

*Postponed Indefinitely*  
*2-14-06*

Submitted by:

Dan K. Coffey,  
Assembly Vice Chair  
October 11, 2005

For reading:

ANCHORAGE, ALASKA  
No. AO 2005-126(S)

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 12 TO  
2 ENACT A SALES AND USE TAX ON THE SALE OF GOODS WITHIN THE  
3 MUNICIPALITY FOR THE EXCLUSIVE PURPOSE OF REDUCING PROPERTY  
4 TAXES PROPORTIONATELY THROUGHOUT THE MUNICIPALITY, WITH  
5 CERTAIN EXEMPTIONS, WITH A CAP AND WITH REIMBURSEMENT FOR  
6 COLLECTION, ALL WITHIN THE TAX CAP, SUBJECT TO A SUNSET PROVISION,  
7 AND SUBMITTING THE QUESTION OF WHETHER OR NOT TO APPROVE A  
8 SALES TAX TO THE QUALIFIED VOTERS OF THE MUNICIPALITY AT ITS NEXT  
9 REGULAR ELECTION ON APRIL 4, 2006 WITH RE-APPROVAL REQUIRED AT A  
10 SUBSEQUENT REGULAR ELECTION AS ESTABLISHED BY ORDINANCE.  
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12  
13 **Section 1.** Anchorage Municipal Code title 12 is amended by enacting a new chapter 12.50  
14 to read as follows:

15 **Chapter 12.50**  
16 **Tax on the Sale and Use of Goods**  
17

- 18 12.50.010 Sales and use tax.  
19 12.50.020 Purpose.  
20 12.50.030 Definitions.  
21 12.50.040 Non-taxable sales and exemptions.  
22 12.50.050 Obligation for payment of tax; disposition of excess collections; liability  
23 for uncollected taxes.  
24 12.50.060 Presumption of taxability; sales price and value.  
25 12.50.070 Certificate of registration.  
26 12.50.080 Maintenance of records required.  
27 12.50.090 Tax receipts segregated and held in trust.  
28 12.50.100 Tax returns: remitting and reporting requirements.  
29 12.50.110 Timely filing allowance.  
30 12.50.120 Confidentiality of information.  
31 12.50.130 Security for fiduciary performance.  
32 12.50.140 Certificates of exemption.  
33 12.50.150 Prohibited acts.  
34 12.50.160 Penalties.  
35 12.50.170 Collection of taxes.  
36 12.50.180 Tax lien.  
37 12.50.190 Remedies of person aggrieved.  
38 12.50.200 Tax cap limitation.  
39 12.50.210 Implementation and regulations.  
40 12.50.220 Amendments.  
41 12.50.230 Expiration and re-authorization.

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43 **12.50.010** **Sales and use tax.**  
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- 1           A.     *Sales Tax Imposed.* A sales tax of three percent (3%) is hereby levied on the sales  
2                   of all goods sold within the municipality, except as provided in this chapter.  
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- 4           B.     *Use Tax Imposed.* A use tax at the same rate as the sales tax in subsection A., for  
5                   the privilege of use within the municipality, is hereby levied on the person using  
6                   the following goods acquired on or after January 1, 2007:  
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- 8                   1.     Goods manufactured in the municipality, only if the person manufacturing  
9                   the good is not engaged in the business of manufacturing for resale to an  
10                   end user; or  
11
- 12                   2.     Goods acquired outside of the municipality and primarily used within the  
13                   municipality, if the acquisition is the result of a transaction subject to the  
14                   sales tax if it had occurred in the municipality.  
15
- 16           C.     *Credit for taxes previously paid.* The use tax levied under this section shall be  
17                   adjusted in accordance with AS 29.45.650(c) if the person subject to the use tax  
18                   provides proof, in the form required by the department, the person previously paid  
19                   a sales tax on the goods.  
20
- 21           D.     To the fullest extent permitted under the law and constitutions of the United  
22                   States and the State of Alaska, and under the Charter, a person who has nexus  
23                   within the municipality and whose sales are not subject to the sales taxes shall  
24                   collect the use tax from the purchaser and pay the tax collected to the  
25                   municipality.  
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27           **12.50.020**     **Purpose.**  
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29           *Property Tax Relief.* The purpose of this chapter is to provide real property tax relief to  
30                   the property owners of the municipality. The net receipts from the sales tax, after  
31                   payment of the costs of administration, collection and audit to the municipality, shall be  
32                   applied to reduction of real property taxes equally throughout the municipality so the  
33                   benefits of the reduction in property taxes are shared throughout the municipality.  
34

35           **12.50.030**     **Definitions.**  
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37           The following words, terms and phrases, when used in this chapter, shall have the  
38                   meanings ascribed to them in this section, except where the context clearly indicates a  
39                   different meaning:  
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- 41                   1.     *Certificate of Exemption* shall mean a certificate issued by the  
42                   municipality to a consumer qualifying as an "Exempt Consumer" of goods  
43                   upon application by the consumer demonstrating its entitlement to such  
44                   exemption. The consumer shall provide the certificate to a seller of goods  
45                   at the time of purchase in order to obtain the permitted exemption.  
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- 47                   2.     *Charitable Non-profit Organization* shall mean an organization  
48                   recognized by the Internal Revenue Service as organized for charitable

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purposes.

