

Chapter 69.05

UNIFORM SALES TAX*

69.05.005	Purpose and intent.
69.05.010	Definitions.
69.05.020	Imposition of rate.
69.05.030	Collection.
69.05.040	Exemptions.
69.05.045	Senior citizen sales tax exemption.
69.05.048	Sales tax on sales of pull-tab games.
69.05.050	Procedures and forms.
69.05.052	Revocation of exemption.
69.05.060	Seller to add tax to selling price.
69.05.062	Monthly remittance of estimated sales tax.
69.05.070	Periodic returns, penalties and interest for delinquency.
69.05.080	Sellers' compensatory collection discount.
69.05.090	Assessment limitation periods; recordkeeping.
69.05.100	Delinquency; failure to submit return or to remit taxes; assessments.
69.05.104	Protest of tax.
69.05.105	Forgiveness of uncollected taxes, penalties and interest.
69.05.110	Criminal liability.
69.05.112	Deposit by nonresidents.
69.05.120	Inspection of business license.
69.05.130	Sale of business; final tax return liability of purchaser.
69.05.140	Lien for tax, interest and penalty.
69.05.145	Collected taxes.
69.05.170	Registration.
69.05.180	Appeals.

***Charter reference**—Sales and use tax, § 9.17.

Cross references—Interest on moneys due, CBJ Code ch. 01.41; business regulations, CBJ Code tit. 20.

State law references—Sales and use tax, AS 29.45.650(c)—(f); 29.45.700(d).

69.05.005 Purpose and intent.

It is the purpose of the tax levied under this chapter to raise revenues. To that end, the scope of the tax levied shall be broadly interpreted and exemptions shall be allowed only when the rental, sales or service clearly falls within an exemption defined in this chapter.
(Serial No. 83-66, § 2, 1983)

69.05.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means, but is not limited to, beer, wine, distilled spirits, and all other spirituous, vinous, malt and other fermented or distilled liquors intended for human consumption and containing more than one-half of one percent alcohol by volume for which a license or permit for its sale or barter is required by AS title 04.

Buyer, consumer and person means, without limiting the scope thereof, every individual, receiver, assignee, trustee in bankruptcy, trust estate, firm, copartnership, joint venture, club, company, business trust, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, non-profit or otherwise.

Retail sale means any sale of real or tangible personal property, including barter, credit, installment and conditional sales, for any purpose other than resale in the regular course of business. The delivery of property in the City and Borough by a seller whose principal place of business is outside the City and Borough to a buyer or consumer is a retail sale made within the City and Borough if such retailer maintains any office, distribution, or sales house, warehouse or any other place of business, or solicits business or receives orders through any agent, salesman, or other type of representation within the City and Borough.

Sale for resale means the sale of tangible personal property to a buyer whose principal business is the resale of the property, whether in the same or an altered form.

Seller means every person making sales to a buyer or consumer, renting property or performing services for consideration.

Selling price and *price* mean the consideration, whether money, credit, rights or other property, expressed in terms of money, paid, given or delivered by a buyer to a seller all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.

Services means all services of every manner and description that are performed or furnished for consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.
(CBJ Code 1970, § 69.10.010; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 3, 1983; Serial No. 84-46, § 2, 1984; Serial No. 85-44, § 2, 1985; Serial No. 98-12, § 2, 1998)

Cross reference—Definitions generally, CBJ Code § 01.15.010.

69.05.020 Imposition of rate.

(a) There shall be levied and collected a tax equal to the percentage of the selling price on retail sales and rentals made and services performed within the City and Borough as follows:

- (1) Within the entire City and Borough 1%
- (2) Within the entire City and Borough an additional 3%
- (3) Effective January 1, 2006, within the entire City and Borough an additional 1%

Subsection (a)(3) of this section is automatically repealed on September 30, 2008.

(b) If parts of a sale, service or rental, or a combination thereof, occur both inside and outside the City and Borough, or occur over a period of time during which two different tax rates apply, the tax shall be the highest rate applicable to any part of the sales, service or rental and shall be applied to the price of the entire transaction;

provided, if the invoice of the transaction separates and prices the various parts of the transaction in accordance with the location of the parts of the transaction, or the time of the transaction, the different sales tax rates applicable to the separate parts of the transaction shall be applied, but only if each such part of the transaction is a sale, service or rental which may be made and is regularly offered on a separate basis by the seller. The taxability of a sale of goods is determined by the delivery of the tangible personal property. The taxability of a service performed or rental made is determined by the place where the service is performed or rental property is located.

(c) Subsection (a)(2) and this subsection (c) are repealed on July 1, 2007.

(d) In addition to the tax levied and collected under subsection (a) of this section, there shall be levied and collected a tax equal to three percent of the selling price on the retail sale of alcoholic beverages sold within the City and Borough.

(Serial No. 83-66, § 4, 1983; Serial No. 84-46, § 3, 1984; Serial No. 85-44, § 3, 1985; Serial No. 87-32am, § 2, 1987; Serial No. 90-26, §§ 2, 3, 1990; Serial No. 95-28, §§ 2, 3, 1995; Serial No. 96-33, §§ 2, 3, 1996; Serial No. 98-36, § 2, 1998; Serial No. 2000-29, § 2, 8-7-2000; Serial No. 2000-30, §§ 2, 3, 8-7-00; Serial No. 2005-25(am), § 2, 8-25-2005)

State law reference—Authority to impose taxes on alcoholic beverages, AS 04.21.010(c)(2), (3).

69.05.030 Collection.

(a) Unless authorized by the manager under subsection (b) of this section to include the tax in the selling price, sellers shall add the tax levied in this chapter to the selling price, rent or service charge in accordance with a schedule promulgated by the manager, on file in the sales tax office.

(b) The sales tax may be included in the selling price of sales made through coin-operated devices, sales of food and beverages at concession stands and other places with high customer volume, metered sales where the sales price is computed by the metering device, admissions and other taxable sales where the manager determines buyer and seller convenience would be substantially

enhanced, upon specific written authorization from and under terms and conditions required by the manager.

