

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Finance and Law Departments  
For reading: April 28, 2015

**ANCHORAGE, ALASKA  
AO No. 2015-48**

1  
2 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER**  
3 **12.45, RENTAL TAX ON RENTAL OF MOTOR VEHICLES, TO IMPROVE**  
4 **ADMINISTRATIVE EFFECTIVENESS; CLARIFY RECORD RETENTION**  
5 **REQUIREMENTS; CLARIFY ELIGIBILITY FOR REFUND OF OVERPAID TAX;**  
6 **CLARIFY REQUIREMENTS AND DUTIES OF CERTAIN PERSONS;**  
7 **INCREASE SECURITY AND CONTROLS OVER MUNICIPAL FUNDS HELD BY**  
8 **RENTAL AGENCIES AND FINANCIAL INSTITUTIONS; REFERENCE**  
9 **CRIMINAL SANCTIONS FOR THEFT, MISAPPROPRIATION, OR FAILURE TO**  
10 **REMIT MONIES HELD IN TRUST BY PERSONS WITH FIDUCIARY**  
11 **RESPONSIBILITIES TO THE MUNICIPALITY; AND AMENDING SECTION**  
12 **14.60.030 TO REMOVE CHAPTER 12.45 OFFENSES FROM THE FINE**  
13 **SCHEDULE.**

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15 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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17 **Section 1.** Anchorage Municipal Code section 12.45.010 is hereby amended to  
18 read as follows (*the remainder of the section is not affected and therefore not set*  
19 *out*):

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21 **12.45.010 Definitions.**

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23 The following words, terms, and phrases, when used in this chapter,  
24 shall have the meanings ascribed to them in this section, except where the  
25 context clearly indicates a different meaning:

26  
27 Certificate of registration means a license authorizing a specified  
28 person to operate a rental agency in the municipality.

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30 Chief fiscal officer means the chief fiscal officer of the municipality or  
31 [HIS] designee.[:]

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33 \*\*\* \*\*\* \*\*\*  
34 Debt ratio means a financial ratio that indicates the proportion of an  
35 entity's debt to its total assets and is calculated by dividing the total dollar  
36 value of an entity's liabilities by the total dollar value of an entity's assets.

37  
38 Debt-to-equity ratio means a financial ratio indicating the relative  
39 proportion of an entity's equity and debt used to finance an entity's assets

and is calculated by dividing the total dollar value of an entity's liabilities by the total dollar value of an entity's equity.

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*Fiduciary* means a person or responsible party acting on behalf of a rental agency, to whom the duties to collect, segregate and remit the taxes authorized by this chapter is entrusted for purposes specified in this chapter.

*Funds* means money, assets or intangible assets that can be converted to money.

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*Person* includes an individual, company, partnership, limited liability partnership, joint venture, joint agreement, limited liability company, association, mutual or otherwise, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any combination acting as a unit.

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*Rental agency* means any person engaged in the retail business of renting or leasing motor vehicles.

*Responsible party* means a person who has a level of control over, or entitlement to, the funds or assets of the rental agency that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the rental agency and the disposition of its funds and assets.

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(AO No. 2000-116(S), § 1, 7-18-00; AO No. 2005-92, § 1, 6-24-05)

**Section 2.** Anchorage Municipal Code Section 12.45.030 is hereby amended to read as follows:

**12.45.030 Tax receipts segregated and held in trust for the municipality.**

A. Taxes collected pursuant to this chapter belong to the municipality at the time collected by the rental agency. The rental agency has [A] fiduciary duties [DUTY] to the municipality for these taxes. The taxes shall be segregated from the rental agency's funds, at least by book account, and held in trust for the exclusive benefit of the municipality until remitted to the municipality.

B. When the circumstances described in subsections 12.45.055F.1. - F.3. or subsection 12.45.060F. have occurred, the chief fiscal officer may require the rental agency to maintain a separate bank account in a financial institution for segregating tax monies collected. The

rental agency required to establish an account under this section shall deposit tax monies therein upon collection.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, § 1, 7-1-03)

**Section 3.** Anchorage Municipal Code chapter 12.45 is hereby amended by adding a new section, to be numbered 12.45.045, which section reads as follows:

**12.45.045 Eligibility for certificate of registration.**

A. To be eligible for a certificate of registration, a person applying to conduct business as a rental agency shall:

1. Provide verification and affirmation that all responsible parties for the rental agency:

a. have not at any time in the most recent five-year period been convicted of a crime related to theft of tax dollars, attempted theft of tax dollars, failure to remit taxes due, embezzlement, felony theft, or similar financial crimes;

b. have not at any time during the most recent five-year period had a certificate of registration under this chapter revoked more than once;

c. are not delinquent with tax obligations to the municipality or have any outstanding delinquent financial obligations to the municipality.

Have arranged for locations intended for the rental agency's business that comply with the municipal land use ordinances and regulations.

