

TITLE 60  
REVENUE

CHAPTER

60.20 SALES TAX

60.40 SEVERANCE TAX

TITLE 60

REVENUE

Chapter 60.20 - Sales Tax

**Sections:**

|           |   |
|-----------|---|
| 60.20.010 | Tax Levied.                                   |
| 60.20.020 | Obligation to Pay Tax.                        |
| 60.20.030 | Computation of Tax.                           |
| 60.20.040 | Tax Funds Held in Trust.                      |
| 60.20.050 | Payment and Remittance.                       |
| 60.20.060 | Sale or Transfer of Business.                 |
| 60.20.070 | Exemptions.                                   |
| 60.20.080 | Rulings and Regulations.                      |
| 60.20.090 | Registration-Authority to Enforce Collection. |
| 60.20.100 | Statement of Tax.                             |
| 60.20.110 | Protest of Tax.                               |
| 60.20.115 | Protest of Tax by Buyer.                      |
| 60.20.118 | Refund of Excess Payment.                     |
| 60.20.120 | Disposition of Tax Information.               |
| 60.20.130 | Record--Investigation and Audits.             |
| 60.20.140 | Penalties and Interest.                       |
| 60.20.150 | Records Submitted.                            |
| 60.20.160 | Forced Filing.                                |
| 60.20.162 | Lien.   |
| 60.20.170 | Accelerated Returns.                          |
| 60.20.180 | Time Extensions.                              |
| 60.20.185 | Liability of Responsible Persons              |
| 60.20.220 | Use Tax Levied.                               |
| 60.20.250 | Definitions.                                  |
| 60.20.260 | Authority to Contract Collections.            |
| 60.20.300 | Enforcement and Penalties.                    |

**60.20.010 Tax Levied.**

There is levied and shall be collected a tax of two percent on all sales of raw fish in the Borough. The tax applies to the sale of raw fish whether delivered directly or indirectly by the seller to the buyer in the Borough.

(Ord. 88-2(s), Sec. 60.20.010)

**60.20.020 Obligation to Pay Tax.**

The tax levied under this chapter is an obligation of the seller. The buyer shall collect the tax at the time of sale by withholding from payment to the seller the amount of the tax. If payment is not made at the time of sale or delivery, the buyer shall segregate from funds of the buyer an amount equal to the tax due on the sale. For purposes of this chapter, funds required to be segregated under this section are taxes collected or required to be collected under this chapter.

(Ord. 88-2(s), Sec. 60.20.020)

**60.20.030 Computation of Tax.**

The tax due under this chapter shall be computed by multiplying the sale price by two percent. The sale price includes all forms of consideration given for the raw fish. The tax due on a transaction shall be rounded to the nearest whole cent with fractions of one-half cent and more rounded upward.

(Ord. 88-2(s), Sec. 60.20.030)

**60.20.040 Tax Funds Held in Trust.**

All funds required to be collected or segregated by the buyer are funds of the Borough and shall be held in trust by the buyer until paid over to the Borough. Interest earned on such funds while held by the buyer may be retained by the buyer.

(Ord. 88-2(s), Sec. 60.20.040)

**60.20.050 Payment and Remittance.**

- (a) Taxes required to be collected under this chapter during a calendar month are due and payable to the Borough on the last day of the calendar month. Every buyer liable for collection of the tax shall file with the Borough on forms furnished by the Borough a return containing the following information:
- (1) Gross purchases by the buyer during the calendar month;
  - (2) Nontaxable purchases during the calendar month;
  - (3) Taxable purchases during the calendar month;
  - (4) Taxes collected on taxable purchases;
  - (5) Interest, penalties, deductions and such other information as may be required on the form.
- (b) The return shall be signed and its completeness and accuracy sworn to by the buyer under penalty of perjury.

- (c) The completed return, together with the remittance of the tax required to be collected during the calendar month, must be received by the Borough at the address designated on the return form on or before the fifteenth day of the month following the end of the calendar month for which the return is required. If the fifteenth day of a month falls on a Saturday, Sunday or a State holiday, the date for receipt is extended to the next day that is not a Saturday, Sunday or State holiday.
- (d) Any buyer who was required to collect a tax during a calendar month shall file a return for the next following calendar month even though no tax may be due during the following month. A return filed for a month in which no tax was required to be collected must show why no tax was collected or is due. If the business is sold or transferred to another, whether voluntarily or involuntarily, the person filing the return shall provide on the form the name of the person to whom the business was sold or transferred. A person who files a return for a calendar month in which no taxes were required to be collected is not required to file additional returns until the person is required to collect a tax under this chapter.
- (e) If a complete return accompanied by the entire tax due is received by the Borough within the time allowed, the person collecting the tax may deduct and retain up to two percent of the tax due as compensation for its costs of administration of the tax; however, the amount deducted and retained may not exceed \$150 for any month.  
(Ord. 98-3, amended Sec. 60.20.050 (e) (amended Ord. 89-4))
- (f) Amounts received with the return shall be applied in the following order:
  - (1) penalties due, beginning with the oldest penalty;
  - (2) interest due, beginning with the interest due on the oldest month; and
  - (3) taxes due, beginning with the taxes due from the oldest month.

