

AO 2020-57(S) Alcoholic Beverages Retail Sales Tax Enforcement Ordinance

Assembly Worksession

June 19, 2020

2:10 p.m. - 3:10 p.m.

Summary Timeline - Phase I

- ▶ April 7 - Municipal election: retail alcohol sales tax ballot #13
- ▶ April 13 thru May 18 - Series of Draft Ordinances distributed to Alcohol Industry, seeking input and dialogue re: additional changes / refinement to the enforcement ordinance (with assistance from Northern Compass Group)
- ▶ April 21 - Municipal election certified
- ▶ May 22 - Alcohol tax webpage published with submitted ordinance and other early information posted
- ▶ June 2 - Assembly introduction of enforcement ordinance
- ▶ June 23 - Assembly Public Hearing / Approval

Development of AO 2020-57(S)

April 7, 2020: Proposition 13 (AO 2019-148 (S-1)) approved by voters

- ▶ Retail sales tax on alcoholic beverages of 5% dedicating the revenue to public safety and health purposes
- ▶ 1st Step: Administrative/Enforcement Ordinance approval needed in June 2020
- ▶ 2nd Step: Use of funds Ordinance to be separately drafted by Assembly Counsel and submitted later in 2020

AO 2020-57: Ordinance amending AMC by enacting chapter 12.65

- ▶ Covers the administration and enforcement of the retail alcoholic beverages sales tax
- ▶ Provisions closely match State of Alaska statutes and regulations, using language that minimizes amending 12.65 if changes are made to SOA statutes and regulations or other MOA code provisions
 - Retailer shall possess a current business license as required by AS 43.70, and a current State of Alaska alcohol retail license or permit as required by AS 04.11
- ▶ Provisions similar to other Treasury tax enforcement codes to minimize potential ambiguities and reduce administration and enforcement costs

Development of AO 2020-57(S)

Background on nature and sources of AMC 12.65 provisions

- ▶ The wording used in the various sections of AMC 12.65 regarding administration and enforcement of the new retail alcohol sales tax is modeled extensively after the various other special sales tax AMC Chapters covering room tax, rental vehicle tax and retail marijuana sales tax.
- ▶ The rules and standards cited in AMC 12.65 and other similar self-reported municipal tax AMC chapters reflect many years of prior history, knowledge and practical experience gained in administering and enforcing these types of self-reported taxes.
- ▶ For a typical, compliant operator the primary relevant sections of AMC 12.65 include: obtaining and maintaining a certificate of registration, eligibility and collecting, reporting and remitting the 5% tax on all taxable retail alcohol sales. The majority of the other sections in AMC 12.65 will not apply as long as the operator stays in compliance with core requirements and responsibilities cited in Code.
- ▶ Many of the Code sections are written to protect the Municipality from revenue loss and to cite progressive enforcement measures available for use if particular situations warrant such action.

Enacting AMC 12.65 Re: Retail Alcohol Sales Tax

Table of Contents

AMC Section		AMC Section	
12.65.010	Definitions	12.65.080	Certificate of registration: required
12.65.020	Applicability of chapter	12.65.090	Certificate of registration: application
12.65.030	Alcoholic beverages retail sales tax	12.65.100	Certificate of registration: denial
12.65.040	Tax exemptions	12.65.110	Certificate of registration: expiration
12.65.050	Intent and purpose of chapter and taxpayer	12.65.120	Certificate of registration: surrender, suspension, or revocation
12.65.060	Tax receipts to be segregated and held in trust of the municipality	12.65.130	Certificate of registration: transfer or assignment
12.65.070	Certificate of registration: eligibility	12.65.140	Fiduciary duties

Enacting AMC 12.65 Re: Retail Alcohol Sales Tax

Table of Contents (cont'd)

AMC Section		AMC Section	
12.65.150	Security for fiduciary performance	12.65.220	Tax avoidance, civil fraud
12.65.160	Tax return and remittance	12.65.230	Tax lien
12.65.170	Amended tax returns	12.65.240	Collection of taxes, interest, penalties, and costs
12.65.180	Application of payments	12.65.250	Prohibited acts
12.65.190	Tax refunds	12.65.260	Interest
12.65.200	Confidentiality of records	12.65.270	Penalties
12.65.210	Maintenance and inspection of documents and records	12.65.280	Remedies for a person aggrieved

Key Highlights of AMC 12.65

- ▶ One-time registration rather than recurring
- ▶ No initial filing fee
- ▶ Surety Bond is not a default requirement for all alcohol retailers... only for those with high risk factors cited in Code
- ▶ Monthly filing on or before the last day of each month following the month of retail alcohol sales activity
- ▶ Required Online Filing, to the extent the Municipality makes it available, with a waiver process for paper filing
- ▶ Special event retailers with SOA permits addressed in Code
- ▶ De minimis rule established for special permit holders with gross retail alcohol sales <\$5,000
- ▶ Added to list of prohibited acts and associated penalties the Municipality's option to protest any party, including wholesalers, who provide alcohol product, or other means in support of an unregistered alcohol Retailer