3. Ensure that all motor vehicles disclosed in the application and subsequently added to the rental agency's fleet are in compliance with all vehicle equipment, safety and financial security or insurance requirements of federal, state and local laws.

**Section 4.** Anchorage Municipal Code section 12.45.050 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**12.45.050 Registration of rental agencies.**

A. Registration. Each person intending to engage in business as a rental agency shall first register with the chief fiscal officer on an application form provided by the department before such rental

agency rents or leases a motor vehicle. An applicant applying for a certificate of registration under this chapter shall obtain a financial guarantee [SURETY BOND] in accordance with Section 12.45.055 and a copy of such financial guarantee [SURETY BOND] shall be submitted to the department with the application.

B. (Reserved) [A RENTAL AGENCY ENGAGING IN BUSINESS AT MORE THAN ONE LOCATION WITHIN THE MUNICIPALITY SHALL LIST EACH LOCATION ON THEIR REGISTRATION APPLICATION.]

C. A registration application shall contain the applicant's [RENTAL AGENCY'S]:

1. Registered and business name;

Physical addresses and locations at which it conducts business;

3. Mailing address;

4. Registered address;

5. Form of business organization and Alaska business license number;

6. Complete disclosure of all [ALL] motor vehicles intended for rental use that are owned or controlled by the applicant [RENTAL AGENCY] as of the date the registration application is filed, including all motor vehicles for which the applicant [RENTAL AGENCY] has entered into a contractual arrangement, written or oral, to acquire the vehicles but has not yet taken physical control of the motor vehicle; [AND]

7. The address of each location where the applicant will engage in business operations, including, but not limited to, business office(s), service counter(s), vehicle storage lot(s), maintenance and equipment storage area(s);

8. Names and addresses of all responsible parties for the rental agency;

9. A corporation that applies for a certificate of registration shall provide the names and addresses of the principal officers including president, vice-president, secretary, managing officer, and all stockholders who own 10 percent or more of the stock in the corporation. A partnership, including a limited partnership, that applies for a certificate of registration shall provide the names and addresses of all general partners and

all partners with an interest of 10 percent or more. A limited liability organization that applies for a certificate of registration shall provide the names and addresses of all members with an ownership interest of 10 percent or more and the names and addresses of all managers; and

10. Such other information as the department may require.

- D. Upon receipt of a properly completed application from an eligible applicant, the chief fiscal officer shall, without charge, issue a certificate of registration to the rental agency. The certificate shall be valid only for the business name and address listed thereon. A person's application for and acceptance of the certificate of registration issued under this section constitutes confirmation of the person's acknowledgement on behalf of the applicant and rental agency of the fiduciary duties pursuant to this chapter.

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- F. (Reserved) [IF ANY OF THE INFORMATION REQUIRED BY SUBSECTIONS C1. THROUGH C5. OF THIS SECTION CHANGES, THE CERTIFICATE OF REGISTRATION SHALL AUTOMATICALLY EXPIRE AND, WITHIN TEN DAYS THEREAFTER, SHALL BE SURRENDERED ALONG WITH ALL COPIES THEREOF, TO THE CHIEF FISCAL OFFICER FOR CANCELLATION AND ISSUANCE OF A NEW CERTIFICATE.]

- G. The department may refuse to issue a certificate of registration if there is reasonable cause to believe that the applicant has structured its business organization to avoid payment of delinquent taxes, penalties, interest, or costs due under this chapter; has willfully withheld information requested to determine the applicant's eligibility to receive a certificate; or [THERE IS REASONABLE CAUSE TO BELIEVE] that information submitted in the application is false or misleading and is not made in good faith.

- H. Every rental agency electing to provide a surety bond to fulfill the requirement for a financial guarantee under this chapter shall annually register under this section to renew its certificate of registration.

- I. Non-transferable. The certificate of registration issued under this section is not assignable or transferable, except that in the case of death, bankruptcy, receivership, or incompetency of the rental agency (or its principals if the rental agency is an entity), or if the certificate is transferred to another by operation of law, the department may extend the certificate for a limited time to the executor, administrator, trustee, receiver, or the transferee.

- J. The certificate of registration issued under this section is a privilege for a rental agency to have, and there is no right, entitlement or property interest created by the issuance of a certificate to a rental agency.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, §§ 2, 3, 7-1-03)

**Section 5.** The Anchorage Municipal Code chapter 12.45 is hereby amended by adding a new section, to be numbered 12.45.053, which section reads as follows:

**12.45.053    Fiduciary duties.**

A. The fiduciary duties include at a minimum:

1. determining, implementing, and enforcing sufficient and relevant policies and practices to ensure proper performance of fiduciary duties;
- charging, collecting, and safeguarding all taxes required by this chapter to be collected by the rental agency;
3. directing and reviewing the actions of each member, officer, director, employee, and contractor employed or used by the rental agency in the exercise of the fiduciary duties under this chapter;
4. performing all acts, not prohibited by this chapter, whether or not expressly authorized, that a reasonable and prudent person would consider necessary or proper in administering and safeguarding the taxes collected under this chapter; and
5. maintaining accounting records associated with taxes collected under this chapter in accordance with generally accepted accounting principles.

