

ANCHORAGE MUNICIPAL CODE CHAPTER 12.45 RENTAL TAX ON RENTAL OF MOTOR VEHICLES

Chapter 12.45 RENTAL TAX ON RENTAL OF MOTOR VEHICLES*

*Editor's note: It should be noted that the provisions of Ch. 12.45 become effective October 1, 2000. Also, AO No. 2000-116(S) contains the following: "Assembly Intent: It is the understanding and intent of the Anchorage Municipal Assembly that in approving AO 2000-116(S) the first thirty (30) days of any vehicle rental transaction is subject to the 8% rental tax as defined in AMC 12.45.020 A."

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12.45.010 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:

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

Day means a period of 24 consecutive hours or a portion thereof;

Department means the finance department of the municipality;

Fees and costs means the value of all charges incurred by the renter, other than the tax prescribed by this chapter, for the use of a motor vehicle, regardless of whether paid in the form of money, property, or services, except for only the following items if separately stated on the rental contract or other document invoicing payment:

1. Fees from the sale of automobile liability insurance, loss damage waiver insurance, and personal accident insurance;
2. Parking tickets;
3. The amount of any sales tax, so-called "luxury tax", consumer excise tax, gross receipts tax, or other similar tax imposed by the United States, the State of Alaska, or the Municipality;
4. Payments received by the rental agency from the renter or the renter's insurance provided for damage to a motor vehicle when the damage was incurred during the rental period;
5. Personal property other than items that are permanently affixed to the motor vehicle. Personal property does not include pickup truck shells or campers mounted on the motor vehicle, or trailers designed, constructed, or used primarily for dwelling;

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6. The amount of the concession fee paid to the Ted Stevens Anchorage International Airport; and
7. Fueling charges.

Motor vehicles for the purposes of this chapter only means passenger cars, sport utility vehicles ("SUV"), vans, trucks, and recreational vehicles licensed to operate on public roadways rented or leased for 30 consecutive days or less. The term motor vehicles does not include buses, taxis, limousines, construction vehicles, or vehicles used exclusively for commercial or non-commercial hauling or delivery of cargo, all terrain vehicles ("ATVs"), snow machines, motorcycles, dirt bikes, side cars, horse trailers, boat trailers, or other trailers designed to carry property except for trailers designed for recreational dwelling purposes.

Municipality means the Municipality of Anchorage, Alaska.

Paid directly means payment made by voucher, check, warrant, or other negotiable instrument made payable to the rental agency and issued from an account maintained by the person or entity entitled to the exemption or by a bill, invoice, purchase order, or other form of payment arrangement made directly between the rental agency and the person or entity entitled to the exemption.

Passenger car, for the purposes of this chapter only, means any vehicle classed or would have been classed as a passenger vehicle by the State of Alaska Department of Motor Vehicles (DMV) includes sport utility vehicles but does not include vans, trucks, or recreational vehicles. If the motor vehicle is licensed by another state or country, the motor vehicle will be classed as a passenger car if it meets the aforementioned definition of passenger car.

Recreational vehicle, for the purposes of this chapter only, means any vehicle classed or would have been classed as a commercial or non-commercial trailer or any vehicle assigned or would have been assigned a motor home body style by the State of Alaska Department of Motor Vehicles (DMV) and includes campers and trailers designed for recreational dwelling purposes. If the motor vehicle is licensed by another state or country, the motor vehicle will be classed as a recreational vehicle if it meets the aforementioned definition of recreational vehicle.

Rental agency means any person engaged in the retail business of renting or leasing motor vehicles.

Retail business means an activity consisting of a series of transactions sufficient in number, scope, and character to constitute an activity for which a person is required to hold a business license in Alaska and/or report business income or losses to Internal Revenue Service.

Tax return means the quarterly report to be submitted to the department as required by Section 12.45.060. If a rental agency is required to submit a tax return on a monthly basis pursuant to Section 12.45.120, then all references to quarter or quarterly in this chapter shall mean month or monthly, respectively, and all references to thirty days after the end of each calendar quarter shall mean the end of the following calendar month.