3. **Chief Fiscal Officer** shall mean the chief fiscal officer of the municipality or his designee.
4. **Church** shall mean a religious organization which has obtained a Certificate of Exemption from the municipality.
5. **Consumer** shall mean a person who purchases and takes title to goods in a transaction involving the payment of consideration by the consumer to the seller.
6. **Department** shall mean the finance department of the municipality.
7. **Exemption** shall mean a buyer is exempt under a provision of this chapter, or the sale itself is exempt under a provision of this chapter.
8. **Goods** shall mean all tangible personal property sold to a consumer either for cash or on credit or in an exchange of property or other consideration.
9. **Food** shall mean goods that may be lawfully purchased with food stamp program benefits issued under 7 U.S.C. 2011 – 2025 (Food Stamp Act) or purchased with food instruments, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Nutrition Program for Women, Infants and Children).
10. **Person** shall mean 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.
11. **Prescription medicine** shall mean all medicine and any medical goods prescribed by a physician licensed to practice medicine in the State of Alaska.
12. **Retail sale** shall mean the sale of goods by a person with a business license issued by the State of Alaska or by a person with the required nexus to the municipality in the ordinary course of business within the municipality, to a consumer not exempt under the provisions of this chapter.
13. **Resale** shall mean the sale of goods by a seller of raw materials either consumed in the manufacturing process or which become a component part of a product manufactured for sale, or a sale of goods sold to a

1 licensed general or specialty building contractor when the goods sold  
2 becomes a component part of the residence or commercial structure being  
3 constructed by the licensed contractor.  
4

5 14. **Services** shall mean all services of every manner and description  
6 performed or furnished for compensation as required to install, construct,  
7 repair or complete specified results or end products and includes, but is  
8 not limited to, professional services, services in which a product or sale of  
9 property may be involved, repair, transportation, advertising, recreation,  
10 amusement, craftsmen's services, and services wherein labor and materials  
11 are provided to accomplish a specific result.  
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13 15. **Seller** shall mean every person, whether acting as principal, agent or  
14 employee, who makes a retail sale subject to this tax.  
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16 16. **Selling price** shall mean consideration paid, whether by money, credit,  
17 exchange, or expressed in terms of money paid, by the consumer to the  
18 seller.  
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20 **12.50.040 Non-taxable sales and exemptions.**  
21

22 A. The following sales are not taxable under this chapter:  
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24 1. Purchases of food with a food stamp, coupon, or other type of certificate  
25 under 7 U.S.C. 2011 – 2025 (Food Stamp Act), or 42 U.S.C. 1786 (special  
26 supplemental nutrition program for women, infants, and children).  
27

28 2. Sales to or uses by an agency of the United States government, an  
29 instrumentality of the State of Alaska as that term is defined in AS  
30 39.52.960, a municipality or school district, including the Anchorage  
31 School District, or a Native entity or tribe included on the federal list  
32 published under 25 U.S.C. 479a-1.  
33

34 3. Sales to foreign diplomats under the Foreign Missions Act (22 U.S.C. §  
35 4301 *et seq.*).  
36

37 4. Purchases by the Alaska Life and Health Insurance Guaranty Association,  
38 under AS 21.79.130.  
39

40 5. Sales or use of goods related to an orbital space facility, pursuant to AS  
41 29.45.650(h).  
42

43 6. Other sales or uses the municipality is prohibited from taxing under the  
44 federal or state Constitutions or laws of the United States or the State of  
45 Alaska.  
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47 B. The municipality hereby declares the following exemptions from the tax imposed  
48 by this chapter:

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1. Purchases of food.
  2. Purchase of prescription medicine and/or medical goods prescribed by a physician licensed in the United States.
  3. The tax on the sale or use of any one good shall not exceed \$500.00.
  4. Sales by a church, a charitable non-profit organization, or a private or parochial school, provided the sale of goods is incidental and is not part of a business conducted for profit.
  5. Isolated sales of goods by one individual to another when the seller is not engaged in the business of selling the goods.
  6. Rental of personal property, unless the rental transaction for personal property provides a right of purchase at the end of the rental contract.
  7. The sale or rental of real property.
  8. The resale of goods not sold to the end user of the goods.
  9. The sale of general circulation newspapers.
  10. The sale of contracts of insurance.
  11. The sale of internet, telephone or television services.
  12. The sale of goods or services already subject to excise taxes imposed by the municipality, including but not limited to bed taxes, tobacco taxes and motor vehicles rental taxes.

**12.50.050**     **Obligation for payment of tax; disposition of excess collections; liability for uncollected taxes.**

- A. The consumer is obligated to pay sales and use tax under this chapter and it shall be collected by the seller at the time of the sale transaction or acquisition. The tax rate is applied to the selling price.
  1. If a consumer produces a certificate of exemption issued by the municipality pursuant to section 12.50.140 at the time of the sale transaction, the seller shall not collect the tax. The seller shall retain verification of the exempt status of the transaction in its records. If no verification is retained, the seller is liable for the uncollected taxes.
  2. If the consumer to a sales transaction does not produce an exemption certificate issued by the municipality, but the transaction is in fact exempt

1 under federal, state, local or other law, the seller is not liable for the  
2 uncollected tax, provided verification of the purchaser's exemption is  
3 retained in the seller's records or otherwise readily available and reported  
4 to the department.  
5

6 3. Any uncollected sales and use tax under this subsection, which should  
7 have been collected, is a liability of the seller.  
8

9 4. If the selling price cannot be determined for purposes of calculating the  
10 amount of sales and use tax, the fair market value of the goods at the time  
11 of sale or acquisition shall be subject to the sales and use tax.  
12

13 B. All sales and use taxes collected pursuant to this chapter are municipal funds for  
14 which the seller is at all times liable to the municipality. The seller is liable for all  
15 monies collected from the purchaser as sales and use tax in excess of the tax  
16 imposed by section 12.50.010. The seller shall make reasonable efforts to return  
17 excess tax collected to the purchaser. If the seller is unable to return it, the excess  
18 tax collected shall be reported and remitted to the municipality with the regular  
19 tax return.  
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21 C. Any person acquiring an ownership interest in the accounts receivable of a  
22 business, whether by purchase, foreclosure, or otherwise, shall also be liable for  
23 the payment of taxes, penalties, interest, fees and costs accruing and unpaid to the  
24 municipality from those accounts receivable.  
25