B. The fiduciary is liable for a breach of a duty that is assigned or delegated. However, the fiduciary is not liable for a breach of a duty that has been delegated to another person if the duty is assigned by law to another person, except to the extent that the fiduciary or designee:

1. knowingly participates in, or knowingly undertakes to conceal, an act or omission of another person knowing that the act or omission is a breach of that person's duties under this chapter; or

2. by failure to comply with this section in the administration of specific responsibilities, enables another person to commit a breach of duty.

- C. Funds held in a fiduciary capacity shall be clearly identified in a rental agency's financial statement and, if maintained in an account at a financial institution the account shall be clearly identified as a fiduciary account.

**Section 6.** Anchorage Municipal Code section 12.45.055 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**12.45.055 Security for fiduciary performance.**

- A. *Guarantee required.* To ensure that a rental agency performs its fiduciary responsibility to timely collect, account for, safeguard, and remit taxes levied by this chapter, the rental agency shall provide a guarantee by one or more of the methods specified in this section. The amount of the guarantee shall be in an amount that the chief fiscal officer determines to be eight percent of the estimated average annual gross fees and costs earned by the rental agency, or \$5,000.00, whichever is higher. Except as specified in subsection C. of this section, the requirement for a guarantee shall remain in force for the entire period the applicant is registered as a rental agency in accordance with Section 12.45.050. [A CERTIFICATE OF REGISTRATION IS AUTOMATICALLY REVOKED WHEN THE RENTAL AGENCY'S REQUIRED GUARANTEE LAPSES, IS NOT RENEWED, EXPIRES, IS MODIFIED WITHOUT THE WRITTEN CONSENT OF THE CHIEF FISCAL OFFICER, IS CANCELLED, OR IS OTHERWISE TERMINATED.] In the event the municipality exercises a claim against the guarantee, the rental agency shall provide an additional guarantee, in an amount equal to the amount of the paid claim, no later than 30 days after the date such claim was paid [OR ITS CERTIFICATE OF REGISTRATION SHALL BE AUTOMATICALLY REVOKED].

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- C. Once a rental agency has filed a tax return and remitted the full amount of taxes due under this chapter, by the due date prescribed by this chapter, for each of eight consecutive calendar quarters, the rental agency may submit a written request to the chief fiscal officer for a waiver of the requirement for the rental agency to post a guarantee. The request must include information demonstrating the rental agency has sufficient capital to conduct normal business operations. Except as listed below, the chief fiscal officer shall provide written approval of such request, stating the date the requirement for a guarantee shall expire.

- 1                   1.     The chief fiscal officer shall not approve the rental agency's  
2                   request and the requirement for a guarantee shall not expire  
3                   when the rental agency has had any certificate of registration  
4                   previously issued under this chapter revoked by the  
5                   department.

6  
7                   The chief fiscal officer shall not approve the rental agency's  
8                   request and the requirement for a guarantee shall not expire  
9                   when the department has reasonable cause to believe that  
10                  the rental agency is a related party or related entity to another  
11                  rental agency or prior rental agency whose certificate of  
12                  registration has previously been revoked under this chapter.

- 13  
14                  3.     The chief fiscal officer shall not approve the rental agency's  
15                  request unless the rental agency has sufficient capital to  
16                  conduct normal business operations, timely and fully paying  
17                  all financial obligations. Evidence of sufficient capitalization  
18                  includes but is not limited to a debt-to-equity ratio less than 9  
19                  or a debt ratio less than 0.9.

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- 22                  F.     The chief fiscal officer may require the rental agency to provide a  
23                  financial guarantee that is double the amount established by  
24                  subsection A of this section, when:

- 25  
26                  1.     A responsible party was ineligible for a five-year period under  
27                  a limitation in subsections 12.45.045A.1.a. or A.1.b., and the  
28                  five-year period has passed;

29  
30                  The rental agency has incurred penalties under this chapter in  
31                  at least two consecutive calendar quarters; or

- 32  
33                  3.     The rental agency has incurred penalties under this chapter in  
34                  at least two quarters of any three consecutive calendar  
35                  quarter period.

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37                  (AO No. 2003-107, § 4, 7-1-03; AO No. 2009-78, § 1, 7-7-09)

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39                  **Section 7.**   Anchorage Municipal Code section 12.45.060 is hereby amended to  
40                  read as follows *(the remainder of the section is not affected and therefore not set*  
41                  *out)*:

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43                  **12.45.060     Motor vehicle rental tax return and remittance.**

- 44  
45                  A.     Within 30 days after the end of each calendar quarter, every rental  
46                  agency shall submit to the department a tax return upon a form  
47                  provided by the department and shall remit therewith all taxes  
48                  required to be collected by this chapter during the immediately



preceding calendar quarter. A tax return shall be filed even if there are no taxes due for the period being reported. Tax returns and taxes to be remitted under this chapter must be actually received by the department within the time required by this section.