(Serial No. 83-66, § 5, 1983)

69.05.040 Exemptions.

The tax levied under this chapter shall not apply to the following transactions:

(1) Casual and isolated sales. As used in this subsection, casual and isolated sales means retail sales, rentals, or services not:

- (a) Pursuant to a business license;
- (b) By sellers representing themselves to be in the business of making such retail sales, rentals or services; or
- (c) Including business personal property leased or rented in the regular course of business engaged in by that seller.

(2) Sales, services, rentals and transactions which the municipality is prohibited from taxing under the Constitution and laws of the United States or the state, including the following:

(a) Sales of insurance and bonds of guaranty and fidelity, and the commissions thereon;

State law references—State preemption of taxation of insurers and their agents, AS 21.09.210(f); tax exemption of the Alaska Life and Health Insurance Guaranty Association, AS 21.79.130; tax exemption of the Alaska Insurance Guaranty Association, AS 21.80.130.

(b) Sales to or by federally chartered credit unions or credit unions organized under AS 06.45;

State law reference—Tax exemption of credit union, AS 06.45.230.

(c) Sales of goods made with food instruments, food stamps, or other type of certificate issued under 7 USC 2011—2025 (Food Stamp Act), or made with food instruments, food vouchers or other type of certificate issued under

69.05.040

PART II: CODE OF ORDINANCES

42 USC 1786 (Special Supplemental Food Program for Women, Infants, and Children).

State law reference—Prohibition of local taxation of purchases under certain federal food programs, AS 29.45.650(f), 29.45.700(d).

- (3) Sales of goods and associated shipping and handling charges resulting from orders received from outside the City and Borough where delivery is made outside the City and Borough. Delivery outside the City and Borough must be verified by postal documents or shipping documents.
- (4) *[Reserved.]*
- (5) Sales of building or construction services or materials if:
 - (a) The materials become incorporated as a permanent part of a structure or site through work authorized by a building permit; and
 - (b) The building or construction services are performed on-site, except for the delivery of materials to, or away from, the construction site; and
 - (c) The purchaser presents to the seller an individual builder sales tax exemption card describing work that would reasonably require the building or construction services or materials for which the exemption is claimed. A person may apply for an exemption card on forms provided by the City and Borough. The card shall be valid for a period reasonably necessary to complete the work described thereon. The expiration date may be extended upon written application by the holder; and
 - (d) Excluding all services for the repair or maintenance of real property.
- (6) Sale of cemetery plots, caskets, funeral and burial related items and services by a funeral home.
- (7) Sales of:
 - (a) Professional services and supplies by a person licensed or certified by

the state as a doctor of medicine and surgery, a doctor of osteopathy and surgery, a chiropractor, a dentist, a naturopath, an optometrist, an audiologist, a hospital, a midwife, a birth center, an acupuncturist, an occupational therapist, a physical therapist, a certified nurse's aide, or a registered or practical nurse, provided that the sale is within the scope of the state license or certificate;

- (b) Controlled substances supplied and services performed pursuant to a prescription from a person listed in subsection (7)(a) of this section.
- (8) Sales of:
 - (a) Counseling services by a psychologist or psychological associate, a clinical social worker, an alcohol and drug counselor, or a marital and family therapist, licensed or certified as such by the state;
 - (b) Assisted living services provided in accordance with an assisted living plan and in an assisted living home licensed as such by the state.
- (9) Sales and rentals of hearing aids, crutches, wheelchairs and personal property specifically manufactured for a patient.
- (10) *[Reserved.]*
- (11) (a) Membership dues and assessments, initiation fees and donations paid to:
 - 1. Labor unions, fraternal organizations, and other nonprofit organizations that have obtained a 501(c) exemption certificate from the Internal Revenue Service; or
 - 2. A shopping center merchants' association whose membership is restricted to, and required of, the tenants of a one-owner shopping center and their common lessor but only to the extent such payment is for the pur-

- pose of promoting the general business interests of its members.
- (b) The exemptions established by this subsection do not apply to a set minimum or suggested fee charged for admission to specific functions.
- (12) Sales, services and rentals to a buyer, or made by a seller, organized and administered solely by an organization that has a current 501(c)(3) or 501(c)(4) exemption ruling from the Internal Revenue Service and an exemption certificate from the manager, provided this exemption applies to sellers only if the income from the sale is exempt from federal income taxation. This exemption does not apply to the sale of pull-tab games.
- (13) Retail sales, services, and rentals of real or tangible personal property to or by the state, a Rural Education Attendance Area or like entity, or a municipality. This exemption does not apply to the following:
- (a) Sales of pull-tab games by political subdivisions and municipalities; or
 - (b) Retail sales, services, and rentals of real and tangible personal property by the City and Borough listed in this subsection (13)(b):
 1. Bartlett Regional Hospital sales, services and rentals;
 2. Capital transit passenger fares and passes;
 3. Sales of municipal real property, gravel and minerals;
 4. Parks and recreation department sales, services and rentals;
 5. Eaglecrest ski area sales, services and rentals;
 6. Hagevig Fire Training Center sales, services and rentals;
 7. Juneau International Airport sales, services and rentals;
 8. Sewer utility and water utility sales, services and rentals;
9. Port and harbor sales, services and rentals authorized by title 85 of this Code.
- (14) *[Reserved.]*
- (15) *[Reserved.]*
- (16) (a) Retail sales, rentals, or services at a school-approved activity, by a school-approved group, raising funds for its approved purpose.
- (b) Retail sales in school cafeterias of food or beverages not sold in such school cafeterias to the general public.
- (c) As used in this subsection, school means a public or private primary school, secondary school, or university.
- (17) Child day care, preelementary school and babysitting services.
- (18) Sales of goods, services, and rentals as set forth in section 69.05.045 to persons issued, or authorized to use, a valid City and Borough senior citizen sales tax exemption card who display the card at the time of sale. A senior citizen sales tax exemption card does not exempt the sale of alcoholic beverages from sales tax.
- (19) *[Reserved.]*
- (20) Residential rentals other than rentals to transients who occupy or rent a suite, room or rooms in a hotel-motel for fewer than 30 consecutive days for the purpose of habitation.
- (21) That part of a selling price of a single item that exceeds \$7,500.00. For purposes of this subsection, a single item is:
- (a) An item sold in a single sale consisting of integrated and interdependent component parts affixed or fitted to one another in such a manner as to produce a functional whole. Optional accessories, including goods, services, and contracts for services, if used or essential for the operation of the item, shall be considered part of the functional whole; or

