# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Policy Description</th>
<th>Policy Number/Effective Date</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.18.450(A)</td>
<td>Utility Services</td>
<td>(2003-01-1, 04/01/2003)</td>
<td>2</td>
</tr>
<tr>
<td>5.18.450(A)</td>
<td>Goods Purchased When Delivery or Installation is a Necessary or Integral Portion of a Transaction</td>
<td>(2003-02-1, 04/01/2003)</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Amended 2003-02, 03/2003)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Amended 95-01, 02/06/1995)</td>
<td></td>
</tr>
<tr>
<td>5.18.450(A)</td>
<td>Place of Sale</td>
<td>(2003-04, 04/01/2003)</td>
<td>6 – 7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Amended 91-06, 10/02/1991)</td>
<td></td>
</tr>
<tr>
<td>5.18.430(D)</td>
<td>Leases and Rents</td>
<td>2003-05, 04/01/2003</td>
<td>8 – 10</td>
</tr>
<tr>
<td>5.18.450(B)</td>
<td>Leases and Rents</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5.18.530</td>
<td>Credit for Cost of Collection</td>
<td>(2003-06, 04/01/2003)</td>
<td>11 – 12</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Amended, 91-01, 03/27/1991)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Amended, 91-07, 10/02/1991)</td>
<td></td>
</tr>
<tr>
<td>5.18.570(B)</td>
<td>Claiming Credit for Bad Debts After Sales Tax Has Been Remitted</td>
<td>(2003-08, 03/08/2004)</td>
<td>15</td>
</tr>
<tr>
<td>5.18.450(A)</td>
<td>Sellers Located Outside the Borough</td>
<td>(95-02, 04/01/2003)</td>
<td>18 – 19</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Amended 95-02, 04/14/1995</td>
<td></td>
</tr>
<tr>
<td>5.18.130(A)</td>
<td>Reporting and Refunding Sales Tax on Alaska Housing Finance Corporation (AHFC) Rents</td>
<td>(2004-02, 07/01/2004)</td>
<td>20 – 21</td>
</tr>
<tr>
<td>5.18.520</td>
<td>Filing a Sales Tax Return Ahead of Due Date</td>
<td>(2004-03, 05/25/2004)</td>
<td>22 – 23</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Amended 91-03, 03/27/1991)</td>
<td></td>
</tr>
<tr>
<td>5.18.610(B)</td>
<td>Injunctive Relief</td>
<td>(Attachment 1, FIN-2, 09/25/2002)</td>
<td>24</td>
</tr>
<tr>
<td>5.18.310(D)</td>
<td></td>
<td>(Replaced 93-01, 05/24/2003)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Replaced 91-02, 03/27/1991)</td>
<td></td>
</tr>
<tr>
<td>5.18.660</td>
<td>Sales Tax Liens</td>
<td>(Attachment 3, FIN-2, 09/25/2002)</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Replaced 96-01, 07/19/1996)</td>
<td></td>
</tr>
<tr>
<td>5.18.600(B)</td>
<td>Sales Tax Payment Agreements</td>
<td>(Attachment 4, FIN-2, 09/25/2002)</td>
<td>26 – 27</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(Replaced 95-03, 10/23/1995, Amended 01/16/1998)</td>
<td></td>
</tr>
</tbody>
</table>
Kenai Peninsula Borough  
Sales Tax Division  

Policy 2003-01-1  
Effective April 1, 2003  

UTILITY SERVICES

Purpose: To include fuel delivered for the purpose of heating a home or business to be included within the definition of utilities.

Policy: It is the policy of the Kenai Peninsula Borough to include fuel delivered for the purpose of heating a home or business to be included within the definition of utilities. The tax added to the sale price shall be based on the delivery location. Fuel sold for purposes other than heating a home or business, shall be subject to tax based on the location of the retail outlet.

Code Sections Effected:
   ❖ KPB 5.18.450(A) states that, for purposes of computing the correct amount of Borough and/or city sales tax, the place of sale for goods and merchandise is the location of the retail outlet at which or from which delivery was made. The place of sale for services is where the services are delivered or rendered.

   ❖ KPB 5.18.900(K)(3) defines services to include “utilities and utility services not constituting a sale of personal property, including but not limited to sewer, water, solid waste collection or disposal, electrical, telephone services and repair, natural gas, cable or satellite television, and Internet services.”

