

AS 29.45.650. Sales and use tax.

(a) Except as provided in AS 04.21.010 (c), AS 29.45.750, and in (f), (h), (i), and (j) of this section, a borough may levy and collect a sales tax on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Notwithstanding other statutes, exemptions may be granted by ordinance. A borough may wholly or partially exempt a source from a borough sales tax that is taxed by a city in that borough under AS 29.45.700.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use, or consumption of tangible personal property in the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only on buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether inside or outside the state.

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be charged from the due date until paid in full. This subsection applies to home rule and general law municipalities.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, the sales tax lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the sales tax lien for amounts actually advanced before the recording of the sales tax lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the sales tax lien. This subsection applies to home rule and general law municipalities.

(f) A borough may not levy and collect a sales tax on a purchase made with (1) food coupons, food stamps, or other type of allotment issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program); or (2) food instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975 (b) is not considered to be an allotment issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program). This subsection applies to home rule and general law municipalities.

(g) *[Repealed, Sec. 2 ch 159 SLA 1990].*

(h) A borough may not levy or collect a sales tax on sales, rents, and services, or a use tax on the storage, use, or consumption of personal property on the following activities:

(1) the sale, lease, rental, storage, consumption, or distribution in this state of or the provision of services relating to an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components of them;

(2) the sale, lease, rental, storage, consumption, or use of tangible personal property placed on or used aboard an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, regardless of whether the tangible personal property is returned to this state for subsequent use, storage, or consumption; an exemption under this paragraph is not affected by the failure of a launch to occur, or the destruction of a launch vehicle or a component of a launch vehicle.

(i) A borough may not levy or collect a sales or use tax on (1) the physical transfer of refined fuel, unless the transfer is made in connection with a sale or use in the borough, or (2) wholesale sales or transfers of fuel refined in the borough. A sale is in the borough if the fuel is delivered to the buyer in the borough. A use is in the borough if the fuel is consumed in the borough. This subsection applies to home rule and general law municipalities.

(j) The prohibitions on the levy and collection of a sales or use tax on refined fuel in (i) of this section do not apply to a borough if, on the effective date of (i) of this section, the borough is

(1) levying and collecting a sales or use tax on the sale, use, or transfer of refined fuel under an ordinance adopted before January 1, 2003; or

(2) receiving payments in lieu of a sales or use tax on the sale, use, or transfer of refined fuel under an agreement entered into before January 1, 2003.

(k) A borough may not levy or collect a sales or use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract. This subsection applies to home rule and general law municipalities.

AS 29.45.750. Mobile Telecommunications Sourcing Act.

(a) The provisions of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act) are incorporated in this chapter by reference and have effect as though fully set out in this chapter.

(b) A municipality that levies and collects a sales tax on mobile telecommunications services shall do so in accordance with the provisions of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act).

(c) The procedures and remedies for correcting a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction are as follows:

(1) if a customer believes that an amount of tax, charge, or fee or an assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider; the customer shall notify the home service provider of the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request;

(2) within 60 days after receiving a notice under this section, the home service provider shall review the records and the electronic database or enhanced zip code used according to 4 U.S.C. 116 - 126 to determine the customer's taxing jurisdiction; if this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge, or fee erroneously collected from the customer for a period of up to two years; if this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer;

(3) the procedures in this subsection are the first course of remedy available to a customer seeking correction of assignment of place of primary use or taxing jurisdiction or a refund of or other compensation for taxes, charges, and fees erroneously collected by the home service provider.

(d) For purposes of this section, if a customer does not have a street address, the home service provider may accept from the customer as the customer's place of primary use an address that is not a street address if the address gives effect to the intent of 4 U.S.C. 116 - 126 (Mobile Telecommunications Sourcing Act).

Theresa Hillhouse

From: Theresa Hillhouse [hillhouse@cityofsitka.com]
Sent: Tuesday, February 07, 2012 4:48 PM
To: 'assemblyreif@cityofsitka.com'
Subject: RE: Discussion Item

Mike – Unlike property taxes that have specific permissive and mandatory exemptions, State law re sales taxes has a few mandatory exemptions, but allows municipalities to enact any other exemptions at AS 29.45.650. AS 29.45.650 sets out the right of a borough to levy a sales tax, and lists the transactions that cannot be subject to a sales tax in subsections f (food stamps), h (space facility) i (transfer of fuel refined in borough), j (grandfather rights if taxing refined fuel), and K (state construction contracts) - (see below in bold added), and those with special rules in subsection a ({} added for explanation – alcohol and telecommunications):

Sec. 29.45.650. Sales and use tax.

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(b) A borough levying a ~~sales tax~~ may also by ordinance levy a use tax on the storage, use, or consumption of tangible personal property in the borough. The use tax rate must equal the ~~sales tax~~ rate and the use tax shall be levied only on buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a ~~sales tax~~ on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the ~~sales tax~~ paid and the amount of the use tax levied by the borough. This subsection applies to a ~~sales tax~~ levied in any taxing jurisdiction whether inside or outside the state.

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be charged from the due date until paid in full. This subsection applies to home rule and general law municipalities.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, the ~~sales tax~~ lien has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the ~~sales tax~~ lien for amounts actually advanced before the recording of the ~~sales tax~~ lien; (3) mechanics' and materialmen's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the ~~sales tax~~ lien. This subsection applies to home rule and general law municipalities.

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instruments, food vouchers, or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children). For purposes of this subsection, the value of a food stamp allotment paid in the form of a wage subsidy as authorized under AS 47.25.975 (b) is not considered to be an allotment issued under 7 U.S.C. 2011 - 2036 (Food Stamp Program). This subsection applies to home rule and general law municipalities.

(g) *[Repealed, Sec. 2 ch 159 SLA 1990].*

(h) **A borough may not levy or collect a ~~sales~~ ~~tax~~ on sales, rents, and services, or a use tax on the storage, use, or consumption of personal property on the following activities:**

(1) the sale, lease, rental, storage, consumption, or distribution in this state of or the provision of services relating to an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components of them;

(2) the sale, lease, rental, storage, consumption, or use of tangible personal property placed on or used aboard an orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, regardless of whether the tangible personal property is returned to this state for subsequent use, storage, or consumption; an exemption under this paragraph is not affected by the failure of a launch to occur, or the destruction of a launch vehicle or a component of a launch vehicle.

(i) A borough may not levy or collect a sales or use tax on (1) the physical transfer of refined fuel, unless the transfer is made in connection with a sale or use in the borough, or (2) wholesale sales or transfers of fuel refined in the borough. A sale is in the borough if the fuel is delivered to the buyer in the borough. A use is in the borough if the fuel is consumed in the borough. This subsection applies to home rule and general law municipalities.

(j) The prohibitions on the levy and collection of a sales or use tax on refined fuel in (i) of this section do not apply to a borough if, on the effective date of (i) of this section, the borough is

(1) levying and collecting a sales or use tax on the sale, use, or transfer of refined fuel under an ordinance adopted before January 1, 2003; or

(2) receiving payments in lieu of a sales or use tax on the sale, use, or transfer of refined fuel under an agreement entered into before January 1, 2003.

(k) A borough may not levy or collect a sales or use tax on a construction contract awarded by the state or a state agency, or on a subcontract awarded in connection with the project funded under the construction contract. This subsection applies to home rule and general law municipalities.