Thirty (30) day period means the first 30 consecutive days a motor vehicle as defined in this section is rented under a single contract.

To rent or rent (in any conjugation of the verb form) a motor vehicle means to acquire or sell the right to operate a motor vehicle or be responsible for the operation of a motor vehicle for a definite period of time.

To lease or lease (in any conjugation of the verb form) a motor vehicle means to acquire or sell the right to operate a motor vehicle or be responsible for the operation of a motor vehicle for a definite period of time.

Truck, for the purposes of this chapter only, means any vehicle classed or would have been classed as a truck by the State of Alaska Department of Motor Vehicles (DMV). If the motor vehicle is licensed by another state or country, the motor vehicle will be classed as a truck if it meets the aforementioned definition of truck.

Van, for the purposes of this chapter only, means any vehicle assigned or would have been assigned a van body style by the State of Alaska Department of Motor Vehicles (DMV) including van, passenger van,

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minivan, van camper, vanette, and Econoline van. If the motor vehicle is licensed by another state or country, the motor vehicle will be classed as a van if it meets the aforementioned definition of van.

(AO No. 2000-116(S), § 1, 7-18-00)

12.45.020 Motor vehicle rental tax.

- A. A tax of eight percent of the total fees and costs charged for the rental of a motor vehicle ("vehicle rental tax") is hereby levied on the retail rental of motor vehicles within the Municipality, provided that the maximum tax that may be collected on passenger cars within the 30-day period shall not exceed \$120.00, and the maximum tax that may be collected on vans, trucks, and recreational vehicles within the 30-day period shall not exceed \$240.00.
1. Transactions subject to this chapter include, but are not limited to, rentals entered into, as well as those under which the renter takes initial possession of the motor vehicle within the municipality.
- B. The motor vehicle rental tax shall be due, payable and collected from all persons renting a motor vehicle at the time the rental fees and charges are collected by all persons engaged in the retail business of renting motor vehicles. The tax shall be stated as a separate item on the motor vehicle rental contract or other document invoicing payment. The person collecting the tax shall collect or pay the tax levied under this chapter and shall remit said taxes to the municipality quarterly.
- C. The tax levied on motor vehicle rentals pursuant to this chapter shall be subject to the tax increase limitation of Anchorage Municipal Charter Section 14.03 (the "tax cap") and shall therefore be included immediately in the base amount referred to in Section 14.03(c) of the Charter in order that the tax collected shall be in substitution of other taxes.

(AO No. 2000-45, § 1, 2-15-00; AO No. 2000-116(S), § 2, 7-18-00)

Editor's note: It should be noted that § 3 of AO No. 2000-45 provides that, "Section 1 of this ordinance shall become effective on October 1, 2000, if but only if, the proposition contained in Section 2 of this ordinance is approved by 60% of the qualified voters of the municipality voting on the proposition at the regular Municipal election April 4, 2000. All other sections of this ordinance shall become effective immediately upon passage and approved by the Assembly."

12.45.030 Tax receipts segregated and held in trust for the municipality.

Taxes collected pursuant to this chapter belong to the municipality at the time collected by the rental agency. The rental agency has a fiduciary duty to the municipality for these taxes. The taxes shall be segregated from the rental agency's funds, at least by book account, and held in trust for the exclusive benefit of the municipality until remitted to the municipality.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, § 1, 7-1-03)

12.45.040 Tax exemptions.

- A. The following motor vehicle transactions are exempt from the tax levied by Section 12.45.020:
1. Fees and costs paid directly by the United States or State of Alaska or political subdivisions of the State of Alaska insofar as they are immune from taxation; or
 2. Fees and costs paid directly by a person who is an officer or employee of a foreign government or by such person's foreign government employer which is exempt from taxation by law or treaty; or
 3. Fees and costs paid for the rental or lease of a motor vehicle subsequent to the first 30 consecutive days under a single contract; or
 4. Fees and costs paid for the rental or lease of a motor vehicle under any financing lease, including direct financing leases and sales-type leases.