(Ord. 98-3 (amended Ord. 88-2), Sec. 60.20.050)

**60.20.060 Sale or Transfer of Business.**

If any buyer or other person required to collect a tax under this chapter sells, leases or in any other manner disposes of the business or if the business is transferred voluntarily or involuntarily, the person selling, leasing or otherwise transferring the business shall make or deliver to the Borough within fifteen (15) days of the date of the sale or other transfer a final sales tax return. The purchaser, lessee or other successor or assign shall withhold a sufficient portion of the purchase or lease money to cover the amount of the tax required to be collected under this chapter, penalties, and interest as may be due on unpaid taxes to the Borough until such time as the former owner has produced a receipt

from the Borough showing that all tax obligations through the date of sale imposed by this chapter have been paid. The purchaser, lessee or other transferee or successor-in-interest of a business required to collect the tax under this chapter shall be liable for all taxes required to have been collected by the former owner but not paid over to the Borough and shall be liable for all penalties and interest on such unpaid taxes and on late or unfiled returns.

(Ord. 88-2, Sec. 60.20.060)

**60.20.070 Exemptions.**

The following sales are exempt from the tax imposed by this chapter:

- (1) Casual or isolated sales not made in the regular course of business;
- (2) Resale of the same raw fish in essentially the same form as when purchased if a prior purchase was subject to the tax under this chapter and such prior purchase was fair market value for the fish under the circumstances of such prior purchase;
- (3) All rentals and services performed in the Borough; and
- (4) Sale of all goods except raw fish;
- (5) Twenty-five percent of the sale price of raw fish. This exemption shall be effective only for sales or use prior to July 1, 1989 unless, prior to that date, the assembly adopts an ordinance or resolution extending the effective date for one additional fiscal year. If the exemption is extended under this or the preceding sentence, it shall expire at the end of the extension fiscal year unless again extended by the assembly by ordinance or resolution for one additional fiscal year. (Ord. 88-8, Sec. 60.20.070, Ord. 88-2(s), part, 1987)

(Ord. 88-2, Sec. 60.20.070)

**60.20.080 Rulings and Regulations.**

- (a) The Chief Administrator may promulgate and amend regulations and may prescribe the use of forms appropriate to the implementation of this chapter. Regulations promulgated by the Chief Administrator are effective on the date they are promulgated unless a different date is indicated in the regulations; provided, all regulations are subject to repeal or revision by the Assembly at any time. Prior to promulgation, proposed regulations shall be submitted to the Borough Attorney for review and comment. Upon promulgating a regulation or any amendment to an existing regulation, the Chief Administrator shall submit the regulation or amendment to the Assembly at its next regular meeting.

- (b) If any person who is or may be required to pay or collect a tax under this chapter questions the application of this chapter to a transaction or other situation in which that person is involved or may become involve, the person may apply to the Sales Tax Administrator for a ruling on the question. The Sales Tax Administrator may rule on the question and may seek the service of the Borough Assembly on the question. Before a ruling of the Sales Tax Administrator is effective or binding on the Borough, it must be signed by the Chief Administrator. Rulings having general applicability shall be considered by the Chief Administrator for promulgation as a regulation.

(Ord. 88-2, Sec. 60.20.080)

**60.20.090 Registration-Authority to Enforce Collection.**

- (a) All persons required to collect a tax under this chapter shall file with the Sales Tax Administrator an application for a certificate of registration on a form provided by the Borough. The application must be filed not later than 30 days after the date upon which the person engages in a transaction taxable under this chapter. The application must contain or be accompanied by:
- (1) the name and mailing address of the applicant;
  - (2) the location at which the applicant will conduct its business where transactions subject to the tax under this chapter will occur; if the applicant's business is to be conducted from one or more vessels, the name of the vessels and the general location or areas in which each vessel will operate;
  - (3) the applicant's Alaska Fisheries Business License number;
  - (4) a copy of the applicant's most recent Alaska Fisheries Business License Tax filing;
  - (5) a copy of the most recent statement provided the State of the amount of fisheries products the person expects to produce during the applicant's license year; and
  - (6) a statement of the extent of licensable property owned by the applicant in the Borough against which the tax liability of the applicant may be collected and other information with respect to descriptions, location and value of the property which the department prescribes.
- (b) Upon receipt of a properly executed application, the Sales Tax Administrator will issue a certificate of registration setting out the name of the registrant, its physical and its mailing addresses, the place the registrant will conduct its taxable transactions if the registrant will conduct its taxable

transactions if the registrant has a fixed place of operations, or the name of the vessel and the general area in which the vessel operates if the registrant will be operating from a vessel. The certificate shall authorize the registrant to collect and enforce the collection of the tax required to be collected under this chapter. The certificate must be prominently displayed at the location set out in the certificate or upon the vessel named in the certificate. A separate certificate shall be issued for each vessel or location of an applicant.

