

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2018-14

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING CHAPTER 4.09 "SALES TAX" OF THE SITKA GENERAL CODE BY DELETING SECTION 4.09.100.Y "EXEMPTION FOR PERSONS WHO HAVE REACHED THE AGE OF SIXTY-FIVE", ADDING NEW SECTION 4.09.130 "ANNUAL SALES TAX REBATE FOR PERSONS WHO HAVE REACHED THE AGE OF SIXTY-FIVE" AND AMENDING SECTION 4.09.420 "DEFINITIONS"

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

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

3. PURPOSE. The purpose of this ordinance, by deleting an existing section of Chapter 4.09 and adding a new section to Chapter 4.09 of the Sitka General Code, is to replace the current sales tax exemption for persons who have reached the age of sixty-five with an annual sales tax rebate for persons who have reached the age of sixty-five to help low- and middle-income senior households with the cost of living, by providing a regulatory framework for the annual senior sales tax rebate as a social welfare program. The current senior sales tax exemption shall no longer be valid after implementation of this ordinance on July 1, 2018. This ordinance shall set forth how and when the rebates shall be authorized and implemented; who qualifies for the rebate; the amount of the rebate; penalties for obtaining rebates under false pretenses; and, definitions of terminology used.

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 is amended by deleting section 4.09.100.Y, entitled "Exemption for Persons Who Have Reached the Age of Sixty-Five" and adding a new section 4.09.130, entitled "Annual Sales Tax Rebate for Persons Who Have Reached the Age of Sixty-Five," to read as follows (deleted language stricken, new language underlined):

Chapter 4.09 SALES TAX

Section:

4.09.100 Exemptions.

\* \* \*

~~Y. Exemption for Persons who have Reached the Age of Sixty-Five~~

~~1. Any person, sixty-five years of age or older, who is a resident of the state of Alaska may apply for and be issued by the finance director a senior citizen sales tax exemption certificate which entitles the person, person's spouse, or the person's qualified domestic partner to be exempt from sales tax for the purchase of goods, services or rentals which are solely for the personal use or consumption of the person, person's spouse, or the person's qualified~~

52 ~~domestic partner. This exemption does not apply for purchases for the person, person's~~  
53 ~~spouse, or the person's qualified domestic partner:~~

54  
55 a. ~~For use in any trade or business, including but not limited to commercial fishing, or~~

56  
57 b. ~~For purchase of alcoholic beverages, cigarettes, or other tobacco products.~~

58  
59 ~~2. Definitions.~~

60  
61 ~~"Alcoholic beverage" includes beer, wine, and all other spirituous, vinous, malt and other~~  
62 ~~fermented or distilled liquid intended for human consumption and contains one-half of one~~  
63 ~~percent or more of alcohol by volume, for which a license or permit for its sale or barter is~~  
64 ~~required by AS 04, entitled "Alcoholic Beverages."~~

65 ~~"Cigarette" shall have the same meaning as defined in Section 4.26.190.~~

66  
67 ~~"Other tobacco products" shall have the same meaning as defined in Section 4.26.190.~~

68  
69 ~~"Resident of the state of Alaska" means a person who is physically present in the state with~~  
70 ~~the intent to remain in the state indefinitely and to make a home in the state.~~

71  
72 ~~3. Verification.~~

73  
74 a. ~~The applicant, at the time of application for a senior citizen sales tax exemption~~  
75 ~~card, will provide a minimum of two pieces of identification to prove Alaska residency.~~  
76 ~~One of the identification documents must show birth date.~~

77  
78 b. ~~The applicant shall fill out a formal application which will include a verification of~~  
79 ~~their "intent to reside in Alaska."~~

80  
81 ~~4. A resident at least sixty years old, who otherwise qualifies for the exemption, and is the~~  
82 ~~widow, widower, or qualified domestic partner of a deceased person who qualified for the~~  
83 ~~exemption under subsection (Y)(1) of this section, may apply for and be issued a senior~~  
84 ~~citizen sales tax exemption certificate.~~

85  
86 Y. Reserved.

