

Chapter 12.40 EXCISE TAX ON CIGARETTES AND TOBACCO PRODUCTS*

***Cross references:** License required for manufacturers, distributors, direct buying retailers and vending machine operators or buyers of tobacco products, § 10.05.010.

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12.40.005 Applicability of chapter.

Unless provided otherwise, this chapter shall apply to the taxation of all cigarettes and tobacco products brought into or acquired in the municipality.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.006 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Brought into or acquired includes all manners, ways and modes of bringing into or obtaining cigarettes or tobacco products in the municipality.

Buyer means a person who brings into or acquires in the municipality cigarettes or other

tobacco products for his own consumption from any source other than a manufacturer, distributor, direct-buying retailer or retailer.

Cardholder or exemption cardholder means a person in whose name a valid and current exemption card has been issued by the department.

Chief fiscal officer means the chief fiscal officer of the municipality or his designee.

Cigarette means a roll for smoking of any size or shape, made wholly or partly of tobacco, whether the tobacco is flavored, adulterated or mixed with another ingredient, if the wrapper or cover of the roll is made of paper or a material other than tobacco.

Department means the finance department of the municipality.

Direct-buying retailer means a person who is engaged in the sale of the cigarettes or other tobacco products at retail in the municipality, and who brings or causes them to be brought into the municipality.

Distributor means a person who brings cigarettes or other tobacco products or causes them to be brought into the municipality, and who sells or distributes them to others for resale in the municipality.

Exemption card means a municipal cigarette and tobacco products exemption card issued under Section 12.40.030.

Inventory count means the effective date and details of a count by description, including the trade name and brand, purchase price and total quantity on-hand of all cigarettes and other tobacco products. Detail must be subtotaled and distinguished between cigarettes and other tobacco products which are taxable and cigarettes and other tobacco products which were acquired exempt of the municipal excise tax under this chapter.

Licensee means a person licensed under Section 12.40.035.

Manufacturer means a person who makes, fashions or produces cigarettes or other tobacco products for sale to distributors or other persons within the municipality.

Other tobacco products means:

1. A cigar;
2. A cheroot;
3. A stogie;
4. A perique;
5. Snuff and snuff flour;
6. Smoking tobacco, including granulated, plug-cut, crimp-cut and ready-rubbed tobacco, and any form of tobacco suitable for smoking in a pipe or cigarette;
7. Chewing tobacco, including cavendish, twist, plug or scrap tobacco and tobacco suitable for chewing; or
8. An article or product made of tobacco or a tobacco substitute, but not including a cigarette as defined in this section or a tobacco substitute prescribed by a licensed physician.

Person includes an individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, estate, trust, business trust, receiver or trustee, syndicate, or political subdivision of this state, or combination acting as a unit including individuals who are employees or officers of any of the such entities who are under a duty to perform an act concerning which a violation of this chapter could occur. It is the intent of this chapter that such persons be personally liable for unremitted taxes.

Place of business means a place where cigarettes or other tobacco products are sold, or where they are brought or kept for the purpose of sale or consumption, including a vessel, vehicle, airplane or train.

Purchase means the acquisition of ownership or possession of cigarettes or other tobacco products from any source.

Record means a group of logically related fields of information concerning events effecting an organization, which is an integral part of an accounting information system, where separate, identifiable transaction data is entered as historical data.

Retail means a sale to a consumer or to any person for any purpose other than for resale.

Retailer means a person in the municipality who is engaged in the business of selling cigarettes or other tobacco products at retail.

Sale includes a sale, barter, exchange and every other manner of transferring the ownership of personal property.

Tax means the cigarette and other tobacco products excise tax assessed pursuant to this chapter.

Tax return means the monthly report to be submitted to the department as required by Section 12.40.090.

Vending machine operator means a person who brings or causes cigarettes or tobacco products to be brought into the municipality and who owns or operates a vending machine that dispenses cigarettes, whether the vending machine is installed on the person's own premises or installed elsewhere.

Wholesale price means the established price for which a manufacturer sells a tobacco product to a distributor or other person, after deduction of a discount or other reduction received by the distributor for quantity or cash.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 1, 4-25-95; AO No. 2000-161, § 1, 1-1-01; AO No. 2001-108, § 1, 10-1-01)

Cross references: Definitions and rules of construction generally, § 1.05.020.

