	Approved	Denied
Action taken Option 1	8/8/05	
Other:		
Verified by:		

WASILLA CITY COUNCIL ACTION MEMORANDUM **AM No. 05-46**

TITLE: REQUEST FOR SALES TAX PENALTY WAIVER.

Agenda of: August 8, 2005 Date: July 28, 2005
Originator: Jamie Newman, Deputy Clerk

Route to:	Department	Signature/Date
	Police	
	Recreational and Cultural Services Library, Museum	
	Public Works Planning	
X	Finance *signature required	
X	Clerk	

REVIEWED BY MAYOR DIANNE M. KELLER: Dianne M. Keller

FISCAL IMPACT: ☒ yes$ *or* ☐ no Funds Available ☐ yes ☐ no
Account name/number:
Attachments: letter from McDonald's Corporation; Statement of Facts; WMC 5.16.150

SUMMARY STATEMENT: The finance department received the attached letter from the McDonald's Corporation, requesting a waiver of penalty for a late sales tax payment ending March 2005.

The following is a statement of facts submitted by Deborah Davis, Sales Tax Administrator:

- McDonald's Corporation has never been late in filing their sales tax.
- McDonald's Corporation's sales tax return and payment for the period ending March 31, 2005 was due in our office no later than Friday, April 29, 2005. It was received on May 2, 2005.
- A 5% penalty of $381.46 was assessed for filing a late return.

- McDonald's Corporation paid the assessed penalty, interest and forfeited the $100.00 credit for prompt payment on July 25, 2005. This totaled $487.73.

- McDonald's Corporation has requested abatement of the penalty $381.46.

- McDonald's Corporation was faxed a copy of WMC 5.16.120 pertaining to the waiver of an assessed penalty on June 21, 2005.

The council may approve the waiver under WMC 5.16.150.B.2. (attached).

STAFF RECOMMENDED ACTION: None. This matter falls within the discretion of the council in accordance with WMC 5.16.150.B.2.

If the council wishes to **grant** the waiver, please make the motion as outlined in **Option 1**, listed below.

If the council chooses to **deny** the waiver, please make the motion as outlined in **Option 2**, listed below.

Option 1: If the council chooses to **grant the waiver**, the following motion would need to be made from the floor.

MOTION: *To approve AM No. 05-46* ***by granting*** *the sales tax waiver in the amount of $381.46 to the McDonald's Corporation for the period ending March 2005.*

OR

Option2: If the council chooses to **deny the waiver**, the following motion would need to be made from the floor:

MOTION: *To approve AM No. 05-46* ***by denying*** *the sales tax waiver in the amount of $381.46 to the McDonald's Corporation for the period ending March 2005.*

	Approved	Denied
Action taken Option 1	8/8/05	
Other:		
Verified by:		

WASILLA CITY COUNCIL ACTION MEMORANDUM **AM No. 05-46**

TITLE: REQUEST FOR SALES TAX PENALTY WAIVER.

Agenda of: August 8, 2005 Date: July 28, 2005
Originator: Jamie Newman, Deputy Clerk

Route to:	Department	Signature/Date
	Police	
	Recreational and Cultural Services Library, Museum	
	Public Works Planning	
X	Finance *signature required	
X	Clerk	

REVIEWED BY MAYOR DIANNE M. KELLER: Dianne M. Keller

FISCAL IMPACT: ☒ yes$ *or* ☐ no Funds Available ☐ yes ☐ no
Account name/number:
Attachments: letter from McDonald's Corporation; Statement of Facts; WMC 5.16.150

SUMMARY STATEMENT: The finance department received the attached letter from the McDonald's Corporation, requesting a waiver of penalty for a late sales tax payment ending March 2005.

The following is a statement of facts submitted by Deborah Davis, Sales Tax Administrator:

- McDonald's Corporation has never been late in filing their sales tax.
- McDonald's Corporation's sales tax return and payment for the period ending March 31, 2005 was due in our office no later than Friday, April 29, 2005. It was received on May 2, 2005.
- A 5% penalty of $381.46 was assessed for filing a late return.

- McDonald's Corporation paid the assessed penalty, interest and forfeited the $100.00 credit for prompt payment on July 25, 2005. This totaled $487.73.

- McDonald's Corporation has requested abatement of the penalty $381.46.