- (c) A certificate of registration is nonassignable and nontransferable and must be surrendered to the Sales Tax Administrator by the registrant to whom it is issued upon the registrant's ceasing to do business at the location or on the vessel named therein. If the business is continued at the same location, but there is a change in its form of organization, such as a change of a single proprietorship to a partnership or corporation, or the admission or withdrawal of a partner, or other change, the registrant shall surrender the old certificate to the Sales Tax administrator with an application for a new certificate. If the business of a registrant is sold, leased or in any other manner transferred to another person, the registrant shall surrender the certificate to the Sales Tax Administrator and the new owner, lessee or other successor to the business shall immediately apply for a new certificate.
- (d) If there is a change of location of a registrant's place of business, the registrant shall surrender the certificate for the old location to the Sales Tax Administrator along with a statement of the new address. Upon receipt of the old certificate and the new address, the Sales Tax Administrator shall issue a new certificate of registration showing the new location.
- (e) Before issuing a certificate of registration, the applicant shall post a bond, furnish a statement of net worth, or furnish such additional security as may be required by the Sales Tax Administrator to insure full and prompt payment of taxes required to be collected under this chapter; provided, no bond, statement of net worth, or additional security may be required except in accordance with regulations promulgated by the Chief Administrator.
- (f) A person applying for a certificate of registration under this section thereby gives consent to an inspection by the Borough of the applicant's Alaska Fisheries Business Tax Returns and other information or records filed by the registrant with the State of Alaska for the purpose of enforcement and administration of the provisions of this chapter.

(Ord. 88-2, Sec. 60.20.090)

**60.20.100            Statement of Tax.**

A person required to collect tax under this chapter shall provide the seller with a statement of the amount of tax owing on any taxable transaction and shall retain

a copy of such statement for a period of not less than five (5) years following the due date of the payment of the tax to the Borough.

(Ord. 88-2, Sec. 60.20.100)

**60.20.110                    Protest of Tax.**

- (a) The buyer shall determine whether a sale is taxable under this chapter. If the buyer fails to collect the tax due on a transaction because of an incorrect determination of taxability by the buyer or for any other reason, the buyer becomes liable to the Borough for the tax in the same manner as if the tax had been collected. (Ord. 88-2(s), 60.20.110)
  
- (b) If a seller believes that a transaction is exempt or otherwise not subject to the tax imposed under this chapter, to the tax, the seller shall pay to the buyer the tax under protest. A tax is paid under protest by stating to the buyer that the tax is paid under protest and requesting the buyer mark any sales slips, vouchers or other evidence of the sale to indicate that the tax is paid under protest. The seller shall file with the buyer and with the Sales Tax Administrator, a statement of protest on a form provided to the buyer by the Borough. Failure to file a complete statement of protest with both the buyer and the Sales Tax Administrator within 10 days of the date of the sale or to pay the tax constitutes a waiver of the protest and of any other right of the seller to challenge the tax in any other forum. The seller shall clearly set out on the form the terms and conditions of the sale, the amount of the sale, the quantity of fish involved, the location of the sale or other transaction and all other information necessary to support the seller's claim that the tax does not apply. The form shall include the names and mailing addresses of both the seller and the buyer and any other party involved in the transaction and must be signed by the seller. Unless the buyer records on the seller's statement of protest facts different from those recorded by the seller on the statement, forwarding the statement to the borough constitutes a confirmation by the buyer of the facts set out on the statement to the extent the buyer has knowledge of such facts.  
(Ord. 88-12 (amended 88-2), Sec. 60.20.110 (b))
  
- (c) Upon receipt of a written protest, the buyer shall forward the protest to the Sales Tax Administrator along with any additional statements the buyer believes may assist the Sales Tax Administrator in determining the protest. The written protest must be forwarded to the Sales Tax Administrator as promptly as possible, and in any case not later than thirty days after delivery of the protest to the buyer.
  
- (d) The Sales Administrator shall issue a written ruling on each seller protest within 30 days of receipt of the protest from the buyer. The burden of proof is on the seller. The Sales Tax Administrator may seek the advice of the Borough attorney on any protest. The ruling will be in writing and must set forth the reason for the grant or denial of the protest. The ruling will be sent



to the buyer and the seller at the addresses given on the protest. (Ord. 88-12 (amended 88-2), Sec. 60.20.110 (d))

- (e) If a protest is granted, the Sales Tax Administrator shall determine whether the tax protested has been received by the Borough from the buyer. If the tax has been received, the Sales Tax Administrator shall refund directly to the seller the amount of the tax to be refunded. If the tax has not been received by the Borough, the buyer shall be instructed to refund to the seller the appropriate amount if the buyer has actually collected the tax from the seller. If the buyer has not yet paid for the fish, the buyer shall make such adjustment as necessary to the accounts of the seller to reflect the correct amount of the tax due. The buyer and the seller may make other arrangements for crediting to the seller the amount of the refund if the buyer and the seller reach a mutual agreement as to such alternate procedure.
- (f) In the event a protest is denied, the seller may, within thirty days of the date of mailing of the notice of denial, request that the claim be referred to the Chief Administrator if that person is not acting as the Sales Tax Administrator. The Chief Administrator shall receive such additional information, whether written or oral, as the protesting seller may desire to present. The Chief Administrator may also receive such additional testimony as the Sales Tax Administrator may present. The Chief Administrator shall render a decision in writing and give notice of the decision to both the seller and buyer. The decision of the Chief Administrator, whether acting as the Chief Administrator or as the Sales Tax Administrator, if final and is subject to judicial review under the applicable rules of court.

