

## **POSSIBLE MOTION**


**I MOVE TO** adopt the Chief Finance and Administrative Officer's interpretation of Sitka General Code 4.09.100(P) "Resale. A sale for resale of a product, service or rental to a consumer where the resale is subject to tax is exempt".

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## MEMORANDUM

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**To:** Mayor Hunter and Members of the Assembly  
Mark Gorman, Municipal Administrator

**From:** Jay Sweeney, Chief Financial and Administrative Officer 

**Date:** February 15, 2017

**Subject:** Sales Tax Interpretation 17-01

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Mayor Hunter and Members of the Assembly,

SCG 4.09.400, Rules and Regulations, provides authority to the Finance Director to interpret the meaning and applicability of sales tax regulations to specific situations requiring an interpretation and decision. The interpretation and decision rendered are subsequently required to be submitted to the Assembly for adoption or rejection.

The SGC citation is as follows:

**4.09.400 Rules and regulations**

The finance director shall from time to time cause to be promulgated rules and regulations as are necessary and advisable to provide for the application and interpretation of this chapter and to submit them to the assembly for its adoption or rejection, and to cause to be provided methods and forms for reporting and collecting the tax in accordance with this chapter and regulations. (Ord. 03-1758 § 4(B), 2004.)

In response to a question raised as to the applicability of sales tax exemption P, Resale (SGC 4.09.100 P), described in the attached Interpretation, I have interpreted the meaning and intent of the Sitka General Code to be that purchases of products in the City and Borough of Sitka, where delivery by the seller to the buyer of the products is accomplished in Sitka, but wherein the products are transported outside of the City and Borough of Sitka and resold, is not exempt from sales taxation.

In accordance with SCG 4.09.400, this interpretation is hereby submitted to the Assembly with a request for adoption.



## Sales Tax Interpretation 17-01

### Additional Clarification of Resale Tax Exemptions pertaining to resale outside of the City and Borough of Sitka

Per the City and Borough of Sitka General Code (SGC) 4.09.100, Exemptions, states:

***P. Resale. The sale for resale of a product, service, or rental to a consumer where the resale is subject to tax is exempt.***

A question has arisen as to whether or not purchases of products within the City and Borough of Sitka, with delivery of the products to the purchaser in Sitka, but resold outside of the City and Borough of Sitka in an adjacent unincorporated borough, qualify for exemption from sales tax on the purchase transaction.

The interpretation of the intent of the exemption set forth in SGC 4.09.100 P, Resale, centers on two key points:

- The physical location of the resale transaction, and,
- whether or not the follow-on retail transaction is subject to sales tax.

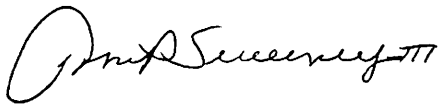
It is my interpretation of the meaning and intent of the exemption set forth in SGC 4.09.100 P that two conditions must be met for the exemption to be applicable:

- The physical location of the resale transaction must take place within the City and Borough of Sitka, and,
- The follow-on retail transaction must be subject to sales tax.

In the situation presented for interpretation, neither of the above conditions are met. The items purchased in Sitka are transported outside of the City and Borough of Sitka for resale, and, the resale is not subject to sales tax. The situation would be no different than if the items purchased in Sitka and transported and resold in another state with no state sales tax, such as Oregon or Montana.

It is my decision, under the authority granted to me by SGC 4.09.400, that the purchase of products within the City and Borough of Sitka, with delivery of the products within Sitka to the purchaser, but subsequently transported and sold outside of the City and Borough for subsequent resale, are not exempt from sales taxation under the provisions of SGC 4.09.100 P, Resale. This decision shall effective until either affirmed or reversed by the Assembly of the City and Borough of Sitka.

February 15, 2017

A handwritten signature in black ink, appearing to read "John P. Sweeney III". The signature is fluid and cursive, with a large initial "J" and "P".

John P. Sweeney III  
Chief Financial and Administrative Officer