

Proposed by:	Finance Committee
Attorney Review:	12/27/2019
First Reading:	01/02/2020
Second Reading:	01/16/2020
Vote: 6 Aye	0 Nay 0 Absent

**MUNICIPALITY OF SKAGWAY, ALASKA
ORDINANCE NO. 20-02**

AN ORDINANCE OF THE MUNICIPALITY OF SKAGWAY, ALASKA AMENDING SMC 4.08 SALES TAXATION OF TITLE 4 REVENUE AND FINANCE TO PROVIDE REGULATIONS FOR REMOTE SALES AND TO CLARIFY AND CORRECT INCONSISTENCIES IN MUNICIPAL CODE.

WHEREAS, Skagway Municipal Code does not define remote sales in Chapter 4.08 Sales Taxation; and

WHEREAS, due to a recent ruling by the United States Supreme Court to allow taxing jurisdictions to collect sales tax from remote sellers who do not have a physical presence within the taxing jurisdiction, the Municipality must amend code to provide regulations for the taxation of these sales; and

WHEREAS, the growth and ease of tax exempt remote (online) sales affects local economy and infrastructure;

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

Section 1. Classification. Section 3 of this ordinance is of a general and permanent nature and shall become a part of the Skagway Municipal Code.

Section 2. Purpose. To amend SMC 4.08 Sales Taxation of Title 4 Revenue and Finance to provide regulations for remote sales and to clarify and correct inconsistencies in municipal code.

Section 3. Amendment. The Skagway Municipal Code is hereby amended; (~~strike through~~) indicates text to be deleted from and (**bold underscore**) indicates text added to the current code. SMC Chapter 4.08 Sales Taxation is hereby amended as follows:

Chapter 4.08
SALES TAXATION

- Sections:
- 4.08.005 Definitions.
 - 4.08.010 Levy of tax.
 - 4.08.020 Rate of general sales tax.
 - 4.08.030 Short-term rental tax.
 - 4.08.040 Consideration other than cash.
 - 4.08.050 Sales not divisible to avoid tax.

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- 4.08.060 Exemptions from tax.
- 4.08.070 Limitations of use of tax proceeds.
- 4.08.080 Separate funds.
- 4.08.090 Duty to collect and make return.
- 4.08.100 Returns.
- 4.08.110 Penalty and interest.
- 4.08.120 Collection enforcement.
- 4.08.130 Investigative procedure.
- 4.08.140 Failure to make return--Assessment.
- 4.08.150 Selling or quitting business.
- 4.08.160 Jeopardy assessment.
- 4.08.170 Bond for payment.
- 4.08.180 Taxpayer records.
- 4.08.190 Penalties for noncompliance or fraudulent action.
- 4.08.195 Lien for tax, interest and penalty.
- 4.08.200 Period of limitation for collections.
- 4.08.210 Refund of sales taxes.

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.
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 Municipality of Skagway Borough for tour products originating in and returning to a point within the municipal boundary of the Municipality of Skagway Borough.
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 Municipality of Skagway Borough for tour products originating in and returning to a point within the municipal boundary of the Municipality of Skagway Borough.
- 5. "Remote sale" means a retail sale in the municipality by a seller whose principal place of business is outside the municipality to a buyer or consumer located within the municipality.**
- 56. "Rents" means payments for the use within the municipality of lands, buildings, apartments, offices, machinery, and equipment. The lease or rental of vehicles shall be considered taxable rents under this chapter if the point of origin of such vehicle is within the municipality.**

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67. "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, **to a buyer or consumer located within the municipality**. ~~The delivery of property in the municipality by a seller whose principal place of business is outside the municipality to a buyer or consumer, is a retail sale made within the municipality if such retailer maintains any office, distribution, or sales house, warehouse or any other place of business, or solicits business or receives orders through any agent, salesman or other type of representation within the municipality.~~
78. "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. Federal and state fuel taxes shall not be included in the calculation of local sales tax.
89. "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.
910. "Seller" includes every person making sales to a buyer or consumer, renting property or performing services for consideration.
101. "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.
142. "Tax holiday" means the exemption from paying sales tax on retail sales and the sales of services and rents made during an assembly declared "tax holiday" during the period from October 1 through March 31, of the fiscal year. The assembly may declare a tax holiday on any type of sale at its discretion.
123. "Tour operator" means any person or business who sells or supplies a tour product as defined in this section.
134. "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.
145. "Transportation," for purposes of this section only, means the business of conveying passengers or goods to or from locations outside of the municipal boundary of the Municipality of Skagway Borough to or from locations within the boundary of the Municipality of Skagway Borough, or from point to point within the Municipality of Skagway Borough.