- (b) A single delivery of fuel oil in excess of 50,000 gallons delivered by marine transportation to a single customer.
- (22) That portion of the selling price of a single service that exceeds \$7,500. For the purposes of this subsection, a single service is an interrelated and interdependent function necessary to perform a specified action. If a single service is performed over a period exceeding one month, the selling price must be apportioned to a monthly or invoice basis, whichever is more frequent, proportionate to the service performed, except for
- (a) a commission paid to an agent for negotiating the sale of real property, or
 - (b) a written contingent fee agreement award or settlement.
- (23) Sales tax paid on leases under a lease/purchase agreement may be credited toward the payment of the tax due on the exercise of the purchase option in the same proportion as the lease payments are applied to the purchase price; provided that there will be no refund of taxes paid on the lease.
- (24) The commission charged by an agent for the sale of travel, lodging or tours to the performer of the service. The commission exemption does not apply to the retail price of the travel, lodging or tour charged to the consumer.
- (25) That part of the selling price of travel and adventure services, and related services, rentals and goods, excluding lodging, sold outside but delivered within the City and Borough, which is not remitted to the provider of the service and which represents a selling cost or commission or similar charge.
- (26) The following sales and services by banks, savings and loan associations, credit unions and investment banks:
- (a) Services associated with any deposit accounts, including service fees, NSF fees, and attachment fees;
 - (b) Fees for the purchase of bank checks, money orders, traveler's checks and similar products for payment;
 - (c) Loan fees and points associated with loan transactions;
 - (d) Pass-through charges on loan transactions which include sales tax;
 - (e) Services associated with the sale, exchange or transfer of currency, stocks, bonds and other securities.
- (27) Printing services resulting from orders received from outside the City and Borough where delivery of the printed material is made to the nonresident purchaser outside the City and Borough by mail or common carrier.
- (28) Sales of aviation fuel and aviation fuel delivery services at the Juneau International Airport.
- (29) Fees charged for nonprofit youth day, recreation, summer and similar camps primarily serving persons under 18 years of age.
- (30) Certain sales, as set forth herein, to the official gubernatorial inaugural committee, provided the committee has been issued a temporary sales tax exemption certificate by the finance director and the certificate is displayed by the buyer at the time of purchase. Such certificate will be issued to the official gubernatorial inaugural committee for specific sales of goods, services or rentals for use in gubernatorial inaugural functions in the City and Borough where the committee presents proof satisfactory to the finance director that such goods, services or rentals will be so utilized.
- (31) Services sold for resale when the services are directly integrated into services or goods sold by the buyer located within the City and Borough and registered with the sales tax administrator, to another purchaser in the normal course of business, provided that the services are purchased

separately for resale, and the services are identified, charged for and billed for separately from any other services.

- (32) Sales for resale of tangible personal property, as defined in section 69.05.010, to a buyer who holds a valid resale certificate issued by the City and Borough.
- (33) *Reserved.*
- (34) [*Reserved.*]
- (35) Sales of lobbying services performed by lobbyists who are regulated by applicable state statutes and regulations.
- (36) Sales of transportation and handling services for goods rendered by sellers primarily engaged in furnishing such services, where the goods are either transported from, or delivered to, a point outside the City and Borough; provided that the retail seller of goods may not exclude transportation or handling charges from the selling price of the goods.
- (37) Radio, television and newspaper advertising services ordered from outside the City and Borough, provided that on the same day the same person places orders for substantially similar advertising services with advertising media in at least five other states.
- (38) Sales of goods and services provided under a warranty or service contract, whether performed by the manufacturer or authorized representative of the manufacturer, and charged to a third party warrantor for repairs, major maintenance, or both. Major maintenance does not include routine or scheduled maintenance attributable to normal operation of the warranted item.
- (39) Commercial real property lease payments from a lessee to a lessor having identical legal composition, as certified by a rental exemption certificate issued by the manager.
 - (a) As used in this subsection, a lease payment is "from a lessee to a lessor

having identical legal composition," if the following two conditions are satisfied:

- (1) The lessee:
 - (A) Comprises or is owned by the same persons who comprise or own the lessor, each of whom owns:
 - (i) At least five percent of each legal entity which is a party to the lease; or
 - (ii) The same percentage of the lessee as that person owns of the lessor; or
 - (B) Is a wholly-owned subsidiary or a parent corporation of the lessor; or
 - (C) Is a trust, the beneficiaries of which are the same natural persons who comprise or own the lessor.
- (2) Neither party to the lease is a publicly traded corporation.
- (b) Application for a rental exemption certificate shall be on a form specified by the City and Borough manager and shall set forth the name and address of each individual, married couple, group of individuals, or legal entity involved in the rental transaction; a description of the legal form of each entity; the degree of ownership held by each individual, couple, group, or entity; and the effective date of the transaction. Any change in this information shall be reported to the manager within 15 days. Failure to report such change may result in the loss of any tax exemption for that period.
- (40) The commission paid to an agent for negotiating the sale or lease of tangible personal property on behalf of the owner of the property provided that the commission is the only compensation paid to the agent for negotiating the sale. The com-

mission exemption does not apply to the retail price of the sale or lease of tangible personal property.