26 D. Any person acquiring an ownership interest in an ongoing business, whether by  
27 purchase, foreclosure or otherwise, shall also be liable for the payment of any  
28 taxes, penalties, interests, fee or costs owed to the municipality for taxes collected  
29 by the former owner or seller of the business.  
30

31 E. The president and any officer, member, manager or agent of a corporation or  
32 limited liability company with control of, supervision of, or charged with the  
33 responsibility of filing sales and use tax returns or remitting sales and use taxes is  
34 personally liable for any unpaid taxes, penalties, interest, fees and costs accruing  
35 and unpaid to the municipality. Dissolution of, or sale of, or other change in the  
36 form of the corporation or company does not discharge this personal liability.  
37

38 F. The municipality may pursue collection of unpaid and unremitted taxes as  
39 provided in this chapter.  
40

41 **12.50.060 Presumption of taxability; sales price and value.**  
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43 A. To prevent evasion of the sales and use tax and to aid in its administration, it is  
44 presumed:  
45

46 1. All sales of goods by a person engaging in business in the municipality are  
47 subject to the tax, unless exempt by this chapter; and  
48

1                   2.     All goods purchased or sold by any person for delivery into the  
2                                   municipality are purchased or sold for a taxable use in the municipality.  
3

4           B.     In a sale where the selling price does not represent the value of the goods  
5                   purchased, the sales and use tax shall be imposed on the value of the goods  
6                   purchased or acquired.  
7

8           C.     For purposes of this section, the sales price or value of property shall be  
9                   determined as of the time of acquisition, introduction into the municipality, or  
10                   conversion to use, whichever is latest.  
11

12           D.     If the department has reasonable cause to believe a seller structured a transaction  
13                   to avoid collecting or remitting the tax levied under this chapter, the department  
14                   may declare there is a rebuttable presumption that the substance of the transaction  
15                   is a taxable retail sale under this chapter and proceed to establish, levy and collect  
16                   the tax together with costs, penalties and interest as provided for in this chapter.  
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18           **12.50.070     Certificate of registration.**  
19

20           A.     *Required; display.* Except as otherwise provided in this chapter, every seller  
21                   operating within the municipality shall obtain a certificate of registration from the  
22                   department. The seller shall obtain a certificate of registration prior to conducting  
23                   business in the municipality and shall prominently display the certificate at the  
24                   registered place of business.  
25

26                   1.     A business with multiple sales locations may obtain one certificate of  
27                                   registration, provided the application lists every place of business located  
28                                   within the municipality. Each location shall prominently display a copy of  
29                                   the certificate of registration, except:  
30

31                                   a.     A vending machine seller is not required to display the certificate  
32   or to list each vending machine location.  
33

34                                   b.     A roving business vendor, as defined in chapter 10.60, shall list as  
35   its business location the physical address or location where it  
36   conducts business a majority of the time, and include a valid  
37   mailing address.  
38

39                                   c.     The department may direct a business with multiple or mobile  
40   locations to display or make available the certificate in a  
41   reasonable location and manner.  
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43           B.     *Application.* Each seller shall apply for a certificate of registration on a form  
44                   provided by the department containing information the department may require.  
45                   There shall be no charge for the application or issuance of a certificate of  
46                   registration.  
47

48           C.     *Contents.* A certificate of registration shall bear the name of the seller, the

1 address of the primary place of business, the address or physical location of each  
2 and every location where the applicant sells goods in the municipality, the seller's  
3 form of business organization, the seller's method of accounting, and state  
4 whether the seller is exempt from collecting the sales and use tax under sections  
5 12.50.040 or 12.50.140.

6  
7 D. It is the responsibility of the seller named on an issued certificate to inform the  
8 department of any changes to the information contained in the application and  
9 certificate of registration.

10  
11 E. *Expiration.* If the holder of a certificate of registration ceases to engage in  
12 business, changes its name, changes its form of business organization, changes  
13 ownership, or ceases to be exempt from collecting the tax under sections  
14 12.50.040 or 12.50.140, its certificate of registration automatically expires.  
15 Expiration is effective on the date of the change in circumstances resulting in  
16 expiration by operation of law. Within ten (10) days of the expiration, the seller  
17 shall:

18  
19 1. Surrender an expired certificate of registration to the department for  
20 cancellation.

21  
22 2. Notify the department in writing of the date and the name, telephone and  
23 address of any person to whom the seller's business or accounts receivable  
24 of the business described in the returned certificate of registration is  
25 leased, conveyed or otherwise relinquished or transferred together with a  
26 brief description of the circumstances causing the expiration of the seller's  
27 certificate and the date it expired; and

28  
29 3. File a final tax return for the period subsequent to the seller's last tax  
30 return together with all taxes collected and other payments due in the  
31 manner required for filing tax returns, remitting taxes collected and  
32 payment of other sums due under this chapter.

33  
34 F. The department may require an applicant applying for a certificate of registration  
35 who has previously been fined or subject to penalties under this chapter, or had a  
36 certificate of registration under this chapter revoked, suspended, or cancelled as a  
37 penalty, to obtain and submit a guarantee for its performance under this chapter in  
38 accordance with section 12.50.130. Proof of the security shall be submitted to the  
39 department with the application. The department shall not issue the certificate of  
40 registration until receipt of valid security is confirmed.

