

CITY OF CARLSBAD
AGENDA BRIEFING MEMORANDUM

APR 27 2021

COUNCIL MEETING DATE: April 27, 2021

DEPARTMENT: Executive Department	BY: Wendy Austin – Deputy City Administrator <i>WA</i>	DATE: April 23, 2021
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SUBJECT:
A Resolution Opposing Amendments to the Gross Receipts and Compensation Tax Act

SYNOPSIS, HISTORY, AND IMPACT (SAFETY AND WELFARE, FINANCIAL, PERSONNEL, INFRASTRUCTURE, ETC.)
 During the 2019 Regular Legislative Session, House Bill 6, Tax Changes (HB6) was introduced and passed. HB6 is a very extensive bill that updates multiple tax programs including gross receipts tax (GRT), compensating tax, personal income tax, and corporate income tax. Because of the complexities related to GenTax system programming and rule writing that would need to take place, this bill was written to be effective on July 2021.

According to legislative officials, one particular update would allocate GRT from internet purchases to local governments. Currently, GRT from internet purchases are kept at the State level. As an example, under current tax law, a resident from Carlsbad orders an item from Amazon, the GRT from this purchase is only allocated to the State; come July 2021, the GRT from this same purchase, will now be allocated to the municipality, the county, and the State levels.

This particular tax method is being described as destination sourcing rules. In summary, this method changes the reporting location for GRT from the place of business to the destination of business.

And although the intent of allocating GRT from internet sales to local governments is fair and needed, there are unintended consequences.

Based on the destination of business method, the City of Carlsbad, and other municipalities, will see a reduction in GRT from companies that perform work just outside the municipal limits. For Eddy and Lea Counties, this would include any service activities provided to the Oil & Gas Industry, the Potash Industry, and the Nuclear Disposal Industry.

Some argue that the increased GRT from internet sales will offset the lost GRT from service activities performed outside the municipal limits. For the City of Carlsbad, and many other municipalities, this offset will likely not be sufficient. The City of Carlsbad receives 7-10% of its GRT from Mining, Quarrying, and Oil & Gas Extraction services.

A major issue with analyzing this change in location reporting method, is that the State will not provide historical internet sales data to the public or local government officials. Therefore, preparing an analysis on this issue is impossible.

A reasonable solution to this issue is for municipalities, counties, and the state to all receive their fair share of GRT from internet sales and for extractive service companies to report location code based on place of business vs. destination of business.

DEPARTMENT RECOMMENDATION:
Approve the Resolution

BOARD/COMMISSION/COMMITTEE ACTION:

<input type="checkbox"/> P&Z	<input type="checkbox"/> Lodgers Tax Board	<input type="checkbox"/> Cemetery Board	<input type="checkbox"/> APPROVED
<input type="checkbox"/> Museum Board	<input type="checkbox"/> San Jose Board	<input type="checkbox"/> Water Board	<input type="checkbox"/> DISSAPPROVED
<input type="checkbox"/> Library Board	<input type="checkbox"/> N. Mesa Board	<input type="checkbox"/> Budget Committee	

Reviewed by *[Signature]* Date: 4.23.21
City Administrator

ATTACHMENTS: (1) Resolution

CITY OF CARLSBAD

RESOLUTION NO. 2021- 21

A RESOLUTION OPPOSING AMENDMENTS TO THE GROSS RECEIPTS AND COMPENSATION TAX ACT

Whereas, New Mexico is amending sourcing rules, and location code reporting, from the place of business to the destination of business for gross receipts and compensating tax reporting; and

Whereas, this amendment will result in a significant loss of tax revenue to municipal communities across New Mexico, especially rural communities that are heavily dependent upon companies that are registered in the corporate limits of the municipality, yet provide service activities that take place just outside of the municipal limits; and

Whereas, municipalities will continue to incur costs associated with these local companies, including the costs for public safety, utilities, road maintenance, and other municipal services, yet will not receive a fair share of the tax base; and

Whereas, municipalities have been told that there could be an offset between lost revenues from service activities and increased revenues from internet sales, yet this data has not been provided to the municipalities; and

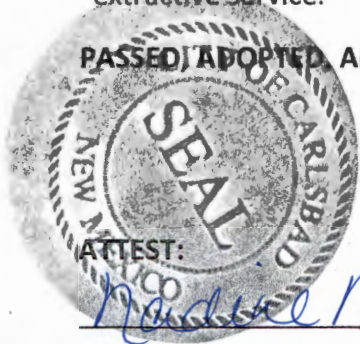
Whereas, rural communities impacted by the extractive industries will recognize a significant reduction in revenues related to service activities performed just outside the municipal limits, that likely will not be offset by internet sales; and

Whereas, an exemption should include "extractive service" companies, which would be similar to an exemption allowed for "professional service" companies; and

Whereas, municipalities deserve full access to historical and projected aggregate internet sales data to perform independent analyses.

Now, therefore, be it resolved that we, the governing body of the City of Carlsbad, do oppose the amended changes to the gross receipts and compensation tax act, and request an exemption for "extractive service."

PASSED, ADOPTED, AND APPROVED by the governing body at its meeting of April 27, 2021.



ATTEST:

Rachel Mueles

City Clerk

[Signature]

Mayor