Revision History:

<table>
<thead>
<tr>
<th>Revision Number:</th>
<th>Reason for revision:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 2003-01, March 17, 2003</td>
<td>Review and change policy format.</td>
</tr>
</tbody>
</table>
GOODS PURCHASED WHEN DELIVERY OR INSTALLATION IS A NECESSARY OR INTEGRAL PORTION OF A TRANSACTION

Purpose: The sale of goods and services may involve a delivery or installation component that is integral and necessary for a transaction to be complete. Correctly classifying these types of transactions as a good, service or a combination of both can cause difficulties in determining the appropriate tax and jurisdiction. In recognizing that there may be some ambiguity with KPB 5.18.450, this policy is to clarify the tax treatment where the sale of goods involves a necessary and integral delivery or installation portion.

Policy: It is the policy of the Kenai Peninsula Borough, to define as a service, for purposes of determining taxing jurisdiction, the sale of goods that include a necessary and integral delivery or installation component. Necessary and integral shall be defined as exceeding the reasonable capacity of the average consumer. Installation and delivery made for convenience or provided for a nominal charge shall not change the classification of a good to a service.

When there is a question or dispute as to the classification of a good or service, the final determination shall be made by the Kenai Peninsula Borough Finance Director.

Example:
- Examples of goods involving a necessary or integral delivery include, but are not limited to: bulk fuel; pre-mixed concrete; gravel; soil; and bulk lumber. Installation sales include, but are not limited to; replacement of a roof, siding, carpet, tile or painting.

Code Section Effected:
KPB 5.18.450(A) states that, for purposes of computing the correct amount of Borough and/or city sales tax, the place of sale for goods and merchandise is the location of the retail outlet at which or from which delivery was made. The place of sale for services is where the services are delivered or rendered.

Revision History:

<table>
<thead>
<tr>
<th>Revision Number</th>
<th>Reason for revision</th>
</tr>
</thead>
</table>
Kenai Peninsula Borough
Sales Tax Division

Policy 2003-03
Effective April 1, 2003

ALLOCATION OF OWNER BUILDER CARD PROCEEDS

Purpose: To provide guidance to the Owner Builder Tax Exemption Certificate fee allocation between the borough and cities. KPB 5.18.225

Policy: Fees collected from the sale of Owner Builder Tax Exemption Certificates will be allocated between the borough and the cities collecting sales tax, whenever the construction site is located within the city. The allocation will be in the same ratio as the sales tax allocation for each city.

Example: An owner builder applicant pays $100 for an exemption certificate, which allows the purchase of building construction materials and services to build a house located within the city limits of the City of Kenai. The City sales tax rate is 3% and the Borough rate is 2%; therefore, the allocation of the $100 fee for the exemption certificate would be $60 to the City and $40 to the Borough.

Responsibility:

The Sales Tax Division is responsible for:

- Accepting and reviewing completed owner builder certificate applications. Verifying the owner of record is the same as the individual whose name will be on the OB Certificate.
- Search for compliance with sales tax, real property or personal property tax accounts.
- Determine taxing jurisdiction by referencing the TCA from the Property Tax System.
- Complete the allocation calculation for Property Tax and Collections Division.
- Print OB Certificates for distribution. Copies of OB Certificate, application, check and any other supporting documentation should be retained in the Sales Tax Division and Assessing Department. Original documents should be provided to the Property Tax and Collections Division.

The Property Tax and Collections Division is responsible for:

- Deposit any remittance monies received.
- Post to general ledger the fee allocation determined by the Sales Tax Division and recorded on the Owner Builder Certificate Application.
Revision History:

<table>
<thead>
<tr>
<th>Revision Number</th>
<th>Reason for revision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 95-01, February 6, 1995</td>
<td>Decrease in fee amount. Change in policy number format.</td>
</tr>
</tbody>
</table>
Kenai Peninsula Borough
Sales Tax Division

Policy 2003-04
Effective April 1, 2003

PLACE OF SALE

Purpose: To assist in determining the jurisdiction for computing the correct amount of borough and/or city sales tax. KPB 5.18.450(A)

Policy: The place of sale of goods and merchandise is the location of the retail outlet at which or from which delivery was made.

The place of sale of services is where the services are delivered or rendered. Where the service does not have a definite place of delivery, KPB 5.18.450(C) states that the seller may, but only with prior Borough approval, collect the sales tax based on the office location of the seller as the place of sale.

The place of sale of sale of rentals is the place where the real property is located, or where the personal property is delivered to the renter, KPB 5.18.450(B).

Examples:

- **Installation charge included with sale of goods.** If an invoice includes a charge for installation, then the place of the sale for goods and service is the retail outlet at which or from which delivery was made.