(Ord. 88-2(s), Sec. 60.20.110)

**60.20.115 Protest of Tax by Buyer.**

- (a) If a buyer believes that a transaction is exempt or otherwise not subject to the tax imposed under this chapter or believes that a penalty interest or other charge is not owing but has been informed by the borough that such transaction is subject to the tax imposed under this chapter or such charge is owing, the buyer may protest the tax by paying the tax owed to the borough and filing with the borough at the time of payment a statement of protest setting out all relevant facts and clearly explaining why the transaction taxed or charge made is exempt, not otherwise subject to the tax levied under this chapter or not owing. The payment and statement of protest must be received by the borough not later than the 30th day following the date the tax was required to be collected from the seller; or, if no tax was collected, the later of the occurrence of the challenged transaction or the date the notice from the borough that the transaction is taxable; or if the protest is of a disallowance, charge levied, or similar action by the borough, the date of the notice to the buyer of the borough

determination. Failure to file a statement of protest and to pay the amount claimed by the borough as owing within the time permitted under this subsection constitutes a waiver of the right to protest the tax, disallowance, charge or other borough determination under this chapter and is a waiver of the right to appeal the protest to the chief administrator or to appeal or otherwise challenge the tax, charge or determination in any judicial or other proceeding.

- (b) The Sales Tax Administrator shall issue a written ruling on each buyer protest within 30 days of receipt of the protest. The buyer has the burden of proof. The Sales Tax Administrator may permit or require the buyer to provide additional information relevant to the protest. The Sales Tax Administrator may seek the advice of the Borough attorney on any protest. The ruling will be in writing and must set forth the reason for the grant or denial of the protest. The ruling will be sent to the buyer at the address given on the protest.
- (c) If a protest is granted, the Sales Tax Administrator shall refund to the buyer the charge levied or the tax collected and paid over to the borough that was on an exempt transaction or otherwise not subject to the tax levied under this chapter. The buyer shall immediately refund to each seller from whom the tax was collected the amount of the tax improperly collected; provided, if the buyer has failed to directly or indirectly collect the tax but has paid the tax to the borough from its own account, the buyer may retain the tax refunded.
- (d) In the event a protest is denied, the buyer may, within 30 days of the date of the notice of denial, request that the protest be referred to the Chief Administrator if that person was not acting as the Sales Tax Administrator on the protest. The Chief Administrator shall receive such additional information, whether written or oral, as the protesting buyer may desire to present. The Chief Administrator shall render a decision in writing and give notice of the decision to the buyer. The decision of the Chief Administrator, whether acting as the Chief Administrator or as the Sales Tax Administrator, is final and is subject to judicial review by an appeal to the superior court under applicable appellate court rules. Failure to file a request that the denied protest be referred to the Chief Administrator within 30 days of the date of the mailing of the decision by the Sales Tax Administrator constitutes a waiver of the right of the buyer to any further administrative or judicial review of the tax or the protest.

(Ord. 88-12, Sec. 60.20.115, part, 1987)

**60.20.118 Refund of Excess Payment.**

- (a) A taxpayer or collector who, through a clerical or similar error, pays a tax under this chapter that exceeds the amount actually due may receive a

refund of the excess payment upon meeting the conditions set out in this section 60.20.118.

- (b) A taxpayer who has made an excess sales or use tax payment as set out in subsection (a) shall be given a refund of the excess by the collector if the taxpayer.
  - (1) notifies the collector of the excess payment.
  - (2) proves to the collector that an excess payment was made, and
  - (3) provides such notification and proof to the collector prior to the date the collector pays over to the borough the taxes collected during the reporting period in which the claimed excess payment was made.
- (c) A taxpayer who has made an excess tax payment as set out in subsection (a) who has been denied a refund by the collector or who did not meet the requirements of subsection (b) (3) may file with the Borough for a refund of the excess payment. The taxpayer must file the request for the refund and satisfactory proof of entitlement with the Borough not later than the last business day of the calendar quarter following the quarter during which the claimed excess payment was made. A refund shall be made if the taxpayer is entitled to the refund and the collector has transmitted the excess payment to the borough. The Manager may establish a reasonable fee for processing refund requests under this subsection.
- (d) A collector who has made an excess tax payment as set out in subsection (a) shall be given a refund of the excess if the borough receives written notice from the collector of the amount claimed as an excess payment. The Borough must receive the notice and satisfactory proof of the excess payment, in the form required by the Sales Tax Administrator, not later than the last day upon which the collector may file a tax return under this chapter for the month following the month for which the claimed excess payment was made. (Ord. 98-3, (amended Ord. 90-9), Sec. 60.20.118 (d))
- (e) Upon approval of a refund to collector, the borough may pay the refund to the collector or authorize the collector to take the refund as a credit against future month tax payments; provided, the amount taken as a credit in any one month may not exceed 30 percent of the taxes otherwise due from the collector for the month. No interest may be paid on the excess payment.  
(Ord. 98-3, (amended Ord. 90-9), Sec. 60.20.118 (e))
- (f) A claim for a refund of an excess payment to which this section 118 applies is forever barred if notice and proof of the excess payment are not given within the time required.