(41) [*Reserved.*]

(Serial No. 73-26, § 3, 1973; Serial No. 76-12, § 2, 1976; Serial No. 78-17, § 2, 1978; Serial No. 79-50, § 2, 1979; Serial No. 79-59, § 2, 1980; Serial No. 81-34, § 2, 1981; Serial No. 83-39, § 2, 1983; Serial No. 83-66, § 6, 1983; Serial No. 83-75, § 2, 1983; Serial No. 84-107, § 2, 1984; Serial No. 85-44, § 3, 1985; Serial No. 85-84, § 2, 1985; Serial No. 86-10, § 2, 1986; Serial No. 86-17, § 2, 1986; Serial No. 86-52, § 2, 1986; Serial No. 88-05, § 2, 1988; Serial No. 88-09, § 2, 1988; Serial No. 88-13, § 2, 1988; Serial No. 88-29, § 2, 1988; Serial No. 88-52, § 2, 1988; Serial No. 89-02, § 2, 1989; Serial No. 89-44, § 2, 1989; Serial No. 89-45, §§ 2, 3, 1989; Serial No. 90-09, § 2, 1990; Serial No. 91-22, § 3, 1991; Serial No. 91-23, § 2, 1991; Serial No. 92-03, § 2, 1992; Serial No. 92-53, §§ 2, 3, 1992; Serial No. 94-02, § 2, 1994; Serial No. 94-26, § 2, 1994; Serial No. 96-05, § 2, 1996; Serial No. 96-24, §§ 2, 3, 1996; Serial No. 96-29, § 2, 1996; Serial No. 97-41, § 2, 1997; Serial No. 97-43am, § 2, 1997; Serial No. 98-12, §§ 3, 4, 1998; Serial No. 98-27, § 2, 1998; Serial No. 98-41, §§ 2, 3, 1998; Serial No. 2000-15, § 2, 5-15-2000; Serial No. 2001-13, § 2, 4-2-2001; Serial No. 2001-15, § 2, 4-16-2001; Serial No. 2001-19, § 2, 4-16-2001; Serial No. 2001-18, § 2, 5-7-2001; Serial No. 2001-25, §§ 2, 3, 5-21-2001; Serial No. 2001-44, § 2, 10-15-2001; Serial No. 2003-45, § 2, 11-24-2003; Serial No. 2004-07, § 2, 1-26-2004; Serial No. 2005-40, § 2, 11-21-2005; Serial No. 2005-41, § 2, 11-21-2005; Serial No. 2005-42, § 3, 11-21-2005; Serial No. 2005-43, §§ 2, 3, 11-21-2005; Serial No. 2005-44, § 2, 11-21-2005; Serial No. 2005-47(b), §§ 2, 3, 11-21-2005; Serial No. 2005-48, § 2, 11-21-2005, eff. 7-1-2006)

State law references—Pull-tab tax, AS 05.15.184; sales and use tax, AS 29.45.650; power of levy, AS 29.45.700.

69.05.045 Senior citizen sales tax exemption.

(a) Anyone 65 years of age or older who is a resident of the state may apply for and be issued by the manager a senior citizen sales tax exemption card which entitles the cardholder and the cardholder's spouse to be exempt from sales tax for the sales of goods, services and rentals, with

the exception of sales of alcoholic beverages that are solely for the personal use or consumption of the cardholder or the cardholder's spouse.

(b) No person issued or authorized to use a senior citizen sales tax exemption card may use it to obtain such tax exemption when the sales, services or rentals are for use in any trade or business, or are used or consumed by any person other than the cardholder or his or her spouse.

(c) If a person who is authorized to be issued a senior citizen sales tax exemption card is an invalid or is otherwise physically unable to use the card, the manager will mark the card authorizing it to be used by another person for the benefit of the invalid person or the person who is otherwise unable to use the card.

(d) As used in this section, the term "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. A person demonstrates the intent required under this subsection by maintaining a principal place of abode in the state for at least 30 consecutive days immediately preceding the date of application for the senior citizen sales tax exemption card, and by providing other proof of intent as may be required by the manager, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state. A person who establishes residency in the state remains a resident during an absence from the state, unless during the absence, the person establishes or claims residency in another state or country, or performs other acts or is absent under circumstances that are inconsistent with the intent required under this subsection to remain a resident of this state.

(Serial No. 88-05, § 4, 1988; Serial No. 89-44, § 3, 1989; Serial No. 90-09, § 3, 1990)

69.05.048 Sales tax on sales of pull-tab games.

(a) Notwithstanding any other provision in this chapter, the sales of pull-tab games by any operator or any permittee are subject to the City and Borough sales tax.

(b) Each operator and permittee conducting pull-tab games within the City and Borough must file with the manager a copy of the quarterly and annual reports that are required to be filed with the state department of commerce and economic development. These reports must be filed with the City and Borough within ten days of the date they are required to be filed with the state.

(c) Each operator and permittee conducting pull-tab games within the City and Borough that is not based in the City and Borough must, at the time of filing their period return for sales tax, file with the manager a report on their activity in the City and Borough during that filing period, including the amount of gross receipts, the amount of authorized expenses, the value of prizes awarded, the amount of net proceeds, the amount of net proceeds paid to each permittee, and other information the City and Borough may require. The quarterly and annual reports required to be filed with the state may be used by the operator or the permittee as the source for this information, provided the activity within the City and Borough must be reported separately from the activity outside the City and Borough.

(d) For purposes of this section, the terms "operator," "permittee," "pull-tab game," "gross receipts," "net proceeds" and "authorized expenses" shall have the meaning provided in AS 05.15 and 12 AAC Chapter 34 and as those statutes and administrative regulations may be hereafter amended or replaced.

(Serial No. 91-22, § 2, 1991)

State law references—Pull-tab games, AS 05.15.010 et seq.; distributor pull-tab tax, AS 05.15.184.

69.05.050 Procedures and forms.

(a) The manager shall adopt and amend procedures, fees and forms for the administration of this chapter, and shall adopt guidelines for the determination of the taxability of transactions and may rule on specific transactions upon request. The written ruling on a specific sale may be

relied upon by the parties to that sale unless essential facts were not provided to the person making the ruling or the ruling is clearly contrary to the provisions of this Code.

