

POSSIBLE MOTION

I MOVE TO approve Ordinance 2017-08 on
second and final reading.

Memo

Thru: Mark Gorman, Municipal Administrator
To: City and Borough of Sitka Assembly Administrator
From: Jay Sweeney, Chief Finance and Administrative Officer
Date: March 8, 2017
Re: Sales Tax Penalty Abatement Ordinance 2017-08

Mayor Hunter and Assembly Members,

The Sitka General Code does not currently have any provision for abatement of penalties for late filing of sales tax returns. The penalties in place, while not out of line with other communities in Alaska, are nonetheless quite severe.

If a business files its sales tax return just one day late, the business is subject to a late fee of fifteen dollars and a penalty equal to five percent of the delinquent tax. If the return is filed more than a month late, the late fee and penalties grow larger, with an ultimate penalty of twenty five percent of the tax due. On top of the penalties and late fees, interest at 12% is charged.

The purpose of the stiff fees, penalties and interest is to provide a strong deterrent to casual disregard of sales tax law and to encourage compliance by businesses in Sitka. At the same time, however, situations occur in which fully compliant businesses make mistakes which result in taxes being remitted just a day or two late, yet a large penalty being levied.

Staff has seen multiple examples wherein fully compliant businesses have brought in sales tax returns and payment in full just one day late, due to human error or coordination issues. When the tardy businesses subsequently discover that there are no rules or guidelines for abatement of a penalty due to error and that the penalty is severe, they become quite upset and feel that the Municipality is not fostering a business-friendly atmosphere.

Accordingly, staff is recommending the following ordinance which, under certain circumstances, would afford a business with a solid record of full compliance with sales tax code an abatement of penalty if tardy filing of its sales tax return is based on human error. The abatement is based on having achieved a satisfactory period of full compliance and a rational explanation; thus, the potential for repeated abuse of the provision is muted.

The City and Borough of Juneau currently has such a policy in place and Sitka's policy was modeled after the Juneau policy. Juneau's policy has been successful and has provided a much-needed method of resolving the occasional mistake fostered by human error.

CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2017-08

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA GENERAL
CODE CHAPTER 4.09 "SALES TAX" AT 4.09.350 "PROCEDURES ON DELINQUENCIES"

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to amend the SGC 4.09.350 so that there is a means by which an entity can request abatement of delinquent sales tax penalties when certain criteria are met.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that the Sitka General Code Chapter 4.09.350 "Procedures on delinquencies" (new language underlined; deleted language stricken):

Chapter 4.09
SALES TAX

Sections:

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4.09.350 Procedures on delinquencies.

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4.09.350 Procedures on delinquencies.

A. Late Fee, Penalty and Interest. Late fee, penalty and interest will be assessed as follows:

1. A late fee will be charged if the seller does not file the proper form(s) in a timely manner for the tax due dates listed in Section 4.09.270. A fee of fifteen dollars will be charged the first month or any part of that month, with an additional twenty-five dollars added for each additional month or portion of a month, up to a maximum of one hundred dollars.

2. If the seller does not remit the sales tax then due on the dates listed in Section 4.09.270, and an abatement has not been granted under subsection (C) of this section, a penalty equal to five percent of the delinquent tax shall be added to the tax for the first month or any part of that month, an additional five percent shall be added to the tax due for each month or part of a month for delinquency, with a total penalty of twenty-five percent. It shall be assessed and collected in the same manner as the tax is assessed and collected.

3. In addition to the late fee and penalty provided in subsections (A)(1) and (2) of this section, interest at the rate of twelve percent per year on the delinquent tax from the date

47 of delinquency until paid shall accrue and be collected in the same manner as the
48 delinquent tax is collected.

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50 C. Waiver of Penalties. ~~The administrator shall waive the penalties on failure to submit tax~~
51 ~~returns if:~~ Penalties from a delinquent tax remission shall be waived if:

52 1. The seller submits a ~~written request to the administrator~~ penalty abatement request
53 form to the finance department within seven calendar days of the due date and has paid
54 the delinquent tax in full.

55 2. ~~The submitted returns have no taxable sales and no taxable events under the bed tax~~
56 ~~set out in Chapter 4.24. The seller has no past due balances with any department of the~~
57 ~~city and borough of Sitka;~~ and

58 3. The finance ~~department~~ director ~~verifies that the seller has never filed a tax return~~
59 ~~regarding sales tax or bed tax with the city and borough of Sitka.~~ not filed a late sales tax
60 return or been granted an abatement within three years of the request for abatement.

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63 5. **EFFECTIVE DATE.** Ordinance 2017-08 shall become effective the day after the date of
64 its passage.

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66 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka,
67 Alaska this 28th day of March, 2017.

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Matthew Hunter, Mayor

72 ATTEST:

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75 Sara Peterson, CMC
76 Municipal Clerk