(Ord. 90-9, Sec. 60.20.118)

**60.20.120 Disposition of Tax Information.**

Information in the possession of the Borough which was obtained by the borough in the administration or enforcement of the provisions of this chapter and which discloses the particulars of the business or affairs of a taxpayer or other person is not a matter of public record, except for purposes of borough, state or United States investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items or prohibits the publication of tax lists showing the names of taxpayers or delinquent and relevant information which may assist in the collection of delinquent taxes. Information otherwise protected by this Section may be furnished on a reciprocal basis to other agencies of the State or the United States concerned with the enforcement of tax laws.

(Ord. 88-2, Sec. 60.20.120)

**60.20.130 Records--Investigation and Audits.**

- (a) Every person required to collect the tax imposed under this chapter shall maintain, keep and preserve such records, books and accounts of all sales made by the person as may be necessary to determine the amount of tax the person is obligated to collect and pay over to the Borough. Such records, books and accounts shall be preserved for a period of five years following the date all taxes involved in the accounting period were required to be paid to the borough.
- (b) For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Sales Tax Administrator may conduct investigations, hearings and audits and to that end may examine any relevant books, papers, memoranda, records or other writings of any seller or buyer and may require the attendance and sworn testimony of any seller or buyer or any officer or employee of the seller or buyer at a hearing. Upon written demand by the Sales Tax Administrator in the office of the Sales Tax Administrator such books, papers, memoranda, records and other written material as may be set out in the demand unless the Sales Tax Administrator and the person upon whom the demand is made agree to presentation of such materials at a different place.

(Ord. 88-2, Sec. 60.20.130)

**60.20.140 Penalties and Interest.**

- (a) A person who fails to file a return as required under this chapter or who fails to remit all the taxes due the Borough by that person shall pay a penalty of five percent of the taxes due if no return is filed and five percent of the delinquency if a return is filed. The penalty shall be imposed for each

month or part of a month during which the delinquency of failure to file exists up to a maximum of twenty-five percent; provided, the total penalty for a single calendar quarter shall not exceed three thousand dollars. The filing of an incomplete return shall be treated as the filing of no return.

- (b) Interest at the rate of twelve percent (12%) per annum shall be paid on all amounts due the Borough that are not received by the Borough as required under this chapter except, interest does not accrue on penalties.
- (c) A person who fails to apply for a certificate of registration as required by this chapter shall pay a penalty of two hundred dollars. Such penalty must be paid before the license is issued or before a renewal or amendment to the license is issued if the original license was issued before the determination that a penalty was due. A person who fails to apply for a certificate of registration, who engages in taxable transactions after being informed in writing that a certificate of registration is required, shall pay a penalty of four hundred dollars before the determination that a penalty was due.
- (d) A person required to collect a tax under this chapter, who fails to provide a written statement setting out the amount of the tax due on the transaction, shall pay a penalty to the Borough equal to the amount of the tax due on the sale.
- (e) A failure of or refusal of a person required to collect a tax under this chapter, to produce records or allow inspection at such reasonable time as requested or demanded by the Sales Tax Administrator shall pay to the Borough a penalty equal to three times any deficiency found or estimated to have occurred by the Sales Tax Administrator; provided, the minimum penalty payable is three hundred dollars.
- (f) A person required to maintain records under the provisions of this chapter shall immediately notify the Borough of any fire, theft or other casualty that would prevent the person from complying with the provisions of this chapter. Such casualty is a defense to a civil penalty levied under this section 140, but does not excuse the person from the liability for payment to the Borough of taxes required to be collected. Accidental or unexplained loss of funds or records does not excuse a person from the performance of any of the requirements under this chapter.

(Ord. 88-2, Sec. 60.120.140)

**60.20.150            Records Submitted.**

No person required to provide information or to keep or provide records of any nature may falsify or change content of a record so as to misrepresent the facts or information contained therein, nor submit to the Borough any information or record that has been falsified or changed to create a misrepresentation.

(Ord. 88-2, Sec. 60.20.150)

**60.20.160            Forced Filing.**

If a person required to collect taxes under this chapter fails to file a return or to pay over taxes due as required by this chapter, the Sales Tax Administrator may make an estimate of the tax due based upon any information available. The Sales Tax Administrator shall file a return for such person and shall provide a copy of the return to the person with a request that the person file a correct return along with payment of the taxes due. The Sales Tax Administrator may require the person filing the return to provide sufficient information to support the corrected return. If the person has not filed a corrected return satisfactory to the Sales Tax Administrator, along with the taxes due, within thirty (30) days of the date of mailing of the forced filing, the amount shown on the forced filing becomes delinquent.

(Ord. 88-2, Sec. 60.20.160)

**60.20.162            Lien.**

The tax, penalty and interest imposed by this chapter constitutes a lien in favor of the Borough upon all real and personal property within the Borough of the person required to collect the tax under this chapter. The lien arises upon the delinquency of the payment of the tax to the Borough and continues until the liability for the amount owing is satisfied or the property is sold at a foreclosure sale. The lien is not valid as against a mortgage, pledge, purchase or judgment creditor until notice of the lien is filed in the office of the Recorder for the District in which the property is located in the manner provided for federal tax liens under AS 43.10.090 this chapter. These sections of the state statute are hereby adopted by reference the same as if set out in full in this section.