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- B. A right of reimbursement to the person renting the motor vehicle from the person or entity entitled to the exemption does not constitute a direct payment.
- C. Fees and costs received by a person who rents or leases a motor vehicle to a rental agency for re-rent or re-lease by the rental agency are exempt from the tax levied by Section 12.45.020.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.050 Registration of rental agencies.

- A. Each rental agency shall register with the chief fiscal officer on a form provided by the department before such rental agency rents or leases a motor vehicle. An applicant applying for a certificate of registration under this chapter shall obtain a surety bond in accordance with Section 12.45.055 and a copy of such surety bond shall be submitted to the department with the application.
- B. A rental agency engaging in business at more than one location within the municipality shall list each location on their registration application.
- C. A registration application shall contain the rental agency's:
 - 1. Registered and business name;
 - 2. Physical addresses and locations at which it conducts business;
 - 3. Mailing address;
 - 4. Registered address;
 - 5. Form of business organization and Alaska business license number;
 - 6. All motor vehicles owned or controlled by the rental agency as of the date the registration application is filed, including all motor vehicles for which the rental agency has entered into a contractual arrangement, written or oral, to acquire the vehicles but has not yet taken physical control of the motor vehicle; and
 - 7. Such other information as the department may require.
- D. Upon receipt of a properly completed application, the chief fiscal officer shall, without charge, issue a certificate of registration to the rental agency.
- E. A rental agency shall prominently display its certificate of registration to its customers.
- F. If any of the information required by subsections C1. through C5. of this section changes, the certificate of registration shall automatically expire and, within ten days thereafter, shall be surrendered along with all copies thereof, to the chief fiscal officer for cancellation and issuance of a new certificate.
- G. The department may refuse to issue a certificate of registration if there is reasonable cause to believe that the applicant has structured its business organization to avoid payment of delinquent taxes, penalties, interest, or costs due under this chapter; has willfully withheld information requested to determine the applicant's eligibility to receive a certificate; or there is reasonable cause to believe that information submitted in the application is false or misleading and is not made in good faith.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, §§ 2, 3, 7-1-03)

Editor's note: It should be noted that the above Section 12.45.050 is effective July 18, 2000.

12.45.055 Security for fiduciary performance.

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- A. Guarantee required. To ensure that a rental agency performs its fiduciary responsibility to timely collect, account for, safeguard, and remit taxes levied by this chapter, the rental agency shall provide a guarantee by one or more of the methods specified in this section. The amount of the guarantee shall be in an amount that the chief fiscal officer determines to be eight percent of the estimated average annual gross fees and costs earned by the rental agency, or \$5,000.00, whichever is higher. Except as specified in subsection C. of this section, the requirement for a guarantee shall remain in force for the entire period the applicant is registered as a rental agency in accordance with Section 12.45.050. A certificate of registration is automatically revoked when the rental agency's required guarantee lapses, is not renewed, expires, is modified without the written consent of the chief fiscal officer, is cancelled, or is otherwise terminated. In the event the municipality exercises a claim against the guarantee, the rental agency shall provide an additional guarantee, in an amount equal to the amount of the paid claim, no later than 30 days after the date such claim was paid or its certificate of registration shall be automatically revoked.

- B. Methods. The rental agency shall include one or more of the following methods to guarantee performance of its fiduciary responsibilities at the time of application for a certificate of registration:
 - 1. Surety bond. The rental agency may elect to provide a surety bond, in an amount defined in subsection A. of this section, from a company authorized to do such business in the state. The bond shall be in a form acceptable to the municipal attorney. The bond shall be payable to the municipality and shall be conditioned upon payment in full of the tax, including penalties and interest due and to become due and owing to the municipality by said rental agency during the effective period of the bond under the provisions of this chapter. The surety may terminate this bond, except as to any liability already incurred or accrued, and may do so upon giving the rental agency and the chief fiscal officer written notice to that effect. The surety shall provide written notice to the chief fiscal officer not less than 30 days before the expiration, non-renewal, lapse, termination, or other similar event affecting such surety bond. Thirty days after receipt by the chief fiscal officer of such notice or upon a later date specified in the notice, or upon the filing and acceptance of a new bond, the existing bond shall terminate and be of no more force and effect, except as to any liabilities or indebtedness incurred or accrued thereunder as of the date of termination.