41  
42 G. The department may refuse to issue a certificate of registration if there is  
43 reasonable cause to believe the applicant:

44  
45 1. Structured its business or sales transactions to avoid payment of  
46 delinquent taxes, penalties, interest, or costs due under this chapter;  
47

2. Willfully withheld information requested to determine the applicant's eligibility to receive a certificate; or
3. There is reasonable cause to believe information submitted in the application is false or misleading.

**12.50.080 Maintenance of records required.**

- A. The collecting seller shall keep and preserve in the municipality for a period of three (3) calendar years after the year created, such records as are necessary and appropriate to permit the municipality to perform a meaningful audit of the seller's collection and remittance of the sales tax. Such records shall contain at least the following:
  1. All sales receipts specifying what goods were sold in the transaction, the sale price for each item, total sum for the transaction, and total tax for the transaction; and
  2. Other records the Chief Fiscal Officer may require by regulation.
- B. It shall be the responsibility of the seller to obtain and preserve evidence sufficient to support all claimed exemptions from payment, collection, or remittance of the tax for transactions subject to this chapter. Specification in this chapter of the records to be kept by a seller shall not relieve the seller of its responsibility to keep sufficient records.

**12.50.090 Tax receipts segregated and held in trust.**

Title to taxes collected pursuant to this chapter shall vest in the municipality upon collection. The seller, and its employees and agents authorized to collect tax, have a fiduciary duty to the municipality with respect to tax receipts. The taxes shall be segregated from the seller's funds and held in trust for the exclusive benefit of the municipality until remitted to the municipality.

**12.50.100 Tax returns: Remitting and reporting requirements.**

- A. A sales and use tax return is not complete unless it contains the information required by this section and is accompanied by the tax funds required. The sales and use tax return and tax monies shall be remitted by the collecting seller to the municipality quarterly, unless the seller qualifies or is required to remit and report as follows:
  1. Sellers with less than \$100 in annual tax collections may file a tax return and remit taxes on an annual basis.
  2. Sellers with \$150,000 or more in quarterly tax collections shall file a tax return and remit taxes each month.

1           3.       The department may require monthly tax returns and remittances from any  
2                   seller delinquent in remittance of sales and use taxes to the municipality,  
3                   or any other tax or fee to the municipality.  
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5       B.       The department may require any seller assigned to monthly returns due to a  
6                   delinquency to submit timely returns and remittances for twelve (12) consecutive  
7                   months before the department grants a request to restore the privilege of filing  
8                   quarterly returns. The department may deny a request to return to filing quarterly  
9                   for good cause.  
10

11       C.       Sellers operating more than one (1) location within the municipality may file  
12                   separate tax returns for each location but are allowed a single timely filing  
13                   allowance under section 12.50.110, regardless of the multiple locations.  
14

15       D.       Tax returns are due and payment in full shall be received by the last work day of  
16                   the month following the end of the quarter, the month or the calendar year for  
17                   which the tax return is filed. If this day falls on a Saturday, Sunday, or holiday  
18                   observed by the municipality, the tax return and remittance payment shall be due  
19                   the following business day.  
20

21       E.       Tax returns shall be submitted on a form provided by the department and shall  
22                   include information as the department may require. A seller shall report and remit  
23                   the sales and use tax using the same method of accounting the seller uses for  
24                   federal tax purposes.  
25

26       F.       Sellers may claim a deduction on their tax return for the amount of taxes due to  
27                   the municipality in a transaction where the total amount of the sales or use is  
28                   uncollected and recognized as bad debt. If the seller later collects on such bad  
29                   debt, the seller shall remit and report the portion of the collection attributable to  
30                   the sales and use tax to the municipality.  
31

32       G.       Sellers may claim a deduction on their tax returns for sales and use taxes  
33                   previously remitted to the municipality if such taxes were collected in error and  
34                   refunded to the consumer, or if the sales or use transaction was reversed for the  
35                   customer in accordance with the seller's established and written refund policy.  
36

37       H.       *Involuntary return.* If a seller fails to file a complete tax return as required by this  
38                   section or if the department finds a tax return is not supported by the records  
39                   required to be maintained under this chapter by the seller filing the tax return, the  
40                   department may prepare and file a tax return on behalf of the seller. Taxes  
41                   estimated on a tax return filed on behalf of a seller under this subsection may be  
42                   premised upon any information available to the department including, but not  
43                   limited to, comparative data for similar businesses. A seller for whom an  
44                   involuntary tax return is filed under this subsection shall be liable for the taxes  
45                   stated on the involuntary tax return, in addition to penalties and interest provided  
46                   for in this chapter.  
47

## Tax on Sale and Use of Goods

- 1           1.     The department shall notify the seller of determinations made under this  
2           subsubsection and include in such notice the basis of the department's  
3           calculations determining the seller's liability together with a notice of the  
4           seller's rights under section 12.50.190, that payment is due immediately  
5           and that taxes, interest, penalties and costs continue to accrue from the  
6           date taxes were due under this chapter for the period(s) covered by the  
7           determination.  
8
- 9           2.     Unless otherwise determined by the department, taxes due under this  
10          section shall be payable immediately.  
11
- 12          3.     Taxes determined under this section shall be due on the same date as if a  
13          tax return had been filed by the seller in accordance with this chapter and  
14          interest, penalties and administration costs thereon shall accrue from such  
15          due date.  
16

- 17     I.     *Responsibility of corporate officers and directors, or members of a limited*  
18     *liability company.* The director and/or corporate officer of a corporation, member  
19     of a limited liability company, or other person charged with the responsibility to  
20     report and remit a seller's taxes collected pursuant to this chapter has a fiduciary  
21     duty to ensure timely, proper, and complete tax returns are filed and the related  
22     taxes due under this chapter are remitted to the department on behalf of the seller.  
23     A director, corporate officer, member, agent, employee, or person with significant  
24     control over a corporation's or limited liability company's finances may be held  
25     personally liable for failing to timely file a complete and proper tax return under  
26     this chapter.  
27