4.08.010 Levy of tax.

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A sales tax is hereby assessed and levied on the following sales, subject to the specific exemptions in Section 4.08.060:

- A. All retail **and remote** sales made **and/or delivered for consumption** within the municipality;
- B. All services performed within the municipality;
- C. All rents paid for the use of real and personal property located within the municipality;
- D. The retail price of all over the counter tour sales, or tour product sales;
- E. The net price received by the tour operator who provides pre-sold tour sales discounted to third party agents for sale outside of the municipal boundary of the Municipality of Skagway Borough. The tax is to be collected and remitted by the tour operator, or their agent.

4.08.020 Rate of general sales tax.

- A. Said tax is hereby levied in the amount of five percent (5%) of the gross revenues derived from all taxable transactions except those subject to the ~~hotel room~~ **short-term rental** tax. The tax is levied in accordance with the following schedule for the months of April through September of the calendar year:

Sales Price	Amount of Tax
Under \$0.19	None
\$0.20 to 0.29	\$0.01
\$0.30 to 0.49	\$0.02
\$0.50 to 0.69	\$0.03
\$0.70 to 0.89	\$0.04
\$0.90 to 1.09	\$0.05
\$1.10 to 1.29	\$0.06
\$1.30 and over	continues on same scale.

- B. Said tax is hereby levied in the amount of three percent (3%) of the gross revenues derived from all taxable transactions except those subject to the ~~hotel room~~ **short-term rental** tax. The tax is levied in accordance with the following schedule for the months of January through March and October through December of the Calendar year:

Sales Price	Amount of Tax
Under \$0.16	None
\$0.17 to 0.49	\$0.01
\$0.50 to 0.83	\$0.02
\$0.84 to 1.16	\$0.03
\$1.17 to 1.49	\$0.04
\$1.50 to 1.83	\$0.05
\$1.84 to 2.16	\$0.06
\$2.17 and over	continues on same scale.

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- C. The taxability of a retail and remote sale of goods is determined by the point of sale location of the consumer of such sale. The taxability of a service performed or rental made is determined by the place where the service is performed or the rental property is located. Retail and remote sales, services, and rentals made for use or consumption within the municipality are subject to municipal sales tax, unless otherwise exempted in this title.

4.08.030 Short-term rental tax.

- A. A short-term rental tax upon overnight accommodation rentals of less than thirty (30) consecutive days is hereby assessed and levied in the amount of eight percent (8%) of the gross revenues on all such rents, and on all services provided in connection therewith.
- B. Overnight accommodation rentals which continue for thirty (30) or more consecutive days shall be subject to sales tax, instead of short-term rental tax, on or after the thirtieth consecutive day. Overnight accommodation rentals which are less than thirty (30) consecutive days shall be subject to the short-term rental tax even if the room or rooms were originally taken with the intent to use or occupy for thirty (30) or more consecutive days.
- C. In this section, "overnight accommodation" shall mean a room, group of rooms, or building in which someone may live or stay and does not include recreational vehicle parks or camping areas.
- D. Per Section 4.08.090, it is the duty of the person or entity furnishing such rentals to collect the tax from the purchaser or consumer and make a return thereof to the borough. Every person or entity with an obligation to collect and remit taxes to the municipality under this chapter but who neglects, fails, or refuses to do so shall be liable for and pay the tax.

4.08.040 Consideration other than cash.

Barter or exchanges are not exempt from sales taxation. When sales, rentals or services are provided for other than cash, the price shall be computed in dollars and cents on the reasonable value of the sale, rental or service.

