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Submitted by: Assemblymember Dan Sullivan
Prepared by: Assembly Counsel
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ANCHORAGE, ALASKA
AO No. 2005--188(S)

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

13 **Chapter 12.50**

14 **Tax on the Sale and Use of Goods or Services**

- 15
16 12.50.010 Sales and use tax.
17 12.50.020 Purpose.
18 12.50.030 Definitions.
19 12.50.040 Non-taxable sales and exemptions.
20 12.50.050 Obligation for payment of tax; disposition of excess collections; liability
21 for uncollected taxes.
22 12.50.060 Presumption of taxability; sales price and value.
23 12.50.070 Certificate of registration.
24 12.50.080 Maintenance of records required.
25 12.50.090 Tax receipts segregated and held in trust.
26 12.50.100 Tax returns: remitting and reporting requirements.
27 12.50.110 Timely filing allowance.
28 12.50.120 Confidentiality of information.
29 12.50.130 Security for fiduciary performance.
30 12.50.140 Certificates of exemption.
31 12.50.150 Prohibited acts.
32 12.50.160 Penalties.
33 12.50.170 Collection of taxes.
34 12.50.180 Tax lien.
35 12.50.190 Remedies of person aggrieved.
36 12.50.200 Tax cap limitation.
37 12.50.210 Implementation and regulations.
38 12.50.220 Amendments.

39
40 **12.50.010 Sales and use tax.**

- 41
42 A. *Sales Tax Imposed.* A sales tax of eight percent (8%) is hereby levied on the sales
43 of all goods or services sold within the municipality, except as provided in this
44 chapter.

Tax on Sale and Use of Goods and Services

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2 B. *Use Tax Imposed.* A use tax at the same rate as the sales tax in subsection A., for
3 the privilege of use within the municipality, is hereby levied on the person using
4 the following goods acquired on or after January 1, 2007:
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6 1. Goods manufactured in the municipality, only if the person manufacturing
7 the good is not engaged in the business of manufacturing for resale to an
8 end user; or
9
10 2. Goods acquired outside of the municipality and primarily used within the
11 municipality, if the acquisition is the result of a transaction subject to the
12 sales tax if it had occurred in the municipality.
13
14 C. *Credit for taxes previously paid.* The use tax levied under this section shall be
15 adjusted in accordance with AS 29.45.650(c) if the person subject to the use tax
16 provides proof, in the form required by the department, the person previously paid
17 a sales tax on the goods.
18
19 D. To the fullest extent permitted under the law and constitutions of the United
20 States and the State of Alaska, and under the Charter, a person who has nexus
21 within the municipality and whose sales are not subject to the sales taxes shall
22 collect the use tax from the purchaser and pay the tax collected to the
23 municipality.
24

12.50.020 Purpose.

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27 *Property Tax Relief.* The purpose of this chapter is to provide real property tax relief to
28 the property owners of the municipality. The net receipts from the sales tax, after
29 payment of the costs of administration, collection and audit to the municipality, shall be
30 applied to reduction of real property taxes equally throughout the municipality so the
31 benefits of the reduction in property taxes are shared throughout the municipality.
32

12.50.030 Definitions.

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35 The following words, terms and phrases, when used in this chapter, shall have the
36 meanings ascribed to them in this section, except where the context clearly indicates a
37 different meaning:
38

- 39 1. *Certificate of Exemption* shall mean a certificate issued by the
40 municipality to a consumer qualifying as an "Exempt Consumer" of goods
41 or services upon application by the consumer demonstrating its
42 entitlement to such exemption. The consumer shall provide the certificate
43 to a seller of goods or services at the time of purchase in order to obtain
44 the permitted exemption.
45
46 2. *Charitable Non-profit Organization* shall mean an organization
47 recognized by the Internal Revenue Service as organized for charitable
48 purposes.

Tax on Sale and Use of Goods and Services

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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 or services 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 or service itself is exempt under a provision of this chapter.
8. *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).
9. *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.
10. *Medical services* shall mean services performed by a medical provider licensed by the State of Alaska.
11. *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 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.
12. *Prescription medicine* shall mean all medicine and any medical goods prescribed by a medical provider licensed to issue pharmaceutical prescriptions in the State of Alaska.
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 licensed general or specialty building contractor when the goods sold becomes a component part of the residence or commercial structure being constructed by the licensed contractor.

