

Proposed by:	Assembly
First Reading:	10/07/2010
Second Reading:	10/21/2010
Vote: 5 Aye	0 Nay 1 Absent

MUNICIPALITY OF SKAGWAY, ALASKA

ORDINANCE NO. 10-14

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SALES TAX CODE TO EXEMPT FEDERALLY RECOGNIZED INDIAN TRIBES FROM SALES TAX WITH THE EXCEPTION OF THE SALES OF PULL-TAB GAMES.

WHEREAS, the Assembly wishes to exempt federally recognized Indian tribes from sales tax;

BE IT ORDAINED AND ENACTED BY THE MUNICIPALITY OF SKAGWAY, ALASKA AS FOLLOWS:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend Section 4.08.060 Exemptions from Tax to add Federally Recognized Indian Tribes. The Skagway Municipal Code is hereby amended (~~strike through~~) indicates text to be deleted from and (**bold**) indicates text added to the current code as follows:

Section 3 Amendment of Section. SMC 4.08.005 Definitions, is amended to add a new definition to read:

4.08.005 Definitions.

A.

Definitions:

1. "Club" means professional organizations (examples are Alaska Travel Industry Assoc., Alaska Peace Officer's Assoc., Alaska Municipal League, Fraternal Order of the Eagles, Benevolent and Protective Order of the Elks).
2. **"Federally recognized Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior has acknowledged to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, Public Law 103-454, 25 U.S.C. 479a.**
- ~~2.~~ 3. "Over the counter sales" means any sale of a tour product as defined in this section, made directly to a customer within the municipal boundary of the city of Skagway for tour products originating in and returning to a point within the municipal boundary of the city of Skagway.
- ~~3.~~ 4. "Pre-sold sales" means any sale of a tour product as defined in this section, made by any agent outside of the municipal boundary of the city of Skagway for tour products originating in and returning to a point within the municipal boundary of the city of Skagway.
4. 5. "Retail sale" means any sale of real or tangible personal property, including barter, credit, installment and conditional sales, for any purpose other than resale in the regular course of business. The delivery of property in the city by a seller whose principal place of business is outside the city to a buyer or consumer, is a retail sale made within the city if such retailer maintains any office, distribution, or sales house, warehouse or

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any other place of business, or solicits business or receives orders through any agent, salesman or other type of representation within the city.

- ~~5-~~ 6. "Sale price," "price," and "gross revenue," mean the consideration, whether money, credit, rights or other property, expressed in term of money, paid, given or delivered by a buyer to a seller all without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes, or any other expenses whatsoever paid or accrued, and without any deduction on account of losses.
- ~~6-~~ 7. "Sales for resale" means the sale of tangible personal property to a buyer whose principal business is the resale of the property whether in the same or an altered form. The definition of "sales for resale" includes resellers or wholesalers of services or property whether in the same or an altered form.
- ~~7-~~ 8. "Seller" includes every person making sales to a buyer or consumer, renting property or performing services for consideration.
- ~~8-~~ 9. "Services" includes all services of every manner and description that are performed or furnished for consideration whether in conjunction with the sale of goods or not, but does not include services rendered by an employee to an employer.
- ~~9-~~ 10. "Tax holiday" means the exemption from paying sales tax on any retail sale made during a Council declared "tax holiday" during the period from October 1 through March 31, of the fiscal year.
- ~~10-~~ 11. "Tour operator" means any person or business who sells or supplies a tour product as defined in this section.
- ~~11-~~ 12. "Tour products" means any activity, or collection of activities, consisting of a transportation component by land, or sea, for the purpose of sightseeing, entertainment or interpretation, or a combination thereof. This includes but shall not be limited to bus, van or automobile tours, kayak tours, bicycle tours, horseback tours and hiking tours, river rafting or fishing and rail tours.
- ~~12-~~ 13. "Transportation," for purposes of this section only, means the business of conveying passengers or goods to or from location southside of the municipal boundary of the city of Skagway to or from locations within the boundary of the city of Skagway, or from point to point within the city of Skagway.