**12.50.110**     **Timely filing allowance.**

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- 30     A.     A seller authorized to collect the sales and use tax under this chapter may retain  
31     four percent (4%) of the tax collected, up to a maximum of \$5,000.00 in a  
32     calendar year, for purposes of offsetting a portion of the costs incurred by the  
33     seller in collecting the tax for the municipality, provided the seller's tax return and  
34     remittance is received by the department on or before the due date.  
35
- 36     B.     The seller shall report on each tax return the dollar amount retained under this  
37     section for that reporting period, and the total amount retained in the calendar year  
38     up to the last day of the reporting period.  
39

**12.50.120**     **Confidentiality of information.**

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- 41
- 42     A.     The records of the seller or taxpayer retained pursuant to this chapter shall be  
43     considered proprietary and confidential, and shall not be disclosed to any person  
44     except employees and agents of the municipality acting in their official capacity  
45     and then only for purposes reasonably related to the collection and remittance of  
46     the sales tax.  
47

- 1 B. Notwithstanding subsection A., the department may, at its discretion for the sole  
2 purpose of enforcing this chapter, share any and all sales and use tax returns,  
3 registration information or other data gathered under this chapter with other  
4 federal, state and municipal tax collection agencies and other government  
5 agencies only as necessary to enforce this chapter, collect tax monies, or perform  
6 an audit.  
7

8 **12.50.130 Security for fiduciary performance.**  
9

- 10 A. *Guarantee required.* To ensure a seller subject to this chapter performs its  
11 fiduciary responsibility to timely collect, account for, safeguard, report and remit  
12 taxes levied by this chapter, under section 12.50.070F. or for other good cause  
13 shown, the department may require a seller to provide a guarantee by one or more  
14 of the methods specified in this section. The amount of the guarantee shall be in  
15 an amount the chief fiscal officer determines to be three percent (3%) of the  
16 estimated average annual sales revenues for the applicant, or \$5,000.00,  
17 whichever is greater. In the event the municipality exercises a claim against the  
18 guarantee, the seller shall provide an additional guarantee, in an amount equal to  
19 the amount of the paid claim, no later than thirty (30) days after the date such  
20 claim is paid or its certificate of registration shall be automatically revoked.  
21

- 22 B. *Methods.* The applicant seller shall include one or more of the following methods  
23 to guarantee performance of its fiduciary responsibilities at the time of application  
24 for a certificate of registration:  
25

- 26 1. *Surety bond.* The seller may elect to grant a surety bond, in an amount  
27 defined in subsection A. of this section, from a company authorized to do  
28 such business in the state. The bond shall be in a form acceptable to the  
29 municipal attorney. The bond shall be payable to the municipality and  
30 shall be conditioned upon payment in full of the tax, including penalties  
31 and interest due and to become due and owing to the municipality by said  
32 seller during the effective period of the bond under the provisions of this  
33 chapter. The surety may terminate this bond, except as to any liability  
34 already incurred or accrued, and may do so upon giving the seller and the  
35 department written notice to that effect. The surety shall provide written  
36 notice to the chief fiscal officer not less than thirty (30) days before the  
37 expiration, non-renewal, lapse, termination, or other similar event  
38 affecting such surety bond. Thirty (30) days after receipt by the chief  
39 fiscal officer of such notice or upon a later date specified in the notice, or  
40 upon the filing and acceptance of a new bond, the existing bond shall  
41 terminate and be of no further force and effect, except as to any liabilities  
42 or indebtedness incurred or accrued thereunder as of the date of  
43 termination.  
44

- 45 2. *Deposit in escrow.* The applicant seller may elect to deposit a cash sum, in  
46 an amount defined in subsection A. of this section, either with the  
47 municipality or in escrow with a responsible financial institution  
48 authorized to do such business in the state. In the case of an escrow

1 account, the seller shall file with the municipality an escrow agreement  
2 which shall include the following terms:

3  
4 a. Funds of the escrow account shall be held in trust until released by  
5 the municipality and may not be used or pledged by the seller as  
6 security in any matter during that period other than payment of the  
7 tax, penalties, and interest due and to become due and owing to the  
8 municipality under this chapter.

9  
10 b. In the case of a failure on the part of a seller subject to this section  
11 to remit taxes due under this chapter by the required due date, the  
12 institution shall immediately make all funds in such account  
13 available to the municipality for use in satisfying those taxes due,  
14 along with any related penalties and interest as provided for in this  
15 chapter.

16  
17 3. *Letter of credit.* The applicant seller may elect to produce, from a bank or  
18 other responsible financial institution authorized to do such business in the  
19 state, a letter of credit in a form acceptable to the department. Such letter  
20 shall be filed with the department and shall certify the following:

21  
22 a. The financial institution irrevocably guarantees funds in an amount  
23 defined in subsection A. of this section.

24  
25 b. In the case of failure on the part of the seller to remit taxes due  
26 under this chapter by the required due date, the financial institution  
27 shall pay to the municipality immediately and without further  
28 action such funds as are necessary to satisfy those taxes due, along  
29 with any related penalties and interest as provided for in this  
30 chapter, up to the limit of credit stated in the letter.

31  
32 4. Other forms of guarantee acceptable to the chief fiscal officer.