12.40.010 Tax on cigarettes.

- A. The municipality hereby levies an excise tax of 110.3 mills, adjusted annually as provided in subsection B of this section, on each cigarette brought into the municipality after December 31, 2010. Cigarettes upon which the tax is imposed are not again subject to the tax when acquired by another person.

- B. The annual Consumer Price Index adjustment shall be based on the August release date of the semiannual report for the municipality from the U.S. Department of Labor statistics and determined to be the percent change to the current year from the average of the first and second half of the prior year, and will be effective January 1 of each year following the August release date. The first such adjustment date shall be January 1, 2012.

(AO No. 89-89(S-1); AO No. 89-142(S); AO No. 90-137(S-1); AO No. 94-182, § 4, 7-1-95; AO No. 95-77(S), § 2, 7-1-95; AO No. 95-111, § 1, 4-25-95; AO No. 2004-131, § 1, 9-21-04; AO No. 2010-70, § 1, 11-9-10)

12.40.020 Tax on other tobacco products.

An excise tax of 55 percent of the wholesale price is levied on tobacco products, other than cigarettes, brought into the municipality. The tax is levied effective January 1, 2011. Tobacco products upon which this tax is imposed are not again subject to this tax when acquired by another person.

(AO No. 89-89(S-1); AO No. 89-142(S); AO No. 90-137(S-1); AO No. 94-182, § 4, 7-1-95; AO No. 95-77(S), § 3, 7-1-95; AO No. 95-111, § 1, 4-25-95; AO No. 2004-131, § 2, 9-21-04; AO No. 2010-70, § 2, 11-9-10)

12.40.021 Intent and purpose of chapter and taxpayer.

- A. It is the intent and purpose of this chapter to collect the tax from the person who:
1. First acquires the cigarettes or other tobacco products within the municipality;
 2. Brings, or causes cigarettes or other tobacco products to be brought into the municipality;
 3. Makes, manufactures, or fabricates cigarettes or other tobacco products in the municipality; or
 4. Ships or transports cigarettes or other tobacco products into the municipality.

Notwithstanding anything to the contrary contained in this chapter, the taxpayer shall be those persons described in this section and no others.

(AO No. 95-77(S), § 4, 4-25-95)

12.40.025 Exemptions.

- A. Military. Cigarettes and other tobacco products brought into or acquired in the municipality by a military exchange, commissary, or ship's store operated by one of the uniformed services of the United States as defined in 5 USC section 2101 are exempt from tax under this chapter if the cigarettes and other tobacco products are sold to and for the sole use of authorized personnel according to current military regulations.
1. Cigarettes and other tobacco products brought into or acquired in the municipality by a military exchange, commissary, or ship store and sold to, or for the use of unauthorized personnel are not exempt from the tax under this

chapter.

2. Cigarettes or other tobacco products brought into or acquired in the municipality by an independent contractor and sold to consumers within the military installations are not exempt from the tax under this chapter.
 3. A person claiming an exemption under this section for the sale of cigarettes or other tobacco products directly to a military exchange, commissary, or ship's store operated by one of the uniformed services of the United States shall file, with a tax return under Section 12.40.090 a certification on a form provided by the department for each exempt sale claimed under this section. The certification shall be in the form of an affidavit, and must be signed by an authorized agent of the military exchange, commissary, or ship's store. The certification shall contain a statement that the cigarettes and/or other tobacco products purchased will be sold solely to and for the use of authorized personnel in accordance with military regulations. The invoice supporting the sale to the military exchange, commissary, or ship's store must accompany the certification.
 4. If the department determines that cigarettes or other tobacco products sold under the exemption provided in this subsection were available for the use or purchase by unauthorized personnel, the department will assess the tax under this chapter to the person making the sale.
- B. The tax imposed under this chapter does not apply to cigarettes and other tobacco products if the United States Constitution or other federal laws prohibit the levying of this tax on such products by the municipality.
- C. Provided all persons otherwise subject to this chapter comply with its requirements, cigarettes and other tobacco products:
1. Brought into or acquired in the municipality;
 2. Transported outside of the municipality; and
 3. Which are for resale outside the municipality by a merchant with an Alaska business license carrying an Alaska tobacco endorsement thereon;

are exempt from the tax imposed under this chapter.