Section 4. Amendment of Section. Section 4.08.060, Exemptions from Tax is hereby amended as follows:

4.08.060 Exemptions from tax.

- A. The following transactions are exempt from the tax herein levied:
1. All sales to a bona fide retailer when the items are purchased by him for resale in the ordinary course of business. In this connection, a retailer is one who regularly stocks merchandise for resale, displays the same to the public and holds himself out as regularly engaged in the business of selling such products either during a regular season or throughout the year direct to the consumer;

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2. Sales and the gross receipts derived there from when the aggregate amount from a single transaction amounts to less than twenty-five cents (\$.25);
3. Grocery store sales to city residents who are sixty-five (65) years of age, or older, and who display at the time of purchase an identification card issued by the city and where such purchases are solely for the use of the resident and spouse;
4. Casual and isolated sales made and services performed which are not in the regular course of business;
5. Salaries and wages received by an employee;
6. Dues or fees to clubs, labor unions or fraternal organizations;
7. Remuneration for services and materials, including caskets, used or furnished for funerals;
8. Sales of goods, services and rentals to a buyer or made by a seller who is organized and administered solely by an organization that has obtained an exemption certificate from both the Internal Revenue Service pursuant to Internal Revenue Service Section 501(c)(3) and the city of Skagway, except that no exemption shall be allowed where such organizations are also engaged in any business for profit or savings, or competing with other persons or businesses engaged in the same or similar business.
9. Proceeds derived from the transportation of students to and from grade or high schools in motor or other vehicles;
10. Proceeds derived from carrier sales made directly to consumers or users of, or advertisers in, newspapers or other periodicals;
11. Sales of insurance and surety bonds;
12. Gross receipts or proceeds derived from medical or dental services rendered, including hospital services and from the sale of medicinal preparations when prescribed in writing by any licensed practitioner;
13. Gross receipts or proceeds derived from sales to the United States Government, the state of Alaska or any of its political subdivisions, and the city of Skagway; or from sales by the United States Government and the state;
14. Proceeds derived from sales or services which the city is prohibited from taxing under state or federal law;
15. Sales of heating fuels for use in space heating;
16. Proceeds from providing transportation by air, water or land;
17. Proceeds of sales of rental property. This exemption does not apply to commissions of real estate agents and brokers, which remain subject to the tax on services;
18. All sales for consumption outside the city in response to mail order requests originating outside city limits;
19. Contracts and subcontracts for new construction and reconstruction services on projects and structures for industrial, commercial, residential, and nonprofit purposes;
20. Wharfage charges and charges for freight handling and cargo handling on docks. Warehouse, storage and other services or fees are taxable;
21. Purchases made with food stamp coupons; or food purchases under the Federal Special Supplemental Food Program for Women, Infants and Children (WIC);

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22. Sales of building and construction materials exceeding two thousand five hundred dollars (\$2,500.00) for use on any one construction project approved by a city building permit and paid for by any one purchaser during any twelve (12) consecutive months period.
 - a. Purchaser may, at his discretion, pay at the time of building permit approval all sales taxes due on purchases of two thousand five hundred dollars (\$2,500.00) of building and construction materials for use on any one construction project. The purchaser will then be issued a numbered sales tax exemption permit which will exempt purchaser from paying sales tax on the purchase of materials on that project for the year. The permit number must be shown to vendor by purchaser on all purchases covered by this section and be recorded on all sales tickets at time of purchase of materials.
 - b. For the purposes of this section, "building and construction materials" are defined as any material which is incorporated into the structure of a building or other improvement and is also classified as real property for tax purposes by the city assessor.
23. Sales on all products sold in Skagway during "tax holidays" periodically declared by the Skagway City Council by resolution during the period from October 1 through March 31 of the fiscal year.
24. Fees associated with sales and services by banks, savings and loan associations, credit unions and investment banks. This exemption does not include rental of bank owned real property.
25. Sales for purchase of foods qualified under the Federal Food Stamp program. The exemption does not apply to meals prepared in restaurants, cafes, inns or other dining establishment. The exemption does not apply to non-food items purchased. Businesses eligible to exempt sales tax on foods must meet one of the criteria below:
 - a. Be registered with the USDA Food Stamp Program; or
 - b. More than one-half (50%) of the total dollar amount of all things (food, nonfood, gas and services) sold in the store must be from the sale of eligible staple foods.
 - (i) Staple foods are: meat, poultry or fish; bread or cereal; vegetables or fruits; and dairy products. Staple foods do not include accessory foods such as coffee; tea; cocoa; soda; non-carbonated drinks such as sports drinks, punches, and flavored waters; candy; condiments; spices; hot foods; or, prepared foods like sandwiches or salads.
- 26. Retail sales, services, and rentals of real or tangible personal property to or by a federally recognized Indian tribe. This exemption does not apply to the following:**
 - a. Sales of pull-tab games by federally recognized Indian tribes.**

Section 4. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 5. Effective Date. This ordinance shall become effective immediately upon adoption.

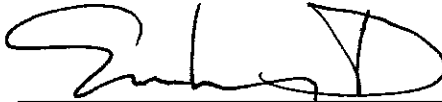
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PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 21st day of October, 2010.



Thomas D. Cochran, Mayor

ATTEST:



Emily A. Deach, Borough Clerk

(SEAL)