(b) The burden of proving an exemption shall be on the person claiming an exemption. Certificates issued under this chapter shall expire as determined by the manager.

(c) The manager shall take all steps necessary and appropriate to administer this chapter which includes the authority to compromise and abate penalties and interest, and to negotiate and enter into payment plans for delinquent sales taxes, penalties and interest.

(Serial No. 83-66, § 7, 1983; Serial No. 86-73, § 2, 1986; Serial No. 96-41, § 24, 1996)

69.05.052 Revocation of exemption.

(a) The manager may revoke any exemption authorization, certificate or other authority to obtain an exemption if the person entitled to the exemption has been found to have used the exemption authorization or certificate to obtain an exemption to which the exemption holder is not entitled or has permitted another to use the exemption authorization or certificate to obtain an exemption to which the other person is not entitled.

(b) Upon a determination by the manager or other person authorized to make such investigations that an exemption holder has misused or permitted another to misuse a sales tax exemption authorization or certificate issued to the holder, the manager may revoke the sales tax exemption authorization or certificate of such person. Prior to revocation, the officer with revocation authority shall hold a hearing at which the person with the exemption may be present and at which the evidence of misuse shall be presented. The holder shall be given an opportunity to refute any evidence presented and to cross examine the person who made the investigation. The holder and witnesses called by the holder may also be cross examined.

(c) The revocation shall be permanent unless the officer ordering the revocation provides for a shorter period in the revocation order.

69.05.052

PART II: CODE OF ORDINANCES

(d) If the revocation is ordered by an officer other than the manager, the order and period of revocation may be appealed to the manager if the appeal is filed in writing with the manager within ten days of the receipt of the written order. The decision of the manager is final and may be appealed only to the appropriate judicial authority.

(e) A person is guilty of a class B misdemeanor who obtains or attempts to obtain an exemption from the sales tax for a sale or rental when the person is not entitled to the exemption.
(Serial No. 80-1, § 3, 1980)

69.05.060 Seller to add tax to selling price.

Every seller shall add the amount of the tax levied by this chapter to the total selling price, and the tax shall be stated separately on any sales receipts or slips, rent receipts, charge tickets, invoices, statements of account of other tangible evidence of sale unless the sales tax is permitted to be included in the selling price under subsection 69.05.030(b)
(CBJ Code 1970, § 69.10.060; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 8, 1983)

69.05.062 Monthly remittance of estimated sales tax.

(a) *Monthly deposit report.* Every person making sales, rentals, or performing services within the City and Borough who incurs sales tax liability or a combined sales tax and hotel-motel tax liability, as levied under chapter 69.05 or chapter 69.07, of \$1,000.00 or more in the month shall, on or before the 15th day of the month following the month in which the tax liability was incurred, complete a monthly deposit report declaring estimated sales tax liability and, if applicable, hotel-motel tax liability, for the month and transmit the report to the City and Borough. If the 15th day is a Saturday, Sunday, or federal, state or City and Borough holiday, the due date will be extended until the next business day. The United States Postal Service postmark shall determine the date of filing for mailed reports.

(b) *Amount of monthly remittance.* At the time of transmitting the monthly deposit report, the seller shall remit to the City and Borough the

total estimated amount of sales tax and, if applicable, hotel-motel tax, due for the month for which the deposit report is filed.

(c) *Penalties.* A late filing penalty of \$25.00 shall be added to all late-filed monthly deposit reports. In addition, late payment penalties will be assessed on monthly tax deposits when the seller fails to remit at least 80 percent of the total monthly sales tax and hotel-motel tax deposit due on or before the 15th day of the month following the month for which the deposit is required. The late payment penalty will be equal to one percent per month or fraction thereof of the total delinquent monthly deposit balance due. The delinquent amount shall be the difference between the total tax deposit due for the month and the amount of the deposit remitted by the seller. The delinquent monthly payment penalty will be assessed on the 16th day of each month or fraction of a month from the date of delinquency to the date of total payment or the due date of the sales tax return covering the monthly payment period, whichever is earlier.

(d) *Filing period adjustments.* In addition to the monthly deposit and reporting requirements set forth in subsections (a) and (b) of this section, sellers are required to file period returns and remit the remaining unpaid sales tax due as required in subsection 69.05.070(a) or subsection 69.05.100(c). If the sales tax due and payable by the seller, as required in section 69.05.070, is less than the total amount of the monthly sales tax deposits remitted to the City and Borough during that filing period, the excess balance will be applied to the seller's next monthly sales tax deposit, unless the seller elects in writing to have the balance refunded.
(Serial No. 91-34am, § 2, 1991)

69.05.070 Periodic returns, penalties and interest for delinquency.

(a) Every person making sales, rentals or performing services within the City and Borough shall on or before the last day of the month, unless the last day of the month is a Saturday, Sunday, or federal, state or City and Borough holiday in which case the due date will be extended until the next business day, immediately

following the end of each filing period complete a return for the required filing period setting forth the total amount of all sales, rentals and services, regardless of whether such transactions are taxable or nontaxable, the amount of sales tax due, and such other information as the City and Borough may require, and sign and deliver or mail the return to the City and Borough manager. Periodic returns shall be filed for the calendar quarters ending on March 31, June 30, September 30, and December 31, unless the seller is allowed or directed by the City and Borough manager to file for a different time period as authorized in this section and section 69.05.100. A seller, other than a governmental agency, making only exempt sales may be allowed, upon written request to the City and Borough treasurer or the manager, to file returns for periods which vary from the standard calendar quarter and which cover time periods up to one year.

