

Chapter 6.52

TRANSIENT ACCOMMODATION AND VEHICLE RENTAL TAX

Sections:

- 6.52.010 Definitions
- 6.52.020 Levy and Amount of Tax
- 6.52.030 Payment and Collection of Tax
- 6.52.040 Exemptions
- 6.52.050 Remittance of Tax and Returns
- 6.52.060 Sale or Transfer of Business
- 6.52.070 Delinquencies
- 6.52.080 Protest of Tax
- 6.52.090 Refund of Excess Payment
- 6.52.100 Period of Limitation
- 6.52.110 Rules and Regulations
- 6.52.120 Record Keeping
- 6.52.130 Tax as Lien
- 6.52.140 Oaths
- 6.52.150 Confidentiality of Records.
- 6.52.160 Tourism Enhancement Account.

6.52.010 Definitions.

- A. (repealed)
- B. "Borough" means the City and Borough of Yakutat.
- C. "Guest" means a person who rents a lodging for use for a term of less than 30 consecutive days.
- D. "Lodging" means a structure or part of a structure offered for dwelling or sleeping for a monetary consideration. This includes but is not limited to any hotel, motel, hostel, inn, resort, cabin, tent-cabin, bed and breakfast or boarding house. This is specifically intended to include any guest who has overnight lodging as part of a combined-price package. This excludes any hospital or other clinic or facility operated solely for the purpose of providing medical services.
- E. "Operator" means a person who offers a lodging or vehicle for rent and to whom rent for same is payable, either directly or through an agent or employee.
- F. "Renter" means a person who rents a vehicle from an operator.
- G. "Vehicle Rental" means the renting, or offering for rental, of an automobile, truck, van, pickup, or other passenger vehicle.
- H. "Combined-price package" means 1) a combination of services, or services and goods, provided by an operator for a single, flat rate, or rate which otherwise combines the cost of services and goods provided, or 2) where overnight lodging is only made available by the operator on condition that the guest purchase other services or goods in connection therewith.

6.52.020 Levy and Amount of Tax.

A. A tax, in an amount equal to 8% of the charge made by the operator, is hereby levied on a guest occupying a lodging with the right to use or occupy a bed therein for each day, or portion thereof, for which a charge is made by the operator. For combined price packages, the tax shall be computed as follows:

1. Where all or any part of the lodging utilized in the package is located within the service area defined in CCBY 1.16.010, the tax shall be either i) a flat rate of \$8.00 per person per day, or ii) the amount derived by charging the tax on thirty percent of the total cost of the combined price package, whichever is greater; and

2. Where all of the lodging utilized in the package is located outside of the service area defined in CCBY 1.16.010, the tax shall be either i) a flat rate of \$4.00 per person per day, or ii) the amount derived by charging the tax on fifteen percent of the total cost of the combined price package, whichever is greater.

B. A tax, in an amount equal to 8% of the rental charge made by the operator, is levied upon a renter of a vehicle for each day, or portion thereof, for which a charge is made by the operator.

C. The taxes levied under paragraphs A and B of this section are in addition to the sales tax levied under Chapter 6.40 of the Code of the City and Borough of Yakutat.

D. The operator shall state the tax as a separate item on the guest's invoice.

6.52.030 Payment and Collection of Tax.

A. The Operator shall add the tax to the rental payment. The tax is a debt from the Guest or Renter to the Operator and the Borough and from the Operator to the Borough until paid and is recoverable at law in the same manner as other debts. The Guest or Renter is liable to the Borough for the tax notwithstanding the Operator's duty to collect.

B. Any director, officer, employee, agent or member of a corporation or limited liability company having control over or supervision of, or charged with the responsibility for, the collection or remittance of transient accommodation and vehicle rental tax, or the filing of transient accommodation and vehicle rental tax returns, on behalf of the corporation or company is personally liable for any uncollected and/or unpaid taxes, penalties and interest due the Borough. Dissolution, sale or other transfer of the corporation or company does not discharge this liability.

6.52.040 Exemptions. There are no exemptions except those, if any, required by state or federal law.

6.52.050 Remittance of Tax and Returns.

A. Taxes required to be paid under this Chapter during a quarter are due and payable to the Borough from the Operator or person upon whom the tax is imposed on the last day of each quarter. Every Operator or person liable for the tax shall file with the Borough on forms furnished by the Borough a return containing the following information.

1. Number of persons from whom rents were collected per day, for rental of lodging or a vehicle within the Borough;
2. The amount of tax collected.
3. Interest, penalties, and such other information as may be required.

Additionally, the Operator shall submit such other information and supporting documentation as may be required by regulations issued by the Borough under Section .110 of this Chapter.

B. The return shall be signed and its completeness and accuracy sworn to by the Operator or person upon whom the tax is imposed under penalty of perjury.