(Ord. 88-2, Sec. 60.20.162)

**60.20.170            Accelerated Returns.**

A person who is required to file a return and pay taxes to the Borough, who fails for more than fifteen days to file a return or pay the taxes due or who has, within a twelve month period, filed or paid taxes late on two or more occasions may be required by the Sales Tax Administrator to file and pay on a weekly basis; provided, the Sales Tax Administrator shall provide to the person a hearing after reasonable notice of the Sales Tax Administrator's intention to require more frequent filing and payment. The Sales Tax Administrator may establish the number of calendar or business days following the Saturday that ends the reported week by which the Borough must receive the weekly filing and payment. If a specific time is not established by the Sales Tax Administrator for a person on a weekly reporting basis, weekly filings and payments must be received by the Borough by the tenth business day following the Saturday that ends the

reported week. The person required to file and pay on a weekly basis who fails to file and pay the full amount due within ten days of the date required for such filing and payment or such a person who files late two or more times during a four month period may be required by the Sales Tax Administrator to file on a daily or other basis more frequent than weekly after written notice of intent and a hearing as provided in this section.

(Ord. 98-3 (amended Ord. 88-2), Sec. 60.20.170)

**60.20.180                    Time Extensions.**

For good cause shown, the Sales Tax Administrator may grant an extension of the time required for the performance of any act under this chapter. The extension shall be subject to such terms and conditions as the Administrator finds appropriate. An application for an extension must be filed in writing before the date required for performance.

(Ord. 88-2, Sec. 60.20.180)

**60.20.185                    Liability of Responsible Persons**

Each responsible individual as defined under section 60.20.250 is liable to the Borough for the payment of sales and use taxes that are delinquent and which were collected or required to be collected or required to be paid over to the Borough while such individual was a responsible individual with respect to such taxes. Such individual is liable to the Borough for penalties and interest on the delinquent taxes accrued to the date of payment. Upon written demand for payment of delinquent taxes, penalty and interest sent by registered mail to a responsible individual, the responsible individual shall pay over to the Borough the amount of the delinquent taxes, interest and penalty due within 20 days of the date of the written demand. If the responsible individual upon whom demand for payment has been made fails to pay the taxes, penalty and interest due within 20 days of the date of the demand, the amount due may be collected in a civil action against the responsible individual.

(Ordinance 96-4, Sec. 60.20.185)

**60.20.220                    Use Tax Levied.**

- (a) There is levied and shall be collected a use tax of two percent (2%) on the processing, storage, consumption or other use of raw fish within the Borough if such raw fish has not been the subject of a transaction otherwise taxable under this chapter. The tax shall be levied and collected in an amount equal to two percent of the value of the raw fish used.
- (b) A credit shall be allowed against the tax imposed by this section in an amount that the present user, the user's agent, bailor or donor has paid a sales tax with respect to such fish in any other state or political subdivision prior to the use of the fish in the Borough. The person who processes, stores, consumes or otherwise uses raw fish subject to taxation under this section is liable for the payment of the tax to the Borough and shall file a

return, obtain a certificate of registration and remit the taxes due in the same manner and subject to the same requirements for reporting, payment, interest penalties, inspection of records, enforcement, administration and other applicable provisions of this chapter as are set out in the taxation of the sale of raw fish. (Ord. 00-01 (amended Ord. 88-2), Sec. 60.20.220(b))

(Ord. 88-2, Sec. 60.20.220)

**60.20.250            Definitions.**

Unless it is clear from the context that a different meaning was intended, the following words used in this chapter have the meaning ascribed as follows:

- (1) "Borough" means the Aleutians East Borough.
- (2) "Buyer" means the first person in the Borough who becomes directly or indirectly obligated to a seller for payment for raw fish.
- (3) "Chief Administrator" means the Mayor, except, if the Borough is operating under the manager form of government, then it is the Borough Manager.
- (4) "Person" means an individual, corporation, partnership or other form of association.
- (5) "Processed" or "processing" means cooking, canning, smoking, butchering, freezing, salting, dehydrating and other activities that modify the condition of the fish in preparation of the fish for sale, but does not include decapitating, gutting, gilling, sliming, or icing by the person harvesting the fish if done for the purpose of maintaining the quality of the fish until it can be sold.
- (6) "Raw fish" means fin fish and shellfish and includes, but is not limited to crabs, shrimp, scallops, clams, oysters, salmon, halibut, cod, herring, flounder and pollock that have not been processed.
- (7) "Responsible individual" means any individual, including a group of individuals such as a board of directors, partnership, joint venture, corporation or other entity who has the responsibility to , is required to, has the authority to, or has the authority to direct or cause another person to:
  - (a) collect the tax levied under this chapter,
  - (b) segregate funds in lieu of the direct collection of the tax under this chapter,
  - (c) pay over to the Borough taxes required to be collected under this chapter, or
  - (d) determine which creditors of the tax collector are to be paid,



and may include, but is not limited to, such officers and employees of a tax collector as the chief executive officer, president, vice-president for finance, controller, comptroller, treasurer, bookkeeper, majority shareholder, finance director, manager, partner, managing partner, chief fiscal or financial officer and accountant if they possess any of the authority, responsibility or duties described in this definition.