 - 2. Deposit in escrow. The rental agency may elect to deposit a cash sum, in an amount defined in subsection A. of this section, either with the municipality or in escrow with a responsible financial institution authorized to do such business in the state. In the case of an escrow account, the rental agency shall file with the municipality an escrow agreement which includes the following terms:
 - a. Funds of the escrow account shall be held in trust until released by the municipality and may not be used or pledged by the rental agency as security in any matter during that period other than payment of the tax, penalties, and interest due and to become due and owing to the municipality under this chapter.

 - b. In the case of a failure on the part of the rental agency to remit taxes due under this chapter by the required due date, the institution shall immediately make all funds in such account available to the municipality for use in satisfying those taxes due, along with any related penalties and interest as provided for in this chapter.

 - 3. Letter of credit. The rental agency may elect to provide, from a bank or other responsible financial institution authorized to do such business in the state, a letter of credit in a form acceptable to the municipal attorney. Such letter shall be filed with the municipality and shall certify the following:
 - a. That the financial institution irrevocably guarantees funds in an amount defined in subsection A. of this section.

 - b. That in the case of failure on the part of the rental agency to remit taxes due under this chapter by the required due date, the financial institution shall pay to the municipality immediately and without further action such funds as are necessary to satisfy those taxes due, along with any related penalties and interest as provided for in this chapter, up to the limit of credit stated in the letter.

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- C. Once a rental agency has filed a tax return and remitted the full amount of taxes due under this chapter, by the due date prescribed by this chapter, for each of eight consecutive calendar quarters, the rental agency may submit a written request to the chief fiscal officer for a waiver of the requirement for the rental agency to post a guarantee. Except as listed below, the chief fiscal officer shall provide written approval of such request, stating the date the requirement for a guarantee shall expire.
 - 1. The chief fiscal officer shall not approve the rental agency's request and the requirement for a guarantee shall not expire when the rental agency has had any certificate of registration previously issued under this chapter revoked by the department.
 - 2. The chief fiscal officer shall not approve the rental agency's request and the requirement for a guarantee shall not expire when the department has reasonable cause to believe that the rental agency is a related party or related entity to another rental agency or prior rental agency whose certificate of registration has previously been revoked under this chapter.
- D. The agreement or contract and other evidence of a guarantee under this section is subject to inspection by the department.

(AO No. 2003-107, § 4, 7-1-03)

12.45.060 Motor vehicle rental tax return and remittance.

- A. Within 30 days after the end of each calendar quarter, every rental agency shall submit to the department a tax return upon a form provided by the department and shall remit therewith all taxes required to be collected by this chapter during the immediately preceding calendar quarter. A tax return shall be filed even if there are no taxes due for the period being reported. Tax returns and taxes to be remitted under this chapter must be actually received by the department within the time required by this section.
 - 1. The tax return shall be signed under penalty of perjury by an officer of the rental agency and shall include:
 - a. The name and mailing address of the rental agency;
 - b. The name and title of the person filing the tax return;
 - c. The aggregate amount of the fees and costs earned by the rental agency for motor vehicle rentals within the municipality;
 - d. The amount of motor vehicle tax due; and
 - e. Such other relevant information and supporting documentation as the department may require.
 - 2. Generally, cash basis businesses recognize the total fees and costs for motor vehicle rentals as earned when the payments are actually collected and accrual basis businesses recognize the total fees and costs for motor vehicle rentals as earned when the rental transactions occur regardless of when payment is actually received.
- B. If a rental agency fails to file a tax return under this section or when the chief fiscal officer finds that a tax return filed by a rental agency is not supported by the records required to be maintained under this chapter, the chief fiscal officer may prepare and file an involuntary tax return on behalf of the rental agency. taxes due on an involuntary tax return may be premised upon any information that is available to the chief fiscal officer including comparative data for similar businesses. A rental agency shall be liable for the taxes stated on an involuntary tax return together with penalties and interest provided in this chapter.