1. The tax return shall be signed under penalty of perjury by an officer of the rental agency and shall include:
  - a. The name and mailing address of the rental agency;
  - b. The name and title of the person filing the tax return;
  - c. Whether the cash basis or accrual basis accounting method is used to report rents earned;
  - d. The aggregate amount of the fees and costs earned by the rental agency for motor vehicle rentals within the municipality;
  - e [D]. The amount of motor vehicle tax due;
  - f [E]. The vehicle inventory disclosure form; and
  - g. Such other relevant information and supporting documentation as the department may require.

As used in subsection A.1.d. of this section, "fees and costs earned" means revenue recognized on the rental agency's books of account in the legitimate and normal and ordinary course of the rental agency's business. A rental agency must elect to report fees and costs on the accrual basis or the cash basis method of accounting. Once adopted, a rental agency's method of reporting fees and costs shall not be changed without prior written approval of the chief fiscal officer. Generally, cash basis businesses recognize the total fees and costs for motor vehicle rentals as earned when the payments are actually collected and accrual basis businesses recognize the total fees and costs for motor vehicle rentals as earned when the rental transactions occur regardless of when payment is actually received.

- B. If a rental agency fails to file a tax return under this section or when the chief fiscal officer finds that a tax return filed by a rental agency is not supported by the records required to be maintained under this chapter, the chief fiscal officer may prepare and file an involuntary tax return on behalf of the rental agency. taxes due on an involuntary tax return may be premised upon any information that is available to the chief fiscal officer including comparative data for similar businesses. A rental agency shall be liable for the taxes stated on an involuntary tax return together with penalties and interest provided in this chapter.

1. The department shall notify the rental agency of an involuntary tax return, the basis of the department's calculations, the rental agency's rights under Section

12.45.170, and notice that payment of the taxes, penalties, and interest is due immediately.

Unless otherwise determined by the chief fiscal officer in a decision under Section 12.45.170, taxes due under this section shall be due on the same date as if a tax return had been filed by the rental agency in accordance with this chapter, and interest, penalties, and costs thereon shall accrue from such date.

3. A tax return prepared by the chief fiscal officer is prima facie evidence of taxes due, and the penalties and interest accruing from said tax liability. In an application under section 12.45.170, it is the rental agency's burden to rebut the presumed sufficiency of a tax return prepared by the department.

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- F. The department may require a rental agency to file tax returns and remit taxes due at the end of each month within 30 days after the end of the month being reported, if:

1. A person who was ineligible for a certificate because of the five-year limitation in subsections 12.45.050A1.a. or A.1.b. is a responsible party for a rental agency and the five year period has passed; or
2. A rental agency meets eligibility requirements for a certificate, but has:
  - a. a debt-to-equity ratio between 7 and 9; or
  - b. a debt ratio between 0.7 and 0.9.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, § 5, 7-1-03)

**Section 8.** Anchorage Municipal Code Section 12.45.080 is hereby amended to read as follows:

**12.45.080 Tax refunds.**

- A. If the department determines after audit that a rental agency's tax remittance exceeds [TAXES REMITTED EXCEED] the actual amount due, the department shall, upon written request of the rental agency, refund the excess to the rental agency without interest.

B. The rental agency shall apply for a refund in writing on a form provided by the department not later than two years from the date the excess payment was transmitted to the department. Any claim for a refund filed more than two years [ONE YEAR] after the [DUE] date of the excess payment [TAX RETURN] is forever barred. For purposes of this section, a "refund" means payment by the municipality to the rental agency or book entry by the municipality to offset other current or future amounts due from the rental agency.

C. If a rental agency discovers that it has miscalculated the tax, and the person who rented a motor vehicle paid more tax than should have been collected, the rental agency shall refund to the renter the excess amount collected. If the rental agency has [IS] not [ABLE TO] located the renter and refunded the excess tax collected within 30 days, the excess tax shall be remitted to the municipality with the next tax return and remittance due pursuant to Section 12.45.060.

(AO No. 2000-116(S), § 3, 7-18-00)

**Section 9.** Anchorage Municipal Code chapter 12.45 is hereby amended by adding a new section, to be numbered 12.45.085, which section reads as follows:

**12.45.085 Expiration or revocation of certificate of registration.**

A. A certificate of registration shall automatically expire:

1. Two years from the date of issuance.

On the last day of the term of the surety bond submitted as financial guarantee, when the rental agency is required to renew or provide a new financial guarantee if such requirement has not been waived, and the rental agency must reapply, pursuant to section 12.45.050, to renew its certificate.