Tax on Sale and Use of Goods and Services

1. Tax on the sale or use of any one good or service shall not exceed \$100.00.
2. Tax on the sale of real property shall not exceed \$500.00. Sale of real property for less than \$150,000 is exempt from tax. If the selling price of real property is greater than \$150,000 but less than \$300,000, the tax is \$250.00. If the selling price is \$300,000 or greater, the tax is \$500.00.
3. Sales by a church, a charitable non-profit organization, or a private or parochial school, provided the sale of goods or services is incidental and is not part of a business conducted for profit.
4. Isolated sales of goods or services by one individual to another when the seller is not engaged in the business of selling the goods or services.
5. Rental of personal property, unless the rental transaction for personal property provides a right of purchase at the end of the rental contract.
6. The first \$750 paid each month for rental of residential or commercial property.
7. The resale of goods not sold to the end user of the goods.
8. The sale of general circulation newspapers.
9. The sale of contracts of insurance.
10. Vending machine sales.
11. The sale of prescription medicine when not paid for by medical insurance.
12. Medical services when not paid for by medical insurance.
13. 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 retail sale. 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

1 verification is retained, the seller is liable for the uncollected taxes.
2

3 2. If the consumer to a sales transaction does not produce an exemption
4 certificate issued by the municipality, but the transaction is in fact exempt
5 under federal, state, local or other law, the seller is not liable for the
6 uncollected tax, provided verification of the purchaser's exemption is
7 retained in the seller's records or otherwise readily available and reported
8 to the department.
9

10 3. Any uncollected sales and use tax under this subsection, which should
11 have been collected, is a liability of the seller.
12

13 4. If the selling price cannot be determined for purposes of calculating the
14 amount of sales and use tax, the fair market value of the goods or services
15 at the time of sale or acquisition shall be subject to the sales and use tax.
16

17 B. All sales and use taxes collected pursuant to this chapter are municipal funds for
18 which the seller is at all times liable to the municipality. The seller is liable for all
19 monies collected from the purchaser as sales and use tax in excess of the tax
20 imposed by section 12.50.010. The seller shall make reasonable efforts to return
21 excess tax collected to the purchaser. If the seller is unable to return it, the excess
22 tax collected shall be reported and remitted to the municipality with the regular
23 tax return.
24

25 C. Any person acquiring an ownership interest in the accounts receivable of a
26 business, whether by purchase, foreclosure, or otherwise, shall also be liable for
27 the payment of taxes, penalties, interest, fees and costs accruing and unpaid to the
28 municipality from those accounts receivable.
29

30 D. Any person acquiring an ownership interest in an ongoing business, whether by
31 purchase, foreclosure or otherwise, shall also be liable for the payment of any
32 taxes, penalties, interests, fees or costs owed to the municipality for taxes
33 collected by the former owner or seller of the business.
34

35 E. The president and any officer, member, manager or agent of a corporation or
36 limited liability company with control of, supervision of, or charged with the
37 responsibility of filing sales and use tax returns or remitting sales and use taxes is
38 personally liable for any unpaid taxes, penalties, interest, fees and costs accruing
39 and unpaid to the municipality. Dissolution of, or sale of, or other change in the
40 form of the corporation or company does not discharge this personal liability.
41

42 F. The municipality may pursue collection of unpaid and unremitted taxes as
43 provided in this chapter.
44

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

Tax on Sale and Use of Goods and Services

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1. All sales of goods or services by a person engaging in business in the municipality are subject to the tax, unless exempt by this chapter; and
 2. All goods or services purchased or sold by any person for delivery into the municipality are purchased or sold for a taxable use in the municipality.
- B. In a sale where the selling price does not represent the value of the goods or services purchased, the sales and use tax shall be imposed on the value of the goods or services purchased or acquired.
- C. For purposes of this section, the sales price or value of goods or services shall be determined as of the time of acquisition, introduction into the municipality, or conversion to use, whichever is latest.
- D. If the department has reasonable cause to believe a seller structured a transaction to avoid collecting or remitting the tax levied under this chapter, the department may declare there is a rebuttable presumption that the substance of the transaction is a taxable retail sale under this chapter and proceed to establish, levy and collect the tax together with costs, penalties and interest as provided for in this chapter.