33  
34 C. When a seller subject to this section files a tax return and remits the full amount  
35 of taxes due under this chapter, by the due date prescribed by this chapter, for tax  
36 return periods equivalent to two (2) consecutive calendar years, the seller may  
37 submit a written request to the department for a waiver of the requirement to post  
38 a guarantee. Except as listed below, the department shall approve the request in  
39 writing, stating the date the requirement for a guarantee shall expire and any funds  
40 held by the municipality in satisfaction of the guarantee requirement returned.

41  
42 1. The department shall not approve the request and the requirement for a  
43 guarantee shall not expire when the department has reasonable cause to  
44 believe the applicant seller is a related party or related entity to another  
45 person or seller, still owing delinquent sales tax revenues for which the  
46 applicant is applying for a certificate of registration for purposes of  
47 avoiding payment of delinquencies, penalties or interest under this  
48 chapter.

- 1  
2 D. The agreement or contract, and other evidence of a guarantee under this section, is  
3 subject to inspection by the department. The department may require production  
4 of the agreement or contract providing the guarantee for inspection prior to  
5 issuing a certificate of registration.  
6  
7 E. Security for fiduciary performance under this section may be waived for an  
8 applicant seller with less than \$25,000 in annual revenues on average for the past  
9 three (3) consecutive years.

10  
11 **12.50.140**      **Certificates of exemption.**  
12

- 13 A. The department shall provide a certificate of exemption to eligible persons upon  
14 successful application by such persons. The municipality shall charge a fee for  
15 the application or issuance of the certificate of exemption, in a reasonable amount  
16 determined by the Chief Fiscal Officer.  
17  
18 1. A person regularly purchasing goods in a sale exempt from the tax under  
19 section 12.50.040 may use a certificate of exemption when those goods  
20 are purchased from a seller. The purchaser shall use the certificate only  
21 when purchasing goods in exempt transactions. Use of the certificate by  
22 any person or entity other than the purchaser to whom the certificate is  
23 issued, or for sales not exempt under section 12.50.040, is prohibited.  
24  
25 2. Application for a certificate of exemption shall be made to the department  
26 on a form provided by the department containing, in addition to such  
27 information as the department may require, the following:  
28  
29 a. The name, address and phone number of purchaser, including, but  
30 not limited to, its corporate or other ownership structure and its  
31 federal tax status;  
32  
33 b. A description of the general character of the goods to be purchased  
34 in the regular course of business, for which the goods purchased  
35 using the exemption certificate are obtained; and  
36  
37 c. The signature or electronic signature of an authorized  
38 representative of the purchaser.  
39

40 **12.50.150**      **Prohibited acts.**  
41

- 42 A. In addition to other acts and omissions prohibited by this chapter:  
43  
44 1. A person shall not fail or refuse to pay the tax imposed by this chapter  
45 when it is due and payable to a seller authorized to collect the tax.  
46  
47 2. A person may not advertise, hold out, or state to the public or to any  
48 purchaser or person directly or indirectly the sales and use tax or any part

## Tax on Sale and Use of Goods

1 of it is assumed or absorbed by the seller, or the tax is not be added to the  
2 sales price, or the tax is to be refunded, except as provided in this chapter.

- 3  
4 3. A seller shall not absorb, fail to add, or refund the sales or use tax or any  
5 part of it, unless the tax is refunded with a full or partial return or  
6 exchange of the purchased goods under the seller's usual return or  
7 exchange policy.  
8
- 9 4. A seller shall not fail to state the amount of the tax separately from the  
10 sales price to the purchaser.  
11
- 12 a. This subsection shall not apply to sales from coin-operated,  
13 currency-operated, or credit-card operated machines, sales from  
14 street vending carts and other sales where it is not feasible to  
15 require calculation of the sales tax at the time of sale under the  
16 circumstances as determined by the chief fiscal officer by  
17 regulation.  
18
- 19 5. No person may engage in business selling goods in the municipality  
20 without first obtaining a certificate of registration under this chapter.  
21
- 22 6. No person, whether or not a seller covered by a certificate of registration,  
23 shall deny the chief fiscal officer, or his agent(s), subsequent to  
24 identification during business hours or at a reasonable time, access to  
25 records of sales transactions and other accounting records for purposes of  
26 inspection under this chapter.  
27
- 28 7. No person shall charge or collect in excess of the proper amount of tax due  
29 under this chapter. Money collected as sales tax in excess of the actual  
30 sales tax owed becomes a liability of the seller under section 12.50.050.  
31
- 32 8. No person shall misuse an exemption certificate. For purposes of this  
33 subparagraph, *misuse* shall mean:  
34
- 35 a. For a purpose other than an allowed exempt purpose under this  
36 chapter; or  
37
- 38 b. Copying or distribution of the exemption certificate to any  
39 person(s) or entity(s) other than the person or business to whom it  
40 is issued, whether or not a person uses or attempts to use such  
41 duplicated certificates in a sales transaction.  
42

43 **12.50.160 Penalties.**  
44

- 45 A. The penalties provided for in this subsection shall be in addition to all other  
46 penalties and interest provided for under this chapter, notwithstanding language to  
47 the contrary.  
48

## Tax on Sale and Use of Goods

- 1           1.     A seller who fails to file a complete tax return, in accordance with  
2           section 12.50.100, within thirty (30) calendar days following its due date  
3           shall automatically incur a civil penalty for each incomplete tax return, or  
4           tax return not filed, equal to five percent (5%) of the taxes due to the  
5           municipality with that tax return as determined by the department. Such  
6           penalty shall be automatically increased by an additional five percent (5%)  
7           of the taxes due for each calendar month the return is delinquent, up to a  
8           maximum of twenty-five percent (25%) of the taxes owed. Interest shall  
9           accrue daily on the delinquent taxes at the rate of twelve percent (12%)  
10          per annum, or the maximum interest rate allowed by law, whichever is  
11          greater.
- 12          2.     A seller who fails to collect the tax levied by this chapter shall incur a civil  
13          penalty equal to twice the amount of the tax which should have been  
14          collected.