- **Seller located inside Borough (services).** When a seller located in the Borough sells services to a buyer located outside the Borough, and the services are performed inside the Borough, the place of sale is where the services are performed; including situations where the buyer mails an item to be serviced to the seller and the seller mails it back to the buyer after servicing it.

- **Seller located inside Borough (goods & merchandise).** When a seller located in the Borough sells goods & merchandise to a buyer located outside the borough and the buyer has not entered the borough to initiate the sale, then the sale is non-taxable as a “sale outside the borough”.

- **Seller located outside the borough.** When goods are delivered into the borough from a point outside the borough and the seller maintains an ongoing physical presence in the borough then the location of the seller’s in-borough presence will determine the place of sale. If a seller has no ongoing physical presence in the borough but has established nexus with the borough, the point of delivery will determine the place of sale. If the seller has no ongoing physical presence in, or nexus with the borough, the sale is not subject to the
 borough sales tax. “Nexus” means the seller has established a connection within the borough by use of marketing techniques, such as telephone or door-to-door sales, which are significantly associated with the seller’s ability to establish or maintain a market for its goods in the borough.

- **Real Property or Personal Property Rentals.** The place of sale of rentals is the place where the real property is located, or where the personal property is delivered to the renter.

- **Real estate commissions.** The place of sale for real estate commissions is the location of the property sold.

**Revision History:**

<table>
<thead>
<tr>
<th>Revision Number:</th>
<th>Reason for revision:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 91-06, October 2, 1991</td>
<td>Revision to KPB 5.18.450(A). Effective April 1, 2003. Change in policy number format.</td>
</tr>
</tbody>
</table>
Kenai Peninsula Borough
Sales Tax Division

Policy 2003-05
Effective April 1, 2003

LEASES AND RENTS

Purpose: This policy interprets the treatment of sales tax for various lease types versus a month-to-month rental.
KPB 5.18.430(D) & 5.18.450(B)

Policy: The place of sale for rentals is the place where the real property is located, or where the personal property is delivered to the renter. KPB 5.18.450(B)

Definitions:

- **Delivered**” is to be interpreted as where the lessee takes possession.

- **Operating Lease**: The owner (lessor) gives up no material rights of ownership under the lease agreement. He/she receives a payment similar to a rent payment and the lessee has no claim to ownership either during or at the end of the lease. Operating leases DO NOT have an option to purchase the equipment for anything less than fair market value at the end of the lease. At no time is a long-term vehicle lease to be considered on operating lease. Proper interpretation of sales tax on long-term vehicle leases is defined below.

  The property is taxed on each monthly payment to the maximum of the first $500.00 of each lease payment for the term of the lease. The taxing jurisdiction would be where the personal property is delivered for its use. Any purchase option at the end of the lease term is a separate transaction subject to the first $500.00.

**Example:**

a) Lessee agrees to lease a copier for 3 years, $100 per month with an option to purchase the copier at fair market value at the end of the lease term. Lessor (owner) is located in Washington and delivers the copier to Anchorage. The lessee must arrange for pickup for it to be used in the borough. This is an operating lease and not subject to tax because lessee took delivery or possession in Anchorage even though the copier may be transported into the Kenai Peninsula Borough. If the copier were delivered in Kenai, then the rate would be 5% or $5.00 each month. At a later date the copier is purchased at fair market value at the end of the lease term, the sale would represent a separate transaction subject to the $500 maximum.
Financing Lease: The real intent of a financing lease is to sell the equipment. The arrangement usually contains a clause offering the equipment to the lessee for an amount less than fair market value (usually called a PUT, Purchase Upon Termination) at the end of the lease period. It may also give up some or all of the other rights of ownership for the term of the lease: such as the right to claim depreciation, rights to income tax credits, the right to pay property taxes and the like. It will usually give up control of the whereabouts of the equipment.

The property is taxed on the first $500.00 of the value of the equipment being leased, one time only. The taxing jurisdiction would be the location of the retail outlet at which or from which delivery was made and is the sales tax is paid out of the first monies received under the lease. No other tax is required during the term of this type of lease. This is no different than had the Lessee purchased the personal property.

Example:

a) Lessee agrees to lease a copier for 3 years, $100 per month with an option to purchase the copier for $1.00 PUT (Purchase Upon Termination). Lessor (owner) is located in Washington and delivers the copier to Anchorage. The Lessor maintains a physical presence within the borough. This financing lease is taxable because of the physical presence and subject to sales tax at the rate where the retail outlet is located. If the retail outlet were in Kenai, then the rate would be 5% or $5.00 and is paid out of the first monies received under the lease. No other tax is required during the term of this type of lease.