Addt'l Provision Contained in AO 2020-57(S) Regarding Remote Sellers

- ▶ **Section 2.** If the Municipality evaluates and considers that participation in the Alaska Remote Seller Sales Tax Commission (“Commission”) is warranted for the purpose of collecting the alcoholic beverages retail sales tax from remote sellers located outside of the municipality who sell to local consumers, the Assembly hereby grants the following:
 - ▶ A. *Authorization.* The Mayor or Manager is authorized to negotiate, execute, and submit all necessary documents to obtain and maintain membership in the Commission.
 - ▶ B. *Representation.* The Mayor, Manager, Chief Fiscal Officer or designee is designated as the Municipality’s representative on the Commission.
 - ▶ C. *Governance.* The Alaska Remote Seller Sales Tax Code shall be adopted by reference for the exclusive purpose of collecting the alcoholic beverages retail sales tax from remote sellers located outside of the municipality who sell to local consumers.
 - ▶ D. *Effective Date.* Collection of taxes under the Alaska Remote Seller Sales Tax Code shall occur no sooner than February 1, 2021.

“S” Version Changes

Excerpted Body of Text from AM 306-2020(A)

17 This memorandum describes the changes recommended compared to the originally
18 submitted AO 2020-57, in accordance with Anchorage Municipal Code section 2.30.050E.

19
20 The substantive changes in the S-version are:

- 21
22 1. Clarify that the certificate of registration issued by Treasury will include the name
23 of the owner of the retailer only if the retailer is owned by a business entity.
- 24
25 2. Change the automatic expiration of the certificate of registration, based on a
26 change of ownership of the retailer or the owner of the retailer, if the owner is a
27 business entity, to only occur when there is a change in stockholders, partners, or
28 members with an ownership interest of ten percent (10%) or more.
- 29
30 3. Remove the redundancies in the Prohibited Acts and Penalties sections.

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32
33 **THE ADMINISTRATION RECOMMENDS APPROVAL OF THE S-VERSION.**

Summary of Economic Effects (cont'd)

PUBLIC SECTOR ECONOMIC EFFECTS:

The proposed 5% retail alcoholic beverage tax would take effect on February 1, 2021. During the first partial year of implementation in 2021, the proposed tax would generate about \$10M and \$14M from February through December 2021. During the first full year of implementation in FY 2022 and thereafter, the proposed tax would generate between \$11M and \$15M annually. These revenue estimates are based on comparisons to Fairbanks and Juneau, which currently have similar retail alcoholic beverage taxes in place. The estimates for Anchorage assume the same exemptions as Juneau and Fairbanks on the retail sales of alcoholic beverages. The actual revenues may be lower if the Assembly, by ordinance, enacts different exemptions for certain licensees or types of alcoholic beverages. The anticipated costs starting in FY 2020 are primarily associated with setup of a database module to support the new tax. The full cost of administering and enforcing this new tax is to be paid with revenue collected from the tax.

PRIVATE SECTOR ECONOMIC EFFECTS:

The tax would be collected by retail liquor licensees located in the Municipality of Anchorage from consumers when they sell alcoholic beverages at bars, restaurants, and package stores. The sources may change before the tax is effective if the Assembly by ordinance exempts certain licensees or types of alcoholic beverages. If voters approve this proposed ballot measure, the result would be \$0.40 on an \$8 six-pack of beer, \$0.50 on a \$10 mixed drink, \$1.75 on a \$35 bottle of wine, and \$2.50 on a \$50 bottle of liquor.

Summary Timeline - Phase II

- ▶ June thru October 2020 - Further development of website, application form, tax returns, FAQ's
- ▶ Late June - December 2020 - Develop IT database project and online filing supporting new retail alcohol sales tax
- ▶ July thru August 2020 - Update job specs and position descriptions; hire 2 additional enforcement staff (i.e., 1 desk auditor and 1 field auditor)
- ▶ Nov/Dec 2020 thru January 2021 - Pre-registration of retail alcohol businesses subject to the 5% sales tax, at least 60 days prior to alcohol sales tax start date
- ▶ December 2020 thru January 2021 - Develop operating procedures, audit procedures
- ▶ February 1, 2021 - retail alcohol businesses subject to the new 5% tax, begin tracking collection of the tax
- ▶ March 31, 2021 - first monthly filing date for retail alcohol businesses to report and remit the 5% alcohol tax collected during the month of February 2021

Conclusion

- ▶ Administration recommends approval of AO 2020-57(S) at the 6/23/2020 Assembly meeting
- ▶ Additional Q&A