15  
16  
17     B.     Except for subsection A., unless a different penalty is provided in this chapter,  
18     any person who violates any provision of this chapter shall be liable for a civil  
19     penalty not to exceed \$1,000 for each separate violation. Where the same  
20     violation occurs multiple times, each occurrence shall constitute a separate  
21     violation. Violations of other requirements listed below subject the violator to a  
22     civil penalty not to exceed the specified amount:

- 23           1.     Failure to notify department of expired certificate of registration  
24           (section 12.05.040E.2.): \$500.00.
- 25           2.     Engaging in the business of retail sales without a certificate of registration:  
26           \$1,000.00.

27  
28  
29  
30     C.     The department may revoke, suspend, or cancel a certificate of registration issued  
31     under this chapter for any violation of this chapter.

32  
33     D.     The department may seek an abatement order or injunctive relief to address  
34     violations of this chapter.

35  
36     **12.50.170**     **Collection of taxes.**

37  
38     Taxes, interest, penalties, and administration costs due under this chapter and unpaid may  
39     be collected by referral to a collection agency, commencing a civil action for the  
40     collection of a debt, by executing a claim against security provided under section  
41     12.50.100, by foreclosure of the tax lien in accordance with AS 09.45.170 through  
42     09.45.220, by any method permitted by law, or any combination of the above.

43  
44     **12.50.180**     **Tax lien.**

45  
46     A.     The taxes and the penalties provided for herein shall constitute a lien in favor of  
47     the municipality upon all property of the person owing the tax. This lien arises  
48     upon delinquency and continues until the liability is satisfied or the lien is

1 foreclosed. When recorded, the lien shall have priority established by  
2 AS 29.45.650(e).

- 3  
4 B. The department shall record a notice of lien when the taxes are delinquent for  
5 more than thirty (30) days. The department shall serve notice of the lien to all  
6 liable persons by certified mail or process server.

7  
8 **12.50.190 Remedies of person aggrieved.**

- 9  
10 A. Any person aggrieved by any action or determination of the department under this  
11 chapter may apply to the department and request a hearing before the chief fiscal  
12 officer on the department's action or determination within thirty (30) days from  
13 the date the department mails notice of its action or determination.

14  
15 1. An application for a hearing shall notify the department of the specific  
16 action or determination contested and the amount of tax, interest, cost or  
17 penalty contested, and the reason for such contest.

18  
19 2. The uncontested portion of any tax due under this chapter shall be paid  
20 when due regardless of any application for a hearing. Payment of the total  
21 amount due may be made at any time before the hearing. If the  
22 department has reasonable cause to believe collection of the total amount  
23 due might be jeopardized by delay, immediate payment of the total  
24 amount may be demanded and the department may pursue any collection  
25 remedies provided by law. Payment in full does not affect a person's right  
26 to a hearing.

- 27  
28 B. Upon timely application for a hearing under this section, the chief fiscal officer,  
29 or an administrative hearing officer if designated by the chief fiscal officer, shall  
30 hold a hearing and render a decision or determination in accordance with chapter  
31 3.60 to determine whether a correction or reversal of the department's action or  
32 determination is warranted.

33  
34 1. If a person requesting a hearing fails to appear at the hearing, the hearing  
35 officer shall issue a decision without taking evidence from that person,  
36 unless the person shows reasonable cause for failure to appear within  
37 seven (7) days after the date scheduled for the hearing.

38  
39 2. If the chief fiscal officer designates the administrative hearing officer to  
40 conduct the hearing, the administrative hearing officer shall hold the  
41 hearing and prepare recommended findings and conclusions. These  
42 findings and conclusions shall be forwarded to the chief fiscal officer for  
43 adoption, rejection, or modification and issuance of a final order or  
44 decision by the chief fiscal officer.

- 45  
46 C. Within thirty (30) days after receipt of a written final decision by the chief fiscal  
47 officer, a person aggrieved by the decision as a matter of right may file an  
48 administrative appeal of the decision with the Superior Court of the Third Judicial

District, State of Alaska.

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 thirty (30) days after the date of the decision or a supersedeas bond guaranteeing payment shall be filed with the court in accordance with Alaska Court Rules. Amounts paid shall be held in trust by the municipality pending resolution of the appeal.

D. If the Superior Court determines 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 fourteen (14) days and attach a certified copy of the judgment to the payment.

**12.50.200 Tax cap limitation.**

The sales tax levied on the retail sale of goods pursuant to this chapter shall be subject to the tax increase limit of Charter section 14.03 (Tax Cap) and shall be included immediately in the base amount referred to in section 14.03(c) in order for the tax collected to be in substitution of other taxes.

**12.50.210 Implementation and regulations.**

The chief fiscal officer shall implement and administer this chapter, may make administrative decisions with regard to its implementation, and may adopt such regulations as may be required to implement this chapter, in accordance with the procedures of chapter 3.40.

**12.50.220 Amendments.**

Any amendment to this chapter to increase the amount of the tax or to apply the receipts from the tax to any other purpose besides property tax relief shall require the approval of sixty percent (60%) of the voters.

**12.50.230 Expiration and Re-authorization.**

This chapter shall expire on June 30, 200\_\_\_\_ unless it is re-approved by sixty percent (60%) of the voters at the regular election held on April \_\_\_\_\_, 200\_\_\_\_.