Long-Term Vehicle Lease: 5.18.430(D) “Long-term vehicle leases shall be treated as one transaction per year, and per fractional year, of the lease term. The tax paid for any fraction of a year shall equal the tax paid for a whole year. The sales tax for the entire long-term vehicle lease shall be due and collected at the time of the first payment. Tax shall be calculated at the sales tax rate in effect on the day the lease is signed. There shall be no refund of such taxes should the lease terminate earlier than on its terms. Any extension of the initial lease term shall be treated as a new long-term vehicle lease.” A purchase at the end of the lease term constitutes a separate transaction subject to the $500.00 maximum.
Example:

a) Lessee agrees to lease a vehicle for 3 years, $300 per month. The taxing jurisdiction is the location where the Lessee took delivery. Assuming the Lessee takes delivery in Soldotna, the sales tax would be calculated as follows: ($300 x 12 months = $3,600.00 per year. The $500.00 maximum applies, therefore tax would be $500.00 x .05 = $25.00 for year 1, year 2 and year 3. Total tax would equal $75.00 and remitted to the borough upon collection of first payment).
Kenai Peninsula Borough
Sales Tax Division

Policy 2003-06
Effective April 1, 2003

CREDIT FOR COSTS OF COLLECTION

Purpose: To clarify the credit for costs of collection, “on-time credit”.
KPB 5.18.530.

Policy: A credit for costs of collection of 5% of the tax collected, to a maximum of $1,000 per quarter, shall be allowed when a seller files a return on time, together with payment which is adequate to pay the total balance due on the account, including all prior balances, and including the tax amount due for the period for which the return is being filed.

- When a sellers account has a prior balance due, and the seller files a return on-time with a payment that is not adequate to pay the total balance due on the account, the 5% credit will not be allowed.

- When a seller files a return on time, but with a payment which is not adequate to pay the total balance due on the return, the 5% credit will be allowed on the amount of payment that was made, as long as the sellers account is current for all prior reporting periods. The amount of credit will be calculated as follows:

\[
\text{(Payment amount} / 0.95) - \text{payment amount} = \text{credit*}
\]

*The credit is limited to 5% of the tax due or $1,000.00 per quarter whichever is less.

- When a seller has missing returns for a sales tax account the 5% credit will not be allowed on that account.

- When a seller has entered into a sales tax payment agreement with the borough, the 5% credit will not be allowed until the payment agreement is paid in full.

- Corporate documentation registered with the State of Alaska, Division of Banking, Securities and Corporations provided by registrant or by other sources (I.E., Internet) is sufficient evidence to allow the 5% on-time credit to newly registered corporations.
Definitions:

- “Prior balance due” means any amount outstanding for a filing period prior to the one for which a return is filed.

- “On-time” means the required document (i.e., sales tax return or remittance) is delivered to the front desk cashiers, night deposit drop box or postmarked by the U.S. Post Office prior to the due date specified by that period due a sales tax return and/or remittance.

Revision History:

<table>
<thead>
<tr>
<th>Revision Number</th>
<th>Reason for revision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 1991-01, March 27, 1991</td>
<td>Allow for corporate documentation from other sources as sufficient evidence to provide credit. Change in policy number format.</td>
</tr>
</tbody>
</table>
EXEMPTION FOR GOVERNMENT SALES

Purpose: To clarify the exemption for government sales by providing guidance as to what is meant by documentation required substantiating an exempt government sale. KPB 5.18.200(B)(2)

Policy: KPB 5.18.200(B)(2) states “retail sales, services and rentals to the United States, State of Alaska, or any instrumentality or political subdivision of either”, are exempt. KPB issues annual sales tax exempt certificates to all government agencies located in the Borough, upon application by the agency, and the cards must be renewed annually; to remain valid.

At the time of sale, the seller must request the buyer to provide adequate documentation to show the sale is being made to a government agency. If the buyer cannot provide the adequate documentation, the seller must collect the applicable sales tax on the sale. Upon request, the seller must be able to provide adequate documentation to show the Borough the sale was made to an exempt organization; otherwise, the tax-exempt status of the sale will be disallowed, and the seller will be liable for the unpaid sales taxes, penalties, interest and costs authorized by Borough ordinances.

Examples:

❖ A government employee arrives at a motel in Kenai and explains to the desk clerk he is traveling on government business. He does not bring his agency’s sales tax exempt certificate, a purchase order or check to pay for the motel room, and uses a personal credit card or cash to pay for the room. This sale is taxable, because adequate documentation has not been provided.