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1. The department shall notify the rental agency of an involuntary tax return, the basis of the department's calculations, the rental agency's rights under Section 12.45.170, and notice that payment of the taxes is due immediately.
 2. Unless otherwise determined by the chief fiscal officer in a decision under Section 12.45.170, taxes due under this section shall be due on the same date as if a tax return had been filed by the rental agency in accordance with this chapter, and interest, penalties, and costs thereon shall accrue from such date.
- C. Notwithstanding anything contained in this chapter to the contrary, within ten days after ceasing to be a rental agency, the rental agency shall:
1. Surrender its certificate of registration to the department; and
 2. Notify the chief fiscal officer in writing of:
 - a. The name, telephone number, and address of any person to whom the rental agency described in the surrendered certificate of registration has been leased, conveyed, or otherwise relinquished or transferred;
 - b. The date of such leasing, conveyance, relinquishment; or transfer; and
 - c. The date on which the person surrendering the certificate of registration ceased doing business as a rental agency; and
 3. File a final tax return for the calendar quarter during which the rental agency ceased its business together with all taxes collected and other payments due in accordance with this chapter.
- D. It shall be the responsibility of every director and/or corporate officer of a corporation owning, operating, or controlling a rental agency registered under this chapter to ensure that timely and proper tax returns are filed and the related taxes due under this chapter are remitted to the department on behalf of the corporation. A director and/or corporate officer may be held personally liable for failing to timely:
1. file a proper tax return; or
 2. remit taxes due.
- E. It shall be the responsibility of every member of a limited liability company owning, operating, or controlling a rental agency registered under this chapter to ensure that timely and proper tax returns are filed and the related taxes due under this chapter are remitted to the department on behalf of the limited liability company. A member of a limited liability company may be held personally liable, to the extent provided by law, for failing to timely:
1. file a proper tax return; or
 2. remit taxes due.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, § 5, 7-1-03)

12.45.070 Amended tax returns.

Any tax return filed under Sections 12.45.060A. or 12.45.060C may be amended by the rental agency.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, § 6, 7-1-03)

12.45.080 Tax refunds.

- A. If taxes remitted exceed the amount due, the department shall, upon written request of the rental agency, refund the excess to the rental agency without interest.

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- B. Any claim for a refund filed more than one year after the due date of the tax return is forever barred.
- C. If a rental agency discovers that it has miscalculated the tax, and the person who rented a motor vehicle paid more tax than should have been collected, the rental agency shall refund to the renter the excess amount collected. If the rental agency is not able to locate the renter, the excess tax shall be remitted to the municipality pursuant to Section 12.45.060.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.090 Prohibited acts.

- A. In addition to other acts and omissions prohibited by this chapter:
 - 1. No person shall fail or refuse to pay the tax imposed by this chapter when it is due and payable to a rental agency authorized to collect the tax.
 - 2. A rental agency shall not advertise or state to the public or to any person renting a motor vehicle, directly or indirectly, that the tax or any part of it will be assumed or absorbed by the rental agency. A rental agency shall not advertise or state to the public or to any person renting a motor vehicle, directly or indirectly, that the tax will not be added to the rental contract or that it will be refunded except as provided in this chapter. A rental agency shall not absorb or fail to add the tax or any part of it or fail to state the tax separately to the person renting the motor vehicle.
 - 3. No person or rental agency shall charge in excess of the proper amount of tax due under this chapter.
- B. No person shall engage in business as a rental agency without obtaining a certificate of registration under this chapter.
- C. No rental agency shall deny the chief fiscal officer, subsequent to identification during normal business hours, access to the rental agency's required records for purposes of inspection under this chapter.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.100 Tax avoidance.

If the department has reasonable cause to believe that a rental agency has structured a contract to rent a motor vehicle to avoid collecting or remitting the tax levied under this chapter, the department may declare there is a rebuttable presumption that the substance of a specific motor vehicle rental transaction is a taxable transaction under this chapter and proceed to establish, levy and collect the tax together with costs, penalties and interest as provided for in this chapter.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.110 Tax lien.