3. If any of the information required by subsections C1. through C5. of section 12.45.050 changes. Within ten days thereafter, the certificate shall be surrendered along with all copies thereof, to the chief fiscal officer for cancellation and issuance of a new certificate.

B. A certificate of registration shall be automatically revoked:

1. When the rental agency's required financial guarantee lapses, is not renewed, expires, is modified without the written consent of the chief fiscal officer, is cancelled, or is otherwise terminated; or

In the event the municipality exercises a claim against the

financial guarantee and the rental agency fails to replace, renew or replenish its financial guarantee, in an amount equal to the amount of the paid claim or in an aggregate amount as required by section 12.45.055, no later than 30 days after the date such claim was paid.

C. The department may revoke a certificate of registration if:

1. A rental agency fails to remit substantially all (at least 95 percent) of the taxes due under this chapter within 45 calendar days of the due date;
2. Subsequent to the issuance of the certificate the department discovers that the rental agency has willfully withheld information requested to determine the applicant's eligibility to receive a certificate, or there is reasonable cause to believe that information submitted in the application was false or misleading and was not made in good faith;
3. When the rental agency's circumstances change to a point where it no longer meets eligibility requirements set forth in section 12.45.045; or
4. The rental agency has committed any violation of this chapter.

D. Except for automatic revocation under subsection B., the department shall give reasonable notice of the intent to revoke a certificate of registration and, prior to revocation, shall provide the rental agency a reasonable opportunity to respond or to rebut the grounds for the revocation action.

**Section 10.** Anchorage Municipal Code section 12.45.090 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

**12.45.090 Prohibited acts.**

A. In addition to other acts and omissions prohibited by this chapter:

1. No person shall fail or refuse to pay the tax imposed by this chapter when it is due and payable to a rental agency authorized to collect the tax.

A rental agency or responsible party shall not advertise or state to the public or to any person renting a motor vehicle, directly or indirectly, that the tax or any part of it will be assumed or absorbed by the rental agency. A rental agency or responsible party shall not advertise or state to the public or to any person renting a motor vehicle, directly or indirectly,

1 that the tax will not be added to the rental contract or that it  
2 will be refunded except as provided in this chapter. A rental  
3 agency or responsible party shall not absorb or fail to add the  
4 tax or any part of it or fail to state the tax separately to the  
5 person renting the motor vehicle.

6  
7 3. No person, [OR] rental agency, or responsible party shall  
8 charge in excess of the proper amount of tax due under this  
9 chapter.

10  
11 B. No person shall engage in business as a rental agency without  
12 obtaining a certificate of registration under this chapter.

13  
14 C. No rental agency or responsible party shall deny the chief fiscal  
15 officer, subsequent to identification during normal business hours,  
16 access to the rental agency's required records for purposes of  
17 inspection under this chapter.

18  
19 D. No rental agency or responsible party shall fail to make a required  
20 remittance to the department of funds collected and to be held in  
21 trust for the municipality.

22  
23 E. A person shall not divert or otherwise appropriate for business or  
24 personal use funds required to be held in a fiduciary capacity under  
25 this chapter. Use of funds held in a fiduciary capacity under this  
26 chapter for any purpose other than the one for which the funds are  
27 being held is prohibited. Prohibited purposes under this section  
28 include, but are not limited to, using funds held or received in a  
29 fiduciary capacity to:

- 30 1. pledge as collateral to secure an amount owing;  
31 2. guarantee a contract of surety; or  
32 3. assign.

33  
34 F. A person shall not factor a rental agency's accounts receivable, or  
35 transact any type of asset-financing arrangement in which a rental  
36 agency uses its accounts receivable as collateral in a financing  
37 agreement, when the accounts receivable contain charges for motor  
38 vehicle rental taxes, without first notifying the department and  
39 remitting to the department a payment equal to the total charges for  
40 motor vehicle rental taxes being factored or collateralized.

41  
42 G. A person shall not prepare and submit to the department a false tax  
43 return with the intent to fail to remit taxes due pursuant to this  
44 chapter.

45  
46 H. A person shall not knowingly use, allow or permit the use of real  
47 property in the municipality by a rental agency for use in conducting  
48 its business as a rental agency, unless the rental agency is properly

registered with the department under this chapter. Providing such real property after notice from the department that such provision of real property violates this section is prima facie evidence of the violation.

- I. A person shall not knowingly provide advertising, web hosting, or other marketing services to a rental agency in the municipality that is not properly registered under this chapter. Providing such services after notice from the department that such provision of services violates this section is prima facie evidence of the violation.