❖ A government employee needs office supplies during a trip to Kenai. The government agency’s tax-exempt certificate was made available, but it is not current (last year’s card). This sale is taxable.

Definitions:
❖ “Adequate documentation” is defined as at least one of the following:
  (i) A current sales tax exempt certificate, issued by the Kenai Peninsula Borough, bearing the name of the government agency;
  (ii) A purchase order in the name of the government agency;
  (iii) A check in the name of the government agency for the purchase of goods or services or rentals, which the seller claims is exempt;
Sales Tax Division, Policy 2003-07
Exemption for Government Sales

(iv) A credit card receipt imprinted with the name of the government agency;
(v) A procurement card receipt imprinted with the name of the government agency;

❖ “Inadequate documentation” is defined as at least one of the following:

(i) Personal knowledge by the seller, that the buyer is a government employee is not adequate documentation.
(ii) The sole use of a government issued I.D. Card is not sufficient evidence the purchase is for the government agency.

❖ “Keep a record of adequate documentation” means the seller must either:

(i) Write the exempt certificate number and the name of the government agency on the seller’s file copy of the original sales document; or
(ii) Keep a copy of the government purchase order or check with the seller’s file copy of the original sales document; or
(iii) Retain a duplicate copy of a credit card transaction substantiating the credit card was in fact issued to the government agency and not the government employee.

Revision History:

<table>
<thead>
<tr>
<th>Revision Number:</th>
<th>Reason for revision:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 91-07, October 2, 1991</td>
<td>Clarification of adequate documentation. Change in policy number format.</td>
</tr>
</tbody>
</table>
CLAIMING CREDIT FOR BAD DEBTS AFTER SALES TAX HAS BEEN REMITTED

Purpose: The sales tax ordinance requires merchants to report for sales tax purposes using the same method used to report their federal tax. KPB 5.18.570(B) There is a difference between reporting on an accrual basis versus a cash basis.

Policy:

**Accrual Basis Accounting:**
As an accrual basis filer, a merchant is required to report his sales on the total billings to his customers. The merchant is liable for the sales tax on the customers’ accounts even if the customers’ payments go NSF. It is not until the point a receivable account is determined uncollectible that a bad debt exemption may be claimed. *If the sales tax was remitted when the account was billed,* the merchant may take a bad debt exemption at the time the account is determined uncollectible.

Report the gross amount of bad debts claimed on the Sales Tax Return, line 2e and use “Bad Debts” as the description (this will reduce the tax for the current period.)

If, after a merchant takes a bad debt exemption, the merchant is then able to collect on the account, the merchant is required to add the collected amount to his gross sales reported on line 1 of the Sales Tax Return.

**Cash Basis Accounting:**
Cash basis merchants should only report the cash received. The receipt of an NSF check is not a bad debt. Merchants who report both federally and to the sales tax office on a cash basis do not have bad debts. If the merchant receives an NSF check, the sale should be omitted from gross sales. IF the merchant is able to collect on the NSF check at a later date, the merchant is required to include this collection in gross sales and remit the sales tax due.

As with any exemption, the merchant is required to maintain exemption documentation clearly backing up the exemption claims reported.
Kenai Peninsula Borough
Sales Tax Division

**Policy 2003-09**
Effective April 1, 2003.

**EXEMPTION FOR MEDICAL SERVICES**

**Purpose:** To terminate Policy 91-05, dated March 27, 1991.

**Policy:** Effective April 1, 2003 Ordinance 2002-39, §2, KPB 5.18.200(A)(2) exempts “human health services provided by, and prescription drugs, devices, and supplies prescribed for human use by, a person licensed or certified to provide those services or goods, as applicable, under Alaska Statutes Title 08”.

Ordinance 2002-39 provides an exemption for those medical professions specifically listed under Alaska Statutes Title 08, therefore, the ambiguity of who is exempted has been removed and eliminates the need for KPB Sales Tax Policy 91-05.
EXEMPTION FOR THE SALE OF PASSENGER SEAT TICKETS

Purpose: To expand the current exemption for the sale of air travel passenger seat tickets to include the commissions and/or fees to secure the sale of air travel.

Policy: KPB 5.18.200(A)(11) states a “Sale of passenger seat tickets by a commercial airline. Air charter and air taxi sales are exempt.”

This policy is to include travel agencies where by commissions and/or fees are paid to secure the sale of the airline passenger seat ticket.