- A. Taxes due and not paid on the date required by this chapter, together with all interest, penalties and costs accruing thereafter, shall immediately become a lien in favor of the municipality upon all of the rental agency's real and personal property including rights to property. Such lien shall continue until all taxes, penalties, interest and costs due the municipality have been paid or the lien released in whole or in part.
- B. A separate notice of such lien shall be given each rental agency liable for the taxes by mail, to the address provided in the application for certificate of registration, and shall be recorded in the Anchorage Recording District, Third Judicial District, State of Alaska and any other recording district the department may choose.
- C. Notice of the lien shall specify the rental agency liable for payment of the tax, the tax amount and due date, a statement of the interest, penalties and costs accrued and which may thereafter accrue, the tax

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period for which the taxes were due and such other information as the department may determine or as may be required by law.

- D. No failure or defect in the notice of lien, except as to amount, shall adversely affect the existence or priority of the lien created under this section.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, § 7, 7-1-03)

12.45.120 Penalties.

- A. A rental agency who fails to file a tax return within seven calendar days following its due date shall automatically incur a civil penalty for each tax return not filed equal to ten percent of the taxes actually due the municipality for each violation of this subsection. A rental agency who fails to remit the full amount of taxes due within seven calendar days following its due date shall automatically incur a civil penalty equal to ten percent of the taxes actually due the municipality but remaining unpaid for each violation of this subsection. If a person fails to pay the full amount of taxes due or file a tax return required under this chapter within 16 calendar days after its due date, each of the aforementioned civil penalties shall be automatically increased from ten percent to twenty-five 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 tax return when such tax payment or tax return is delinquent for seven calendar days after its due date.
 - 3. The penalties provided for in this subsection shall be in addition to all other penalties and interest provided for under this chapter.
- B. A rental agency that has failed to file a tax return or remit the taxes due to the municipality by the due date for three consecutive quarters may be required by the department to file tax returns and remit taxes due at the end of each month within 30 days after the end of the month being reported. If the rental agency subsequently files tax returns and remits taxes due for 12 consecutive months without incurring penalties and interest, the Department may allow the rental agency to resume filing tax returns and remitting taxes quarterly.
- C. A rental agency who willfully fails to collect or remit the tax levied by this chapter shall incur a civil penalty equal to twice the amount of the tax which should have been collected.
- D. The department may revoke a certificate of registration issued under this chapter for any violation of this chapter. If a rental agency fails to remit substantially all (at least 95 percent) of the taxes due under this chapter within 45 calendar days of the due date, the department shall revoke the rental agency's certificate of registration issued under this chapter and the rental agency shall incur a civil penalty up to and including an amount equal to the unpaid delinquent taxes.
- E. A managing member, officer, director, and owner of an enterprise engaged in business as a rental agency without a certificate of registration issued under this chapter is personally liable for all taxes which should have been collected and remitted to the municipality plus a penalty equal to 25 percent of the tax which should have been collected in addition to all costs, taxes, interest and other penalties due under this chapter. The municipal attorney may petition the court for injunctive relief against a person engaged in business as a rental agency without a certificate of registration issued under this chapter.
- F. Civil and criminal penalties shall be cumulative remedies and shall not relieve a rental agency or person renting a motor vehicle of the duties imposed under this chapter.
- G. Any person who violates any provision of this chapter shall be liable for a civil penalty of up to \$1,000.00 for each separate violation. Where multiple instances of the same violation occur, each instance shall constitute a separate violation.

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(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, §§ 8, 9, 7-1-03)

12.45.130 Interest.

In addition to any penalties imposed by this chapter, interest at the rate of 12 percent per annum shall accrue and be due from the rental agency on the unremitted balance of taxes after the date on which their remittance was due.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.140 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 tax period for which remitted, first to the payment of costs and then to penalties, interest, and taxes in that order. If the rental agency does not specify the tax period, then the payment shall be credited first to the oldest tax period for which there is an outstanding amount due, then to the payment of costs, penalties, interest, and the same items due in the next oldest tax period, in that order.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.150 Maintenance and inspection of documents and records.