(AO No. 89-89(S-1); AO No. 90-137(S-1); AO No. 95-77(S), § 5, 4-25-95; AO No. 2000-161, § 2, 1-1-01; AO No. 2001-108, § 2, 10-1-01)

12.40.030 Exemption cards.

- A. Except as otherwise provided herein, no person may acquire cigarettes or other tobacco products in the municipality exempt of the tax unless that person has been issued an exemption card in accordance with this chapter. No licensee shall claim any exemption under this chapter unless cigarettes or other tobacco products for which an exemption is claimed have been sold or transferred to a person presenting a valid and current exemption card issued by the department in accordance with this chapter prior to such sale or transfer.
1. Any person with an active physical business presence within the Municipality of Anchorage, including a licensee, may apply for an exemption card under this

section as an agent for merchants whose principal places of business are located outside of the Municipality and who acquire from an agent cigarettes or other tobacco products exempt from the tax imposed under this chapter, provided each merchant has a valid State of Alaska business license with a tobacco endorsement and the line of business (LOB) code or equivalent thereon.

2. A merchant acquiring cigarettes and other tobacco products through an agent under this section shall be considered an exemption cardholder for all purposes under this chapter.
 3. A person or licensee issued an exemption card as an agent under this section shall comply with all provisions of this chapter except the agent shall not be required to maintain records to prove that cigarettes and other tobacco products for which an exemption is claimed under the agent's exemption card have been resold outside of the Municipality by the merchant. Violation of any provision of this chapter relating to exemption cardholders by a licensee as agent for a merchant shall be grounds for revocation of the licensee's license issued under this chapter.
 4. Notwithstanding anything to the contrary contained in or implied by other provisions of this chapter, the licensee shall be and remain the taxpayer liable for the payment of taxes due under this chapter.
- B. Application for an exemption card is restricted to persons with an active physical business presence within the Municipality of Anchorage acting as an agent for merchants whose principal places of business are located outside of the municipality, shall be on a form provided by the department, and shall include the following information and such other information as the department may require:
1. The applicant's name and address;
 2. A copy of the applicant's current State of Alaska business license, including a tobacco endorsement and the line of business (LOB) code or equivalent;
 3. The merchant names and locations where cigarettes and tobacco products will be sold;
 4. Each application for an exemption card shall be accompanied by a fee of \$50.00.
- C. All exemption cardholders must maintain a valid, current business license, with a tobacco endorsement and line of business (LOB) code or equivalent, issued by the State of Alaska.
- D. Each exemption card, unless suspended or revoked by the department, is valid from its date of issue until the end of that calendar year and may be renewed each year upon application and payment of the fee to the department.
- E. The department may suspend, revoke or refuse to issue an exemption card under this section for any violation of or failure to comply with the requirements of this chapter by agent or cardholder, including any act or omission by such person which withholds, misstates or provides false or misleading information required by the department.

(AO No. 2001-108, § 3, 10-1-01)

12.40.035 License required for dealers in cigarettes or tobacco products; issuance.

- A. No person may sell, purchase, possess or acquire cigarettes or tobacco products in the municipality as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer without a license issued under this chapter.
- B. The department, upon application and payment of the fee, shall issue a license to each manufacturer, distributor, direct-buying retailer, vending machine operator or buyer. A copy of the applicant's current license required under AS 43.50.010--43.50.390 must accompany the application. The application must include the following information:
 - 1. The applicant's name and address;
 - 2. The name under which the cigarette or tobacco products business will be conducted;
 - 3. The applicant's cigarette or tobacco products business categories as a manufacturer, distributor, direct-buying retailer, vending machine operator or buyer;
 - 4. In the case of vending machine operator, the number of vending machines which will be operated; and
 - 5. Other information required on the department's application form.
- C. The department may refuse to issue a license if there is reasonable cause to believe that the applicant has willfully withheld information requested to determine the applicant's eligibility to receive a license, or if there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.
- D. A license required by this chapter is in addition to any other license required by law.
- E. A license issued under this chapter shall include:
 - 1. The name and address of the licensee;
 - 2. The type of business to be conducted;
 - 3. The address at which the business is conducted; and
 - 4. The years for which the license is issued.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 94-214(S), § 4, 12-13-94)

12.40.040 License fee.

For each license issued under this chapter, and for each renewal, the fee is \$100.00.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 94-214(S), § 5, 12-13-94)