Rationale: KPB Sales Tax Code 5.18.900(J) defines a seller to include “…consignees and persons who conduct sales where items will be sold for a commission or fee” are taxable.

The KPB has never enforced taxability of commissions paid to travel agencies because they were paid directly from the airline company to the travel agency, and all costs were included in the fares whether purchased directly from the airline or through the travel agency. The KPB has not enforced travel agencies to register when this was their only source of taxable sales. It is believed an inequity between travel agencies located inside the borough versus those located outside the borough would occur. Due to recent changes in the industry, travel agencies no longer receive commissions, but rather charge a direct fee to the consumer for their service.
SELLERS LOCATED OUTSIDE THE BOROUGH

Purpose: To clarify the sales tax code as applied to the sale of goods by sellers located outside the Kenai Peninsula Borough (“borough”) KPB 5.18.450(A). Without this policy, uniform enforcement of the sales tax code upon sellers located outside the borough is too difficult and costly, particularly when dealing with interstate sales.

Policy: Sellers located outside the borough are required to register to collect sales taxes if they:
- Maintain a “physical presence” or have established “nexus” in the borough.

Taxable Sales: Sales by such sellers are only taxable when the sales are made through the local physical presence. Once a seller has established a physical presence or nexus of an ongoing nature in the borough, such as through regular sales calls or the establishment of a local office, then all sales delivered in the borough through the local physical presence are taxable.

Non-Taxable Sales: Sales are not taxable if the seller can clearly establish they are neither assisted by nor attributed to the local physical presence. The seller has the burden of proving any such sales are not taxable.

Temporary events: Where a seller’s only physical presence is through attending a trade show, a carnival, or similar temporary event in the borough, then the seller is required to register with the borough and sales made at the temporary event in the borough are taxable. Any transaction initiated at a temporary event will be deemed a sale made within the borough and taxable.

Out of State Sellers: Due to commerce clause restrictions the following guidelines will be the basis of taxation:
- Such sellers may only be required to collect sales taxes where they maintain a sales force, a plant or an office in the borough.
Definitions:

- “Physical presence” means either a sales person making sales calls in, or an office physically located in the borough. The sales person may be either an employee or a contractor, so long as the sales person represents the seller. Use of a local telephone number is sufficient to show an “office” in the borough. A toll-free “800” number is only a local number if it is to a location in the borough. A local “office” may also be established by keeping advertising and ordering materials in a local place for customers’ use. Advertising in publications published and distributed by third parties in the borough is not sufficient to be considered a “physical presence”.

- “Nexus” means the seller has established a connection within the borough by use of marketing techniques, such as telephone or door-to-door sales, which are significantly associated with the seller’s ability to establish or maintain a market for its goods in the borough.

- “Local” means within the Kenai Peninsula Borough boundaries.

Revision History:

<table>
<thead>
<tr>
<th>Revision Number:</th>
<th>Reason for revision:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy 95-02, April 14, 1995</td>
<td>Expanded definitions of sellers located outside the borough, i.e., “nexus”.</td>
</tr>
</tbody>
</table>
REPORTING AND REFUNDING SALES TAX ON ALASKA HOUSING FINANCE CORPORATION (AHFC) RENTS

Purpose: To provide guidance for the reporting and refunding Alaska Housing Finance Corporation (AHFC) assisted rents.

Policy: Pursuant to KPB 5.18.130 (A) “The seller is also liable for all monies collected from the buyer as sales tax.” Any monies collected as tax must either be refunded to the purchaser or remitted to the borough where the purchaser may request a refund.

1. The landlord must determine the charge for rent not including sales tax.
2. The landlord must then determine the appropriate sales tax to apply in addition to the rent based on the sales tax jurisdiction.
3. The tenant payment received must be divided by 1 plus the tax rate to determine the tenant portion of the gross sale not including sales tax.
4. The tenant gross sale not including sales tax (calculated in line 3) is then multiplied by the tax rate to determine the amount of sales tax collected from the tenant.
5. The landlord will then take the sales tax figure used to determine the unit rent rate for AHFC and subtract the sales tax collected from the tenant (see line #4). This difference is the amount of sales tax to be refund due to AHFC.
6. The payment received from AHFC, less the amount of refund due them from the landlord, will be treated as payment of rent not including sales tax and is exempt.
7. The amounts from line 3 plus line 6 above will be reported on the sales tax return as Gross Sales not including sales tax.
8. The amount from line 6 will be reported as a non-taxable sale to a Government Agency on line 2 C of the sales tax form.
9. The resulting Taxable Sales amount on the sales tax form should equal the amount from line 3 above.

