

BALDWIN COUNTY COMMISSION

AGENDA ACTION FORM

(Agenda Item Preparation Procedure)

AGENDA ITEM NUMBER: E 20

Work Session Meeting Date: March 25, 2008 Commission Meeting Date: April 1, 2008

TITLE/SUBJECT: To Authorize the Sales Tax Department to Collect Delinquent Accounts as Prescribed Under Alabama Law.

TO: The Honorable Members of the Baldwin County Commission
THRU: Michael L. Thompson, County Administrator MLT 3/24/08
FROM: Albert Ban, Jr., Sales & Use Tax Coordinator

STAFF RECOMMENDATION: Take the following actions

- 1) Authorize the County's Sales and Use Tax Department to pursue collection of delinquent taxes as allowed under Ala. Code Section 40-29-1, et seq.
- 2) Authorize the County's Sales and Use Tax Department to seek injunctive relief pursuant to Ala. Code Sec. 40-23-27 in the Circuit Court of Baldwin County against taxpayers who have fallen delinquent by ~~\$5,000.00~~ ^{debts} or two ^{one} (2) or more liens. no dollar limit.
- 3) Authorize the Sales and Use Tax Department to refer offending taxpayers to the Baldwin County District Attorney for prosecution if all other collection efforts have failed.

BACKGROUND:

Based upon the County's status as a "self-enforcing" jurisdiction for the collection of sales and use taxes, pursuant to Baldwin County Commission resolution number 2001-07, and pursuant to the authority conferred upon the State of Alabama Department of Revenue to collect delinquent sales and use taxes pursuant to the Alabama Tax Enforcement and Compliance Act (Ala. Code Sec. 40-29-1, et seq.) ("TECA"), including the power to levy upon all property and issue process of garnishment, which authority is extended to Baldwin County as a self-enforcing county (Ala. Code Sec. 11-3-11.2), Delinquent taxpayers are assessed by the Sales & Use Tax Department as allowed in Code of Alabama, §40-2A-7. If the tax remains delinquent, a tax lien is recorded with the Judge of Probate Office only if the business is located within Baldwin County and a notice is mailed to the taxpayer reflecting so. During the time the taxpayer is delinquent, the taxpayer is contacted and is forwarded to the Compliance Officer for collection.

In addition to the extra-judicial enforcement mechanisms authorized as set forth above, that the Sales and Use Tax Department, at the discretion of the Coordinator, be authorized to seek injunctive relief pursuant to Ala. Code Sec. 40-23-27 in the Circuit Court of Baldwin County against taxpayers who have fallen delinquent by \$5,000.00 or two (2) or more liens.

In the event that civil enforcement proves ineffective, based upon the provisions of the Alabama Code (Ala. Code Sections 40-29-111 and -112) making willful failure to collect and pay over such taxes a felony and making failure to pay estimated taxes or to make a return a misdemeanor, that the Sales and Use Tax Department, at the discretion of the Coordinator, be authorized to refer offending taxpayers to the Baldwin County District Attorney for prosecution.

FINANCIAL IMPACT: N/A ☒

LEGAL IMPACT: N/A ☒

CONSISTENCY WITH B.C. STRATEGIC PLAN – 2006-2016: N/A ☒

POLICY IMPACT: N/A ☒

PERSONNEL IMPACT: N/A ☒

IMPLEMENTATION:

1. Department and individual responsible for follow up activities on recommendation:
Albert Ban, Jr. – Sales & Use Tax Coordinator
2. Specific action/actions required as follow up: **To review collection efforts.**
3. Are other Departments/Individuals necessary to complete the follow up activities? If so, specify:
Scott Barnett, Legal Counsel and Barney March, Legal Counsel for the Sales & Use Tax Department.

ALTERNATIVES:

1. Approve
2. Not approve

ATTACHMENTS:

Code of Alabama

§11-3-11 through 11-3-11:2

§40-2A-7(b) – Uniform Revenue Procedures/Procedures Governing Entry of Preliminary and Final Assessments.

§40-29 – See Attachment

Act No. 2000-445

Excerpt from the November 21, 2000 Minutes (*Resolution #2001-07*)

FORM REVISION DATE: November 12, 2007 – lgr, **VERSION #10**