- A. Motor vehicle rental transactions. Any person who collects fees and costs for the rental of a motor vehicle shall keep and preserve sufficient records to document each rental of a motor vehicle. The collection of advance deposits constitutes the collection of fees and costs for the purposes of this subsection. Records shall be kept and preserved within the municipality for not less than two calendar years after the end of the calendar year in which such records are created and shall be made available for inspection by the department upon request. Sufficient records shall include, but not be limited to:
 - 1. All rental contracts and accounting records reflecting the rental of each motor vehicle for which the rental agency received fees and costs, and the total fees and costs received therefor;
 - 2. The renter's name, address, beginning and ending dates of the rental period, motor vehicle identification number (VIN#) or license plate number, and all fees and costs charged to the renter, as recorded on the rental contract or otherwise; and
 - 3. Books of account, journals, ledgers, or other compilations of source documents that reconcile to total fees and costs earned as listed on the tax returns filed with the department under the authority of this chapter.

- B. Tax-exempt transactions. It shall be the responsibility of each rental agency to obtain and preserve sufficient evidence to support all claimed exemptions from payment, collection, or remittance of the rental vehicle tax. Specification in this subsection of the records to be kept by a rental agency shall not relieve the rental agency of its responsibility to keep sufficient records. A rental agency shall keep and preserve in the municipality at least the following minimum records for two calendar years after the end of the calendar year in which created:
 - 1. All the information and records required under subsection A. of this section;
 - 2. A record of the method of payment in cases where an exemption is claimed for a motor vehicle rental;
 - 3. In the case of a claimed foreign government employee exemption as provided in this chapter, a copy of the identification card issued by the United States Department of State, which shall be attached to the rental contract or otherwise cross-referenced to that rental contract;
 - 4. Evidence which demonstrates fees and costs "paid directly," such as copies of documents, copies of bills, invoices, purchase orders, treasury warrants, or other payment arrangement made

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directly between the rental agency and the person or entity by which the fees and costs were "paid directly." A rental agency shall cross-reference the appropriate rental contract with the evidence of direct payment which qualifies for an exemption by attaching a copy of the supporting evidence to the rental contract or by reciprocal notations on the affected rental contract and on the evidence supporting such an exemption;

5. Such other records, documents, and information as the department may require by regulation or notice to the rental agency as reasonably necessary and convenient to its administration and enforcement of this chapter.
- C. Fleet inventory. It shall be the responsibility of the rental agency to obtain and preserve sufficient information on the motor vehicles the rental agency controls or offers for rent to enable the department to perform inspections of records pursuant to this chapter. Specification in this chapter of the records to be kept by a rental agency shall not relieve the rental agency of its responsibility to keep sufficient records. A rental agency shall keep and preserve in the municipality at least the following minimum records for two calendar years after the end of the calendar year in which created:
1. For motor vehicles owned by the rental agency, the vehicle registration and title documents issued by the State of Alaska Department of Motor Vehicles. If the motor vehicle has been sold or otherwise transferred to another person, then copies of the vehicle registration and title documents as well as documents or records reflecting the date of the sale or transfer shall be retained.
 2. For motor vehicles controlled but not owned by the rental agency, all documents and accounting records which reflect the rental agency's authority to rent or lease a motor vehicle on behalf of the registered owner of the motor vehicle. These records include but are not limited to the following:
 - a. Name, physical address, mailing address (if different), and phone numbers of the registered owner of the motor vehicle;
 - b. Identification of the motor vehicle, such as a record of the license plate number and the state which issued the license plate;
 - c. Rental contract, lease agreement, or similar documents of a contractual nature between the registered owner of the motor vehicle and the rental agency reflecting the agency's authority to offer the motor vehicle for rent and the contracted period of time for which the rental agency has the authority to offer the motor vehicle for rent;
 - d. Documents and records reflecting any periods of time when the motor vehicle is not available for rent by the rental agency due to the registered owner's personal use of the motor vehicle;
 - e. Documents and records reflecting the total fees and costs collected by the rental agency and the amounts subsequently paid to the registered owner of the motor vehicle, including any deductions for items including but not limited to maintenance, repairs, and commission charges.
- D. During normal business hours, the chief fiscal officer, upon presentation of proper identification, may inspect the records which a rental agency is required to maintain under this section, or inspect the records of a person whom he has probable cause to believe is a rental agency in order to determine whether that person is a rental agency. Upon notice of the department's intent to inspect records, a person or rental agency shall retain such records and preserve their availability to the department until released by the department in writing, regardless of whether such retention and preservation continues beyond the two-year period specified in this section.
- E. Where the Constitution of the United States or of the State of Alaska so requires, the chief fiscal officer shall obtain an administrative search warrant authorizing an inspection and shall exhibit the warrant to the person in charge of the premises before conducting the inspection. The chief fiscal officer shall apply to the trial courts of the state of Alaska to obtain an administrative search warrant, stating in the application