The amount on line 5 of this instruction, represents an overpayment of sales tax has been made by AHFC. This amount must be refunded to AHFC as overpayment of sales tax and may not be retained by the landlord. Landlords being found to have retained such overpayments will be liable to the borough for the amount of excess sales tax retained plus penalty and interest.
Example: An apartment in Homer rents for $575. A tenant applies for AHFC assistance and the landlord is asked to supply a unit rent figure for the apartment. The landlord states the rent is $603, which is $575 plus sales tax of $27.50 that is rounded to $28. AHFC figures the tenant portion of the rent to be $216 and AHFC pays $387.

The landlord would report this rental as follows:

1. Rent not including sales tax. $575
2. Homer sales tax. $500 x 5.5% = $27.50 rounded to $28
3. Tenant portion divided by 1.055 equals tenant gross sale. $216/1.055 = $204.74
4. Tenant gross sale multiplied by 5.5% equals tenant sales tax. $204.73 = $11.26
5. Sales tax figure used in unit rent figure less tenant sales tax. $28 - $11.26 = $16.74 refund due AHFC.
6. AHFC payment less refund equals exempt rent. $387-$16.74= $370.26 exempt rent.
7. Gross rents not including sales tax equals tenant rent plus exempt rent. $204.74 + $370.26 = $575.

<table>
<thead>
<tr>
<th>Homer</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Sales</td>
<td>$575</td>
</tr>
<tr>
<td>Non-Taxable Sales</td>
<td>$370</td>
</tr>
<tr>
<td>c) Government Agencies</td>
<td>$370</td>
</tr>
<tr>
<td>Total Non-Taxables</td>
<td>$370</td>
</tr>
<tr>
<td>Taxable Sales</td>
<td>$205</td>
</tr>
<tr>
<td>Tax Rate</td>
<td>5.5%</td>
</tr>
<tr>
<td>Sales Tax</td>
<td>$11.26</td>
</tr>
</tbody>
</table>
FILING A SALES TAX RETURN AHEAD OF DUE DATE

Purpose: To provide guidance for the filing and reporting sales tax returns ahead of when the Sales Tax Return is due. KPB 5.18.520

Policy:
1. When a seller does not anticipate making sales during specific filing periods, the seller may apply to pre-file returns for the periods in which there will be no sales made.

2. When a seller’s business will be temporarily closed during specific filing periods, the seller may apply to pre-file returns for the periods in which the business will be closed before the filing period ends, or be closed for the entire filing period.

3. When a seller intends to be absent from the borough for one or more filing periods, and future sales amounts for the business are certain, the seller may apply to pre-file returns for the filing periods in which the seller will be absent.

4. The seller must apply to the finance department for permission to pre-file returns. Permission to pre-file returns may be granted if the seller provides sufficient proof that (a) sales are not anticipated during the filing period, (b) the business will be temporarily closed before the end of the filing period, (c) the seller will be absent and the sales amounts are certain, and (d) the sales tax data on the pre-filed returns is accurate.

5. The Finance Department may investigate the application to pre-file returns, as well as the pre-filed returns, to determine the accuracy of the sales tax data, and whether the seller qualifies to pre-file returns under this policy.

Example:
Seller Bob Jones, a quarterly filer, makes sales within the borough between Memorial Day and Veterans Day, every year. Bob wants to close the business down after Veterans Day until Memorial Day next year. Bob can apply to the borough for permission to (1) pre-file $0 returns for the quarter ending March 31 in which there will be no sales; and (2) pre-file returns for the quarter ending December 31 in which the business will be closed after the quarter begins, but before the quarter ends, and sales were made during the quarter. However, Bob will not qualify to pre-file returns for the quarter ending June 30, since his business will be reopened before the quarter ends.
# Revision History:

<table>
<thead>
<tr>
<th>Revision Number:</th>
<th>Reason for revision:</th>
</tr>
</thead>
</table>
1. Upon referral by the Finance Director, the Borough Attorney may bring an action for injunctive relief against a seller who violates the sales tax ordinances and meets the following conditions:

   A. The seller is still in business; and
      i. The business sales tax account is delinquent; or
      ii. The seller has failed to apply for a certificate of registration; or
      iii. The seller has an outstanding payment plan which is delinquent; or
      iv. The seller has an outstanding judgment which has not been satisfied; and
      v. Based upon the collection history of the account, the Finance Director has determined that an action for injunctive relief is necessary to bring the seller into compliance.