87  
88 \*\*\*

89  
90 Section:

91 **4.09.130 Annual Sales Tax Rebate for Persons Who Have Reached the Age of Sixty-Five**

92  
93 A. Policy and Procedure.

94  
95 1. It shall be the policy of the city and borough that applicants meeting certain criteria  
96 shall be eligible for a sales tax rebate. This rebate is intended as a social welfare  
97 payment.

98  
99 2. Rebates shall be in the form of general governmental payments to eligible applicants.

101 3. Rebates shall be funded from current sales tax revenue.

102  
103 4. Applications for rebates shall be submitted to the finance department on forms  
104 provided by the finance department. Only one applicant per household is allowed.  
105 Applications must be submitted during the application period, between January 1<sup>st</sup> and  
106 March 31<sup>st</sup> each year. The processing period for applications will be between April 1<sup>st</sup>  
107 and June 30<sup>th</sup> immediately following the application period each year, with the rebates  
108 issued to qualified applicants in July of the same calendar year. Any applicant deemed  
109 eligible for a rebate in a calendar year must re-apply for eligibility in any subsequent  
110 calendar year.

111  
112 5. The finance department shall examine all applications and determine the eligibility of  
113 each applicant. A denial of eligibility by the finance department may be appealed to the  
114 administrator within 30 days of receiving written notice of the denial from the finance  
115 department.

116  
117 6. Upon determining the eligibility of applicants during the processing period, the finance  
118 department shall issue a rebate check to eligible applicants.

119  
120 7. The rebate shall be \$350 for an eligible applicant who is the only person who has  
121 reached the age of sixty-five residing in the household and \$450 for an eligible applicant  
122 who is one of two or more persons who have reached the age of sixty-five residing in the  
123 household.

124  
125 B. Eligibility for Sales Tax Rebate

126  
127 1. An applicant must be a resident of the city and borough and have reached the age of  
128 sixty-five prior to the application period.

129  
130 2. Any applicant shall be eligible for the rebate, if the applicant is receiving assistance on  
131 the date of the application, from any of the following programs:

132  
133 a. Supplemental Nutrition Assistance Program, administered from the State of  
134 Alaska through the local Division of Public Assistance office in association with  
135 the United States Department of Agriculture (USDA) Food and Nutrition Services.

136  
137 b. Medicaid administered from the State of Alaska through the local Division of  
138 Public Assistance.

139  
140 c. Baranof Island Housing Authority, the tribally designated housing entity for the  
141 Sitka Tribe of Alaska (STA) administered through the Sheet'iká X'áat'i Hitx'i'i"  
142 (Sitka Island Housing) office.

143  
144 d. STA General Assistance Program (GA), federally funded welfare program  
145 through the Bureau of Indian Affairs administered through the local STA office.

146  
147 e. National School Lunch Program administered through the Sitka School  
148 District, known as Free and Reduced School Lunch Program in association with  
149 the USDA.

150  
151 f. Senior Benefits Program, funded by the State of Alaska and administered  
152 through the Wasilla Senior Benefits Office.  
153

154 In order to be eligible for a rebate, the applicant must provide the finance department  
155 with satisfactory documentary evidence that he or she is currently receiving assistance  
156 from one of the programs.  
157

158 3. If assistance from the program identified by the applicant for eligibility is discontinued  
159 before or during the processing period, the applicant shall notify the finance department  
160 within thirty days of discontinuance of the assistance and the city and borough shall not  
161 issue a rebate check to the applicant if not already issued.

162 4. An applicant will be deemed ineligible for a rebate if the applicant has any past-due  
163 obligation owed to the city and borough at the end of the processing period. These other  
164 obligations shall include all unpaid citations and billings for protective custody cases. On  
165 a case-by-case basis, the administrator may waive, reduce, or create a payment plan for  
166 past due obligations in order for an applicant to be eligible for a rebate.  
167

168 C. Penalties for Receiving Rebate Under False Pretenses.  
169

170 1. It will be unlawful for any citizen to receive a rebate under this section under false  
171 pretenses. It will also be unlawful for any citizen to continue to receive a rebate under  
172 this chapter if assistance from the program identified by the applicant for eligibility is  
173 discontinued before or during the processing period.  
174