C. The completed return, together with remittance of the tax due during the quarter, must be received by the Borough on or before the last day of the month following the end of each quarter year ending March thirty-first, June thirtieth, September thirtieth and December thirty-first. In the event the last day of the month falls on a Saturday, Sunday or legal holiday, the return may be filed and payment made on the first business day following.

D. Any Operator or other person who was required to pay a tax during a quarter shall file a return for the next following quarter even though no tax may be due during the following quarter. A return filed for such a quarter in which no tax was required to be collected must show why no tax was due. If the lodging, or vehicle or business operating said rental of vehicle, is sold or transferred to another, whether voluntarily or involuntarily, the person filing the return shall provide on the form the name of the person to whom the business was sold or transferred. A person who files a return for a quarter in which no tax was required to be

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paid is not required to file additional returns until the person is required to pay a tax under this Chapter.

E. Amounts received with the return shall be applied in the following order:

1. Penalties due, beginning with the oldest penalty;
2. Interest due, beginning with the interest due on the oldest quarter; and
3. Tax due, beginning with the tax due from the oldest quarter.

F. If an Operator fails to file or is late in filing a return or in paying tax due, the Borough Manager shall require the Operator to submit returns and payment each month for a minimum of nine (9) months.

6.52.060 Sale or Transfer of Business. If any Operator or other person required to pay a tax under this Chapter sells, leases or in any other manner disposes of the lodging or vehicle or business operating said rental of the vehicle, or if the lodging or vehicle or business operating said rental of the vehicle, is transferred voluntarily or involuntarily, the person selling, leasing or otherwise transferring shall make or deliver to the Borough within fifteen (15) days of the date of the sale, lease or other transfer a final tax return. The purchaser, lessee or other transferee or successor-in-interest of a business required to pay a tax under this Chapter shall be liable for all taxes required to have been paid by the former owner but not paid over to the Borough and shall be liable for all penalties and interest on such unpaid taxes and on late, improper or unfiled returns.

6.52.070 Delinquencies.

A. Penalty and interest. A penalty equal to five percent of the delinquent tax shall be added to the tax for the first month, or any part thereof, and an additional five percent shall be added to the tax due for each month, or fraction thereof, of delinquency until a total penalty of fifteen percent has accrued. The penalty shall be assessed and collected in the same manner as the tax is assessed and collected.

In addition to the penalty provided above, interest at the rate of fifteen percent per year on the delinquent tax from the date of delinquency until paid shall accrue and be collected in the same manner as the delinquent tax is collected.

B. Written demand and additional procedures. If a person fails to file a return or make payment in accordance with this Chapter, the finance director of the Borough may do any or all of the following things:

1. Criminal action. File a criminal complaint against the person in the proper court for violation of this Chapter;
2. Estimated Assessment. Make an estimated assessment against the person or business, with the assessment based upon an estimate of the tax. The tax estimate shall be derived from past returns of the operator, information obtained from an audit, the general economic level of the community and, if available, returns of comparable businesses. Notice of the estimated assessment shall be sent to the last known address of

the operator by certified mail. The estimated assessment shall be deemed to be admitted by the operator to be the amount due and owing to the Borough unless the Finance Director receives, within twenty (20) days of the date of the mailing of the notice of the estimated assessment, an accurate and complete tax return for the delinquent periods, together with the full remittance of all taxes, interest, penalty and other costs due, or the operator remits the amount due under protest. Failure to file a written statement of protest and to remit in full the amount claimed by the Borough as owing within the time permitted under this subsection constitutes a waiver of the right to protest, appeal or otherwise challenge the amount due. The Finance Director shall issue a written ruling on an operator's protest within thirty (30) days of receipt of the protest and remittance if timely filed. The operator has the burden of proof;

3. Hearing. Notify the person in writing by certified mail, sent to the person's last known address, that a hearing will be held to determine the tax liability at a specified time and place not less than fifteen days after the date of the notice. The person shall present himself or herself at the hearing and make available for inspection his or her books, papers, records, tickets, invoices and other memoranda sufficient to enable the Borough to make a determination of the amount of tax due;

4. Publish. Publish in a newspaper of general circulation within the Borough, or if there is no such newspaper, post in three separate places in the Borough, the name and amount of tax, interest and penalty due from a person who is delinquent under this Chapter.

5. Demand. Make written demand upon the person, mailed to his or her last known address, for submission of a return and/or payment.

6. Civil Enforcement. Collect the amount due by any method available in law, including but not limited to the filing and/or foreclosure of a lien or the institution of a civil action.

6.52.080 Protest of Tax.

A. If a person from whom tax is due believes that a transaction is exempt or otherwise not subject to the tax imposed under this Chapter or believes that a penalty, interest, or other charge is not owing but has been informed by the Borough that such transaction is subject to the tax imposed under this Chapter or such penalty, interest, or other charge is owing, the person may protest the tax by paying the tax owed to the Borough and filing with the Borough at the time of payment a statement of protest setting out all relevant facts and clearly explaining why the transaction taxed or charge made is exempt, not otherwise subject to the tax levied or not owing. The payment and statement of protest must be received by the Borough on or by the date the tax or charge is otherwise due under 6.52.050 or within ten days of the date of notice by the Borough, in the case of

charge levied.