(b) The tax levied under this chapter, whether or not collected from the buyer, except for credit transactions covered in subsection (c) of this section, must be remitted by the seller to the City and Borough at the time of transmitting the return, and if not so remitted or if the return is not timely filed, such tax is delinquent. A late filing penalty of \$25.00 shall be added to all late returns. The postmark shall determine the date of filing mailed returns. In addition, a late payment penalty of five percent per month or any fraction thereof, until a total late payment penalty of 25 percent has accrued shall be added to all returns until such tax, penalty and interest thereon have been paid. Such penalty shall be assessed and collected in the same manner as the tax is assessed and collected. In addition to these penalties, interest on the delinquent tax from the due date until paid shall accrue and be collected in the same manner the delinquent tax is collected. The annual interest rate on delinquent tax shall be five percent per year above the Wall Street Journal Prime Rate, or similar published rate, on January 2nd each year, rounded to the nearest full percentage point, as determined by the Finance Director; provided, however, that if such calculated rate would fall below ten percent per year, the interest rate shall be ten percent per

year, and if the calculated rate would exceed 15 percent per year, the interest rate shall be 15 percent per year.

State law reference—Interest on delinquent sales taxes, AS 29.45.650(d).

(c) The seller shall report and remit sales tax to the City and Borough on the same basis, cash or accrual, the seller uses for reporting federal income tax. A seller reporting on the accrual basis shall be allowed a tax credit for sales tax previously paid by the seller on any sale, service or rental made on credit to the extent the seller declares such debt to be uncollectible and a bad debt for federal income tax purposes. Such bad debt credit must be claimed on a timely filed quarterly sales tax report within two years from the date of sale in which the bad debt arose.

(d) Except as otherwise provided herein, all returns, reports and information required to be filed with the City and Borough under this chapter, and all information deducible from such filed returns, reports and information, shall be kept confidential and are not subject to public inspection. Except upon court order, such returns, reports and information shall be made available only to employees of the City and Borough whose job responsibilities are directly related to such returns, reports and information; to the person supplying such returns, reports, and information; and to persons authorized in writing by the person supplying such returns, reports, and information. The following information shall be made available to the public: the name and address of sellers; whether or not a business is registered to collect sales tax in the City and Borough; whether or not a business is current in filing sales tax returns and in remitting sales tax, the amount of sales tax due, and the number of returns not filed; and the names and exemption number of nonprofit agencies which have received a nonprofit exemption number from the manager. The manager may, from time to time, publish the names of sellers delinquent in remitting sales taxes and the amount thereof; provided that the names of sellers who have signed a confession of judgment for the delinquent sales taxes, penalties, and interest, and a stipulation to postpone execution on the judgment, and who are current in their sales tax payments under such stipulation as of

69.05.070

PART II: CODE OF ORDINANCES

the date on which the names are submitted to the publisher, will not be published. Information may also be made available to the public in the form of statistical reports if the identity of particular sellers is not revealed by the reports.

(e) The City and Borough may permit the proper officer of the United States, of a state, or other municipality to inspect tax returns or reports filed under this title, or may furnish to the officer a copy of the tax return, if the other jurisdiction grants substantially similar privileges to the City and Borough, and if the City and Borough determines that other jurisdiction provides adequate safeguards for the confidentiality of the returns and reports, and that the returns and reports will be used for tax purposes only.

(CBJ Code 1970, § 69.10.070; Serial No. 70-26, § 3, 1970; Serial No. 76-19, §§ 2, 3, 1976; Serial No. 81-67, § 2, 1981; Serial No. 83-66, § 9, 1983; Serial No. 85-44, §§ 4, 5, 11, 1985; Serial No. 86-51, § 2, 1986; Serial No. 88-01, § 2, 1988; Serial No. 91-34am, §§ 3, 4, 1991; Serial No. 96-32, §§ 2, 3, 1996; Serial No. 2005-46, § 2, 11-21-2005)

State law reference—Interest on delinquent sales taxes, AS 29.45.650(d).

69.05.080 Sellers' compensatory collection discount.

All sellers and persons rendering sales tax returns to the City and Borough shall be allowed to compensate themselves for costs incurred in the collection, recordkeeping, remittance and accounting for the tax imposed by taking the greater of \$10.00 or one percent of the tax due as a tax collection discount to reduce the tax to be remitted on any period return that is timely filed with a remittance of all sales tax due. The deduction may not exceed \$50.00 for any monthly filing period or \$100.00 for any calendar quarter or longer filing period, and may not be taken if any sales tax, penalty or interest is due for any previous filing period.

(CBJ Code 1970, § 69.10.080; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 10, 1983; Serial No. 85-44, § 6, 1985; Serial No. 91-34am, § 5, 1991)

69.05.090 Assessment limitation periods; recordkeeping.

(a) A seller's tax liability under this chapter may be determined and assessed for a period of three years after the date the return was filed

with the City and Borough manager. No civil action for the collection of such tax may be commenced after the expiration of the three-year period except an action for taxes, penalties and interest due for those filing periods that are the subject of a written demand or assessment made under section 69.05.100 within the three-year period, unless the seller waives the protection of this section.

(b) In order to facilitate the administration and enforcement of the provisions of this chapter, each seller or person otherwise engaged in business within the City and Borough shall maintain and keep for a period of three years after the date of filing all of the period sales tax reports, forms and supporting records and other records prescribed by the manager. The failure to maintain adequate records to allow documentation of the taxability of each transaction will result in the loss of any tax exemption, deduction or credit for that particular transaction. Upon the request of the City and Borough manager, a seller shall make available for examination in the City and Borough the books, records and other documents of the seller unless the manager authorizes the examination to be conducted at a different location.