12.40.050 Expiration and renewal of licenses.

A license issued under Section 12.40.030 expires on December 31. A licensee, on

application to the department accompanied by the renewal fee, may, before the expiration of the license, renew the license for two years from the expiration date of the license. If the licensee moves the business to another location within the municipality, the licensee shall, upon application to the department, be reissued a license for the new location for the balance of the unexpired term. A person whose license is lost, stolen or defaced shall immediately file an application with the department for reissuance of the license for the balance of the unexpired term.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 94-214(S), § 6, 12-13-94)

12.40.060 Transfer of license.

A license issued under this chapter is not assignable or transferable. However, in the case of death, bankruptcy, receivership or incompetency of the licensee, or if the business of the licensee is transferred to another person by operation of law, the department may in its discretion extend the license for a limited time to the executor, administrator, trustee or receiver, or the transferee of the licensee.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.070 Refund of tax or license fee.

- A. The department shall not refund the license fee paid pursuant to this chapter upon the surrender or revocation of a license after the beginning of the license year. Upon application, the department will refund a license fee that is paid or collected in error.
- B. If a remittance by a licensee exceeds the amount due, and the department, on audit of the account in question, is satisfied that this is the case, the department shall, upon written request of the licensee, refund the excess to the licensee without interest.
- C. Any claim for refund filed more than one year after the due date of the tax is forever barred.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.080 Display of license; surrender of license; suspension or revocation of license.

- A. A license issued under this chapter must be prominently displayed at the licensee's place of business.
- B. A licensee shall surrender a license within ten days after:
 - 1. A revocation of a license;
 - 2. A cessation of business;
 - 3. A change of ownership of; or
 - 4. A change of a place of business.
- C. The department may suspend or revoke a license issued under this chapter:
 - 1. For violation of this chapter or a regulation of the municipality adopted pursuant

to this chapter; or

2. If a licensee ceases to act in the capacity for which the license was issued.

No person whose license is suspended or revoked shall sell cigarettes or tobacco products or permit cigarettes or tobacco products to be sold during the period of the suspension or revocation on the premises occupied or controlled by that person. No disciplinary proceeding or action is barred or abated by the expiration, transfer, surrender, renewal or extension of a license issued under Section 12.40.030.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 7, 4-25-95)

12.40.090 Tax returns.

On or before the last day of each calendar month a licensee shall submit to the department a tax return, upon forms provided by the department, for each license, and submit payment for the taxes due.

- A. The return shall be signed under penalty of perjury by the licensee or his agent and must include:
 1. The name and address of the licensee.
 2. The name and address of the person filing the return, if different from the licensee.
 3. The number of the license issued under Section 12.40.035.
 4. The name under which the cigarette or tobacco business is being conducted.
 5. The number of cigarettes manufactured, brought into or acquired in the municipality during the preceding month from any source whatever.
 6. The wholesale price of all tobacco products brought into or acquired in the municipality during the preceding month from any source whatever.
 7. The names of persons from whom cigarettes and other tobacco products were brought into or acquired in the municipality during the preceding month from any source whatever.
 8. The number of cigarettes brought into or acquired in the municipality from each person named in subsection A.7. of this section.
 9. Deductions claimed for the number of cigarettes and the wholesale price of other tobacco products for which exemptions are claimed under this chapter.
 10. Deductions claimed for the number of cigarettes and the wholesale price of other tobacco products, specified in the return in response to subsections A.5. and A.6. of this section, for which the tax has been paid previously by another person.
 11. The amount of tax due on the nonexempt cigarettes manufactured, brought into or acquired in the municipality during the preceding month; and the amount of tax due based on the wholesale price of nonexempt

other tobacco products manufactured, brought into or acquired in the municipality during the preceding month.

12. Other information and supporting documentation which may be required by the department with the return.
 - B. Each licensee shall report the cigarette and other tobacco product sales for which an exemption is claimed under Section 12.40.025C. as a deduction on its monthly tax return to the department and shall provide a copy of an invoice or other document satisfactory to the department supporting each sale to a cardholder.
 - C. A tax return must be filed even if there were no cigarettes or tobacco products manufactured, brought into or acquired in the municipality during the preceding month.
 - D. The taxes imposed under this chapter and the return required by this section must be received by the department or postmarked on or before the last day of each calendar month following the month covered by the return.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 8, 4-25-95; AO No. 2000-161, §§ 4, 5, 1-1-01; AO No. 2001-108, § 4, 10-1-01)

Editor's note: It should be noted that the subsections of § 12.40.090 were renumbered at the request of the city. Former subsections 1.--4 have been changed to A.--D., etc.