**Section 2.** A ballot proposition containing substantially the following language, together with the full text of Section 1 available for review at every voting precinct, shall be submitted to the qualified voters of the Municipality of Anchorage at its next regular election on April 4, 2006:

**Proposition**

**SALES & USE TAX ON TANGIBLE GOODS SUBJECT TO CERTAIN EXEMPTIONS AND A \$500 CAP, A PROVISION FOR PARTIAL COST REIMBURSEMENT TO SELLERS COLLECTING THE TAX, AND A SUNSET PROVISION, WITH ONE HUNDRED PERCENT (100%) OF THE TAX RECEIPTS AFTER COSTS OF COLLECTION, APPLIED EQUALLY THROUGHOUT THE MUNICIPALITY TO FUND ESSENTIAL SERVICES IN SUBSTITUTION OF PROPERTY TAXES.**

Shall Assembly Ordinance 2005-126(S) enacting a three percent (3%) sales and use tax on the retail sale or use of tangible goods within the Municipality of Anchorage, the receipts of which shall reduce property taxes and which provides for certain specified exemptions, with a cap of \$500 in tax on individual items, with a partial reimbursement provision for sellers collecting the tax, and with a sunset clause, all as provided in the Ordinance, be ratified?

This sales and use tax is subject to (under) the tax increase limitation of the Anchorage Municipal Charter section 14.03 (Tax Cap). The tax shall not raise additional revenue beyond that allowed by the Tax Cap.

Imposition of this tax by this ordinance shall reduce property taxes throughout the Municipality of Anchorage on an equal basis by application of One Hundred Percent (100%) of the receipts from the sales and use tax, after costs of collection, being applied to reduce property taxes.

**Section 3.** A ballot proposition containing substantially the following language, together with the full text of Section 1 available for review at every voting precinct, shall be submitted to the qualified voters of the Municipality of Anchorage at its regular election on April \_\_\_\_\_, 200\_\_:

**Proposition**

**RE-APPROVAL OF THE EXISTING SALES AND USE TAX ON TANGIBLE GOODS SUBJECT TO CERTAIN EXEMPTIONS AND A \$500 CAP, WITH PARTIAL REIMBURSEMENT OF COSTS TO SELLERS COLLECTING THE TAX AND WITH TAX RECEIPTS APPLIED ONE HUNDRED PERCENT (100%) OF TAX RECEIPTS, AFTER COSTS OF COLLECTION, APPLIED EQUALLY THROUGHOUT THE MUNICIPALITY TO FUND ESSENTIAL SERVICES IN SUBSTITUTION OF PROPERTY TAXES.**

Shall Assembly Ordinance 2005-126(S), enacting a three percent (3%) sales and use tax on the retail sale or use of tangible goods within the Municipality of Anchorage, the receipts of which reduced property taxes and which provides for certain specified exemptions, with a cap of \$500 in tax on individual items and with partial reimbursement to sellers collecting the tax for their costs, all as provided in the Ordinance, be re-approved?

Tax on Sale and Use of Goods

The sales and use tax shall continue to be subject to (under) the tax increase limitation of the Anchorage Municipal Charter section 14.03 (Tax Cap). The tax shall not raise additional revenue beyond that allowed by the Tax Cap.

The sales and use tax shall continue to be applied exclusively to the reduction of property taxes throughout the Municipality of Anchorage on an equal basis.

**Section 4.** Section 1 of this ordinance shall become effective on January 1, 2007, if and only if, the proposition contained in Section 2 of this ordinance is approved by sixty percent (60%) of the qualified voters of the Municipality voting on the proposition at the regular Municipal election April 4, 2006.

**Section 5.** Section 1 of this ordinance shall expire on June 30, 200\_\_\_, unless and only unless, the proposition contained in Section 3 of the ordinance is approved by sixty percent (60%) of the qualified voters of the Municipality voting on the proposition at the regular Municipal election April \_\_\_\_, 200\_\_\_.

PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Chair of the Assembly

ATTEST:

\_\_\_\_\_  
Municipal Clerk

Municipality of Anchorage  
MUNICIPAL CLERK'S OFFICE  
**Agenda Document Control Sheet**

AO 2005-126(S)

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

<b>1</b>	SUBJECT OF AGENDA DOCUMENT <b>(S) VERSION - SALES &amp; USE TAX ON THE SALE OF GOODS WITHIN THE MUNICIPALITY ...</b>	DATE PREPARED 10/07/05
		<input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
<b>2</b>	DEPARTMENT NAME <b>Assembly</b>	DIRECTOR'S NAME Anna Fairclough, Chair
<b>3</b>	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE NUMBER
<b>4</b>	<b>COORDINATED WITH AND REVIEWED BY</b>	<b>INITIALS</b>
	<b>Mayor</b>	
	Heritage Land Bank	
	Merrill Field Airport	
	Municipal Light & Power	
	Port of Anchorage	
	Solid Waste Services	
	Water & Wastewater Utility	
	<b>Municipal Manager</b>	
	Cultural & Recreational Services	
	Employee Relations	
	Finance, Chief Fiscal Officer	
	Fire	
	Health & Human Services	
	Office of Management and Budget	
	Management Information Services	
	Police	
	Planning, Development & Public Works	
	Development Services	
	Facility Management	
	Planning	
	Project Management & Engineering	
	Street Maintenance	
	Traffic	
	Public Transportation Department	
	Purchasing	
	<b>Municipal Attorney</b>	
	<b>Municipal Clerk</b>	
	<b>Other</b>	
<b>5</b>	<b>Special Instructions/Comments</b>	
	13.D.1. - CONTINUED PUBLIC HEARINGS	
<b>6</b>	ASSEMBLY HEARING DATE REQUESTED 10/11/05	<b>7</b>
		PUBLIC HEARING DATE REQUESTED 10/11/05

2005 OCT -7 AM 8:25  
 M O A  
 CLERK'S OFFICE