22 **12.50.070 Certificate of registration.**

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- A. *Required; display.* Except as otherwise provided in this chapter, every seller operating within the municipality shall obtain a certificate of registration from the department. The seller shall obtain a certificate of registration prior to conducting business in the municipality and shall prominently display the certificate at the registered place of business.
1. A business with multiple sales locations may obtain one certificate of registration, provided the application lists every place of business located within the municipality. Each location shall prominently display a copy of the certificate of registration, except:
 - a. A roving business vendor, as defined in chapter 10.60, shall list as its business location the physical address or location where it conducts business a majority of the time, and include a valid mailing address.
 - b. The department may direct a business with multiple or mobile locations to display or make available the certificate in a reasonable location and manner.
- B. *Application.* Each seller shall apply for a certificate of registration on a form provided by the department containing information the department may require. There shall be no charge for the application or issuance of a certificate of registration.

- 1 C. *Contents.* A certificate of registration shall bear the name of the seller, the
2 address of the primary place of business, the address or physical location of each
3 and every location where the applicant sells goods or services in the municipality,
4 the seller's form of business organization, the seller's method of accounting, and
5 state whether the seller is exempt from collecting the sales and use tax under
6 sections 12.50.040 or 12.50.140.
7
- 8 D. It is the responsibility of the seller named on an issued certificate to inform the
9 department of any changes to the information contained in the application and
10 certificate of registration.
11
- 12 E. *Expiration.* If the holder of a certificate of registration ceases to engage in
13 business, changes its name, changes its form of business organization, changes
14 ownership, or ceases to be exempt from collecting the tax under sections
15 12.50.040 or 12.50.140, its certificate of registration automatically expires.
16 Expiration is effective on the date of the change in circumstances resulting in
17 expiration by operation of law. Within ten (10) days of the expiration, the seller
18 shall:
19
- 20 1. Surrender an expired certificate of registration to the department for
21 cancellation.
22
 - 23 2. Notify the department in writing of the date and the name, telephone and
24 address of any person to whom the seller's business or accounts receivable
25 of the business described in the returned certificate of registration is
26 leased, conveyed or otherwise relinquished or transferred, together with a
27 brief description of the circumstances causing the expiration of the seller's
28 certificate and the date it expired; and
29
 - 30 3. File a final tax return for the period subsequent to the seller's last tax
31 return together with all taxes collected and other payments due in the
32 manner required for filing tax returns, remitting taxes collected and
33 payment of other sums due under this chapter.
34
- 35 F. The department may require an applicant applying for a certificate of registration
36 who has previously been fined or subject to penalties under this chapter, or had a
37 certificate of registration under this chapter revoked, suspended, or cancelled as a
38 penalty, to obtain and submit a guarantee for its performance under this chapter in
39 accordance with section 12.50.130. Proof of the security shall be submitted to the
40 department with the application. The department shall not issue the certificate of
41 registration until receipt of valid security is confirmed.
42
- 43 G. The department may refuse to issue a certificate of registration if there is
44 reasonable cause to believe the applicant:
45
- 46 1. Structured its business or sales transactions to avoid payment of
47 delinquent taxes, penalties, interest, or costs due under this chapter;
48

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 or services 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.

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- 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.
4
- 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

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- 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 or corporate officer of a corporation, member of a
19 limited liability company, or other person charged with the responsibility to report
20 and remit a seller's taxes collected pursuant to this chapter has a fiduciary duty to
21 ensure timely, proper, and complete tax returns are filed and the related taxes due
22 under this chapter are remitted to the department on behalf of the seller. A
23 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

28 **12.50.110** **Timely filing allowance.**
29

- 30 A. A seller authorized to collect the sales and use tax under this chapter may retain
31 eight percent (8%) 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

40 **12.50.120** **Confidentiality of information.**
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 eight percent (8%) 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

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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.

