

Introduced by: Skogstad at
request of Sales Tax Task Force
Date: October 9, 1990
Hearing: November 13, 1990
Vote: 10 Yes; 6 No
Action: Enacted as Amended
Reconsidered: November 27, 1990
Vote: 8 Yes; 7 No
Action: Motion to Reconsider FAILS

KENAI PENINSULA BOROUGH

ORDINANCE 90-59

AMENDING THE BOROUGH SALES TAX CODE TO CLARIFY SALES TAX EXEMPTIONS

WHEREAS, the Borough Assembly has appointed a Sales Tax Task Force composed of Borough Assembly members, city officials, and members of the public, to examine the sales tax exemption area, among other issues; and

WHEREAS, the Sales Tax Task Force has made recommendations to the assembly for amending the borough sales tax code concerning exemptions for nonprofit organizations and other exemptions; and

WHEREAS, it is desirable to amend the code to clarify sales tax exemptions, including the nonprofit organization exemption and other exemptions;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. The KPB 5.18.200(A)(1) is repealed and reenacted as follows:

5.18.200 Exemptions. A. The following classes of retail sales, services and rentals are exempt:

1. Casual and isolated sales or rentals by a seller who does not regularly engage in the business of selling goods or services, or making rentals; but only if:

a. The total annual gross sales for goods sold, services rendered or rentals made by the seller does not exceed \$1000 per year; or

b. The sales of goods do not occur for more than 14 days in a calendar year, and are not made through a dealer; or

c. The sales of goods are made by a registered business to sell business equipment used in the business, and not held as inventory.

Section 2. That KPB 5.18.200(A)(15) and (16) are repealed. KPB 5.18.200(A)(15) is reenacted as follows:

5.18.200 Exemptions. A. The following classes of retail sales, services and rentals are exempt:

15. Retail sales of food are exempt in the following circumstances:

a. When served in cafeterias or lunchrooms of elementary, secondary, post-secondary schools, colleges or universities which are operated primarily for students and staff, and are not operated for the public or for profit;

b. When served to clients and staff, and not to the public or for profit, as part of services provided by a nonprofit hospital or other nonprofit or government organization licensed by the State of Alaska for the care of humans;

c. Meals delivered by a nonprofit organization to handicapped or senior citizens at their place of residence; or meals served on the premises of a nonprofit senior citizens' organization which receives funding from the State of Alaska or a political subdivision of the State; provided that the sale price of such meals does not exceed the cost of delivery or service of such meals.

Section 3. That KPB 5.18.200(B)(1), (B)(3), and (B)(4) are repealed. KPB 5.18.200(B)(1) is reenacted as follows:

5.18.200 Exemptions. B. The following classes of buyers are exempt from the provisions of this chapter:

1. Retail sales, services and rentals to:

a. An organization that has obtained a 501(c) exemption ruling from the Internal Revenue Service, as long as proof of such ruling is provided to the borough administration.

b. A church that is organized as a nonprofit corporation under the laws of the State of Alaska, as long as proof of such incorporation is provided to the borough administration.

Section 4. That KPB 5.18.200(C) is repealed and reenacted as follows:

C. The following classes of sellers are exempt from the provisions of this chapter:

1. An organization that has obtained a 501(c) exemption ruling from the Internal Revenue Service, as long as proof of such

ruling is provided to the borough administration; but only under the following conditions:

- a. The sales are not liquor or food sales; and
- b. Gaming sales are not made by third party vendors.

2. Groups sponsored by public or nonprofit schools.

Section 5. That 5.18.900(H) is amended as follows:

5.18.900 Definitions. When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

H. "Seller" includes persons who are vendors of property, persons furnishing services, the lessors of rental space or goods, and all persons making sales, including space or goods, and all persons making sales, including consignees and [INCLUDING PERSONS CONDUCTING GARAGE OR MOVING SALES ON MORE THAN 14 DAYS DURING ANY CALENDAR YEAR AND INCLUDING] persons who conduct [GARAGE OR MOVING] sales where items will be sold for a commission or fee. Notwithstanding any other provisions of this chapter, "seller" includes all persons engaging in sales of fireworks regardless of the length or time, duration or volume of such sales in any calendar year.

Section 6. That 5.18.900 is amended by adding a new definition, and the following definitions relettered, as follows:


5.18.900 Definitions. When not clearly otherwise indicated by the context, the following words and phrases, as used in this chapter, have the following meanings:

D. "Nonprofit organization" means an association, corporation or other organization where no part of the net earnings of the organization inures to the benefit of any member, shareholder or other individual.

Section 7. That this ordinance is effective January 1, 1991.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 13th DAY OF November, 1990.

ATTEST:


James W. Skogstad, Assembly President


Borough Clerk