4.08.050 Sales not divisible to avoid tax.

The sales price of all items purchased or delivered at the same time shall be added together and the tax levied on the aggregate amount thereof.

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 therefrom when the aggregate amount from a single transaction amounts to less than twenty-five cents (\$.25);
3. Grocery store sales to borough 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 municipality 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 Municipality 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 Municipality of Skagway; or from sales by the United States Government and the state;
14. Proceeds derived from sales or services which the municipality 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 **made by a seller within the municipality** for consumption **by a buyer located** outside the municipality **at the time of sale**, in response to mail order requests originating outside the Municipality of Skagway Borough limits. **Such sale is not exempt under this section if the consumer is located within the municipality at the time of sale;**

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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);
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 municipal 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 borough assessor.
23. Sales of all products, services and rents sold in Skagway during "tax holidays" periodically declared by the borough assembly by resolution during the period from October 1 through March 31 of the fiscal year. The assembly may declare a tax holiday on sales or services or rents solely in its discretion, and may exclude application of any tax holiday to sales or services or rents in its sole discretion.
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

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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.

4.08.070 Limitations of use of tax proceeds.

- A. The proceeds of the tax hereby levied, except the ~~hotel room~~ **short-term rental** tax, shall be used for principal and interest on general obligation bond issues. At the beginning of each fiscal year, a sum sufficient to pay the known or anticipated installments on general obligation bonded indebtedness shall be set aside for this purpose. Any remaining funds available after the sum set aside for general obligation bond indebtedness shall be distributed as follows:
1. A percentage of any remaining funds may be appropriated by the assembly for the purpose of school funding.
 2. A percentage of any remaining funds, after allocation for repayment of general obligation bonds and/or school funding, may be appropriated by the assembly for the purpose of medical service delivery funding.
 3. A percentage of any remaining funds, after allocation for repayment of general obligation bonds, school funding and medical service delivery, may be appropriated by the assembly for equipment replacement reserves. This percentage is to be set annually and included in the budget ordinance.
 4. A percentage of any remaining funds may be allocated for special and capital projects.
 5. Thereafter any unused remainder may be allocated to the general fund or other funds for services responding to visitor impact including, but not limited to emergency services, clinic and museum. Such allocation shall not exceed the equivalent of 4.5 mills.
- B. The established sales tax fund shall be treated as follows:
1. The interest income generated by investment of the established sales tax fund account during any fiscal year shall be transferred to the municipality's general fund account at the beginning of the following fiscal year. Interest income shall include dividends paid by stocks and mutual funds, but shall not include return of principal payments or capital gains payments, whether realized or unrealized.
 2. The principal of the established sales tax fund may be appropriated by the assembly for the purpose of planning, design and construction of capital improvements.
- C. Proceeds of the eight percent (8%) ~~hotel room~~ **short-term rental** tax hereby levied shall be used, in such amounts as the voters by referendum determine from time to time, to fund the promotion of tourism and the provision of tourism-related

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facilities. The surplus, if any shall be allocated to the tourism fund, which shall be maintained as a separate fund.

4.08.080 Separate funds.

Proceeds of each category of tax levied hereunder (the general sales tax and the ~~hotel room~~ short-term rental tax) shall be maintained as separate funds.

4.08.090 Duty to collect and make return.

- A. The tax is hereby assessed and levied upon the purchaser or consumer but it is the duty of the retailer or person furnishing such rentals or services to collect the tax from the purchaser or consumer and make a return thereof to the borough tax clerk as herein stated. Every person with an obligation to collect and remit taxes to the municipality under this chapter, but who neglects, fails or refuses to do so, shall be liable for and pay the tax himself.
- B. The sellers or furnishers of the services shall add the tax imposed under this chapter to the sales price or charge, and when so added such tax shall constitute a debt from the purchaser or consumer to the seller or furnisher until paid, and shall be recoverable at law in the same manner as other debts.
- C. In specific instances where the tenant is occupying space in a government owned building or government owned land, it is the tenant's obligation to pay the sales tax directly to the municipality, unless the landlord is willing to voluntarily receive the tax payment and remit it to the municipality.

