

AGENDA ITEM N. 4.

**Biggs, Sherry**

---

**From:** Milli Martin [millimom@xyz.net]  
**Sent:** Tuesday, March 01, 2005 7:21 AM  
**To:** Biggs, Sherry  
**Subject:** FW: Change in sales tax.

Sherry,

Please share with Assembly members. Thanks. Milli

-----  
**From:** Craig Forrest <craig@homernet.net>  
**Date:** Tue, 01 Mar 2005 08:11:32 -0900  
**To:** Milli Martin <millimom@xyz.net>  
**Subject:** Change in sales tax.

Milli,

I already understand that you do not support the increase in sale's "max tax". In our business, Tech Connect, an increase in the "max tax" will be crippling if not devastating. At the current \$27.50 (including Homer sale's tax), we can just barely compete with the Anchorage and "catalog" or "mail-order" outfits who are our biggest competitors when we sell a computer system. The majority of our systems cost in excess of \$1000. At \$55 it will pay for our customers who shop by price to drive to Anchorage, or mail-order their systems. At \$27.50 it is a close thing.

For large ticket sales, such as automobiles and boats, I see this as totally devastating.

I hope that you can continue to oppose this increase, and regret that I will be unable to attend the Assembly Meeting and testify in person.

Sincerely

Craig M.K. Forrest

3/1/2005

---

**KENAI PENINSULA BAR ASSOCIATION**

An Association of Attorneys Across The Kenai Peninsula Borough

---

To: Kenai Peninsula Borough Assembly & Administration  
From: Jim Butler, President Pro-Tem  
CC: Members Kenai Peninsula Bar Association  
Date: February 21, 2005  
Subject: Equity Amendments to KPB 5.18.430 & 450

---

The following information is provided as a follow-up to previous testimony and input from the Kenai Peninsula Bar Association on proposed revisions to the Kenai Peninsula Borough sales tax ordinance.

Thank you in advance for the thoughtful consideration of the KPBA assembly and administration as they consider this important issue.

---

1. Remove discriminatory exception to the general rule. The general rule is stated at the beginning of KPB 5.18.430 -- that the maximum tax applies to each "separate sale, rent or service transaction." Legal service providers usually understand a "transaction" to be a matter for a client, such as a lawsuit or incorporation. However, the current sales tax code, at KPB 5.18.430, singles out certain groups of taxpayers, creating exceptions to the general rule. For "services provided on account and billed...on a periodic basis," KPB 5.18.430(B) requires the service provider to collect the maximum tax every billing cycle, even if the bill is for the same transaction. This requirement often means that the taxpayer must pay more sales tax than under the general rule. There is no apparent reason for this exception, and it does unfairly single out and discriminate against taxpayers who receive services on a separate "transaction" that costs more than \$500 and is provided over a period of time greater than one month. The KPBA supports removing this exception and returning "services provided on account" to the general rule, by deleting B, as follows:

**5.18.430. Computation--Maximum tax.**

The tax shall be applied only to the first \$500.00 of each separate sale, rent or service transaction, except as otherwise provided in this section.

A. Except as provided below for long-term vehicle leases, the payment of rent, whether for real or personal property, in excess of \$500.00 and for more than one month, shall be treated as several separate transactions covering the rental/lease for one month each.

[B. SERVICES PROVIDED ON ACCOUNT AND BILLED TO THE CUSTOMER ON A PERIODIC BASIS ARE SUBJECT TO APPLICATION OF THE TAX ON A MAXIMUM OF \$500.00 OF BILLING, PER ACCOUNT. FOR PURPOSES OF THIS SECTION, ANY ADVANCE PAYMENT FOR SERVICES OTHER THAN TO A TRUST OR ESCROW ACCOUNT IS CONSIDERED TO BE PAID PURSUANT TO A "BILLING."]

B [C]. Each night's rental of each individual room shall be considered a separate transaction and therefore the maximum tax computation shall be calculated on a per room per night basis.

C [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.

2. Parity between local and out of jurisdiction service providers. The way the KPB STX code is currently written, local service providers are treated differently than service providers with offices outside the Borough or cities. This puts taxpayers with local service providers at a serious disadvantage. For example, a Kenai resident could be sued in Kenai court, retain a Kenai attorney, and have to pay up to \$300 in sales taxes a year (\$600 under the proposed \$1000 maximum tax), while the person who sued the Kenai resident would pay no sales taxes, if they retained an Anchorage attorney.

Other municipalities such as Ketchikan Gateway Borough have tightened up their sales tax ordinances to remove any disparity between local and out of jurisdiction service providers. For example, the Ketchikan Gateway Borough Code of Ordinances, at 45.20.013 provides:

45.20.013. Multijurisdictional Services.

(a) All services which either commence or terminate within the borough, or which are in any part rendered, supplied or provided within the borough, shall be subject to sales tax, except as otherwise provided in this chapter.

(b) Notwithstanding any other provision herein, air or sea charter services, provided by a person in the business of providing such charter services, which do not both commence and terminate within the borough, are exempt from sales tax.

KPBA has been informed that KGB staff enforce the above ordinance by checking public records, such as court calendars, and then contacting the out of borough service provider to require registration, sales tax reporting and remittance.