(Ord. 96-4, (amended Ord. 88-8) New Sec. 60.20.250(7), renumbering the existing subsections 7-9 to 8-10)

- (8) "Sale" is an event that occurs when a person within the Borough becomes directly or indirectly obligated for the payment for raw fish without regard to whether delivery of the fish occurred inside or outside the Borough if the fish are purchased for delivery or are delivered to a location inside the Borough. The place of sale is the business location of the buyer inside the Borough to which the last delivery of the raw fish is made prior to processing or transfer outside the Borough. Delivery of raw fish to an agent, employee, or any entity within the Borough for the purpose of transporting the raw fish outside the Borough to a person who has purchased the fish or who becomes or is obligated to pay for the raw fish is a sale at the place of delivery within the Borough. A sale in the Borough occurs if raw fish are purchased by a buyer and delivered to the buyer inside the Borough even if the buyer initially takes possession outside the Borough or the raw fish are transported outside the Borough prior to delivery to the location inside the Borough.

(Ord. 95-6 (amended Ord. 88-7) Sec. 60.20.250(8)

- (9) "Sales Tax Administrator" is the Chief Administrator or such other person as the Chief Administrator designates.
- (10) "Value of raw fish" is the consideration, whether money, credit, rights, or other property, expressed in terms of money, paid or given or contracted to be paid or given by the purchaser or person who uses the raw fish to the seller for the raw fish, the use of which is taxable under Section 220 of this chapter. In the case of raw fish used that are acquired under conditions wherein the purchase price does not represent the true value of the fish, the value of the raw fish used shall be determined as nearly as possible according to the selling price at the place of use of the raw fish of like quality or character.

(Ord. 88-2, Sec. 60.20.250)

**60.20.260 Authority to Contract Collection.**

The Chief Administrator may, with the consent of the Assembly, contract with a City within the Borough to collect the taxes imposed by this chapter.

(Ord. 88-2, Sec. 60.20.260)

**60.20.300                    Enforcement and Penalties.**

- (a) Violation of any of the requirements of this chapter is a misdemeanor. For convictions for a violation of a provision of this chapter, a fine of not to exceed five hundred dollars may be imposed; except, for a subsequent violation of any provision of this chapter, whether similar to or different from the prior conviction, the maximum penalty that may be imposed is a fine of one thousand dollars or imprisonment for not to exceed thirty days, or both if the subsequent conviction is for a violation that occurred within three years after the conviction for the prior violation.
- (b) Each day upon which a violation of this chapter continues is a separate offense.
- (c) The Borough may recover taxes, interest and civil penalties due in a civil action independent of or in addition to any criminal action filed.

(Ord. 88-2, Sec. 60.20.300)

## Chapter 60.40 SEVERANCE TAX

### Sections:

|           |   |
|-----------|---|
| 60.40.010 | Definitions                                   |
| 60.40.020 | Resources subject to tax                      |
| 60.40.030 | Exemption                                     |
| 60.40.040 | Collection and administration                 |
| 60.40.050 | Enforcement and penalties                     |
| 60.40.060 | Severance tax return verification             |
| 60.40.070 | Confidentiality                               |
| 60.40.080 | Liability for and collection of severance tax |
| 60.40.090 | Penalties and interest                        |

### **60.40.010 Definitions.**

A. “The gross production value” means the value per unit at the point of severance multiplied by the number of recovered units of the natural resources sold during the calendar quarter.

B. “Severer or harvester” means a person, company, corporation or other entity engaged in the business of severing or harvesting natural resources. This includes offshore processors of fish products who process, deliver, catch, or receive fish products within the boundaries of the Aleutians East Borough if those activities are not already subject to the Borough’s Sales and Use Tax. It also includes fish harvesters who harvest fish within the boundaries of the Borough and transport the fish themselves to locations outside the Borough for sale and/or processing provided that these harvesters are not already subject to the Borough Sales and Use Tax.

C. “Calendar quarter” means any one of the following three-month periods beginning July 1<sup>st</sup>: July 1<sup>st</sup> to September 30<sup>th</sup>; October 1 to December 31<sup>st</sup>; January 1 to March 31<sup>st</sup>; and April 1 to June 30<sup>th</sup>.

D. “Recovered units” means all units mined, extracted, or removed whether produced directly or contractually during the period of production.

E. “Point of severance” for purposes of computing the tax is defined as:

1. Prepared for transport at the mine site in the case of resources as defined in 60.40.020 (A);
2. The scale at the pit or quarry in the case of resources as defined in 60.40.020 (B);
3. The dock in the case of resources defined in 60.40.020 (C).

F. “Commercial Products of Borough Waters” means any raw finfish or bottomfish, shellfish, mollusks or other invertebrates and all other commercial products of the sea harvested in Borough Waters, whether fresh, estuarine or salt, for sale, profit or commercial use.

**60.40.020 Resources subject to tax.**

There is levied in the Borough, on any severed or harvester of certain natural resources, an excise tax, denominated as a severance tax. The tax rate shall be the Borough-wide mill levy as determined annually by the assembly which will be multiplied by the gross production value for the calendar quarter resulting from the following activities:

- A. Mining, extracting, harvesting, removing or producing for sale, profit or commercial use, any copper, gold, silver, zinc, lead, molybdenum, or other metallic mineral product, compound, or combination of mineral products;
- B. Gravel mining, quarrying, or producing for sale, profit, or commercial use, any sand, gravel, rock or coal; and
- C. Harvesting and processing Commercial Products of Borough waters.

