

## Collect Taxes on Web-Based Transactions

**Collect Taxes on Web-Based Transactions:** The City is able to tax some but not all of the sales and other transactions that occur on web-based forums.

### Background

The U.S. Supreme Court has ruled that there must be a 'nexus' between the taxing body or jurisdiction and the entity being taxed or required to collect the tax. The basic rationale is that a government may not impose tax collection responsibilities on a business that does not benefit from at least some protections or other benefits provided by the state. This federal constitutional requirement impacts the City's ability to tax certain transactions that occur over the internet.

The following outlines the status of the City's ability to capture tax revenue from sales and other transactions that occur online or via mobile apps.

### Sales Tax

- Due to the 'nexus' requirement, online retailers cannot be required to collect sales taxes from customers in states where the retailer has no physical presence. However, if a business sells goods over the Internet and also has a physical presence in the state – such as an office, a warehouse, or a store – they can be required to collect sales taxes. The State and City currently receive sales taxes from these 'present' businesses for their online sales.
- Federal legislation known as the Main Street Fairness Act, which would relax the current 'nexus' requirement, is currently pending. This Act, if passed by Congress, would require sellers without a physical presence to collect taxes pursuant to certain terms set forth in the Act, which would generally make it less burdensome on the sellers – for example, a single uniform tax return and single set of rules for all states.

### Amusement Tax

- The City already requires licensed ticket brokers to collect the amusement tax on sales that take place over the Internet. However, the City cannot require websites such as StubHub, which offer a forum for individuals to buy and sell tickets, to collect the tax on transactions that take place through websites. State legislation would be necessary to require collection by such companies.
- The City's amusement tax also applies to videos, music, and games delivered through mobile apps, and providers with a 'nexus' to the city must collect the tax from their Chicago customers.

### Hotel Tax

- Online hotel sales are subject to the City's hotel tax, and the City collects this tax from internet travel companies such as Expedia.
- Prior to 2015, AirBnB / VRBO-type transactions were subject to the City's hotel tax, but such website facilitators were not required to collect the tax, making enforcement difficult. As part of the 2015 budget, the City amended the Municipal Code to require website facilitators to collect the full 4.5% hotel accommodations tax on transactions that occur through their websites. This amendment is expected to have an estimated annual revenue impact of \$1 million.

### Ground Transportation Taxes

- The City imposes a ground transportation tax (GTT) and accessibility fee on both taxis and rideshares arranged through mobile apps. The City anticipates approximately \$4 million in revenue in 2015 from the application of these taxes to rideshares arranged through mobile apps.

#### Lease Tax

- The City's lease tax applies to any software licenses not subject to the sales tax, as well as to 'nonpossessory computer leases', including remotely accessed computer databases, software programs, and other information databases for which payment is made.

#### Parking Tax

- Online and mobile app-based parking payments are subject to the City's parking tax, and the City collects from companies that operate these sites and apps.