

# MIAMI BEACH

OFFICE OF THE CITY ATTORNEY

## MEMORANDUM

TO: Commissioner Kristen Rosen-Gonzalez

FROM: Raul J. Aguila, City Attorney



DATE: October 25, 2017

SUBJECT: **Soda tax**

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As a general matter, under Article VII of the Florida Constitution, a tax cannot be authorized by county or municipal ordinance, unless the tax is levied pursuant to a law enacted by the Florida Legislature. Accordingly, **ALL taxes levied by the City are subject to constitutional and statutory limitations**, including, without limitation, ad valorem taxes, resort taxes, and business tax receipts.

With respect to a proposed tax on carbonated beverages or sodas, all sales taxes, use taxes, or excise taxes are authorized pursuant to Chapter 212 of the Florida Statutes. **Chapter 212 of the Florida Statutes does not authorize municipalities to impose any taxes or surcharges on carbonated beverages or sodas.**

If the City desires to establish a tax on the sale or use of carbonated beverages or sodas within the City of Miami Beach, the Florida Legislature would need to amend Chapter 212 of the Florida Statutes to authorize the City to impose any such tax or surcharge. If the City Commission desires to pursue this tax as a legislative priority, the City Commission may wish to direct the Administration to consult with its lobbyists and with members of the Miami-Dade County delegation to determine whether, or to what extent, any such legislative action is feasible in the current environment.

RJA:RAP/ag