

A nighttime photograph of a city skyline with snow-capped mountains in the background. The city lights are reflected in a body of water in the foreground. The sky is a deep blue.

AO 2020-55
MOTOR VEHICLE RENTAL TAX
Caps off? Not so fast ...

ASSEMBLY COUNSEL

Assembly Worksession July 24, 2020

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Finance Department
For reading: June 2, 2020

ANCHORAGE, ALASKA
AO No. 2020-55

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.45, RENTAL TAX ON RENTAL OF MOTOR VEHICLES, TO REMOVE THE MAXIMUM TAX COLLECTED ON THE RENTAL OF PASSENGER CARS, VANS, TRUCKS, AND RECREATIONAL VEHICLES WITHIN THE 30-DAY PERIOD; TO ESTABLISH THE DUTIES AND RESPONSIBILITIES OF A RENTAL VEHICLE HOSTING PLATFORM; AND TO ESTABLISH THE RULES AND RESPONSIBILITIES OF RENTAL AGENCIES WHO USE A HOSTING PLATFORM TO CONDUCT MOTOR VEHICLE RENTAL TRANSACTIONS.

“The proposed ordinance also eliminates the maximum tax cap of \$120 on passenger cars and \$240 on vans, trucks, and recreational vehicles within the first 30-day rental period, consistent with practices by other jurisdictions.”



Section 2. Anchorage Municipal Code section 12.45.020 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

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 first thirty (30) day period of 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]

*** *** ***

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



Charter:

Section 14.01. - Taxing authority.

...

(b) Unless otherwise provided in this Charter, no sales tax ordinance is valid until ratified by three-fifths ($3/5$) of those voting on the question at a regular or special election, except the tax imposed by Charter § 14.05 shall be effective if approved by a majority (50%+ one) of the qualified voters voting on the question.

REGULAR ELECTION
APRIL 4, 2000

MUNICIPAL OFFICIAL BALLOT

B-1

PROPOSITION 3

RENTAL TAX ON RENTAL MOTOR VEHICLES

Shall Anchorage Ordinance 2000-45 (am), enacting an eight percent (8%) rental tax on the retail rental of passenger motor vehicles within the Municipality be ratified?

This vehicle tax is subject to (under) the tax increase limitation of Charter Section 14.03 (the "Tax Cap"). Imposition of the vehicle tax under this ordinance would effect a substitution for property and other taxes. (AO 2000-45(am))

YES +
NO +



AO 2000-45, As Amended

- A short ordinance with a few new provisions necessary to levy the tax, the salient section:

12.45.010 Vehicle Rental Tax

- A. A tax of eight percent (8%) 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 thirty (30) day period shall not exceed \$120.00, and the maximum tax that may be collected on vans, trucks, and recreational vehicles within the thirty (30) day period shall not exceed \$240.00.**



Can the Max Tax Cap be removed by Ordinance?

- *Alliance of Concerned Taxpayers, Inc. v. Kenai Peninsula Borough*, 273 P.3d 1128 (Alaska 2012).
 - 1964 voter authorization of a sales tax “of up to three percent”
 - tax rate was decreased to 2% by the Borough in 1975, without voter ratification
 - Ordinance 9 increased the Borough sales tax from 2% to 3% without ratification by the voters.
 - Held: the Borough had a “right” to impose a sales tax at a levy of 3% as approved by the voters, therefore it did not need voter approval to increase from 2% to 3%
- Reliance on a California case, quoting:
 - “[A] local taxing entity can enforce less of a local tax than is due under a voter-approved methodology, or a grandfathered methodology, and later enforce the full amount of the local tax due under that methodology without transgressing [the voter approval proposition].... ***The evil to be counteracted is the increase of local taxes beyond what was formerly approved.***”



NO.

Voters approved “shall not exceed” amounts of tax within a 30-day period

Without Voter approval, to collect more per rental of up to 30 days is

EVIL

