
AO 2020-55
Rental Vehicle Tax Amendment
Ordinance

Assembly Worksession

July 24 , 2020

2:30 p.m. – 3:30 p.m.

Summary Timeline

- June 2 – Introduced Ordinance to Assembly
- June 23 – Assembly Public Hearing Closed & Approval Delayed at request of Turo
- July 28 – Assembly Approval
- October 1 – Ordinance Revised Effective Date
- Early January 2021 – Introduction of Possible April 2021 Ballot Ordinance to Remove Dollar Cap
- January 30, 2021 – First Filing Due for 4th Quarter 2020
- April 6, 2021 – Regular Municipal Election with Possible Ballot Ordinance to Remove Dollar Cap

AO 2020-55 Summary

Ordinance amending AMC 12.45

- Adds the definition of 'hosting platform' to AMC 12.45.010
- Further adds the requirement for hosting platforms to register, collect and remit motor vehicle rental tax similar to room tax, similar to room tax (e.g., Airbnb, VRBO, etc.)
- All other definitions and requirements remain the same

Amendments to AO 2020-55

- Delete Section 2 regarding dollar cap*
- Revise Section 4 regarding effective date (i.e. extending until Oct. 1, 2020)

**Per MOA Law Dept., if Administration and/or Assembly support removal of the dollar cap, this requires voter approval and a ballot ordinance to be introduced by early January 2021 for the April 2021 Municipal election.*

Original S.E.E. (removing Dollar Cap Provision)

Summary of Economic Effects- General Government

AO Number: 2020-55

Sponsor: MAYOR
 Preparing Agency: FINANCE/TREASURY
 Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:

	(In Thousands of Dollars)				
	FY20	FY21	FY22	FY23	FY24
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:	\$ 100	\$ 520	\$ 780	\$ 820	\$ 860
CAPITAL:					

POSITIONS: FT/PT and Temp

Note: Removal of dollar cap provision is estimated to raise nearly \$500k in additional tax dollars from rental vehicles in FY2021

Revised S.E.E. (maintaining current Dollar Cap Provision)

Summary of Economic Effects -- General Government

AO Number: 2020-55

Sponsor: MAYOR
 Preparing Agency: FINANCE/TREASURY
 Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:

	(In Thousands of Dollars)				
	FY20	FY21	FY22	FY23	FY24
Operating Expenditures					
1000 Personal Services					
2000 Non-Labor					
3900 Contributions					
4000 Debt Service					
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -
Add: 6000 Charges from Others					
Less: 7000 Charges to Others					
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUES:	\$ 10	\$ 70	\$ 110	\$ 120	\$ 120
CAPITAL:					
POSITIONS: FT/PT and Temp					

Note: Rental vehicle tax falls within the Tax Cap. Without dollar cap provision removed, the City foregoes opportunity to provide property tax relief.

Additional Comments / Perspective

- “P2P car sharing refers to the sharing of privately-owned vehicles in which companies (such as Turo) broker transactions among car owners and renters by providing the organizational resources needed to make the exchange possible (e.g., online platform, customer support, driver and motor vehicle safety certification, and auto insurance).”*
- “In a 2018 Forbes interview, a representative from the American Car Rental Association contended that P2P car sharing companies are renting cars, explaining that “[t]hey are profiting from renting cars. And they are renting cars to consumers. The argument that these companies are simply facilitators didn’t work for Airbnb and Uber, and it won’t work for the peer-to-peer car rental companies.”*
- There is no distinction between “sharing” of real or personal property, both are tangible and subject to existing special sales tax codes. The rental of real and personal property through a marketplace facilitator is subject to those same codes. Nor are Airbnb or Turo “sharing” property; money is being exchanged for temporary use by a guest. This constitutes renting of property, regardless whether it’s real or personal.

**Connecticut General Assembly, Office of Legislative Research, 2018-R-0326, www.cga.ct.gov/olr*

Turo Information Requests

Communication with Turo with regards to AO 2020-55

- August 17, 2017 – Initial letter to Turo
- June 2, 2020 – Advance notice letter
- June 23, 2020 – Turo requests delay in vote
- June 25, 2020 – Treasury emails Turo
- July 2, 2020 – Treasury emails Turo
- July 10, 2020 - Treasury emails Turo
- July 20, 2020 – Treasury emails Turo / Turo provides initial response

Appendix

Email Communications with Turo
from 6/25/2020 thru 7/20/2020

From: Moore, Daniel A.
To: Moore, Daniel A.
Subject: FW: Follow-up re: Turo and collection of tax for gov't jurisdictions
Date: Tuesday, July 21, 2020 3:16:12 PM