- McDonald's Corporation was faxed a copy of WMC 5.16.120 pertaining to the waiver of an assessed penalty on June 21, 2005.

The council may approve the waiver under WMC 5.16.150.B.2. (attached).

STAFF RECOMMENDED ACTION: None. This matter falls within the discretion of the council in accordance with WMC 5.16.150.B.2.

If the council wishes to **grant** the waiver, please make the motion as outlined in **Option 1**, listed below.

If the council chooses to **deny** the waiver, please make the motion as outlined in **Option 2**, listed below.

Option 1: If the council chooses to **grant the waiver**, the following motion would need to be made from the floor.

MOTION: *To approve AM No. 05-46* ***by granting*** *the sales tax waiver in the amount of $381.46 to the McDonald's Corporation for the period ending March 2005.*

OR

Option2: If the council chooses to **deny the waiver**, the following motion would need to be made from the floor:

MOTION: *To approve AM No. 05-46* ***by denying*** *the sales tax waiver in the amount of $381.46 to the McDonald's Corporation for the period ending March 2005.*

COPY

McDonald's Corporation
2111 McDonald's Drive
Oak Brook, IL 60523

July 7, 2005

City of Wasilla
Finance Department
290 E. Herning Ave
Wasilla, AK 99654

Attn: Deborah Davis

We received a revised March 2005 Sales Tax Return. The revisions were due to the sales tax payment being received after the due date of April 30, 2005. Our check was mailed on April 27, 2005. A copy of the check and mail receipt are enclosed. Per your records the payment was received on May 2nd.

The revised return is demanding an additional $487.73 for late fees, penalty and interest. Enclosed is our check in the amount of $487.73.

McDonald's Restaurant of Alaska, Inc is requesting the City of Wasilla to waive the penalty of $381.46 since this is our first offense. If approved the refund check should be made payable to McDonald's Restaurants of Alaska, Inc and mailed to McDonald's Restaurants of Alaska, Inc. PO Box 1786, Oak Brook IL 60521.

Please contact me at 630-623-4943 if you have any questions.

Thank your for your consideration of this request.

RECEIVED
JUL 11
CITY OF WASILLA
FINANCE DEPT

Sincerely,

Judy Fullmer

Judy Fullmer
McDonald's Restaurants of AK, Inc

From: Deborah L. Davis

To: Jamie Newman

Date: 7/26/2005

McDonald's Corporation

Re: Delinquent sales tax report & payment for period ending March 2005

Statement of Facts

- McDonald's Corporation has never been late in filing their sales tax
-
- McDonald's Corporation's sales tax return and payment for the period ending March 31, 2005 was due in our office no later than Friday, April 29, 2005. It was received on May 2, 2005.
- A 5% penalty of $381.46 was assessed for filing a late return.
- McDonald's Corporation paid the assessed penalty, interest and forfeited the $100.00 credit for prompt payment on 7/25/2005. This totaled $487.73.
- McDonald's Corporation has requested abatement of the penalty $381.46.
- McDonald's Corporation was faxed a copy of WMC 5.16.120 pertaining to the waiver of an assessed penalty on 6/21/2005.

Deborah Davis, Sales Tax Administrator
City of Wasilla
290 E. Herning Ave.
Wasilla, AK 99654
907-373-9090

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the seller's gross receipts from sales, rentals or services. (Ord. 01-38(SUB) § 2 (part), 2001)

5.16.140 Amended returns.

A. A seller may file with the city an amended sales tax return with supporting documentation, and the city may accept the amended return, but only in the following circumstances:

1. The amended return is filed within one year of the original due date for the return;

2. The seller provides a written justification for amending the return;

3. The seller held a current city business license for the period for which the amended return was filed and filed an original return for that period; and

4. The seller agrees to submit to an audit upon request of the city.

B. The city shall notify the seller in writing whether it accepts or rejects an amended return, including the reasons for any rejection. (Ord. 01-38(SUB) § 2 (part), 2001)

5.16.150 Tax return—Extension of time—Waiver or reduction of penalty.

A. Upon written application of a seller, stating the reasons therefor, the finance director may extend the time to file a sales tax return, if the finance director finds each of the following:

1. For reasons beyond the seller's reasonable control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller will commence and proceed with diligence to cure the problem, and the problem will be cured within a reasonable time; and

3. At the time of the application, the seller is not delinquent in filing any other sales tax return or in remitting sales tax to the city.

