

Mia De Marzo

Subject: FW: Callaway Golf Company - Hearing Statement
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Callaway Hearing Statement

From: Sommars, Barbara <Bsommars@mwe.com>
Sent: Monday, May 3, 2021 4:58 PM
To: Cindie McMahon <Cindie.McMahon@carlsbadca.gov>
Cc: Moll, Charles <Cmoll@mwe.com>
Subject: Callaway Golf Company - Hearing Statement

Ms. McMahon:

Attached is a Hearing Statement for Callaway Golf Company that Chuck Moll asked me to forward to you today.

If you have any questions regarding the attached, please do not hesitate to contact Chuck at (628) 218-3842 or cmoll@mwe.com.

Thank you.

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CALLAWAY GOLF COMPANY

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CARLSBAD CITY COUNCIL HEARING

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CALLAWAY GOLF COMPANY

HEARING STATEMENT

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MAY 4, 2021

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INTRODUCTION

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The primary issue in this dispute is the propriety of the new formula issued by the City Manager to apportion gross receipts for Carlsbad's business license tax. It is undisputed that a city can impose a tax upon the gross receipts of a business that are earned within the city. Where a business, like Callaway here, conducts business both within and outside Carlsbad, the City cannot tax all of the gross receipts of the business, and must apply a method to fairly determine the taxable gross receipts in the City, a process called apportionment.

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The City of Carlsbad, like many cities, imposes a business license tax on specified businesses operating in the City. (Carlsbad Municipal Code § 5.04.020(A).) However, the Ordinance itself does not contain an apportionment formula. The City had been informed of this infirmity over a decade ago, and was offered several solutions for bringing Carlsbad's ordinance into conformance with constitutional requirements. Absent specific guidance, Callaway has utilized a "point of sale" methodology to determine its Carlsbad gross receipts, which included sales from Carlsbad, and sales into Carlsbad, for the measure of tax. This methodology historically has been