2. Prior to referring the seller to the Borough Attorney, the Finance Department shall mail a written notice of intent to bring an action for injunctive relief to the seller at the seller's last known address. The notice will include options available to the seller to stop the injunctive action. The options may include the performance of any or all of the following:

   A. Pay all or part of any delinquent sales tax amounts;
   B. File any missing sales tax returns or any other record required by the Borough;
   C. Submit to an audit pursuant to KPB 5.18.570
   D. Deposit funds on a weekly basis into a joint account, pursuant to KPB 5.18.600 (C);
   E. File a sales tax bond, pursuant to KPB 5.18.310;
   F. Execute a repayment plan, with the delinquent balance due scheduled to be paid off within two years of the date of the repayment plan;
   G. Any other condition necessary to ensure compliance with the borough sales tax code.

3. The seller shall have 10 calendar days from the date of the notice to take appropriate action as outlined in the notice before being referred to the Borough Attorney.
A sales tax lien shall be created as follows:

1. In addition to other notices of delinquency that may have been mailed, before filing or recording a sales tax lien, the Delinquent Account Specialist shall mail a written notice of intent to file a sales tax lien to the last known address of the seller; and

2. Obtain a court judgment for the amounts due and, after mailing written notice as provided in #1 above, record a certified copy of the judgment; or

3. Issue and record a prejudgment sales tax lien, in a form that is approved by the Legal Department, and that includes the following information:

   a) the name(s) of the seller(s);
   b) the relevant sales tax account number(s), periods of default, and balance(s) due as of the first day of the month in which the lien document is signed;
   c) a statement setting out the Borough’s statutory lien authority; and
   d) a verification by and the signature of an authorized Borough official
1. A Repayment Agreement may be required of a seller for delinquent sales taxes or delinquent personal property tax. The Repayment Agreement must be secured by a confession of judgment, any other form of judgment, or deed of trust on property with sufficient equity to cover the sales or personal property tax liability, with payment terms the Finance Director finds reasonable, subject to the following;

   A. The term of the Repayment Agreement shall require full payment of all obligations of the seller within a maximum period of 24 months from the date of execution of the Repayment Agreement; unless a shorter period is required by the borough code; and

   B. The administration cannot enter into a Repayment Agreement with a seller who has been involved in a Repayment Agreement with the last five years, unless otherwise provided in the borough code; and

   C. The agreement must stipulate that the taxpayer remains current on all sales and personal property tax accounts during the term of the agreement. “Current” is described as filing annual personal property statements, filing any current sales tax return in which the debtor is registered and paying any amount owed by the due date. The agreement must also stipulate that in the event other taxes become delinquent during the term of the agreement, any payments received shall first be applied to such other personal property or sales tax accounts.

2. In the case of a pending liquor license renewal or transfer, the Finance Director, pursuant to KPB 7.10.020(A)(1)(c) shall require from the seller either payment in full of all delinquent sales taxes or execution of a Repayment Agreement that by its terms shall be paid in full on or before the end of the next license year.
3. Under the direction of the Property Tax and Collection Supervisor, the Delinquent Account Specialist handling the sales tax account file may negotiate Repayment Agreement terms; and the terms must comply with KPB 5.18.600(B) and this policy. In addition, the legal department must approve for form and sufficiency any Repayment Agreement term that varies in scope from the form provided by the legal department, before any agreement, whether oral or written, is made with the seller. Repayment Agreements shall be executed by the Property Tax and Collection Supervisor or the Finance Director.

5. Amendments to Repayment Agreements may be made, but may not include new amounts owed and may not authorize an extension of time that would result in a total payment period of more than twenty-four months. In the case of a liquor license renewal or transfer, an amendment may not extend the time for payment in full beyond the end of the next license year. In addition, a written explanation of the amendment must be provided for the sales tax account file.

6. Once executed, Repayment Agreements will be administered for compliance by the finance department. In addition, the finance department will provide a tracking system to ensure that a seller does not have more Repayment Agreements than the sales tax code or this policy allow.

7. Definitions

   A. “Repayment Agreement” has the same meaning as provided in Kenai Peninsula Borough Policy & Procedure FIN-2

   B. “Satisfactory arrangements” as that term is used in KPB 7.10.020/(C), means payment in full of delinquent sales taxes or the execution of a Repayment Agreement.

   C. “Seller”, as the term is used in KPB 5.18.600(B) includes the person or entity personally liable for the sales tax delinquent amount pursuant to KPB 5.18.130(A).

(KPB Collection Policies for Delinquent Personal Property Taxes, April 6, 1990, Amended January 16, 1997)