12.40.100 Involuntary returns.

If a licensee fails to file a return as required by Section 12.40.090, or when the department finds that a return is not supported by the records to be maintained pursuant to Section 12.40.220, the department may prepare and file a return on behalf of the licensee. Involuntary returns filed under this section may be premised upon any information that is available to the department, including, among other things, comparative data for similar businesses. A licensee for whom an involuntary return is filed under this section shall be subject to liability for the tax stated in the return, as well as subject to the penalties and interest provided for in this chapter. A return prepared by the department is, prima facie, good and sufficient for all legal purposes. However, nothing prevents the licensee from presenting evidence on an appeal under Section 12.40.170 in order to rebut the presumed sufficiency of a return prepared by the department, nor does the presumption of sufficiency alter the parties' respective burdens of proof once the licensee has presented evidence to rebut that presumption.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.110 Amended tax returns.

- A. Any tax return filed under Section 12.40.090 may be amended by the licensee.
- B. Any tax return prepared and filed by the department on behalf of the licensee under Section 12.40.100 may be amended by the licensee within one year of the date filed by the department. No amendment by the licensee shall be allowed after this one-year period.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 9, 4-25-95; AO No. 2009-77, § 2, 7-7-09)

12.40.120 Application of payments.

Any payment submitted to the department for any taxes, penalties, interest or costs due under any provision of this chapter or any return or any finding or determination by the department under this chapter shall be credited to the monthly tax period for which remitted first to the payment of costs and then to penalties, interest and taxes in that order.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 10, 4-25-95)

12.40.130 Prohibited acts and penalties.

- A. No person may:
 - 1. Import cigarettes or other tobacco products into the municipality;
 - 2. Sell, transfer or acquire cigarettes or other tobacco products in the municipality; or
 - 3. Participate in the importation into the municipality or in the sale, transfer or acquisition within the municipality of cigarettes or other tobacco products in violation of or without complying with the provisions of this chapter.
- B. A penalty of six percent of the taxes due shall be incurred automatically when a person fails to pay the full amount of the tax due under this chapter within seven calendar days following its due date. An additional penalty of six percent of the taxes due shall be incurred automatically when a person fails to file a tax return or report within seven calendar days following its due date under this chapter. If a person fails to pay the full amount of the tax due and/or file a tax return or report required under this chapter within 16 calendar days after its due date, the six percent penalties incurred above shall be increased automatically to 15 percent.
 - 1. The penalty shall be computed on the unpaid balance of the tax liability as determined by the department.
 - 2. Notice of the penalties incurred and to be incurred shall be given to the person responsible for payment of the taxes or filing the return or report when such tax payment or return or report is delinquent for seven calendar days after its due date.
 - 3. The penalties provided for in this section shall be in addition to all other penalties and interest provided for under this chapter.
- C. If a properly filed, amended return reduces the total tax liability or the tax required to be paid, or the department reduces the tax liability, the related penalty will be reduced accordingly.
- D. All penalties and remedies enumerated in this chapter are cumulative.
- E. Unless otherwise provided in this section, any person who violates or fails to comply with the provisions of this chapter shall be personally liable for all costs, interest, penalties

and taxes due under this chapter plus a penalty equal to 30 percent of the tax due. For good cause shown, the chief fiscal officer may waive or reduce all or part of any penalty imposed under this subsection.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 92-36; AO No. 95-77(S), § 11, 4-25-95; AO No. 95-214, § 1, 11-28-95)

12.40.140 Civil fraud.

- A. A civil fraud penalty may be assessed against a person in addition to a penalty for failure to file or failure to pay.
- B. If it is determined by the department that a tax deficiency or part of a tax deficiency is due to fraud, then a penalty will be added to the tax. The penalty is 50 percent of the deficiency due or \$500.00, whichever is greater. The penalty is computed on the total amount of the deficiency due.
- C. Fraud is the intentional misrepresentation of a material fact with the intent to evade payment of tax which the person believed to be owing. The person must have had knowledge of its falsity and intended that it be acted upon or accepted as the truth.
- D. To establish civil fraud, the department must prove by clear and convincing evidence that:
 - 1. The tax liability reported was understated; and
 - 2. The understatement was the result of an intent to evade tax.
- E. An intent to evade tax may be demonstrated by any relevant evidence, including but not limited to the following:
 - 1. The person has provided false explanations regarding understated or omitted acquisitions of cigarettes or tobacco products;
 - 2. The person has provided falsified or incomplete source documents;
 - 3. The person has not justified an omission or understatement of a significant amount of acquisitions of cigarettes or tobacco products; or
 - 4. The person has substantially overstated a deduction and has failed to justify the overstatement.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.150 Tax lien.