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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 or services in a sale exempt from the
19 tax under section 12.50.040 may use a certificate of exemption when those
20 goods or services are purchased from a seller. The purchaser shall use the
21 certificate only when purchasing goods or services in exempt transactions.
22 Use of the certificate by any person or entity other than the purchaser to
23 whom the certificate is issued, or for sales not exempt under section
24 12.50.040, is prohibited.

25
26 2. Application for a certificate of exemption shall be made to the department
27 on a form provided by the department containing, in addition to such
28 information as the department may require, the following:

29
30 a. The name, address and phone number of purchaser, including, but
31 not limited to, its corporate or other ownership structure and its
32 federal tax status;

33
34 b. A description of the general character of the goods or services to
35 be purchased in the regular course of business, for which the goods
36 or services purchased using the exemption certificate are obtained;
37 and

38
39 c. The signature or electronic signature of an authorized
40 representative of the purchaser.

41
42 **12.50.150 Prohibited acts.**
43

- 44 A. In addition to other acts and omissions prohibited by this chapter:

45
46 1. A person shall not fail or refuse to pay the tax imposed by this chapter
47 when it is due and payable to a seller authorized to collect the tax.
48

Tax on Sale and Use of Goods and Services

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2. A person may not advertise, hold out, or state to the public or to any purchaser or person directly or indirectly the sales and use tax or any part of it is assumed or absorbed by the seller, or the tax is not to be added to the sales price, or the tax is to be refunded, except as provided in this chapter.
3. A seller shall not absorb, fail to add, or refund the sales or use tax or any part of it, unless the tax is refunded with a full or partial return or exchange of the purchased goods under the seller's usual return or exchange policy.
4. A seller shall not fail to state the amount of the tax separately from the sales price to the purchaser.
 - a. This subsection shall not apply to sales from coin-operated, currency-operated, or credit-card operated machines, sales from street vending carts and other sales where it is not feasible to require calculation of the sales tax at the time of sale under the circumstances as determined by the chief fiscal officer by regulation.
5. No person may engage in business selling goods or services in the municipality without first obtaining a certificate of registration under this chapter.
6. No person, whether or not a seller covered by a certificate of registration, shall deny the chief fiscal officer, or his agent(s), subsequent to identification during business hours or at a reasonable time, access to records of sales transactions and other accounting records for purposes of inspection under this chapter.
7. No person shall charge or collect in excess of the proper amount of tax due under this chapter. Money collected as sales tax in excess of the actual sales tax owed becomes a liability of the seller under section 12.50.050.
8. No person shall misuse an exemption certificate. For purposes of this subparagraph, *misuse* shall mean:
 - a. For a purpose other than an allowed exempt purpose under this chapter; or
 - b. Copying or distribution of the exemption certificate to any person(s) or entity(s) other than the person or business to whom it is issued, whether or not a person uses or attempts to use such duplicated certificates in a sales transaction.

12.50.160 Penalties.

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

1. A seller who fails to file a complete tax return, in accordance with section 12.50.100, within thirty (30) calendar days following its due date shall automatically incur a civil penalty for each incomplete tax return, or tax return not filed, equal to five percent (5%) of the taxes due to the municipality with that tax return as determined by the department. Such penalty shall be automatically increased by an additional five percent (5%) of the taxes due for each calendar month the return is delinquent, up to a maximum of twenty-five percent (25%) of the taxes owed. Interest shall accrue daily on the delinquent taxes at the rate of twelve percent (12%) per annum, or the maximum interest rate allowed by law, whichever is greater.

2. A seller who fails to collect the tax levied by this chapter shall incur a civil penalty equal to twice the amount of the tax which should have been collected.