From: Moore, Daniel A. <daniel.moore@anchorageak.gov>
Sent: Monday, July 20, 2020 4:47 PM
To: Kyndell Gaglio <kyndell@turo.com>
Cc: Reiswig, Paula K. <paula.reiswig@anchorageak.gov>; Slivka, Alexander H. <alexander.slivka@anchorageak.gov>; Sean Vinck <svinck@turo.com>
Subject: Re: Fw: FW: Follow-up re: Turo and collection of tax for gov't jurisdictions

Kyndell--

Thank you for sending Turo's response. It is helpful to have these additional details. We will review it closely. Can you provide more information on what tax Turo collects for Quebec? This was part of our initial question, but was not included in your answer. Turo's website references that you collect tax for Quebec. Also, below are some initial comments to help further inform Turo:

- The MOA originally reached out in 2013 via formal letter to RelayRides, which was later taken over by Turo.
- The MOA then reached out in 2017 via formal letter to Turo. The third and most recent formal letter was sent to Turo on June 2, 2020. In all cases we assumed the mail was properly forwarded to Turo by the USPS if a mailing address had changed.
- The MOA is a Home Rule Municipality meaning we have the power of taxation at the local level, and we do not rely on the State to enact sales type taxes.
- Neither the SOA nor the MOA have a general sales tax, however we each have a special sales type tax applicable to the rental/booking of vehicles.
- The MOA has registered vehicle renting/booking entities that do not have traditional business locations -- this is not a singular requirement for being subject to Anchorage Municipal Code.
- The nexus issue and the U.S. Supreme Court ruling applies to Turo conducting rental/booking transactions of vehicles within the MOA's boundaries.
- The cleanest, fairest, most efficient way to bring Turo and similar unregistered businesses into the fold, is to have Municipal Code changed so that the tax rate and collecting/remitting/reporting requirements are the same for all entities involved with renting/booking vehicles in exchange for monetary consideration. Establishing one-off voluntary agreements with individual Turo-like businesses is no longer necessary with the Wayfair decision in place.
- We agree that Turo would not be directly paying the 8% tax on rental/booking of vehicles. Instead, Turo would be required under AO 2020-55 to collect and remit the tax to the MOA on

a quarterly basis. We recognize that this tax is paid by the renter of the vehicle and not by Turo or any other business involved in the rental/booking of vehicles.

--Turo directly competes with the traditional brick-and-mortar rental vehicle businesses. Our objective is to have the 8% tax on rental/booking of vehicles apply to all involved entities, and to not have a special rate or a special agreement in lieu of the Municipal Code language.

Thank you again for Turo's initial response. Please provide response to the Quebec question and any other information that ties to the two original questions where Turo is still working on answering.

*Daniel Moore, Municipal Treasurer
Municipality of Anchorage
ph. (907) 343-4092
fax (907) 343-6677*

From: Kyndell Gaglio <kyndell@turo.com>
Sent: Monday, July 20, 2020 1:39 PM
To: Moore, Daniel A. <daniel.moore@anchorageak.gov>
Cc: Reiswig, Paula K. <paula.reiswig@anchorageak.gov>; Slivka, Alexander H. <alexander.slivka@anchorageak.gov>; Sean Vinck <svinck@turo.com>
Subject: Re: Fw: FW: Follow-up re: Turo and collection of tax for gov't jurisdictions

Hi Daniel,

Thanks for the follow up and your patience. Because we are collaborating with such a high volume of states, municipalities, and entities, these requests can take time. Since your initial email we have been working with various internal teams to try and make sense of your requests and to get you appropriate responses. This has been fairly challenging as your initial communication appeared to imply and presuppose that there are multiple jurisdictions in which our platform, and by extension our community members, are not in compliance with the governing law. You are also seeking proprietary information which is not subject to disclosure. Therefore, a lengthier turnaround time has proven necessary in addressing your request.

In formulating a response, it has also become evident that we are missing information that would be helpful to us in working with you. I'm including one of my colleagues, Sean Vinck, here who has ample experience in this policy area and can outline items that will be helpful to us in ensuring you get more detailed answers where applicable. Until then, please see responses below.

Please provide a comprehensive list naming all government jurisdictions in U.S. or Canada where Turo is currently collecting a vehicle rental sales tax (or other type of

tax tied to booking or renting a vehicle) on behalf of the government jurisdiction and then remitting such tax to the government jurisdiction on a recurring basis. Please also list all government jurisdictions in which Turo has formally committed to, or is currently in-process of, implementing a change to its Turo customer platform (or other means) to collect aforesaid tax on behalf of government jurisdictions.