(AO No. 2000-116(S), § 3, 7-18-00)

**Section 11.** Anchorage Municipal Code Section 12.45.100 is hereby amended to read as follows:

**12.45.100 Tax avoidance.**

- A. If the department has reasonable cause to believe that a rental agency has structured a contract to rent a motor vehicle to avoid collecting or remitting the tax levied under this chapter, or has wrongfully deceived its customers or the department, the department may take one or both of the following actions:

1. D[d]eclare there is a rebuttable presumption that the substance of a specific motor vehicle rental transaction is a taxable transaction under this chapter and proceed to establish, levy and collect the tax together with costs, penalties and interest as provided for in this chapter; or
2. Order and require the rental agency to retain and preserve records identified in section 12.45.150 for not more than six years. If the records for prior reporting periods do not exist, the department may prepare and file involuntary return(s) on behalf of the rental agency, as provided in subsection 12.45.060B.

(AO No. 2000-116(S), § 3, 7-18-00)

**Section 12.** Anchorage Municipal Code chapter 12.45 is hereby amended by adding a new section, to be numbered 12.45.115, which section reads as follows:

**12.45.115 Collection of taxes.**

Taxes, interest, penalties, and administration costs due under this chapter and unpaid may be collected by any lawful means, including by a civil action for the collection of a debt, by executing a claim against security provided under section 12.45.055, by foreclosure of the tax lien in

accordance with AS 09.45.170 through 09.45.220 or similar statutes in substitution thereof, or by any combination of the above.

**Section 13.** Anchorage Municipal Code section 12.45.120 is hereby amended to read as follows *(the remainder of the section is not affected and therefore not set out)*:

**12.45.120 Penalties.**

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- C. A rental agency or responsible party who willfully fails to collect [OR REMIT] the tax levied by this chapter shall incur a civil penalty equal to twice the amount of the tax which should have been collected.
- D. [THE DEPARTMENT MAY REVOKE A CERTIFICATE OF REGISTRATION ISSUED UNDER THIS CHAPTER FOR ANY VIOLATION OF THIS CHAPTER.] If a rental agency fails to remit at least 95 percent of the taxes due under this chapter within 45 calendar days of the due date, the [DEPARTMENT SHALL REVOKE THE RENTAL AGENCY'S CERTIFICATE OF REGISTRATION ISSUED UNDER THIS CHAPTER AND THE] rental agency shall incur a civil penalty up to and including an amount equal to the unpaid delinquent taxes.
- E. A managing member, officer, director, [AND] owner and responsible party of an enterprise engaged in business as a rental agency without a certificate of registration issued under this chapter is personally liable for all taxes which should have been collected and remitted to the municipality plus a penalty equal to 25 percent of the tax which should have been collected in addition to all costs, taxes, interest and other penalties due under this chapter. The municipal attorney may petition the court for injunctive relief against a person engaged in business as a rental agency without a certificate of registration issued under this chapter.
- F. Civil and criminal penalties shall be cumulative remedies and shall not relieve a rental agency, responsible party, or person renting a motor vehicle of the duties imposed under this chapter.
- G. Any person who violates any provision of this chapter shall be liable for a civil penalty of up to \$1,000.00 for each separate violation. Where multiple instances of the same violation occur, each instance shall constitute a separate violation. In addition to any other remedy or penalty provided by this chapter, a rental agency, responsible party or any person who violates a provision of this chapter, a valid order of the department or chief fiscal officer authorized under this chapter, or a municipal regulation promulgated under this chapter, shall be subject to a civil penalty, or injunctive relief to restrain the person from continuing the violation or threat of violation, or both

such civil penalty and injunctive relief. Upon application by the municipality for injunctive relief and a finding that a person is violating or threatening to violate a provision of this chapter or a municipal regulation promulgated under this chapter, the Superior Court shall grant injunctive relief to restrain the violation.

H. A person who owns or controls the real property where an unregistered rental agency is operating and who, after being notified by the department that the continued operation of the unregistered rental agency is in violation of this chapter, allows the unregistered rental agency to continue to operate on the property is complicit in a prohibited act under section 12.45.090 and shall be subject to penalties set forth in subsection G.

I. A person who provides advertising, web hosting, or other marketing services to a rental agency in the municipality not having a certificate of registration under this chapter after receiving notice from the department to cease such services is complicit in a prohibited act under section 12.45.090 and shall be subject to penalties set forth in subsection G.

