax Definitions Project

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The [standardized definitions](#) were developed by municipal tax professionals as part of a sales tax simplification effort, at the request of the business community and the Colorado General Assembly. It has long been recognized, by government and business alike, that various home rule municipalities giving the same term different meanings is a source of complexity in our tax system for businesses that operate in multiple municipalities. Use of “standardized” definitions, can help minimize this complexity. The purpose of this memo is to briefly explain how and why these definitions were developed and where the project currently sits.

## **BACKGROUND**

Colorado municipalities are heavily dependent on the sales tax, deriving on average 70% of their general purpose tax revenues from this source. Virtually unique among the states, Colorado home rule municipalities may require local businesses to remit directly to a municipality (known as “local collection” or “self-collection”), decide their own tax base, and audit local businesses directly. Colorado’s seventy locally collecting municipalities collect over 90% of the municipal sales tax paid in our State. While our system is generally well received by taxpayers, and quite effective for municipalities as a revenue raiser, it is regarded by multi-jurisdictional businesses as complex and burdensome. CML has sought to engage the business community constructively by taking the lead in accomplishing simplifications. Simplification must also preserve municipal interests by being revenue neutral (meaning little or no fiscal impact on the municipality) and maintaining basic integrity of our principal revenue raising mechanism. The heavy lifting in all of our tax simplification projects was done initially by the municipal tax professionals on the CML Sales Tax Simplification Committee, who represented each of Colorado’s self-collecting municipalities.

## **STANDARD DEFINITIONS PROJECT**

During the 2014 session the Colorado General Assembly, a bi-partisan group of Senators and Representatives spent a considerable amount of time attempting to fashion a referred

constitutional amendment that would have required all locally collecting home rule municipalities to use standardized definitions developed and maintained by a special State board. After being stymied by a variety of issues, the General Assembly instead adopted Senate Joint Resolution (SJR) 14-038, asking CML to develop a package of standardized definitions, reprising a successful effort led by CML in 1992. CML supported SJR14-038.

Under the direction of former CML Staff Attorney Rachel Allen and General Counsel Geoff Wilson, the Sales Tax Committee developed the definitions. The Committee began with the 1992 definitions (which had been adopted by each locally collecting municipality in that year), supplemented with additional definitions for terms that polling revealed were defined in three or more jurisdictions. The twin goals in developing these definitions were to add clarity about current tax practices without triggering a TABOR election. As the updated definitions simply reflect current tax practices, no new tax is levied and no increase in tax revenue is expected. An additional goal was that these definitions could be adopted without any difference in tax treatment being experienced by local businesses.

Once the draft package of definitions was developed, it was reviewed by a committee of business tax experts and attorneys, as well as by a committee of municipal attorneys. The municipal attorneys were supportive of the project, while emphasizing the need to work with tax staff in their client jurisdictions to determine revenue neutrality and to determine which definitions would need to be adopted. The business tax experts were also supportive of the overall project, while quibbling at times about individual definitions (for example, a given business or their tax accountant thinks the current tax treatment of software violates TABOR, so naturally they object to a municipality clarifying its definition to make such taxation explicit). Following the meetings with business and municipal tax and legal experts, several final revisions were made to the package and it was finalized by the full CML Sales Tax Simplification Committee.

#### **ADOPTION OF THE DEFINITIONS**

After the standard definitions were released, self-collecting municipalities began to adopt the definitions statewide with the help of finance directors, attorneys, elected officials, and various CML staff. As of the writing of this memorandum, 55 of the 70 self-collecting municipalities have adopted the definitions.

As mentioned above, our goal was to develop definitions that your municipality could adopt without a TABOR election and without losing revenue. We urge you to give serious consideration to adopting these definitions in your jurisdiction. The more locally collecting jurisdictions that adopt these definitions, the more profound will be the benefits for business and municipalities alike.

## **WHICH CITIES AND TOWNS HAVE NOT ADOPTED?**

As of July 2021, the following self-collecting home rule municipalities have **not** adopted the standardized definitions are Brighton, Central City, Durango, Glendale, Lafayette, Larkspur, Pueblo, Ridgway, Telluride, Thornton, Winter Park, and Woodland Park. Castle Rock, Loveland, and Sterling have also not adopted the standard definitions, but do use the state definitions on taxation. The State of Colorado, who collects for all the other 200 municipalities around the state, has not adopted the

## **LEGISLATIVE OVERSIGHT**

House Bill 1216 (2017) established a legislative task force, called the Sales Tax Task Force, to examine the complexities of the sales tax system in Colorado and to explore options for simplification. While the Standardized Definitions Project is not expressly included in the legislation creating the task force, it is a good example of the best practices that self-collecting municipalities adopt to improve our local tax systems. Getting more municipalities to adopt the definitions will go a long way in helping CML and the municipal representatives on the task force to persuade the task force on issues that are in our best interests. The Task Force was set to sunset in 2020, but it has been extended to 2026.

This past legislative session, the Legislature took the oversight of statewide taxation one step further by creating the Legislative Oversight Committee Concerning Tax Policy in House Bill 1077 (2021). The Committee is made up of six-member and meets at least four times a year to consider the policy recommendations contained in the tax expenditure evaluations prepared by the Office of the State Auditor. The act also creates the Task Force Concerning Tax Policy. The Task Force is made up of 21-members and must meet at least six times a year to study tax policy and develop and propose to the committee any modification to the current system of state and local taxation. This Task Force has two representatives from municipalities, one from a home rule municipality and one from a statutory municipality. This Committee and its associated Task Force will look at statewide tax policy, including various policies we have implanted like the standard definitions. As stated above, it is in our best interest to show the improvement in our local tax systems through projects like the standard definitions.

## **CONTACT**

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