175 2. Upon the determination that an unlawful act may have occurred in which a rebate  
176 was received under false pretenses, the city and borough may notify the appropriate law  
177 enforcement agency so that a criminal investigation may be initiated.  
178

179 \*\*\*  
180

181 Section:

182 **4.09.420 Definitions.**

183 In this chapter:

184  
185 A. "Consideration" means a valuable inducement and includes, without limitation, money,  
186 property, and services;  
187

188 B. "Engaging in business" means carrying on or causing to be carried on any activity with the  
189 purpose of direct or indirect benefit;  
190

191 C. A "Household" consists of all the people who occupy a "housing unit"; a house, an apartment  
192 or other group of rooms, or a single room, is regarded as a housing unit when it is occupied or  
193 intended for occupancy as separate living quarters; that is, when the occupants do not live with  
194 any other persons in the structure and there is direct access from the outside or through a  
195 common hall; a previously designated live aboard vessel in the city and borough harbor system  
196 is also regarded as a housing unit; a household includes the related family members and all the  
197 unrelated people, if any, such as lodgers, foster children, wards, or employees who share the

198 housing unit; a person living alone in a housing unit, or a group of unrelated people sharing a  
199 housing unit such as partners or roomers, is also counted as a household; the count of  
200 households excludes group quarters;

201  
202 G. D. “Lease,” “leasing,” or “rental,” regardless of whether a transaction is characterized as a  
203 lease or rental under generally accepted accounting principles, 26 U.S.C. (Internal Revenue  
204 Code), AS 45.01 through AS 45.08, AS 45.12, AS 45.14, and AS 45.29 (Uniform Commercial  
205 Code), or other provisions of federal, state, or local law:

206  
207 1. Means a transfer of possession or control of tangible personal property of a  
208 fixed or indeterminate term for consideration; a lease or rental may include future  
209 options to purchase or extend;

210  
211 2. Does not include:

212  
213 a. A transfer of possession or control of property under a security  
214 agreement or deferred payment plan that requires the transfer of title upon  
215 completion of the required payments;

216  
217 b. A transfer of possession or control of property under an agreement that  
218 requires the transfer of title upon completion of required payments if payment  
219 of an option price does not exceed the greater of one hundred dollars or one  
220 percent of the total required payments; or

221  
222 c. Providing tangible personal property along with an operator for a fixed or  
223 indeterminate period of time; a condition of this exclusion is that the operator  
224 is necessary for the equipment to perform as designed; for the purpose of this  
225 subsection, an operator must do more than maintain, inspect, or set up the  
226 tangible personal property;

227  
228 3. Includes agreements covering motor vehicles and trailers if the amount of  
229 consideration may be increased or decreased by reference to the amount realized  
230 upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1);

231  
232 D E. “Maintaining an office or other place of business” means:

233  
234 1. A person’s having or maintaining in the city and borough of Sitka, directly or by  
235 an affiliate, an office, distribution house, sales house, warehouse, or place of  
236 business; or

237  
238 2. An agent’s operating within the city and borough of Sitka under the authority of  
239 the person or its affiliate, whether the place of business or agent is located in the  
240 city and borough of Sitka permanently or temporarily or whether the person or  
241 affiliate is authorized to do business in the city and borough of Sitka;

242  
243 E F. “Manufacturing” means combining or processing components or materials, including the  
244 processing of ores in a mill, smelter, refinery, or reduction facility, to increase the value of the  
245 components or materials for sale in the ordinary course of business; “manufacturing” does not  
246 include construction;

247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294

G. "Obligation" or "debt" means any sum of money which a citizen of the city and borough, or customer of the city and borough in some capacity, is legally obligated to pay to the city and borough for any purpose;

H. "Past-due" refers to any obligation or debt owed to the city and borough which has not been paid within thirty days of the date the payment was due; as an exception, debts owed for utility services consumed are considered overdue fifteen days after the date the payment was due;

I. "Person" means an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, or other entity, including a gas, water, or electric utility owned or operated by a borough, municipality, or other political subdivision of the state;