4.08.100 Returns.

- A. The borough tax clerk shall provide appropriate forms for use of taxpayers in making returns of the taxes payable under this chapter. Every person, firm or corporation making such sales or providing such rentals or services as are taxable hereunder shall furnish the borough tax clerk with a completed return containing such information as is necessary to fill in or complete the forms supplied by the borough tax clerk including the total sales price collected. Should the payment be returned due to non-sufficient funds, the taxpayer shall be required to provide certified funds to fulfill his/her obligation.
- B. Quarterly Returns. Returns shall be made once each quarter for the sales made and rentals or services furnished during the preceding quarter. When such sales, rentals or services are made on credit, for the purpose of making a return and paying the tax, such sales shall be considered made or rentals or services furnished during the quarter in which payment is received unless the taxpayer elects to make his/her returns on an accrual basis.
- C. Monthly Returns. Every person, firm or corporation who has failed to file a quarter return when due shall be scheduled to file monthly returns. The following conditions shall apply to every person, firm or corporation who has not filed his/her sales tax return or remitted the amount due including penalty and interest:
 - 1. If a person, firm or corporation is more than 30 days delinquent in filing a quarterly sales tax return, that person, firm or corporation shall be placed on a 24-month probation and shall be required to file monthly returns.

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2. A list of the name of every person, firm or corporation who has not filed his/her sales tax return and/or remitted the sales tax when due shall be published in the local newspaper.
3. A monthly return shall be required and payment due shall be made no later than the 10th of the following month.
4. Every person, firm or corporation who has been delinquent for 3 or more months during a calendar year shall be on probation for a 24-month period. Upon completion of the 24-month period if no delinquencies have reoccurred that person, firm or corporation may file quarterly returns.

4.08.110 Penalty and interest.

In the event a return is not made or the tax is not paid for any quarter within the following calendar month, a penalty of ten percent (10%) of such tax as is unpaid shall be added to such tax for the first month of delinquency or any fraction thereof, and an additional ten percent (10%) shall be added for each additional month of delinquency or fraction thereof, until a total penalty of thirty percent (30%) has accrued. Interest at the rate of fifteen percent (15%) per annum from the date of delinquency until paid shall also accrue. Such penalty and interest shall be collected in the same manner as the tax. If the last day of the calendar month falls on a weekend or holiday, the sales tax return shall be due no later than the next business day.

4.08.120 Collection enforcement.

- A. In the event that the delinquent tax has not been paid in full, including penalty and interest, by the end of the third month of delinquency, the borough **tax** clerk shall file and action suit for collection of the tax in full, including penalty, interest and court costs. Nothing in this section shall bar the filing of any such action later than such time, nor shall anything in this section constitute a defense to any such suit filed after such time.
- B. Every person, firm or corporation who is delinquent in paying his/her sales tax obligation shall be considered in violation of the terms and conditions of his/her business license and corrective action may be initiated per SMC 5.01.050.

4.08.130 Investigative procedure.

- A. The borough assembly shall from time to time designate a person as borough sales tax inspector, to make investigations and inspections of those books and records of the persons, firms and corporations (hereinafter termed "taxpayers") who are liable for remittance of taxes under this chapter.
- B. The sales tax inspector is authorized and empowered to make inspections from time to time of all the relevant books and records pertaining to purchases and sales, including services and rents, made or performed by persons who are liable for remittance of the tax levied under this chapter. The sales tax inspector is hereby granted the right to inspect all such books and records, including the records of purchases made by retailers from wholesalers or other retailers, the ledger accounts of customers of the taxpayers, and all other books and records of the taxpayers which would in any way tend to prove or reveal information concerning

the tax liability of the taxpayers under this chapter. It shall be the duty of every person engaged in business in the municipality to allow the sales tax inspector to examine such books and records during regular business hours at such times as the sales tax inspector may require. If the keeper of such books and records denies the sales tax inspector access to them, then the sales tax inspector shall seek assistance of a court (e.g., inspection warrant, or deposition notice accompanied by a subpoena to produce the records) to enable inspection of the books and records.