(CBJ Code 1970, § 69.10.090; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 11, 1983; Serial No. 91-34am, § 6, 1991)

69.05.100 Delinquency; failure to submit return or to remit taxes; assessments.

(a) Whenever the manager reasonably believes a return contains inaccurate reporting or whenever any seller has become delinquent in the submission of the required filing period return or in remitting sales taxes, the City and Borough manager shall mail to the delinquent seller's last known address a written demand by certified mail, return receipt requested, for submission of the corrected or required sales tax return and remittance within ten days. In the event of non-compliance with such demand, the City and Borough manager may make a sales tax assessment against the delinquent seller, the assessment to be based on an estimate of the gross taxable revenue received by the seller during the filing

UNIFORM SALES TAX

69.05.100

period in question. A copy of the assessment shall be sent to the seller at the seller's last known address by certified mail, return receipt requested. The seller shall have a right to a hearing before the manager at which time the seller shall make available for examination the books, papers, records and other documents pertaining to the sales and revenue for the period involved in the assessment. The seller may exercise the seller's right to a hearing by delivering to the manager, within 15 days of the date the notice was mailed, a written request for a hearing. The manager shall establish a date and time for a hearing to be held within ten days of receipt of the request unless a later time is mutually agreeable. The hearing officer conducting the hearing shall issue an amended assessment upon a determination that an amendment should be made. The amended

assessment, or the original assessment if no amendment is made within five days of the hearing, shall be the final assessment for the purpose of determining the seller's liability to the City and Borough. If no timely request for a hearing is made, the original assessment shall be the final assessment 30 days after the mailing of the notice of the original assessment unless the seller has submitted an accurate return within the 30 days.

(b) The City and Borough may file a civil action for collection of any taxes, penalty or interest due before or after making a demand or assessment under subsection (a) of this section.

(c) Whenever any seller fails to submit the required filing period return or remit taxes after notice given as provided in subsection (a) of this section, the City and Borough manager may require such seller to submit returns and remit taxes on a monthly or more frequent basis. (CBJ Code 1970, § 69.10.100; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 12, 1983; Serial No. 91-34am, § 7, 1991)

69.05.104 Protest of tax.

(a) A buyer who protests the payment of the tax levied under this chapter shall pay the tax and shall provide the seller and the sales tax administrator with a written statement of protest within five working days of the sale that identifies the sale, rental or service that is the subject of the tax protested, the amount of tax paid, the buyer's and seller's name, mailing address, telephone number and the basis for the protest.

(b) If the seller protests liability for sales tax, penalties, or interest, the seller shall pay the tax, penalties and interest under a written protest filed before or with the payment and setting forth the basis for the protest. No appeal from the sales tax board of appeals nor any action for a refund may be filed or maintained nor may a defense to nonpayment be maintained in a civil action unless the amount in dispute has been paid under protest as provided in this subsection. A protest accompanying a payment shall be deemed waived unless the protestor files an appeal under this chapter pursuant to and within 90 days of the protest.

(c) An appeal from the sales tax board of appeals or an action for a refund may be filed, maintained, or both without the payment under protest otherwise required by subsection (b) of this section:

(1) Upon a finding by the director of finance that:

(A) The seller has registered for the sales tax and filed returns according to the schedule specified in this chapter;

(B) The contested liability arises from an audit finding;

(C) The contested liability is not of a kind regularly remitted by similarly situated sellers; and

(2) Subject to the requirement that if the appeal or action for refund is denied, interest, but not penalty, shall be charged notwithstanding relief under this subsection.

(Serial No. 83-66, § 13, 1983; Serial No. 85-44, § 7, 1985; Serial No. 2001-04am, § 2, 2-26-2001)

69.05.105 Forgiveness of uncollected taxes, penalties and interest.

The manager, with the consent of the assembly, may forgive the payment of uncollected sales taxes, interest and penalty thereon and penalties for failure to file owing by a seller to the City and Borough upon a determination by the manager that such uncollected sales taxes have never been collected by a substantial portion of a clearly definable class of sellers or which have never been collected on a substantial portion of a clearly defined class or type of transaction or service. (Serial No. 83-66, § 14, 1983; Serial No. 84-107, § 3, 1984)

69.05.110 Criminal liability.

Any person, firm, copartnership or corporation, or an officer, director or agent of a corporation violating any of the provisions of this chapter or failing or refusing to comply with a lawful request

69.05.110

PART II: CODE OF ORDINANCES

or demand of the manager authorized or made under this chapter is guilty of a class A misdemeanor.

(CBJ Code 1970, § 69.10.110; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 15, 1983; Serial No. 85-44, § 9, 1985; Serial No. 85-56, § 63, 1985)

69.05.112 Deposit by nonresidents.

(a) A person, corporation or other association that is about to make sales, perform services or make rentals shall first register with the manager and shall make the deposit required by this section unless the person has been a resident of the City and Borough for six months prior to registering or the corporation or association is composed of such residents or has been regularly engaged in business within the City and Borough for nine of the 12 months preceding registration.

(b) The deposit required under subsection (a) of this section must be an amount that the manager determines is not less than the maximum amount of sales tax that the person, corporation or other association is likely to be required to collect during any filing period within a year of the date of registration.

(c) The deposit must be refunded upon written request and a determination by the manager that:

- (1) The seller has filed sales tax returns and made full remittance of sales tax owing for the preceding year; or
- (2) The seller has filed a statement that the seller has ceased engaging in transactions within the City and Borough and has remitted all sales taxes due.

The deposit must be refunded within 30 days of the receipt of the refund request unless the manager has initiated an audit of the seller or has otherwise questioned a return made during the period under consideration.

(d) The manager may order the withdrawal from the deposit of the seller so much as the manager determines is required to make up for any deficiency or late payment of taxes. No seller may engage in transactions within the City and Borough after receipt of written notice that the manager has withdrawn all or a portion of the seller's deposit for application to a delinquent or

insufficient payment of sales taxes. Upon the deposit with the City and Borough of funds restoring the deposit to its original amount or such higher amount as the manager determines is appropriate in light of the actual sales experience of the seller, the seller may again engage in transactions. A seller may not deduct the deposit amount from the seller's last or any other sales tax return.

(Serial No. 87-29, § 3, 1982; Serial No. 87-44, § 8, 1985; Serial No. 91-34am, § 8, 1991)

69.05.120 Inspection of business license.

Each person who exercises the privilege of doing business within the City and Borough thereby consents to the inspection of the person's state business license in order to facilitate the administration of this chapter.