The KPBA supports amending the KPB STX Code to clarify that all service providers should be treated the same, and to clearly capture multi-jurisdictional services, by amending KPB 5.18.450B, as follows:

5.18.450. Tax Jurisdiction -- Office location of seller...

B. The place of sale for [OF] services is where the services are, in any part, delivered, rendered, supplied or provided [WHICH MEANS THE PLACE WHERE THE SERVICES ARE RENDERED]. 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. The borough shall determine the place of sale of a good, service or rental pursuant to this section, and the borough's determination is final.

CITY OF SEWARD  
PO. BOX 167  
SEWARD, ALASKA 99664-0167



- Main Office (907) 224-4050
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- City Clerk (907) 224-4046
- Engineering (907) 224-4049
- Utilities (907) 224-4050
- Fax (907) 224-4038

February 18, 2005

Mayor Dale Bagley  
Assembly President Gary Superman  
Kenai Peninsula Assembly Members

AGENDA ITEM N. 4.

Through: Linda Murphy, MMC  
Borough Clerk Kenai Peninsula Borough  
144 N Binkley Street  
Soldotna, AK 99669

FAXED

RE: Ordinance 2004-36

Dear Linda:

Enclosed please find a copy of City of Seward resolution 2005-112 unanimously approved at the regular city council meeting held February 14, 2005, supporting Kenai Peninsula Borough ordinance 2004-36 raising the sale tax cap from \$500 to \$1,000.

As you are aware, the Kenai Peninsula Borough voters approved the imposition of a sales tax in 1965 on the first \$500 of each separate sale. This same \$500 in 1965 is now worth \$1,801.70 based on the consumer price index for Anchorage and therefore should be adjusted for inflation. By increasing the maximum sales tax cap, it is estimated that an additional \$1.9 million could be generated for the Kenai Peninsula Borough as well as an additional \$181,744 for the City of Seward which would help offset problems created by state budgetary actions including escalating PERS contributions. Finally, adoption of the same sales tax cap by both the Kenai Peninsula Borough and City of Seward would allow merchants to more easily report their sales and assist the Borough in collection and administration of the sales tax program.

We therefore strongly urge the assembly to approve ordinance 2004-36 in order to allow us to coordinate a similar change as part of our operation.

Sincerely,

CITY OF SEWARD

A handwritten signature in black ink that reads "Philip C. Shealy".

Philip C. Shealy  
City Manager

Enclosure

cc: Mayor & City Council

Sponsored by: Shealy

**CITY OF SEWARD, ALASKA  
RESOLUTION 2005-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, SUPPORTING KENAI PENINSULA BOROUGH ORDINANCE 2004-36, RAISING THE SALES TAX CAP FROM \$500 TO \$1,000**

**WHEREAS**, in October, 2004, the Kenai Peninsula Borough Assembly introduced KPB Ordinance 2004-36 amending KPB 5.18.430 Sales Tax Computation - Maximum Tax, proposing to increase the sales tax cap from \$500 to \$1,000; and

**WHEREAS**, the equivalent value in today's dollars of the \$500 sales tax cap implemented in 1965, is estimated at approximately \$1,801.70, providing sufficient justification for increasing the sales tax cap to \$1,000; and

**WHEREAS**, as a Home Rule City, the City of Seward may increase the sales tax cap whether or not the Kenai Peninsula Borough does, but having divergent tax rates is considered problematic for businesses and the Borough finance department, and the City of Seward prefers to await the outcome of the Borough Assembly's action on KPB Ordinance 2004-36 before making a final decision on whether to increase the City's tax cap; and

**WHEREAS**, during the 2005 budget process the Seward City Council introduced Ordinance 2004-04, proposing to raise the sales tax cap from \$500 to \$1,000; and

**WHEREAS**, local governments are facing significant cost increases associated with unfunded liabilities of the Public Employees Retirement System and other fixed costs, as well as the complete elimination of State funding for the revenue sharing and safe communities programs, which previously contributed the equivalent of 3.5 mills of property tax revenue to the City's coffers, helping to subsidize local taxpayers; and

**WHEREAS**, the City of Seward has previously taken action to address reductions in State aid and cost increases by increasing the sales tax rate from 3% to 4% and imposing a 4% bed tax.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:**

**Section 1.** The City Council of the City of Seward, Alaska, supports Kenai Peninsula Ordinance 2004-36, increasing the sales tax cap from \$500 to \$1,000, and strongly urges Assembly approval of Ordinance 2004-36.

**Section 2.** This resolution shall take effect immediately upon adoption.

**CITY OF SEWARD, ALASKA  
RESOLUTION 2005-12**

---

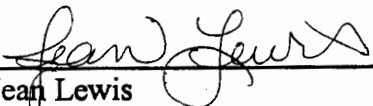
**PASSED AND APPROVED** by the City Council of the City of Seward, Alaska, this 14th day of February, 2005.

**THE CITY OF SEWARD, ALASKA**

  
\_\_\_\_\_  
**Vanta Shafer, Mayor**

AYES: Lorenz, Clark, Branson, Shafer  
NOES: Valdatta, Amberg  
ABSENT: Dunham  
ABSTAIN: None

**ATTEST:**

  
\_\_\_\_\_  
Jean Lewis  
City Clerk

(City Seal)

