



Baldwin County Commission

Legislation Text

File #: 20-0875, **Version:** 1

Meeting Type: BCC Regular Meeting
Meeting Date: 3/3/2020
Item Status: New
From: Ronald Cink, Budget Director
Submitted by: Tracy King, Revenue Clerk

ITEM TITLE

Sales & Use Tax - Enforcement of Trust Fund Taxes

STAFF RECOMMENDATION

Take the following actions:

1. Authorize the County's Sales Use & License Tax Department to list delinquent trust fund tax liens of \$1,000.00 or greater and over one (1) year or older on the Baldwin County Commission Website; and
2. Authorize the County's Sales Use & License Tax Department based on Ala. Code §40-29-20 to file UCC liens of \$1,000.00 or greater with Secretary of State; and
3. Authorize the County's Sales Use & License Tax Department based on Ala. Code §40-2A-4(b) (6), to require a minimum 25% percent down for all Baldwin County trust fund tax installment agreements with maximum length of 3 years for all installment agreements; and
4. Authorize the County's Sales Use & License 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 with one or more liens with a combination of more than \$1,000.00 owed in trust fund taxes; and
5. Authorize the County's Sales Use & License Tax Department to proceed based on Ala. Code §40-2-11(16) with wage garnishments against the taxpayer's salaries, bonuses, commissions, and any other type of compensation from an employer. The wage garnishment remains in effect for subsequent pay periods until the total amount of the garnishment has been withheld and remitted by the employer; and
6. Authorize the County's Sales Use & License Tax Department to proceed with financial institutions garnishments based on Ala. Code §40-29-23. A garnishment may be issued to a bank, credit union and brokerage firm. The County is entitled to receive the full amount of money in account at the time the garnishments served, not exceed the full amount of the tax liability; and
7. Authorize the County's Sales Use & License Tax Department based on Ala. Code §40-29-23 to proceed with Writs of Execution. Writs of execution may be issued to the sheriff where the taxpayer

has real or personal property. In the case of real property, the Department will ask the sheriff to offer the taxpayer's right, title, and interest in and to the property to the highest bidder. The property is sold on the courthouse steps subject to any prior encumbrances. The taxpayer will have one year to redeem the property from the Department or the highest bidder by paying the costs of the sale, the total tax liability, and the accrued interest. Whenever personal property is sold, there is no redemption period; and

8. Authorize the County's Sales Use & License Tax Department if civil enforcement proves ineffective, based upon the provisions of the Alabama Code (Ala. Code Section §40-29-1}, the Department, at the discretion of the Coordinator, be authorized to refer offending taxpayers to the Baldwin County District Attorney for prosecution.

BACKGROUND INFORMATION

Previous Commission action/date: April 1, 2008

Background: The County Commission authorized the Sales and Use Tax Department to pursue collections efforts as allowed by Alabama Code Section §40-29. The County Commission also authorized to seek injunctive relief pursuant to Alabama Code Section §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. The County Commission authorized the Sales and Use Tax Department to refer delinquents to the Baldwin County District Attorney's office for prosecution if all other collection efforts have failed.

As described in April 1, 2008, agenda item E20, background (see attached), 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 delinquent taxpayers to the Baldwin County District Attorney for prosecution.

In 2019, the Sales and Use Tax Department referred approximately Three-hundred and twenty-five (325) delinquent accounts to the District Attorney's office and One-hundred and ninety-five (195) were Summoned to Appear.

FINANCIAL IMPACT

Total cost of recommendation: N/A

Budget line item(s) to be used: N/A

If this is not a budgeted expenditure, does the recommendation create a need for funding? N/A

LEGAL IMPACT

Is legal review necessary for this staff recommendation and related documents?

Yes

Reviewed/approved by: Reviewed by Brad Hicks, County Attorney, on 02/26/2020

Additional comments: N/A

ADVERTISING REQUIREMENTS

Is advertising required for this recommendation? N/A

If the proof of publication affidavit is not attached, list the reason: N/A

FOLLOW UP IMPLEMENTATION

For time-sensitive follow up, select deadline date for follow up: N/A

Individual(s) responsible for follow up: Heather Gwynn, Sales and Use Tax Coordinator, will make the appropriate changes to department procedures.

Action required (list contact persons/addresses if documents are to be mailed or emailed): N/A

Additional instructions/notes: N/A