

Submitted by: Assembly Vice Chair
Zaletel and Assembly
Member Brawley
Prepared by: Assembly Counsel's Office
For reading: October 24, 2023

ANCHORAGE, ALASKA
AO No. 2023-115

**AN ORDINANCE OF THE ANCHORAGE MUNICIPAL ASSEMBLY AMENDING
ANCHORAGE MUNICIPAL CODE CHAPTER 12.65, ALCOHOLIC BEVERAGES
RETAIL SALES TAX, EXEMPTING EVENTS HELD BY NONPROFIT
ORGANIZATIONS UNDER CERTAIN TYPES OF PERMITS FROM
TEMPORARY REGISTRATION AND COLLECTION OF ALCOHOL SALES TAX
AND MAKING CONFORMING CODE UPDATES WITH PENDING STATE LAW
CHANGES.**

WHEREAS, Municipality of Anchorage voters approved Proposition 13 on April 7, 2020, authorizing a 5% sales tax on retail sales of alcoholic beverages; and

WHEREAS, AMC Chapter 12.65 was created through AO 2020-57(S), approved June 23, 2020, implementing the framework needed to administer and collect alcohol tax, including registration requirements for sellers and other provisions; and

WHEREAS, Senate Bill 9 (SB 9) was passed in the 32nd Legislature and signed into law on June 16, 2022, providing a comprehensive rewrite of AS Title 4, the state statute regarding alcohol licensing and control; and

WHEREAS, two event permit types, available only to nonprofit organizations, are changing from “special event permit” to “nonprofit organization event permit,” and from “wine auction permit” to “alcoholic beverage auction permit,” but will still be exclusively available to nonprofit organizations; and

WHEREAS, at least two other Alaska jurisdictions with alcohol beverage retail taxes, the City of Fairbanks and the City and Borough of Juneau, currently exempt from taxation the sales at events held under the two types of event permits; and

WHEREAS, SB 9 takes effect January 1, 2024, and regulations implementing this legislation are being prepared by the Alaska Alcohol Beverage Control Board, anticipated to be substantially complete and adopted by fall 2023; and

WHEREAS, following this ordinance, a future effort is anticipated to enact other policy changes as a result of state law changes and other potential improvements to the code; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 12.65.010 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set*

out):

12.65.010 Definitions

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Alaska Statutes and Regulations means AS (Title 4) and Regulations (Title 3 Alaska Administrative Code, Chapter 305[304]), and the regulations enacted by the ABC Board and enforced by the Alcohol and Marijuana Control Office (AMCO).

Certificate or certificate of registration means a standard license or a temporary off-site[TEMPORARY SPECIAL-USE] certificate issued by the department authorizing a specified retailer to assess, collect, and timely remit to the department the retail alcoholic beverages sales tax levied by this chapter.

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Manufacturer sale means the act of selling any alcoholic beverage by a person licensed with the State of Alaska as a brewery, distillery, or winery manufacturer.

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Temporary off-site certificate of registration means a certificate that authorizes a registered retailer to collect retail alcohol beverages sales tax at a location other than the location printed on their department-issued certificate.
[TEMPORARY SPECIAL-USE CERTIFICATE MEANS A TEMPORARY LICENSE ISSUED BY THE DEPARTMENT TO A PERSON WHO HAS RECEIVED A NONPROFIT ORGANIZATION OR ALCOHOLIC BEVERAGE AUCTION PERMIT FROM THE STATE OF ALASKA UNDER ALASKA STATUTES AND REGULATIONS, AND WHO DOES NOT ALREADY HOLD A STANDARD LICENSE FROM THE DEPARTMENT, AUTHORIZING THE HOLDER TO ASSESS, COLLECT, AND TIMELY REMIT TO THE DEPARTMENT THE RETAIL ALCOHOLIC BEVERAGES SALES TAX LEVIED BY THIS CHAPTER.]

Wholesale sale means the act of selling any alcoholic beverage by a person licensed with the State of Alaska as a wholesale alcohol seller.

(AO No. 2020-57(S) , § 1, 6-23-20)

Section 2. Anchorage Municipal Code section 12.65.040 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

12.65.040 Tax exemptions.

A. The following transactions are exempt from the tax levied by section 12.65.030:

1. Wholesale and manufacturer sales of alcoholic beverages to retailers and permit holders;
2. [CORKAGE FEES, AS DESCRIBED IN AS 4.16.120;]
- 3.] Component parts, as defined by the department, including separately charged and reusable components (e.g., keg, growler);
- 3[4]. Sales of alcoholic beverages on a common carrier within the municipality;
- 4[5]. Sales of alcoholic beverages by the United States or any instrumentality thereof; and
- 5[6]. Sales of alcoholic beverages to a customer who is an officer or employee of a foreign government which is exempt from taxation by law or treaty.
6. Sales of alcoholic beverages under a nonprofit organization event permit or alcoholic beverage auction permit.