B. A penalty assessed under Section 5.16.120(D) for the delinquent remittance of sales tax or under Section 5.16.180(F) for failure to file a sales tax return:

1. May be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city, within five business days after the date of delinquency. A seller may not be granted more than one waiver of penalty under this paragraph in any period of twenty-four (24) consecutive months. The finance director shall report all such waivers of penalty to the council in writing, at least once each calendar quarter.

2. May be waived or reduced by the council, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city. In determining whether to waive or reduce a penalty, and the amount of a reduction, the council shall consider the following:

a. The seller's history of compliance with the requirements of this chapter;

b. The degree of the seller's responsibility for the delinquency for which the penalty was assessed;

c. The amount of the penalty in relation to the amount of delinquent sales tax and interest owed by the seller;

d. Whether waiving or reducing the penalty will contribute to the prompt payment of the delinquent sales tax, interest and remaining penalty;

e. The reasonableness of the seller's efforts to assure timely filing of sales tax returns and remission of sales tax in the future; and

f. The effect that waiving or reducing the penalty will have on the deterrence of future delinquencies by the seller and others. (Ord. 05-20 § 4, 2005: Ord. 01-38(SUB) § 2 (part), 2001)

5.16.160 Use of information on tax returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the city whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The city will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of a person who holds a current city business license; and

2. Whether a holder of a city business license is more than thirty (30) days delinquent in filing a return or remitting sales tax; and, if so, the number of returns not filed.

D. The city may publish the name of any seller that is delinquent in remitting sales tax, and the delinquent amount thereof. The city also may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular seller is disclosed. (Ord. 01-38(SUB) § 2 (part), 2001)

5.16.170 Tax records—Additional information from seller—Audits.

A. A seller shall maintain records of transactions supporting the information that it submits on its sales tax returns, including without limitation records of daily gross receipts from sales, rentals and services, invoices of purchases and sales, bills of lading and bills of sale. A seller also shall maintain records of transactions that are exempt from sales tax, including information that will substantiate the claim of exemption. The seller

COPY

McDonald's Corporation
2111 McDonald's Drive
Oak Brook, IL 60523

July 7, 2005

City of Wasilla
Finance Department
290 E. Herning Ave
Wasilla, AK 99654

Attn: Deborah Davis

We received a revised March 2005 Sales Tax Return. The revisions were due to the sales tax payment being received after the due date of April 30, 2005. Our check was mailed on April 27, 2005. A copy of the check and mail receipt are enclosed. Per your records the payment was received on May 2nd.

The revised return is demanding an additional $487.73 for late fees, penalty and interest. Enclosed is our check in the amount of $487.73.

McDonald's Restaurant of Alaska, Inc is requesting the City of Wasilla to waive the penalty of $381.46 since this is our first offense. If approved the refund check should be made payable to McDonald's Restaurants of Alaska, Inc and mailed to McDonald's Restaurants of Alaska, Inc. PO Box 1786, Oak Brook IL 60521.

Please contact me at 630-623-4943 if you have any questions.

Thank your for your consideration of this request.

Sincerely,

Judy Fullmer
McDonald's Restaurants of AK, Inc

From: Deborah L. Davis

To: Jamie Newman

Date: 7/26/2005

McDonald's Corporation

Re: Delinquent sales tax report & payment for period ending March 2005

Statement of Facts

- McDonald's Corporation has never been late in filing their sales tax
-
- McDonald's Corporation's sales tax return and payment for the period ending March 31, 2005 was due in our office no later than Friday, April 29, 2005. It was received on May 2, 2005.
- A 5% penalty of $381.46 was assessed for filing a late return.
- McDonald's Corporation paid the assessed penalty, interest and forfeited the $100.00 credit for prompt payment on 7/25/2005. This totaled $487.73.
- McDonald's Corporation has requested abatement of the penalty $381.46.
- McDonald's Corporation was faxed a copy of WMC 5.16.120 pertaining to the waiver of an assessed penalty on 6/21/2005.