Turo collects and remits state sales and use taxes in 17 jurisdictions - 16 states and the District of Columbia - in accordance with State laws (and in the case of D.C., a district ordinance) adopted in the aftermath of the Supreme Court's decision in *South Dakota v. Wayfair* imposing collection and remittance duties upon marketplace facilitators while lacking a physical presence in the state, nevertheless meet an empirical test set forth in state law to establish "economic nexus" with the jurisdiction. These include Arkansas, Connecticut, Idaho, Kentucky, Maine, Massachusetts, Nebraska, New Jersey, New Mexico, North Carolina, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Utah, Wisconsin, and Washington DC.

It's important to establish that the trend of states that have enacted statutes regulating peer-to-peer car sharing have consistently and emphatically differentiated peer-to-peer car sharing from the traditional brick-and-mortar rental industry. The manner in which your question above is phrased suggests that peer-to-peer car sharing falls under the same category as vehicle rental and thereby implies that the specialized taxes that many states and localities impose on the traditional brick and mortar rental industry apply equally to peer-to-peer car sharing.

In fact, the emerging trend among states that have enacted legislation regulating peer-to-peer car sharing has been to emphasize and further underscore that peer-to-peer car sharing is not rental car. Many of the states that differentiate peer-to-peer car sharing, defining it as wholly distinct from rental car, also assign a separate and lower tax to peer-to-peer car sharing than what is applied to rental car transactions. This is due to the common recognition that peer-to-peer car sharing is not the same as a traditional rental car transaction

Jurisdictions that apply a special peer-to-peer car sharing tax in lieu of a rental tax include:

Rental Tax

Peer-to-Peer Tax

-
-
- Maryland
- 11.5%

8%

-
-
-
- Indiana (Indianapolis)
- 10% (4% state + 6% local)
- 4% (2% state +2% local)
-
-
-
- Virginia
- 10%
- 6.5%
-
-
-
- Tennessee (eff. 7-15-20)
- 3%
- 0%(rental
- tax not applicable)
-
-
-
- West Virginia.
- \$1.50/day
- \$0
- (rental tax not applicable)
-

Please explain why Turo has not voluntarily complied with Anchorage Municipal Code (AMC) 12.45 which covers all types of rented / booked vehicles, and what justification Turo offers to explain its non-voluntary compliance with AMC 12.45 when considering that Airbnb and Vrbo fully and voluntarily came into compliance with AMC 12.20 which covers all types of rented / booked rooms?

Upon review, we believe that current law, specifically AMC 12.45, is inapplicable to our peer-to-peer car sharing platform. This is clear from the plain language of the Ordinance itself. AMC 12.45 defines "rental agency" as "any person engaged in the retail business of renting or leasing motor vehicles." A rental agency must obtain a certificate of registration in order to conduct business. To be eligible to obtain the certificate of registration, an applicant must, "Have arranged for locations intended for the rental agency's business that comply with the municipal land use ordinances and regulations." This mandate imposes a condition that is factually impossible for a peer-to-peer car sharing platform to satisfy. Turo has no employees or agents or contractors physically present in the State of Alaska or in the City

of Anchorage. Turo neither owns nor leases any real property of any kind there. Turo has no offices anywhere in the State. Turo does not own any vehicles of any kind in Anchorage, Alaska, or anywhere else.

Furthermore, Turo has not engaged in "non-voluntary compliance" activities with respect to the code section in question. Until the ordinance under consideration was proposed, no one from the City had to our knowledge ever contacted our company in any fashion regarding this or any other issue. Therefore it is inaccurate to state that Turo has engaged in "non-voluntary compliance".

AMC 12.20 deals with the occupancy of real property whereas peer-to-peer car sharing has to do with the sharing of tangible personal property. Airbnb and VRBO offer a different suite of products and services than what a peer-to-peer car sharing program offers. Also, according to public records, the City of Anchorage entered into an agreement with Airbnb two years before the City enacted an ordinance. While we are certainly open to entertaining such a discussion, no agreement has yet been reached or even broached.

Also, during the Tuesday night Assembly meeting and in your email to Assembly members you indicated that Turo had not received notice of the public hearing for AO 2020-55 re: hosting platforms used for rental / booking of vehicles. MOA Treasury notified Turo in a formal letter dated and mailed 6/2/20, which was three weeks in advance of the public hearing. I've attached the letter for reference. Attached with the letter was the proposed ordinance. We also informed other hosting platform businesses engaged in renting/booking vehicles within the MOA boundaries, in advance of the 6/23 public hearing date and in a similar format as the letter sent to Turo.