(AO No. 2020-57(S) , § 1, 6-23-20)

Section 3. Anchorage Municipal Code section 12.65.070 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

12.65.70 Certificate of registration: Eligibility.

- A. To be eligible for a certificate of registration, a retailer applying for a certificate shall:
 1. Possess a current business license as required by AS 43.70, and a current State of Alaska alcohol retail license or permit as required by AS title 04[11]. Copies of applicable licenses, endorsements, and permits must be provided to the municipality before a certificate of registration will be issued; and

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(AO No. 2020-57(S) , § 1, 6-23-20)

Section 4. Anchorage Municipal Code section 12.65.080 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

12.65.80 Certificate of registration: Required.

- A. Except as otherwise provided in this chapter, every retailer shall obtain a certificate of registration for each location at which the business of retail sales of alcoholic beverages to consumers are conducted, prior to operating as a retailer within the municipality.
- B. A retailer operating under a nonprofit organization event permit or an alcoholic beverage auction permit issued by the State of Alaska will not be required to obtain a certificate of registration from the department. [TEMPORARY SPECIAL-USE CERTIFICATE UNDER THIS CHAPTER IF THE ESTIMATED RETAIL SALES OF ALCOHOLIC BEVERAGES UNDER THE PERMIT DO NOT EXCEED \$5,000.00, OR \$250.00 IN ALCOHOLIC BEVERAGES RETAIL SALES TAXES DUE.]
- C. There shall be no charge for issuing a certificate of registration. [THERE SHALL BE A PREPAID TAX DEPOSIT REQUIRED FOR THE ISSUANCE OF A TEMPORARY SPECIAL-USE CERTIFICATE, IN AN AMOUNT TO BE DETERMINED BY THE DEPARTMENT THAT IS BASED ON A PERCENTAGE OF ESTIMATED ALCOHOL SALES UNDER THE TEMPORARY SPECIAL-USE CERTIFICATE.]

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(AO No. 2020-57(S) , § 1, 6-23-20)

Section 5. Anchorage Municipal Code section 12.65.090 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

12.65.090 Certificate of registration: Application.

- A. Application for registration to operate as a retailer[, INCLUDING OPERATING UNDER A TEMPORARY SPECIAL-USE CERTIFICATE,] within the municipality shall be made to the chief fiscal officer on a form provided by the department, containing such information as the department may require, including:

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- 4. A copy of the retailer's current State of Alaska alcohol retail license(s), endorsement(s), or permit(s);

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- B. A retailer having more than one retail location within the municipality or that obtains a permit for a specified period on a single specified premises shall apply with the department for a certificate to register each separate location on a form provided by the department, which shall include:

1. A copy of the retailer's current State of Alaska alcohol retail license, endorsement, or permit for each additional location;

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(AO No. 2020-57(S) , § 1, 6-23-20)

Section 6. Anchorage Municipal Code section 12.65.160 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

12.65.160 Tax return and remittance.

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C. A tax return shall be filed even if there are no taxes due for the period being reported. [,EXCEPT FOR TEMPORARY SPECIAL-USE CERTIFICATE HOLDERS WHO MUST FILE FOR ONLY THE PERIODS IN WHICH THEIR CERTIFICATE IS VALID.] Tax returns and taxes to be remitted under this chapter must be actually received by the department within the time required by this section.

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(AO No. 2020-57(S) , § 1, 6-23-20)

Section 7. Anchorage Municipal Code section 12.65.190 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

12.65.190 Tax refunds.

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[D. IF THE PREPAID TAX DEPOSIT UNDER SUBSECTION 12.65.080B. BY A TEMPORARY SPECIAL-USE CERTIFICATE HOLDER EXCEEDS THE AMOUNT OF TAX DUE, THE TEMPORARY SPECIAL-USE CERTIFICATE HOLDER SHALL APPLY FOR A REFUND IN WRITING ON A FORM PROVIDED BY THE DEPARTMENT NO LATER THAN THIRTY (30) DAYS AFTER SUBMITTING THE FINAL TAX RETURN AND REMITTING ALL TAXES DUE TO THE DEPARTMENT. UPON THE DEPARTMENT'S DETERMINATION THAT THE PREPAID TAX DEPOSIT EXCEEDS THE ACTUAL AMOUNT DUE, THE DEPARTMENT SHALL REFUND THE EXCESS TO THE TEMPORARY SPECIAL-USE CERTIFICATE HOLDER WITHOUT INTEREST.]

(AO No. 2020-57(S) , § 1, 6-23-20)

Section 8. Anchorage Municipal Code section 12.65.210 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set*

out):

12.65.210 Maintenance and inspection of documents and records.

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B. It shall be the responsibility of the retailer to obtain and preserve evidence sufficient to support all acquisitions of alcoholic beverages and retail sale transactions and allowable deductions subject to this chapter, and all claimed exemptions from payment, collection, or remittance of the retail alcoholic beverages sales taxes under this chapter. Specification in this chapter of the records to be kept by a retailer shall not relieve the retailer of its responsibility to keep sufficient records. Unless a longer period is ordered by the chief fiscal officer under section 12.65.220 or a court of competent jurisdiction, a retailer shall keep and preserve all required records within the municipality for not less than three calendar years after the end of the calendar year in which such records are created and shall make available such records for inspections by the department upon request. Sufficient records shall include, but not necessarily be limited to:

1. [EXCEPT FOR RETAIL SALES UNDER A TEMPORARY SPECIAL-USE CERTIFICATE THAT MAY BE RECORDED IN SUMMARY FORM,] ~~E~~[E]ach retail sale of alcoholic beverages within the municipality shall be recorded by the retailer and the record shall include, at minimum: the date of sale, the type of alcoholic beverage sold, the quantity of alcoholic beverages sold, the sales price, the amount of retail sales taxes due on the sale, and the amount and method of payment received. A comparable receipt of sale shall be offered to each consumer at the time of purchase;

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(AO No. 2020-57(S) , § 1, 6-23-20)

Section 9. This ordinance shall be effective January 1, 2024.

PASSED AND APPROVED by the Anchorage Assembly this 7th day of November, 2023.

Chair

ATTEST:

Municipal Clerk