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

1. Failure to notify department of expired certificate of registration (section 12.05.040E.2.): \$500.00.

2. Engaging in the business of retail sales without a certificate of registration: \$1,000.00.

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

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

12.50.170 Collection of taxes.

Taxes, interest, penalties, and administration costs due under this chapter and unpaid may be collected by referral to a collection agency, commencing a civil action for the collection of a debt, by executing a claim against security provided under section 12.50.100, by foreclosure of the tax lien in accordance with AS 09.45.170 through

1 09.45.220, by any method permitted by law, or any combination of the above.
2

3 **12.50.180 Tax lien.**
4

5 A. The taxes and the penalties provided for herein shall constitute a lien in favor of
6 the municipality upon all property of the person owing the tax. This lien arises
7 upon delinquency and continues until the liability is satisfied or the lien is
8 foreclosed. When recorded, the lien shall have priority established by
9 AS 29.45.650(e).
10

11 B. The department shall record a notice of lien when the taxes are delinquent for
12 more than thirty (30) days. The department shall serve notice of the lien to all
13 liable persons by certified mail or process server.
14

15 **12.50.190 Remedies of person aggrieved.**
16

17 A. Any person aggrieved by any action or determination of the department under this
18 chapter may apply to the department and request a hearing before the chief fiscal
19 officer on the department's action or determination within thirty (30) days from
20 the date the department mails notice of its action or determination.
21

22 1. An application for a hearing shall notify the department of the specific
23 action or determination contested and the amount of tax, interest, cost or
24 penalty contested, and the reason for such contest.
25

26 2. The uncontested portion of any tax due under this chapter shall be paid
27 when due regardless of any application for a hearing. Payment of the total
28 amount due may be made at any time before the hearing. If the
29 department has reasonable cause to believe collection of the total amount
30 due might be jeopardized by delay, immediate payment of the total
31 amount may be demanded and the department may pursue any collection
32 remedies provided by law. Payment in full does not affect a person's right
33 to a hearing.
34

35 B. Upon timely application for a hearing under this section, the chief fiscal officer,
36 or an administrative hearing officer if designated by the chief fiscal officer, shall
37 hold a hearing and render a decision or determination in accordance with chapter
38 3.60 to determine whether a correction or reversal of the department's action or
39 determination is warranted.
40

41 1. If a person requesting a hearing fails to appear at the hearing, the hearing
42 officer shall issue a decision without taking evidence from that person,
43 unless the person shows reasonable cause for failure to appear within
44 seven (7) days after the date scheduled for the hearing.
45

46 2. If the chief fiscal officer designates the administrative hearing officer to
47 conduct the hearing, the administrative hearing officer shall hold the
48 hearing and prepare recommended findings and conclusions. These

Tax on Sale and Use of Goods and Services

1 findings and conclusions shall be forwarded to the chief fiscal officer for
2 adoption, rejection, or modification and issuance of a final order or
3 decision by the chief fiscal officer.
4

5 C. Within thirty (30) days after receipt of a written final decision by the chief fiscal
6 officer, a person aggrieved by the decision as a matter of right may file an
7 administrative appeal of the decision with the Superior Court of the Third Judicial
8 District, State of Alaska.
9

10 1. The person aggrieved shall be given access to the department's file in the
11 matter for preparation of such appeal.
12

13 2. Taxes, costs, penalties, and interest declared to be due in the decision of
14 the chief fiscal officer shall be paid within thirty (30) days after the date of
15 the decision or a supersedeas bond guaranteeing payment shall be filed
16 with the court in accordance with Alaska Court Rules. Amounts paid shall
17 be held in trust by the municipality pending resolution of the appeal.
18

19 D. If the Superior Court determines the department's action or determination or the
20 chief fiscal officer's decision was incorrect, the court may determine the proper
21 action, determination or decision. If the person aggrieved is entitled to recover all
22 or part, of any tax due or paid, the court shall order the repayment and the
23 department shall pay such amount within fourteen (14) days and attach a certified
24 copy of the judgment to the payment.
25

26 **12.50.200 Tax cap limitation.**
27

28 The sales tax levied on the retail sale of goods or services pursuant to this chapter shall be
29 subject to the tax increase limit of Charter section 14.03 (Tax Cap) and shall be included
30 immediately in the base amount referred to in section 14.03(c) in order for the tax
31 collected to be in substitution of other taxes.
32

33 **12.50.210 Implementation and regulations.**
34

35 The chief fiscal officer shall implement and administer this chapter, may make
36 administrative decisions with regard to its implementation, and may adopt such
37 regulations as may be required to implement this chapter, in accordance with the
38 procedures of chapter 3.40.
39