- C. If the sales tax inspector finds discrepancies in favor of the municipality between the sales reported to the borough tax clerk and the sales which appear to have been made by any taxpayer, the borough tax clerk shall demand in writing that the taxpayer forthwith make an amended return showing the correct amount of sales or rentals made and services performed for each month for which any discrepancy appears, and to pay the taxes due the municipality within five (5) days from receipt of the demand by the borough tax clerk. Unless a taxpayer upon who such demand is made makes such returns and pays the taxes due the municipality with five (5) days from receipt of demand from the borough tax clerk, the borough clerk shall report the facts in full to the assembly. The borough clerk, borough tax clerk, and sales tax inspector shall keep confidential all facts learned as a result of such investigations until such time as the same are reported to the assembly.
- D. In the event of a dispute between the taxpayer and the borough tax clerk as to the amount of tax due or as to the applicability of any exemption listed in Section 4.08.060, the taxpayer may, within five (5) days of the receipt of the demand made upon him/her for the filing of amended returns and the payment of such taxes, demand a hearing before the borough assembly of his/her tax liability. In such event, the borough assembly shall notify the taxpayer of the time and place at which such hearing will be held. The borough assembly shall, after receiving a report from the borough clerk of the delinquent taxes and after affording the taxpayer any opportunity for such hearing, take such action at law as is necessary to collect any taxes which the borough assembly finds to be delinquent, including penalty, interest and court costs. The hearing shall be conducted informally and shall not be subject to the Alaska Rules of Evidence.

4.08.140 Failure to make return--Assessment.

- A. Assessment by Municipality. If any person obligated to collect and remit taxes under this chapter fails to make a return as provided by this chapter, or makes a grossly incorrect return, or a return that is false or fraudulent, the borough manager shall make an estimate of the taxable transactions during the taxable period and assess the tax, plus penalties. The borough manager shall give the taxpayer ten (10) days' notice in writing concerning the proposed assessment and requiring the taxpayer to appear before him with such books, records and papers as he requires relating to the business for the taxable period. The borough manager may require the taxpayer or his employees or agents to give testimony or to answer interrogatories under oath concerning any information relevant to the assessment of the proper amount of taxes due the municipality for that period or the failure to

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make any return thereon as provided in this chapter. If any taxpayer fails to make any return or refuses to appear and answer questions within the scope of an investigation relating to his legal duties under this chapter, the borough manager may make the assessment based upon information available to him. The assessment shall be presumed to be correct unless set aside by a court of law.

- B. Protest by Taxpayer. If the taxpayer protests his liability (or the amount thereof) on an assessment under subsection A which has become final, he shall pay the tax under written protest setting forth the basis for the protest. No action for a refund may be maintained nor may a defense to non-payment be maintained in a civil action unless the amount in the dispute has been paid by the taxpayer under written protest filed at or before the time of payment.

4.08.150 Selling or quitting business.

If any person liable for any tax, penalty or interest levied under this chapter sells out his business or stock of goods or quits the business, he shall make a final return and payment within fifteen (15) days after the date of selling or quitting the business. The return shall include any sales made at retail during liquidation. His successors or assigns, if any, shall withhold sufficient purchase money to cover the amount of taxes, penalties and interest due and unpaid until the former owner produces a receipt from the borough tax clerk showing that they have been paid or a certificate stating that no taxes, penalties or interest are due. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in this section, he shall be personally liable for the payment of the taxes, penalties and interest due and unpaid on account of the operation of the business by the former owner.

4.08.160 Jeopardy assessment.

If the borough manager deems that the collection of any tax required to be collected under this chapter may be jeopardized by delay, he shall make an assessment of the tax required to be collected and shall mail or issue a notice of the assessment to the taxpayer together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy, including penalties. In the case of a tax for the current period, the borough manager may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer together with a demand for immediate payment of the tax based on the period declared terminated, and the tax shall be immediately due and payable whether or not the time otherwise allowed by law for filing a return and paying the tax has expired. Assessments provided for in this section shall become immediately due and payable, and if any tax, penalty or interest is not paid upon demand of the borough manager, he shall proceed to collect it by legal process or, in his discretion, he may require the taxpayer to file a bond sufficient to protect the interest of the municipality.