J. A person who commits an act prohibited by this chapter is subject to prosecution pursuant to Title 8 of this Code.

(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2003-107, §§ 8, 9, 7-1-03)

**Section 14.** Anchorage Municipal Code section 12.45.150 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**12.45.150 Maintenance and inspection of documents and records.**

A. *Motor vehicle rental transactions.* Any person who collects fees and costs for the rental of a motor vehicle shall keep and preserve sufficient records to document each rental of a motor vehicle. The collection of advance deposits constitutes the collection of fees and costs for the purposes of this subsection. Unless a longer period is ordered by the chief financial officer under section 12.45.100 or a court of competent jurisdiction, a rental agency shall keep and preserve all required records [RECORDS SHALL BE KEPT AND PRESERVED] within the municipality for not less than two calendar years after the end of the calendar year in which such records are created and shall make [BE MADE] available such records for inspection by the department upon request. Sufficient records shall include, but not necessarily be limited to:

1. All rental contracts and accounting records reflecting the rental of each motor vehicle for which the rental agency



received fees and costs, and the total fees and costs received therefor;

The renter's name, address, beginning and ending dates of the rental period, motor vehicle identification number (VIN#) or license plate number, and all fees and costs charged to the renter, method of payment, and payment amount, as recorded on the rental contract or otherwise; and

3. All periodic statements and records from financial institutions provided to, or available to, the rental agency for accounts in which fees and costs or motor vehicle rental taxes were deposited;

4. All periodic statements provided to the rental agency from credit card or debit card processors containing details of customer payment transactions for motor vehicle fees and costs or motor vehicle rental taxes; and

5 [3]. Books of account, journals, ledgers, and [OR] other compilations of source documents that reconcile to total fees and costs earned and tax collected as listed on the tax returns filed with the department under the authority of this chapter.

B. *Tax-exempt transactions.* It shall be the responsibility of each rental agency to obtain and preserve sufficient evidence to support all claimed exemptions from payment, collection, or remittance of the rental vehicle tax. Specification in this subsection of the records to be kept by a rental agency shall not relieve the rental agency of its responsibility to keep sufficient records. Unless a longer period is ordered by the chief financial officer under section 12.45.100 or a court of competent jurisdiction, a [A] rental agency shall keep and preserve in the municipality at least the following minimum records for two calendar years after the end of the calendar year in which created:

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C. *Fleet inventory.* It shall be the responsibility of the rental agency to obtain and preserve sufficient information on the motor vehicles the rental agency controls or offers for rent to enable the department to perform inspections of records pursuant to this chapter. Specification in this chapter of the records to be kept by a rental agency shall not relieve the rental agency of its responsibility to keep sufficient records. Unless a longer period is ordered by the chief financial officer under section 12.45.100 or a court of competent jurisdiction, a [A] rental agency shall keep and preserve in the municipality at least the following minimum records for two calendar years after the end

of the calendar year in which created:

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D. Rental agency financial and administrative records. Unless a longer period is ordered by the chief financial officer under section 12.45.100 or a court of competent jurisdiction, a rental agency shall keep and preserve in the municipality at least the following minimum records for two calendar years after the end of the calendar year in which created:

1. sufficient documentation confirming eligibility under section 12.45.045; and
2. any financial document related to the rental agency that has been submitted to a financial institution, potential investor, or other potential source of financing..

E. Persons subject to this chapter shall keep and preserve such other documents and records as the department prescribes.

E[D]. During normal business hours, the chief fiscal officer, upon presentation of proper identification, may inspect the records which a rental agency is required to maintain under this section, or inspect the records of a person whom the chief fiscal officer [HE] has probable cause to believe is a rental agency in order to determine whether that person is a rental agency. Upon notice of the department's intent to inspect records, a person or rental agency shall retain such records and preserve their availability to the department until released by the department in writing, regardless of whether such retention and preservation continues beyond the two-year period specified in this section.

1. The chief fiscal officer's authority to inspect records shall not be limited to records within the two calendar year retention period. If a rental agency has possession or control of records described in subsection A through E. that are older than the two-year period specified in this section, the rental agency shall make such records available for inspection upon request.
2. The rental agency shall make available for inspection within the municipality, all records required to be kept and preserved by this chapter. Records older than the two calendar year retention period specified in this section shall not be barred from discovery under court or administrative rules on relevance or admissibility grounds solely based on the age of the records.

G. The department may inspect records required by this chapter of all responsible parties who had control of, or access to, funds collected from customers of the rental agency, and such persons shall be subject the requirements of this section.

H[E]. Where the Constitution of the United States or of the State of Alaska so requires, the chief fiscal officer shall obtain an administrative search warrant authorizing an inspection and shall exhibit the warrant to the person in charge of the premises before conducting the inspection. The chief fiscal officer shall apply to the trial courts of the S[s]tate of A[a]laska to obtain an administrative search warrant, stating in the application the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection. Warrants issued under this section shall be returned to the court by which issued within ten days after the date issued.

(AO No. 2000-116(S), § 3, 7-18-00)

**Section 15.** Anchorage Municipal Code section 12.45.160 is hereby amended to read as follows (*the remainder of the section is not affected and therefore not set out*):

**12.45.160 Confidentiality of records.**

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C. This section shall not prohibit the chief fiscal officer from sharing information obtained from tax returns, documents, records, and/or reports filed with the municipality pursuant to this chapter with any local, state, or federal government agency for the purpose of enforcing this chapter or for tax purposes of the other government agency, provided the chief fiscal officer determines the other government agency provides adequate safeguards for the confidentiality of the shared information and that it will be used for tax purposes only.