40 **12.50.220 Amendments.**
41

42 Any amendment to this chapter to increase the amount of the tax or to apply the receipts
43 from the tax to any other purpose besides property tax relief shall require the approval of
44 sixty percent (60%) of the voters.
45
46
47
48

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

5
6 **Proposition __**
7

8 **SALES & USE TAX ON TANGIBLE GOODS OR SERVICES SUBJECT**
9 **TO CERTAIN EXEMPTIONS AND LIMITATIONS INCLUDING A \$100**
10 **CAP ON THE TAX FROM THE SALE OF ANY ONE GOOD OR**
11 **SERVICE AND A GRADUATED TAX NOT TO EXCEED \$500 ON THE**
12 **SALE OF REAL PROPERTY, WITH A PROVISION FOR PARTIAL**
13 **COST REIMBURSEMENT TO SELLERS COLLECTING THE TAX, AND**
14 **FURTHER REQUIRING THAT ONE HUNDRED PERCENT (100%) OF**
15 **THE TAX RECEIPTS AFTER COSTS OF COLLECTION BE APPLIED**
16 **EQUALLY THROUGHOUT THE MUNICIPALITY TO FUND**
17 **ESSENTIAL SERVICES IN SUBSTITUTION OF FUNDING FROM**
18 **PROPERTY TAXES.**

19
20 Shall Assembly Ordinance 2005-188 enacting a eight percent (8%) sales and use
21 tax on the retail sale or use of tangible goods or services within the Municipality
22 of Anchorage, the receipts of which shall reduce property taxes and which
23 provides for certain specified exemptions, with a cap of \$100 in tax on goods or
24 services and a graduated tax not to exceed \$500 on the sale of real property, with
25 a partial reimbursement provision for sellers collecting the tax, all as provided in
26 the Ordinance, be ratified?
27

28 YES [] NO []
29

30 Imposition of this tax by this ordinance shall reduce property taxes throughout the
31 Municipality of Anchorage on an equal basis by application of One Hundred
32 Percent (100%) of the receipts from the sales and use tax, after costs of collection,
33 being applied to reduce property taxes.
34

35 This sales and use tax is subject to (under) the tax increase limitation of the
36 Anchorage Municipal Charter section 14.03 (Tax Cap). The tax shall not raise
37 additional revenue beyond that allowed by the Tax Cap.
38

39 **Section 3.** Section 1 of this ordinance shall become effective on January 1, 2007, if and only
40 if, the proposition contained in Section 2 of this ordinance is approved by sixty percent (60%) of
41 the qualified voters of the Municipality voting on the proposition at the regular Municipal
42 election April 4, 2006.
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PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____,
2006.

Chair of the Assembly

ATTEST:

Municipal Clerk

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

AO 2005-188(S)

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT Sales and Use Tax - S version	DATE PREPARED 1/30/06
		Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input type="checkbox"/> AM <input type="checkbox"/> AIM
2	DEPARTMENT NAME Assembly	DIRECTOR'S NAME Anna Fairclough, Chair
3	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY Susan Lutz - Assembly Counsel's Office	HIS/HER PHONE NUMBER 343-4572
4	COORDINATED WITH AND REVIEWED BY	INITIALS
	Mayor	
	Municipal Clerk	
	Municipal Attorney	
	Employee Relations	
	Municipal Manager	
	Cultural & Recreational Services	
	Fire	
	Health & Human Services	
	Merrill Field Airport	
	Municipal Light & Power	
	Office of Management and Budget	
	Police	
	Port of Anchorage	
	Public Works	
	Solid Waste Services	
	Transit	
	Water & Wastewater Utility	
	Executive Manager	
	Community Planning & Development	
	Finance, Chief Fiscal Officer	
	Heritage Land Bank	
	Management Information Services	
	Property & Facility Management	
	Purchasing	
	Other	
5	Special Instructions/Comments	
	Addendum - Old Business <i>J.D.L.</i>	
6	ASSEMBLY HEARING DATE REQUESTED 1/31/06	7
		PUBLIC HEARING DATE REQUESTED n/a

2005 JAN 30 AM 10:40
 CLERK'S OFFICE