- A. If any person who is liable to pay a tax or license fee under this chapter neglects or refuses to pay the tax or licensee fee after demand, the amount, including interest, additional amounts, or assessable penalty together with costs, is a lien in favor of the municipality upon all property and right to property, real or personal, belonging to that person.
- B. The lien imposed by this section arises upon delinquency and continues until the amount is paid or a judgment against the person arising out of the liability is satisfied.

- C. A lien arising out of a tax due under this chapter, including the penalties and interest on the tax, is, subject to AS 29.45.300, a lien prior, paramount and superior to all other liens, mortgages, hypothecation, conveyances and assignments, upon all real and personal property of the person liable for the tax and upon all the real and personal property used with the permission of the owner to carry on the business which is subject to the tax.
- D. The lien on personal and real property may be enforced as provided in AS 29.45.300--29.45.480 for enforcement of real and personal property tax liens.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.160 Interest on unpaid tax.

In addition to any penalties imposed by this chapter, interest at the rate of 12 percent per annum shall be charged on the unpaid balance of delinquent taxes.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.170 Taxpayer, licensee, cardholder or other person remedies.

- A. Any person aggrieved by any action of the department in issuing, suspending, revoking or refusing to issue any license or exemption card under this chapter or in fixing the amount of taxes, penalties, interest or costs under this chapter may apply to the department and request a hearing within 30 days from the date the department mails the notice of the department's action. Upon timely application under this subsection for a hearing, the chief fiscal officer (the hearing officer) shall hold a hearing pursuant to Chapter 3.60 to determine whether a correction is warranted. Hearings before the chief fiscal officer under this subsection may, at the option of the chief fiscal officer, be conducted by an administrative hearing officer designated by the chief fiscal officer. If the chief fiscal officer elects to refer the matter to an administrative hearing officer, the hearing officer shall conduct the hearing and prepare findings and conclusions. These findings and conclusions must be forwarded to the chief fiscal officer for adoption, rejection or modification and issuance of a final order or decision by the chief fiscal officer. An application for a hearing must notify the department of the specific action complained of and amount of tax, interest, cost or penalty contested and the reason it is contested. Within 30 days after receipt of a written decision by the department, a person may appeal to the Superior Court of the Third Judicial District. The person shall be given access to the department's file in the matter for preparation of the appeal. If after the appeal is heard it appears that the amount due was correct, the court shall confirm such amount. If incorrect, the court shall determine the amount due. If the person is entitled to recover all or part of the amount due or paid, the court shall order the repayment and the department shall pay such amount within 14 days and attach a certified copy of the judgment to the payment.
- B. A request for appeal is filed on the date it is personally delivered, or, if delivered to the department by United States mail, the date of the postmark stamped on the properly addressed cover in which the request is mailed. If the due date falls on a Saturday, Sunday or holiday, the due date is the next working day. A current mailing address must be provided to the department with the request for appeal, and any change in mailing

address after the request for appeal is filed must be reported to the department.

- C. If the notice to the person pursuant to subsection A of this section shows an amount due the department, the uncontested portion of the amount due must be paid within 30 days after the date of the notice. If the uncontested amount is not paid within 30 days, collection action will be taken on that amount even if the person has filed a request for appeal. Payment of the total amount due may be made at any time before the hearing. If the department has reason to believe that collection of the total amount due might be jeopardized by delay, immediate payment of the total amount will be demanded and the department may pursue any collection remedies provided by law. Payment in full does not affect the person's right to a hearing.
- D. If a person requests a hearing and fails to appear at the hearing, the hearing officer may issue a decision without taking evidence from that person, unless that person shows reasonable cause for failure to appear within seven days after the date scheduled for the hearing.
- E. Taxes, license fees, penalties and interest declared to be due in the final administrative decision must be paid within 30 days after the date of the decision, or a bond must be filed with the court in accordance with Alaska Court Rules of Appellate Procedures.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 12, 4-25-95; AO No. 95-180, § 7, 9-26-95; AO No. 2000-161, § 6, 1-1-01; AO No. 2001-108, § 5, 10-1-01)