(CBJ Code 1970, § 69.10.120; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 16, 1983)

69.05.130 Sale of business; final tax return; liability of purchaser.

(a) If any seller sells, assigns, transfers, conveys, leases, forfeits or abandons the business to another person, the seller shall make a final sales tax return within 15 days after the date of selling, assigning, transferring, conveying, leasing, forfeiting or abandoning the business showing that all tax obligations imposed by this chapter have been paid. The purchaser, successor, transferee, lessee, assignee, creditor or secured party shall withhold a sufficient portion of the purchase money to pay the amount of such sales taxes, penalties and interest as may be due and unpaid to the City and Borough. If the purchaser, assignee, transferee, lessee, successor, creditor or secured party fails to withhold from the purchase money, or fails to otherwise provide for or make the payment of the taxes, interest and penalties owed by the business as provided in this chapter, the purchaser, assignee, transferee, lessee, successor, creditor or secured party shall be personally liable for the payment of the taxes, penalties and interest accruing and unpaid to the City and Borough on account of the operation of the business of any former owner, owners, operators or assigns.

(b) Before the sale, lease, assignment, transfer, or other disposition of the business is completed, the seller shall file with the City and Borough manager an informational notice identifying the name and address of each person or entity involved in the transaction, the nature of the transaction, and the effective date of the transaction.

(CBJ Code 1970, § 69.10.130; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 17, 1983; Serial No. 85-44, § 10, 1985; Serial No. 87-11, § 2, 1987)

69.05.140 Lien for tax, interest and penalty.

(a) The tax, interest and penalty imposed under this chapter in addition to the lien filing fee under subsection (b) of this section shall constitute a lien in favor of the City and Borough upon the assets, including all real and personal property, of every person making taxable sales within the City and Borough. The lien arises upon delinquency and continues until liability for the amount is satisfied or the property of the delinquent person is sold at foreclosure sales. The lien is not valid as against a prior mortgagee, pledgee, purchaser, or judgment creditor until notice of the lien is filed in the office of the recorder for the City and Borough recording district in the manner provided for federal tax liens in AS 40.19.

(b) Fees for the filing and releasing of liens shall be as follows:

- (1) Filing of liens, \$25.00 plus the recorder's office filing fee;
- (2) Release of liens, \$25.00 plus the recorder's office filing fee.

The rates in this subsection may be changed by the manager from time to time to reflect the costs of providing municipal services generally.

(CBJ Code 1970, § 69.10.140; Serial No. 70-26, § 3, 1970; Serial No. 83-66, § 18, 1983)

State law reference—Lien, AS 29.45.650(e).

69.05.145 Collected taxes.

Taxes collected under this chapter by a seller shall belong to the City and Borough and shall be

held by the seller in trust for the City and Borough until paid over as provided in this chapter.

(Serial No. 83-66, § 19, 1983)

69.05.170 Registration.

A person, firm, copartnership, corporation, or other business entity shall register with the manager before making retail sales, rendering services or making rentals within the City and Borough.

(Serial No. 83-66, § 20, 1983)

69.05.180 Appeals.

(a) *Informal appeal.* For controversies involving taxable sales, sales taxes, penalties and interest not exceeding \$500.00, or involving procedures implemented by the manager, an appeal by a financially aggrieved taxpayer or merchant shall be directed to the manager. The manager shall advise the appellant of a date certain for a hearing and shall informally review the appeal claim, make written findings and state reasons for the decision. The decisions shall be maintained and indexed by the manager for review by the public. The appellant may appeal the decision of the manager to the board of appeals within 15 days after receipt of the written decision of the manager and failure of the appellant to so appeal shall be deemed to be a waiver of any right to appeal such decision.

(b) *Board of appeals.*

- (1) In order to provide an appeal mechanism for controversies involving taxable sales, sales taxes, penalties and interest, and exceeding \$500.00, and in order to hear appeals from decisions of the manager as provided under subsection (a) of this section, there is established a board of appeals which shall consist of five members appointed by the assembly for staggered three-year terms. To the extent possible, one member of the board of appeals shall be a certified public accountant, one member shall be licensed to practice law in the state, and the remainder shall be members of the general public. The board of appeals shall elect from its membership a

69.05.180

PART II: CODE OF ORDINANCES

chair, a vice-chair and a secretary. Three members of the board of appeals shall constitute a quorum for the transaction of business. The City and Borough shall provide secretarial and other staff support required by the board of appeals.

No member of the sales tax board who has served for three consecutive terms or nine years shall again be eligible for appointment until one full year has intervened, provided, however, that this restriction shall not apply:

- (A) If there are no other qualified applicants at the time reappointment is considered by the assembly human resources committee, or
- (B) To qualified board members serving in board seats for which a specific occupation or expertise is set forth by ordinance.

(2) The board of appeals shall conduct a hearing on a protest no more than 60 days after the protest is filed. Decisions of the board of appeals shall be in writing and shall be maintained and indexed by the manager for review by the public. Records and proceedings before the board of appeals are public, except that the board may deliberate in closed session. The board's authority in its review of sales tax appeals includes the authority to recommend, in writing, that the manager compromise and abate penalties and interest, and to recommend, in writing, that the manager negotiate and enter into payment plans for delinquent sales taxes, penalties and interest.

(3) The board of appeals shall adopt rules of procedure governing sales tax appeals and proceedings before the board of appeals which rules shall become effective upon adoption, or such later date as the board may specify. Rules adopted by the board of appeals may not be inconsistent with this chapter. Upon adoption by the board of appeals, the rules and all additions and changes thereto shall be submitted to the

assembly. The assembly may, by motion or resolution, modify any rules adopted by the board of appeals.

(c) *Review by assembly.* Any party to an appeal proceeding in this chapter shall have a right to review by the assembly in accordance with chapter 01.50 of this Code.

(Serial No. 85-72, § 2, 1985; Serial No. 86-73, § 3, 1986; Serial No. 96-32, § 4, 1996; Serial No. 2001-04am, § 3, 2-26-2001; Serial No. 2002-13, § 2, 4-15-2002; Serial No. 2004-08, § 9, 3-22-2004)