**60.40.030 Tax rates for resources subject to tax.**

The tax levied by this section shall be at the following rates:

- A. For metal ores and coal extracted from the ground, 1.5% times the gross production value per ton;
- B. For gravel extracted 10 cents per cubic yard;
- C. For Commercial Products of Borough Waters, 2% of purchase price;
- D. For resources not included herein: as may be considered and approved by the Borough Assembly.

**60.40.040 Exemption.**

- A. If the annual gross production value of severed or harvested natural resources within the Borough does not equal or exceed the amount of \$5,000 annually, the severer or harvester shall be exempt from taxation under this chapter. This exemption does not apply to 60.40.020(C).
- B. Local governments are exempted from payment of this tax for resources that the local government owns before severance which are to be used after severance exclusively in public works projects undertaken by that local government within the local government’s jurisdiction or as a local match for

public works projects undertaken by that local government within the local government's jurisdiction.

**60.40.050 Collection and administration.**

A. Every severer or harvester of resources subject to taxation under this chapter, shall register with the Borough prior to beginning a severance or harvesting activity. Registration shall take place on forms provided by the Borough.

B. Except regarding resources described in 60.40.20 (C), every severer or harvester shall submit to the Borough a severance tax return, under oath, at the time the tax is paid, containing the following information:

1. A description of the property from which the resource was severed or harvested by legal description or Borough assigned account number.
2. The gross amount of recovered units severed or harvested during the calendar quarter.
3. The gross sales value of all recovered units severed or harvested during the calendar quarter.

C. With regards to resources described in 60.40.20 (C), every severer or harvester shall submit to the processor or purchaser of such resource an Aleutians East Borough severance tax return, under oath, containing the following information:

1. A description of the waters from which the resource was severed or harvested by longitude and latitude or such description of location as may be approved by the Borough.
2. The gross amount of recovered units severed or harvested during the calendar quarter.
3. The gross sales value of all recovered units severed or harvested during the calendar quarter.

After receipt of the Aleutians East Borough severance tax return, the receiving processor shall withhold the applicable percentage of the gross production value of the resource, remitting 95% to the Borough along with the Aleutians East Borough severance tax return completed by the severer or harvester as the applicable Aleutians East Borough severance tax on that resource, retaining 5% as a tax collection fee, but not to exceed \$300.00. It is the responsibility of the severer or harvester in every instance to insure that the Aleutians East Borough severance tax is paid.

D. The return or tax statement along with all taxes due to the Borough for the calendar quarter must be received by the Borough on or before the last business day of the month following the end of the calendar quarter for which the return or statement is required.

E. This tax constitutes a lien chargeable against the property owned by the severer. The lien may be foreclosed by the Borough in the same manner as any other lien against real or personal property.

**60.40.060 Enforcement and penalties.**

A. The superior court, upon the request of the finance director, shall issue an injunction requiring compliance with the provisions of this chapter. In the alternative, the finance director may determine the severance tax on parties who have not filed a return in an amount based on historical data and the best information available.

B. A person who fails, refuses, or neglects to file a severance tax return in compliance with this chapter shall, in addition to any other penalties provided by law, be liable for a penalty of 10 percent of the tax.

**60.40.070 Severance tax return verification.**

Except for those harvesters who have filed under and fully complied with 60.40.50 (D) and have paid all taxes when due, the finance director, or his designee, may:

A. Require a person engaged in natural resource extraction, production, or transportation, any agent or employee of the person, or the purchaser of natural resources taxed under this chapter to furnish any additional information reasonably necessary to compute the amount of the tax or to determine if a tax is due;

B. Examine the books, records, and files of any such person;

C. Conduct hearings and compel the attendance of witnesses and the production of books, records, and papers of any person; and

D. Make an investigation or hold any inquiry reasonably necessary to a disclosure of facts as to:

1. The amount of extraction or production of a natural resources of an extractor, producer, or seller;
2. The purchaser of the natural resource; and
3. Transportation of the resource.

**60.40.080 Confidentiality.**

Information and materials in the possession of the Borough which disclose the particulars of the business or affairs of the payer of taxes under this chapter will be kept confidential by the Borough except in connection with an official investigation by the Borough or other agency enforcing the laws of the Borough or of the state. The Borough may publish statistics in a manner which prevents identification of particular returns and may publish tax lists showing the names, taxes, penalties, and interest with respect to taxpayers who are delinquent to assist in the collection of taxes.

**60.40.090 Liability for and collection of severance tax.**

The severer or harvester or, in the case of 60.40.20 (C) the purchaser or processor of the resources assessed under this chapter is liable for the amount of taxes, interest and penalties due. The tax, together with penalties and interest, may be collected in a personal action brought in the name of the Borough.

**60.40.100 Penalties and interest.**

All taxes due under this chapter but not timely paid as required are subject to a penalty of 10 percent of the tax due. Interest shall accrue on the tax due including penalties and interest at the rate of 12 percent per year from the date such taxes are due. Partial payments shall be applied first to accrued penalties, then to interest and then to principal. A payment is timely paid when mailed to the Borough postage prepaid bearing a postmark date no later than the due date.

(Ord. 11-05, Chapter 60.40)