12.40.180 Reports by manufacturers.

No later than the end of each calendar month, a manufacturer shall submit a report to the department stating:

1. A list of the tobacco products, the quantity and their wholesale price and the number of cigarettes which were brought into the municipality from the manufacturer during the preceding month;
2. The names and address of those persons bringing cigarettes and tobacco products into the municipality from the manufacturer during the preceding month; and
3. A list of the quantity of tobacco products, the wholesale price, and the number of cigarettes brought from the manufacturer into the municipality by each person named in subsection 2 of this section.

(AO No. 89-142(S); AO No. 90-137(S-1))

12.40.190 Certificate of exemption for products acquired by military exchange, commissary or ship's store. (Repealed)

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 13, 4-25-95)

12.40.200 Certificate of exemption for products intended for resale outside municipality. (Repealed)

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 14, 4-25-95)

12.40.210 Sales to exempt persons. (Repealed)

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 15, 4-25-95)

12.40.220 Inspection and maintenance of documents and records.

- A. Every person subject to this chapter shall keep a complete and accurate record of all cigarettes and other tobacco products manufactured, purchased, sold, brought into, transported outside of or acquired in the municipality by such person.
 - 1. Except in the case of a manufacturer, the records shall include a statement containing the name and address of the person from whom cigarettes or other tobacco products were purchased or acquired, the date of delivery, the quantity of cigarettes and other tobacco products, the trade name and brand, and the price paid for other tobacco products purchased.
 - 2. Each invoice or other documentation of the sale of cigarettes or other tobacco products within the municipality shall state whether the tax imposed under this chapter has been paid.
 - 3. Persons subject to this chapter shall keep such other documents and records as the department prescribes.
 - 4. All documents and records required by this section shall be preserved by persons subject to this chapter for three years. All records and documents required by this chapter to be kept or retained are subject to inspection within the municipality upon demand by the department.
- B. A licensee transferring or selling cigarettes or other tobacco products to a cardholder must keep a record of cigarettes and other tobacco products transferred or sold to such person, including the serial number of the exemption card.
- C. The chief fiscal officer may, during business hours, enter the business premises of a licensee or cardholder where cigarettes or other tobacco products are kept or stored, so far as it may be necessary for the purpose of examining such products and the related business records.

(AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 16, 4-25-95; AO No. 2000-161, §§ 7, 8, 1-1-01; AO No. 2001-108, § 6, 10-1-01)

12.40.230 Administrative regulations.

The chief fiscal officer, or his designee, may adopt regulations providing for the application and interpretation of this chapter and providing methods and forms for reporting and collecting the tax imposed by this chapter.

(AO No. 90-137(S-1))

12.40.240 Confidentiality of records.

- A. All tax returns, documents, records and/or reports filed with the municipality pursuant to

the provisions of this chapter and all data obtained from such tax returns, documents, records and/or reports are confidential and may not be released for inspection by any person except the mayor, chief fiscal officer, municipal attorney, internal auditor, or the assembly, provided, however, that such data may be released upon court order.

- B. It is the duty of the chief fiscal officer to safely keep tax returns, documents, records and/or reports and all data taken therefrom secure from public and private inspection except as provided by this chapter.
- C. This section does not prohibit the municipality from compiling and publishing statistical evidence concerning the data submitted provided that no identification of particular tax returns, documents, records and/or reports is made. Nothing in this section shall be deemed to prohibit the internal auditor from examining the tax returns, documents, records and/or reports in accordance with Sections 3.20.100 through 3.20.130 provided that no information obtained from specific or identifiable tax returns shall be made available to persons other than those authorized to review them under subsection A of this section.
- D. This section does not prohibit the chief fiscal officer from sharing information obtained from tax returns, documents, records, and/or reports filed with the municipality pursuant to this chapter with any local, state, or federal government agency for the purpose of enforcing this chapter.

(AO No. 90-137(S-1); AO No. 95-77(S), § 17, 4-25-95; AO No. 2009-77, § 2, 7-7-09)

12.40.250 Records maintenance and inspection. (Repealed)

(AO No. 90-137(S-1); AO No. 89-142(S))