4.08.170 Bond for payment.

The borough manager, if he finds it necessary or advisable in order to secure the collection of the tax levied by this chapter, may require any person subject to the tax to file with him a bond of a surety company authorized to do business in the state as surety,

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in such reasonable amount as the borough manager fixes, to secure the payment of any tax, penalty or interest due or which may become due from the person. In lieu of a bond, securities approved by the borough manager may be deposited with the borough clerk, which securities shall be kept in the custody of the borough clerk, and shall be sold by the borough clerk at the request of the borough manager at public or private sale, without notice to the depositor thereof if necessary in order to recover any tax, penalty or interest due the municipality under this chapter. Upon the sale, the surplus, if any above the amounts due under this chapter, shall be returned to the person who deposited the securities.

4.08.180 Taxpayer records.

Every person with an obligation to collect and remit taxes to the municipality under this chapter shall keep and preserve suitable records of his business transactions as necessary to a determination of the amount of tax due hereunder. Such records shall be preserved for at least three (3) years following the end of the calendar year in which the taxable transactions occurred.

4.08.190 Penalties for noncompliance or fraudulent action.

- A. Any person subject to the provisions of this chapter who fails or refuses to furnish any return required in this chapter, or fails or refuses to furnish a supplemental return or other data required by the municipality, or who makes a false or fraudulent return with intent to evade the tax levied in this chapter, or who makes a false or fraudulent claim for refund is guilty of an infraction, and is subject to a fine of five hundred dollars (\$500.00).
- B. In the case of a fraudulent return, where intent to defraud the municipality of any tax due under this chapter has been found by a court, the taxpayer shall be subject to a civil penalty of fifty percent (50%) of the proper tax, in addition to any other civil penalties imposed under this chapter or criminal penalties imposed by a court.

4.08.195 Lien for tax, interest and penalty.

- A. The tax, interest and penalty imposed under this chapter in addition to the lien filing fee under subsection B of this section shall constitute a lien in favor of the municipality upon assets, including all real and personal property, of the seller who had the legal obligation to collect and remit the sales tax which is delinquent. The lien arises upon delinquency and continues until the liability for the amount is satisfied. When recorded, a lien authorized under this section has priority over other liens except those for property taxes and special assessments.
- B. Fees for the filing and releasing of liens shall be set by the borough assembly by resolution from time to time to reflect the administrative costs of processing such liens.

4.08.200 Period of limitation for collections.

The taxes imposed by this chapter shall be assessed within three (3) years from December 31st of the year in which the taxes become due and payable; but in the case of a false or fraudulent return with intent to evade payment of the taxes imposed by this

chapter, or a failure to file a return, the taxes may be assessed or proceedings filed in court for the collection of such taxes begun without assessment, at any time within six (6) years from December 31st of the year in which the taxes become due and payable.

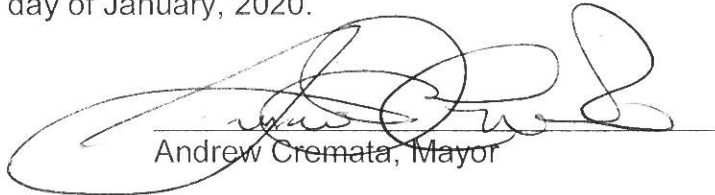
4.08.210 Refund of sales taxes.

An action may be brought by a taxpayer for recovery of sales taxes originally paid under written protest; and the refund, if applicable, shall include the amount in excess of that determined to be owed, plus interest thereon at eight percent (8%) per year, plus refund of any penalty assessed. A claim for sales tax refund filed after one (1) year following the due date of the tax is forever barred.

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.

PASSED AND APPROVED by a duly constituted quorum of the Borough Assembly of the Municipality of Skagway this 16th day of January, 2020.


Andrew Cremata, Mayor

ATTEST:


Emily A. Deach, Borough Clerk

(SEAL)