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the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned to the court by which issued within ten days after the date issued.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.160 Confidentiality of records.

- A. Records of financial transactions kept by persons and businesses required pursuant to this chapter for the purpose of collecting and administering this vehicle tax shall be considered confidential and shall not be disclosed to any person except employees and agents of the municipality and only for official purposes.
 - 1. It is the duty of the chief fiscal officer to safety keep tax returns filed under this chapter, all data taken therefrom, and all financial information obtained from an inspection of the rental agency's records in accordance with this chapter secure from public and private inspection except as provided by this section.
 - 2. Records of rental agencies shall not be disclosed except upon court order, when necessary to enforce the provisions of or to collect the taxes due under this chapter, or for inspection by the mayor, chief fiscal officer, municipal attorney, internal auditor, municipal assessor, or assembly in the performance of their official duties.
- B. This section does not prohibit the municipality from compiling and publishing statistical information concerning the data submitted provided no identification of particular tax returns or rental agency information, data, or financial information is made.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.170 Remedies for a person aggrieved.

- A. Any person aggrieved by any action or determination of the department under this chapter may request a hearing before the chief fiscal officer within 30 days from the date the department mails notice of its action or determination.
 - 1. An application for a hearing shall notify the department of the specific action or determination contested and the amount of tax, interest, cost or penalty contested, and the reason for such contest.
 - 2. The uncontested portion of any tax due under this chapter shall be paid when due regardless of any application for a hearing. Payment of the total amount due may be made at any time before the hearing. If the department has reasonable cause to believe that collection of the total amount due might be jeopardized by delay, immediate payment of the total amount may be demanded and the department may pursue any collection remedies provided by law. Payment in full does not affect a person's right to a hearing.
- B. The hearing officer shall conduct the hearing, prepare findings and conclusions, and forward them to the chief fiscal officer for adoption, rejection, or modification and issuance of a final order or decision.
- C. Upon timely application for a hearing under this section, a hearing will be held and a decision or determination rendered in accordance with Chapter 3.60 to determine whether a correction or reversal of the department's action or determination is warranted.
 - 1. If a person requesting a hearing fails to appear at the hearing, the hearing officer shall issue a decision without taking evidence from that person, unless the person shows reasonable cause for failure to appear within seven days after the date scheduled for the hearing.
- D. Within 30 days after receipt of a written final decision by the chief fiscal officer, a person aggrieved by the decision may appeal the decision to the State of Alaska Superior Court of the Third Judicial District.

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1. The person aggrieved shall be given access to the department's file in the matter for preparation of such appeal.
 2. Taxes, costs, penalties, and interest declared to be due in the decision of the chief fiscal officer shall be paid within 30 days after the date of the decision or a supersedeas bond guaranteeing their payment shall be filed with the court in accordance with Alaska Court Rules of Appellate Procedures.
- E. If, after the appeal to the Superior Court is heard, it appears that the action or determination of the department and/or the decision of the chief fiscal officer was correct, the court shall confirm such action, determination or decision, as the case may be. If the department's action or determination or the chief fiscal officer's decision was incorrect, the court may determine the proper action, determination or decision. If the person aggrieved is entitled to recover all or part, of any tax 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.

(AO No. 2000-116(S), § 3, 7-18-00)

12.45.180 Administration.

The chief fiscal officer of the municipality shall implement and administer this chapter.

(AO No. 2000-116(S), § 3, 7-18-00)