Deborah Davis, Sales Tax Administrator
City of Wasilla
290 E. Herning Ave.
Wasilla, AK 99654
907-373-9090

3. The initiation of a lease, management agreement or other arrangement under which another person becomes entitled to the seller's gross receipts from sales, rentals or services. (Ord. 01-38(SUB) § 2 (part), 2001)

5.16.140 Amended returns.

A. A seller may file with the city an amended sales tax return with supporting documentation, and the city may accept the amended return, but only in the following circumstances:

1. The amended return is filed within one year of the original due date for the return;

2. The seller provides a written justification for amending the return;

3. The seller held a current city business license for the period for which the amended return was filed and filed an original return for that period; and

4. The seller agrees to submit to an audit upon request of the city.

B. The city shall notify the seller in writing whether it accepts or rejects an amended return, including the reasons for any rejection. (Ord. 01-38(SUB) § 2 (part), 2001)

5.16.150 Tax return—Extension of time—Waiver or reduction of penalty.

A. Upon written application of a seller, stating the reasons therefor, the finance director may extend the time to file a sales tax return, if the finance director finds each of the following:

1. For reasons beyond the seller's reasonable control, the seller has been unable to maintain in a current condition the books and records that contain the information required to complete the return;

2. The seller has a reasonable plan to cure the problem that caused the seller to apply for an extension, the seller will commence and proceed with diligence to cure the problem, and the problem will be cured within a reasonable time; and

3. At the time of the application, the seller is not delinquent in filing any other sales tax return or in remitting sales tax to the city.

B. A penalty assessed under Section 5.16.120(D) for the delinquent remittance of sales tax or under Section 5.16.180(F) for failure to file a sales tax return:

1. May be waived by the finance director, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city, within five business days after the date of delinquency. A seller may not be granted more than one waiver of penalty under this paragraph in any period of twenty-four (24) consecutive months. The finance director shall report all such waivers of penalty to the council in writing, at least once each calendar quarter.

2. May be waived or reduced by the council, upon written application of the seller accompanied by a payment of all delinquent sales tax, interest and penalty otherwise owed by the seller to the city. In determining whether to waive or reduce a penalty, and the amount of a reduction, the council shall consider the following:

a. The seller's history of compliance with the requirements of this chapter;

b. The degree of the seller's responsibility for the delinquency for which the penalty was assessed;

c. The amount of the penalty in relation to the amount of delinquent sales tax and interest owed by the seller;

d. Whether waiving or reducing the penalty will contribute to the prompt payment of the delinquent sales tax, interest and remaining penalty;

e. The reasonableness of the seller's efforts to assure timely filing of sales tax returns and remission of sales tax in the future; and

f. The effect that waiving or reducing the penalty will have on the deterrence of future delinquencies by the seller and others. (Ord. 05-20 § 4, 2005: Ord. 01-38(SUB) § 2 (part), 2001)

5.16.160 Use of information on tax returns.

A. Except as otherwise provided in this chapter, all returns, reports and information required to be filed with the city under this chapter, and all information contained therein, shall be kept confidential and shall be subject to inspection only by:

1. Employees and agents of the city whose job responsibilities are directly related to such returns, reports and information;

2. The person supplying such returns, reports and information; and

3. Persons authorized in writing by the person supplying such returns, reports and information.

B. The city will release information described in subsection A of this section pursuant to subpoena, order of a court or administrative agency of competent jurisdiction, and where otherwise required by law to do so.

C. Notwithstanding subsection A of this section, the following information is available for public inspection:

1. The name and address of a person who holds a current city business license; and

2. Whether a holder of a city business license is more than thirty (30) days delinquent in filing a return or remitting sales tax; and, if so, the number of returns not filed.

D. The city may publish the name of any seller that is delinquent in remitting sales tax, and the delinquent amount thereof. The city also may provide the public statistical information related to sales tax collections, provided that no information identifiable to a particular seller is disclosed. (Ord. 01-38(SUB) § 2 (part), 2001)

5.16.170 Tax records—Additional information from seller—Audits.

A. A seller shall maintain records of transactions supporting the information that it submits on its sales tax returns, including without limitation records of daily gross receipts from sales, rentals and services, invoices of purchases and sales, bills of lading and bills of sale. A seller also shall maintain records of transactions that are exempt from sales tax, including information that will substantiate the claim of exemption. The seller