

Introduced by: Tax Sub-committee
Date: 11/01/94
Hearing: 12/13/94
Action: Enacted as Amended
Vote: 5 Yes, 3 No

**KENAI PENINSULA BOROUGH
ORDINANCE 94-59**

**AN ORDINANCE AMENDING THE SALES TAX CODE REGARDING
LONG-TERM VEHICLE LEASES**

WHEREAS, long-term leases are increasingly popular financing mechanisms for purchasing motor vehicles; and

WHEREAS, taxing separately each lease payment on a long-term lease is imposing a serious competitive disadvantage upon local motor vehicle dealers; and

WHEREAS, it appears to be in the best interests of the Kenai Peninsula Borough to remove this competitive disadvantage imposed by the current sales tax code;

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

SECTION 1. That KPB 5.18.430 be amended to read 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, [T]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. A transaction involving payment for services or personal property to be rendered or delivered over a period of more than one month for a consideration in excess of \$500.00 shall be treated as several separate transactions occurring one each month over the period of time that the service or property is rendered or delivered.

C. Services provided on account and billed to the customer on a monthly basis are subject to application of the tax on a maximum of \$500.00 of each monthly billing, per account.

D. 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.

E. 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. 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.

SECTION 2. That KPC 5.18.900 is amended to read 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:

C. "Long-term vehicle lease" means a lease of a motor vehicle, as defined below, for a period of twenty-four months or longer. As used herein a "motor vehicle" is a motor vehicle, as defined in AS 28.40.100(12), that is either required to be registered under AS 28.10.011, or is exempted from registration under AS 28.10.011(6) and (11). However, "motor vehicle" does not include either an "off-highway vehicle" as defined in 13 AAC 40.010(30) or a "snowmobile" as defined in 13 AAC 40.010(49).

D. [C.] "Mayor" or "borough mayor" means the mayor of the Kenai Peninsula Borough or his designee.

E. [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.

F. [E.] "Office location" means the place in the borough where the seller does business, as determined by the borough.

G. [F.] "Person" includes individuals and every person recognized in law and every group of persons who act as a unit.

H. [G.] "Quarter" means trimonthly period established by the finance director.

I. [H.] "Sale" or "retail sale" includes:

1. Every sale or exchange of services;
2. Every rental or lease of personal property;
3. Every sale of the use or play of a coin-operated machine;
4. Installment, credit and conditional sales;
5. Every sale of use or title in tangible personal property, regardless of quantity or price, whether sold by coin-operated machine or otherwise;
6. Every rental or lease of real property other than a rental or other agreement for occupancy of residential real property pending the closing of a transaction which does not exceed 90 days in length for a buyer of that property.
7. Gaming sales authorized by AS 5.15.

J. [I.] "Sales price" means consideration paid by the buyer whether money, credit, rights or other property, expressed in terms of money equal to the fair market value of the consideration and including delivery or installation costs, taxes, or any other expenses whatsoever, measured by the gross sales price of the seller.

K. [J.] "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 persons who conduct 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 of time, duration or volume of such sales in any calendar year.

L. [K.] "Services" includes all services of every manner and description which are performed or furnished for compensation, including but not limited to:

1. Professional services;
2. Services in which a product or sale or property may be involved, including personal property made to order;
3. Utilities and utility services not constituting a sale of personal property, including sewer, water, solid waste collection or disposal, electrical, and telephone services and repair;
4. The sale of transportation services;
5. Services rendered for compensation by any person who furnishes any such services in the course of his trade, business or occupation, including all services rendered for commission;
6. Any other services, including advertising, maintenance, recreation, amusement and craftsman services;

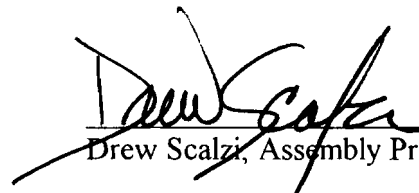
M. [L.] "Time of sale" for installment sales is the time at which the initial payment is made.

N. [M.] "Temporary lodging" is defined as a service to provide any lodging of less than one month.

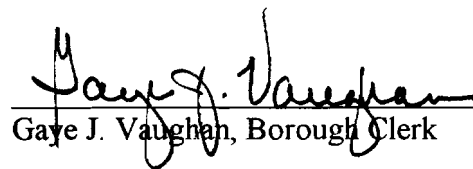
SECTION 3. That this ordinance shall only apply to long-term vehicle leases executed after the effective date of this ordinance.

SECTION 4. That this ordinance shall take effect immediately upon its enactment and the changes to the sales tax code implemented by Ordinance 94-59 shall sunset on December 31, 1995, unless the assembly by ordinance has altered or extended that date.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 13th DAY OF DECEMBER, 1994.


Drew Scalzi, Assembly President

ATTEST:


Gaye J. Vaughan, Borough Clerk