As we notified you upon receiving the letter electronically, the initial letter was addressed incorrectly and therefore never delivered to us. Other peer-to-peer sharing platforms we've spoken with said they also did not receive notification.

Please note that AMC 12.45 has no de minimis clause and we do in fact have "locals", as you refer to in your 6/23/20 email, registered with the MOA under AMC 12.45, however we recognize that there is a notable volume of vehicle rentals/bookings that involve hosting platform businesses such as Turo, and such hosting platform businesses are not paying the local tax, unlike their competitors... and this is the basis for AO 2020-55. Lastly, I read some of what one of the Assembly members had responded back re: AMC 12.45, and I would emphasize that official communications and interpretation or explanation of AMC 12.45 is the direct responsibility of the Finance Department / Treasury Division, in consultation with the Municipal Attorney's Office. Turo and other persons subject to AMC 12.45 should only rely on the named administrator of AMC 12.45 for any interpretation or explanation of AMC 12.45 regarding administration or enforcement of this particular tax.

It does not appear that any of our competitors, other peer-to-peer car sharing

platforms, are collecting and remitting any vehicle rental tax to the City of Anchorage. Also worth noting, no peer-to-peer car sharing platform, rental company, nor any car sharing company "pay" any vehicle rental tax to the City of Anchorage. In every case, the consumer, which currently is predominantly your local constituents, pays the tax.

Please let us know if you'd like to discuss a voluntary agreement similar to the one the city created with Airbnb, or if it would be helpful to speak by phone prior to the worksession.

Regards,

Kyndell

On Mon, Jul 20, 2020 at 12:52 PM Moore, Daniel A. <daniel.moore@anchorageak.gov> wrote:

Kyndell--

We're at the end of our time waiting for a response from Turo to our 2 questions from 6/25. On 7/2 you said in your email that Turo was still working on a response. I have followed up with you multiple times. The last email I sent to you was on 7/10, and I never received any response back from you or anyone else at Turo. In total, over 3.5 weeks have transpired since we sent our 2 questions to Turo for needed response. We asked for this information in order to be prepared for a full dialogue with the Municipal Assembly at the upcoming worksession this coming Friday (7/24). The Assembly requires all presentation materials to be provided to them 2+ days in advance of their scheduled worksession dates. We are finalizing our presentation today and tomorrow. It doesn't speak well for Turo that your company has not provided a written response to the 2 questions we asked in the 6/25 email, and that we're approaching the eleventh hour getting ready for the Assembly worksession without any baseline information received from Turo.

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fax (907) 343-6677*

From: Moore, Daniel A.

Sent: Friday, July 10, 2020 5:55 PM

To: Kyndell Gaglio <kyndell@turo.com>

Cc: Reiswig, Paula K. <paula.reiswig@anchorageak.gov>; Slivka, Alexander H.

<alexander.slivka@anchorageak.gov>

Subject: RE: FW: Follow-up re: Turo and collection of tax for gov't jurisdictions

Kyndell—

I haven't received any response to the questions I first sent you to on 6/25 (see email chain below). It's been 15 days since the original request and now 10 days past the original requested response date. There is an Assembly worksession re: the rental vehicle ordinance scheduled on 7/24, which is just 2 weeks away. It's very important that we receive a timely response from Turo to the questions we sent on 6/25. Last Thursday, you committed to providing us with a response this week.

Please send Turo's response by **no later than Monday, 7/13**. Turo has had ample time to reply to the questions posed, at this point.

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From: Kyndell Gaglio <kyndell@turo.com>
Sent: Thursday, July 2, 2020 4:16 PM
To: Moore, Daniel A. <daniel.moore@anchorageak.gov>
Cc: Reiswig, Paula K. <paula.reiswig@anchorageak.gov>; Slivka, Alexander H. <alexander.slivka@anchorageak.gov>
Subject: Re: FW: Follow-up re: Turo and collection of tax for gov't jurisdictions

Hi Daniel,

We're still preparing the info you requested and should have it to you next week.

Have a wonderful 4th of July holiday!

-Kyndell

On Thu, Jul 2, 2020 at 2:10 PM Moore, Daniel A. <daniel.moore@anchorageak.gov> wrote:

Kyndell—

Just following-up on the info request email (see below) from last week. We had asked for a response back from Turo by 7/1. Please let us know the status before EOD today, and how soon we can expect to receive Turo's response. Also, if Turo has any specific comments re: the wording related to hosting platforms in the Ordinance currently before the Assembly (i.e., AO 2020-55, attached), please provide MOA Treasury with any such suggested wording changes and/or comments specific to the Ordinance, for our consideration, by the end of next week (7/10). Note: I believe there may be an Assembly Worksession scheduled sometime later this month to discuss AO 2020-55, and it looks like section 2 of the ordinance will be eliminated through amendment or through an substitute ("S") version of the ordinance.

