

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

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

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

2. ~~Definitions.~~

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

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

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

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

3. ~~Verification.~~

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

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

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

Y. Reserved.

Section:

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

A. Policy and Procedure.

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

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

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

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

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

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

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

B. Eligibility for Sales Tax Rebate

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

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

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

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

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

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

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

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

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

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

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

C. Penalties for Receiving Rebate Under False Pretenses.

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

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

Section:

4.09.420 Definitions.

In this chapter:

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

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

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

housing unit such as partners or roomers, is also counted as a household; the count of households excludes group quarters;

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

1. Means a transfer of possession or control of tangible personal property of a fixed or indeterminate term for consideration; a lease or rental may include future options to purchase or extend;
2. Does not include:
 - a. A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;
 - b. A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments if payment of an option price does not exceed the greater of one hundred dollars or one percent of the total required payments; or
 - c. Providing tangible personal property along with an operator for a fixed or indeterminate period of time; a condition of this exclusion is that the operator is necessary for the equipment to perform as designed; for the purpose of this subsection, an operator must do more than maintain, inspect, or set up the tangible personal property;
3. Includes agreements covering motor vehicles and trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. 7701(h)(1);

~~D~~ E. "Maintaining an office or other place of business" means:

1. A person's having or maintaining in the city and borough of Sitka, directly or by an affiliate, an office, distribution house, sales house, warehouse, or place of business; or
2. An agent's operating within the city and borough of Sitka under the authority of the person or its affiliate, whether the place of business or agent is located in the city and borough of Sitka permanently or temporarily or whether the person or affiliate is authorized to do business in the city and borough of Sitka;

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

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;

F 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;

G 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;

H 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;

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

J 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;
- c. Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

- d. Delivery charges;
 - e. Installation charges;
 - f. The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise;
 - g. Credit for a trade-in, as determined by state law;
2. Does not include:
- a. Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
 - b. Interest, financing, and carrying charges from credit extended on the sale of personal property or services if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

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

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

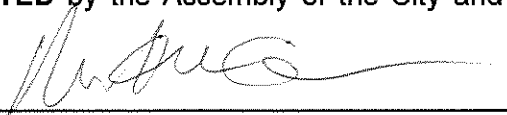
- 1. Activities performed by a person for its members or shareholders;
- 2. Construction activities and all tangible personal property that will become an ingredient or component part of a construction project; and
- 3. Labor; professional services; transportation; telephone or other communications service;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

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

N S. "Tax" means the tax levied by Section 4.09.010.


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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska, this 24th day of April, 2018.



Matthew Hunter, Mayor

ATTEST:



Melissa Henshaw, CMC
Acting Municipal Clerk

1st reading 4/10/18

2nd reading 4/24/18