Proposed Exemption for State delivery fee, State Carry out bag fee and City disposable bag fee

Finance and Governance Committee | August 2, 2022

Council Request: 22-0901

To approve a municipal code change to create a sales tax and use tax exemption for the State Delivery Fee, the State Carryout Bag Fee and the City's Disposable Bag Fee.

Background on SB21-260: Transportation Funding Bill

SB21-260 imposes, beginning July 1, a retail delivery fee on all deliveries by motor vehicle to a location in Colorado with at least one item of tangible personal property subject to state sales or use tax (think of your Amazon packages or a food delivery from a restaurant).

Based on the definition of “purchases price” in the Denver Revised Municipal Code, the delivery fee created by SB21-260 is subject to the sales tax and use tax imposed by the City and County of Denver. Effectively this means we are taxing the fee.

Discussions around this issue have also raised the similar concern with our bag fee, which took effect last year. It, too, is subject to sales and use tax under current definitions.

DOF Proposal

- DoF is proposing to clearly exempt this retail delivery fee and the city's bag fee from sales and use tax.
- We believe this is the right public policy and is in the best interest of our residents.

Colorado Municipal League and Home Rule Cities

The State of Colorado adjusted their definitions so that the retail delivery fee is exempt from sales/use tax.

However, as a home rule city, the state's change in definitions does not carry over to us. Since many home rule cities will face the same issue, the Colorado Municipal League created model legislation to exempt the retail delivery fee and the carryout bag fee.

Our proposal is based on the CML model legislation and also clarifies that the city's disposable bag fee will be exempt from taxation.

Financial Context

- The tax on the retail delivery fee portion of the purchase price amounts to about a penny per transaction.
- The tax due on the disposable bag fee is about ½ cent per bag.

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Questions?

Breakdown of state delivery fee

Fee Type	Rate July 2022 to June 2023
Community Access RetailDelivery Fee	$ 0.0690
Clean Fleet Retail DeliveryFee	$ 0.0530
Clean Transit Retail DeliveryFee	$ 0.0300
General Retail Delivery Fee	$ 0.0840
Bridge and Tunnel RetailDelivery Fee	$ 0.0270
Air Pollution Mitigation RetailDelivery Fee	$ 0.0070
Total Retail Delivery Fee	**$ 0.27**