*Daniel Moore, Municipal Treasurer
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From: Moore, Daniel A.
Sent: Thursday, June 25, 2020 5:13 PM
To: Kyndell Gaglio <kyndell@turo.com>
Cc: Reiswig, Paula K. <paula.reiswig@anchorageak.gov>; Slivka, Alexander H. <alexander.slivka@anchorageak.gov>
Subject: RE: Follow-up re: Turo and collection of tax for gov't jurisdictions

Thanks, Kyndell, for confirming receipt of our request. And thank you for the address update. Note: I clarified wording below in blue, to clarify that our focus is on the collection and remittance by Turo of the 8% sales tax on rented/booked vehicles. The MOA's tax is not a business expense of Turo; it is a pass-through tax paid by the end-

consumer that is required to be collected and remitted by the entity managing the transaction of renting/booking a vehicle.

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From: Kyndell Gaglio <kyndell@turo.com>
Sent: Thursday, June 25, 2020 4:46 PM
To: Moore, Daniel A. <daniel.moore@anchorageak.gov>
Cc: Reiswig, Paula K. <paula.reiswig@anchorageak.gov>; Slivka, Alexander H. <alexander.slivka@anchorageak.gov>
Subject: Re: Follow-up re: Turo and collection of tax for gov't jurisdictions

Hi Daniel,

I'll review your request and get back to you.

Thanks for forwarding the letter. For your records, our office is located at 111 Sutter Street, and not the address where the letter appears to have been sent. While I can't speak to why the relevant contacts at other platforms I spoke with believed they weren't notified in advance, perhaps the incorrect mailing address explains why Turo did not receive notice.

-Kyndell

On Thu, Jun 25, 2020 at 1:17 PM Moore, Daniel A. <daniel.moore@anchorageak.gov> wrote:

Ms. Gaglio—

As a follow-up to the email you sent on Tuesday (6/23/20) to Municipal Assembly members, please respond to the information request below on or before 7/1/20:

- Please provide a comprehensive list naming all government jurisdictions in U.S. or Canada where Turo is currently collecting a vehicle rental sales tax (or other type of tax tied to booking or renting a vehicle) on behalf of the government jurisdiction and then remitting such tax to the government jurisdiction on a recurring basis. Please also list all government jurisdictions in which Turo has formally committed to, or is currently in-process of, implementing a change to its Turo customer platform (or other means) to collect aforesaid tax on behalf of government jurisdictions.
- Please explain why Turo has not voluntarily complied with Anchorage Municipal Code (AMC) 12.45 which covers all types of rented / booked vehicles, and what justification Turo offers to explain its non-voluntary compliance with AMC 12.45 when considering that Airbnb and Vrbo fully and voluntarily came into compliance with AMC 12.20 which covers all types of rented / booked rooms?

Also, during the Tuesday night Assembly meeting and in your email to Assembly members you indicated that Turo had not received notice of the public hearing for AO 2020-55 re: hosting platforms used for rental / booking of vehicles. MOA Treasury notified Turo in a formal letter dated and mailed 6/2/20, which was three weeks in advance of the public hearing. I've attached the letter for reference. Attached with the letter was the proposed ordinance. We also informed other hosting platform businesses engaged in renting/booking vehicles within the MOA boundaries, in advance of the 6/23 public hearing date and in a similar format as the letter sent to Turo.

Please note that AMC 12.45 has no de minimis clause and we do in fact have "locals", as you refer to in your 6/23/20 email, registered with the MOA under AMC 12.45, however we recognize that there is a notable volume of vehicle rentals/bookings that involve hosting platform businesses such as Turo, and such hosting platform businesses are not collecting and remitting the local tax, unlike their competitors... and this is the basis for AO 2020-55. Lastly, I read some of what one of the Assembly members had responded back re: AMC 12.45, and I would emphasize that official communications and interpretation or explanation of AMC 12.45 is the direct responsibility of the Finance Department / Treasury Division, in consultation with the Municipal Attorney's Office. Turo and other persons subject to AMC 12.45 should only rely on the named administrator of AMC 12.45 for any interpretation or explanation of AMC 12.45 regarding administration or enforcement of this particular tax.

We look forward to receiving response to the above two bullets. Thank you for your

help in ensuring that we receive this information back timely.

*Daniel Moore, Municipal Treasurer
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