J. "Purchase price" means "sales price" and applies to the measure subject to sales tax

K. "Rebate" refers to "sales tax rebate";

L. "Resident" means a person who has established a residence in the city and borough and has the intent to remain in the city and borough indefinitely and to make a home in the city and borough; a person demonstrates the intent required to be a resident by maintaining a principal place of abode in the city and borough for at least 60 consecutive days immediately prior to submitting an application and with the intent of continuing to reside in the city and borough for the remainder of the calendar year; an applicant is not considered a resident if he or she establishes or claims residency in another state or country; an applicant may be required to provide proof of residency by the finance department;

M. Residential Rent. Rent paid for residential housing for thirty or more consecutive days or an entire calendar month by a person or persons for a room, set of rooms, structure, or suite is exempt from sales taxes. This exemption does not apply to any transaction taxable under Chapter 4.24 regarding the hotel, motel, and bed and breakfast transient room tax;

N. "Sale," "selling," or "purchasing" means the transfer of property for consideration or the performance of a service for consideration;

O. "Sales price":

1. Means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- a. The seller's cost of the property sold;
- b. The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

- 295 c. Charges by the seller for any services necessary to complete the sale,  
296 other than delivery and installation charges;
- 297
- 298 d. Delivery charges;
- 299
- 300 e. Installation charges;
- 301
- 302 f. The value of exempt personal property given to the purchaser where  
303 taxable and exempt personal property have been bundled together and sold  
304 by the seller as a single product or piece of merchandise;
- 305
- 306 g. Credit for a trade-in, as determined by state law;
- 307
- 308 2. Does not include:
- 309
- 310 a. Discounts, including cash, term, or coupons that are not reimbursed by a  
311 third party that are allowed by a seller and taken by a purchaser on a sale;
- 312
- 313 b. Interest, financing, and carrying charges from credit extended on the sale  
314 of personal property or services if the amount is separately stated on the  
315 invoice, bill of sale, or similar document given to the purchaser;
- 316

317 K P. "Sales tax" means the applicable tax imposed by Section 4.09.010;

318

319 L Q. "Service" means an activity that is engaged in for another person for consideration and  
320 that is distinguished from the sale or lease of property; in determining what a service is, the  
321 intended use, principal objective, or ultimate objective of the contracting parties is irrelevant;  
322 "service" includes:

- 323
- 324 1. Activities performed by a person for its members or shareholders;
- 325
- 326 2. Construction activities and all tangible personal property that will become an  
327 ingredient or component part of a construction project; and
- 328
- 329 3. Labor; professional services; transportation; telephone or other  
330 communications service; entertainment, including cable, subscription, or pay  
331 television or other telecommunications service; the supplying of food, lodging, or  
332 other accommodations in hotels, restaurants, or elsewhere; admission to  
333 exhibitions; the use of a computer, computer time, a computer system, a computer  
334 program, a computer network, or any part of a computer system or network; and  
335 the supplying of equipment for use;
- 336
- 337 4. Travel and adventure services means tours and charters on land and water,  
338 guide services, admissions, lectures, transportation services (excluding air  
339 transportation), and the rental of lodging, aircraft, vehicles, watercraft, and  
340 equipment, including fishing, boating, camping and other tour or adventure related  
341 goods. Travel and adventure services also include sales of goods incidental or  
342 related to such services.
- 343

344 **M R.** “Tangible personal property” means personal property that can be seen, weighed,  
345 measured, felt, or touched, or that is in any other manner perceptible to the senses; “tangible  
346 personal property” includes electricity, water, gas, steam, and prewritten computer software;  
347

348 **N S.** “Tax” means the tax levied by Section 4.09.010.  
349

350 **5. EFFECTIVE DATE.** This ordinance shall become effective July 1, 2018.  
351

352 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of  
353 Sitka, Alaska, this 24<sup>th</sup> day of April, 2018.  
354

355 \_\_\_\_\_  
356 Mathew Hunter, Mayor

357 ATTEST:  
358

359 \_\_\_\_\_  
360  
361 Melissa Henshaw, CMC  
362 Acting Municipal Clerk  
363

364 1<sup>st</sup> reading 4/10/18

365 2<sup>nd</sup> reading 4/24/18