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(AO No. 2000-116(S), § 3, 7-18-00; AO No. 2009-78, § 2, 7-7-09)

**Section 16.** Anchorage Municipal Code section 14.60.030 is hereby amended to delete fines for chapter 12.45 offenses and to read as follows (*the remainder of the section is not affected and therefore not set out*):

**14.60.030 Fine schedule.**

The fine schedule under this chapter is as follows:

TABLE INSET:

Title	Section		Fine Amount
* * *			* * *
[12.45.050]	[CERTIFICATE OF REGISTRATION]		
	[A.	FAILURE TO OBTAIN	75.00]
	[F.	FAILURE TO DISPLAY	75.00]
	[G.	FAILURE TO SURRENDER CERTIFICATE	75.00]
[12.45.090]	[FAILURE TO PAY]		
	[A.	FAILURE TO PAY	75.00]
* * *			* * *

(AO No. 93-167(S-1), § 1, 4-13-94; AO No. 94-108, § 1, 10-5-94; AO No. 94-134, § 2, 9-8-94; AO No. 95-42, § 2, 3-23-95; AO No. 95-67(S), § 9, 7-1-95; AO No. 95-102, § 1, 4-26-95; AO No. 95-118, § 3, 9-1-95; AO No. 95-163(S), § 21, 8-8-95; AO No. 95-195(S-1), 1-1-96; AO No. 96-51(S-1), § 2, 8-1-96; AO No. 96-96(S-1), § 2, 2-1-97; AO No. 96-126(S), § 3, 10-1-96; AO No. 96-137(S), § 9, 1-2-97; AO No. 97-88, § 3, 6-3-97; AO No. 97-107, § 3, 11-17-97; AO No. 97-133(S), § 1, 11-11-97; AO No. 98-27(S-1), § 2, 11-11-97; AO No. 98-160, § 2, 12-8-98; AO No. 99-13(S), 2-9-99; AO No. 99-91(S), § 4, 7-13-99; AO No. 2000-64, § 1, 4-18-00; AO No. 2000-116(S), § 4, 7-18-00; AO No. 2000-127(S), § 2, 10-14-00; AO No. 2000-129(S), § 26, 11-21-00; AO No. 2001-48, § 1, 3-13-01; AO No. 2001-74(S), § 2, 4-17-01; AO No. 2001-4, § 2, 2-6-01; AO No. 2001-145(S-1), § 11, 12-11-01; AO No. 2003-68, § 1, 9-30-03; AO No. 2003-97, § 4, 9-30-03; AO No. 2003-117, § 2, 1-28-03; AO No. 2003-130, § 8, 10-7-03; AO No. 2003-152S, § 10, 1-1-04; AO No. 2004-1, § 2, 1-1-03; AO No. 2004-99, § 2, 6-22-04; AO No. 2004-100(S-1), § 6, 1-1-05; AO No. 2004-171, § 1, 1-11-05; AO No. 2005-160, § 9, 11-1-05; AO No. 2005-84(S), § 3, 1-1-06; AO No. 2005-185(S), § 35, 2-28-06; AO No. 2005-124(S-1A), § 33, 4-18-06; AO No. 2006-39, § 6, 4-11-06; AO No. 2006-54, § 1, 5-2-06; AO No. 2006-80, § 1, 6-6-06; AO No. 2007-50, § 4, 4-10-07; AO No. 2007-60, § 4, 11-1-07; AO No. 2007-70, § 3, 5-15-07; AO No. 2008-84(S), § 5, 7-15-08; AO No. 2009-61, § 3, 7-7-09; AO No. 2009-82, § 5, 7-7-09; AO No. 2009-40(S), § 3, 7-21-09; AO No. 2009-112, § 4, 10-13-09; AO No. 2009-122, § 2, 12-17-09; AO-2010-35(S), § 7, 5-11-10; AO No. 2010-39, § 2, 5-11-10; AO No. 2010-87(S), § 3, 12-7-10; AO No. 2011-46, § 4, 4-12-11; AO No. 2011-59, § 10, 5-24-11; AO No. 2011-106(S), § 3, 11-8-11; AO No. 2011-112, § 4, 11-22-11, eff. 12-22-11; AO No. 2012-10, § 1, 1-31-12; AO No. 2012-77, § 29, 8-7-12; AO No. 2013-109(S-1), § 5, 12-3-13; AO No. 2013-130(S-1), § 1, 1-14-14; AO No. 2014-42, § 31, 6-21-14; AO No. 2014-85, § 4, 8-5-14; AO No. 2014-110(S), § 2, 9-9-14; AO No. 2014-137(S), § 3, 11-18-14)

**Section 17.** This ordinance shall become effective immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 14th day of May, 2015.

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Chair of the Assembly

ATTEST:

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Municipal Clerk