D. If a protest is denied, the protestor may, within thirty (30) days of the date of the notice of denial, request that the protest be referred to the Borough Assembly. The Assembly shall receive such additional information, whether written or oral, as the protestor may desire to present. The Borough shall render a decision in writing to the protestor. The decision of the Assembly is final.

6.52.090 Refund of Excess Payment.

A. A person who paid a tax or other charge under this Chapter that exceeded the amount actually due may receive a refund of the excess payment upon meeting the conditions set out below :

1. The person notifies the Borough in writing of the excess payment and provides written documentation demonstrating the excess payment; and

2. Such notice is received by the Borough not later than the last day upon which the person may file a tax return under this Chapter for the month following the month for which the claimed excess payment was made.

B. Upon approval of a refund, the Borough may pay the refund to the person, credit the refund against subsequent taxes and other charges due and payable from the person under this Chapter, or, at the person's request, credit against future, but not yet due and payable, tax payments.

C. A claim for a refund of an excess payment to which this section applies is forever barred if notice and proof of the excess payment is not given within the time prescribed.

6.52.100 Period of Limitation. (repealed)

6.52.110 Rules and Regulations.

A. The Borough Manager or his designee shall from time to time cause to be promulgated rules and regulations as are necessary and advisable to provide for the application and interpretation of this Chapter and to submit them to the Assembly for its adoption or rejection, and to cause to be provided methods and forms for reporting and collecting the tax in accordance with this Chapter and regulations.

B. If any person who is or may be required to pay a tax under this Chapter questions the application of this Chapter to a transaction or other situation in which that person is involved or may become involved, the person may apply to the Borough Manager or

his designee for a ruling on the question. The Borough Manager or his designee may rule on the question and may seek the service of the Borough Assembly on the question.

6.52.120 Record Keeping.

A. A person or entity shall retain for a period of seven years all reports, returns, forms, records and supporting schedules as may be required by the Borough

B. For the purpose of ascertaining the correctness of a return or the amount of taxes owed when a return has not been filed, the Borough Manager or his designee may conduct investigations, hearings and audits and to that end may examine any relevant books, papers, memoranda, records or other writings of any person from whom tax is due or believed to be due, and may require the attendance and sworn testimony of any person at a hearing. Upon written demand by the Borough Manager or his designee, the person from whom tax is or may be due, shall produce at the office of the Mayor or his designee, such books, papers, memoranda, records and other written material as may be set out in the demand, unless the Mayor or his designee, and the person upon whom the demand is made, agree to presentation of such materials at a different place.

6.52.130 Tax as Lien. The tax, interest and any penalties imposed under this Chapter, and any administrative costs, including attorney fees and litigation costs, incurred by the Borough to collect the tax, shall constitute a lien in favor of the Borough upon all the real and personal property of the person owing the tax. The lien arises upon delinquency and continues until the liability is satisfied or the lien is foreclosed. A notice of lien may be filed in the office of the recorder for the Juneau Recording District. The Borough may also, at its discretion, file a notice of lien in any other recording district. When recorded, the tax has priority over all other liens except (1) liens for property taxes and special assessments; (2) liens that were perfected before the recording of the tax lien for amounts actually advanced before the recording of the tax lien; (3) mechanics' and materialman's liens for which claims of lien under AS 34.35.070 or notices of right to lien under AS 34.35.064 have been recorded before the recording of the tax lien.

6.52.140 Oaths. The Finance Director or Borough Manager is authorized and empowered to administer any oath necessary for the purpose of administering and enforcing the provisions of this Chapter.

6.52.150 Confidentiality of Records. All tax returns filed under this Chapter, all data obtained from such tax returns, and all financial information obtained from an inspection of records conducted under this Chapter are confidential and may not be released by the Borough except upon court order or when necessary to enforce the provisions of or to collect the taxes due under this Chapter. The Borough may publish at any time the names of delinquent taxpayers and the amounts and periods of delinquency.

6.52.160 Tourism Enhancement Account. This section governs discretionary grants made from the Tourism Enhancement Account, established under Assembly Ordinance 10-520.

A. The use of grant funds is limited to initial support of new projects, or the expansion of existing programs, that will contribute to the growth and promotion of tourism within the Borough by attracting and/or serving visitors to the Borough. A grant proposal must demonstrate how the requested funds will meet the above-stated purpose, and must include the projected budget for the project, and, for existing programs, the applicant's balance sheet and income/expense statement for the last fiscal year. Successful applicants will be required to execute, prior to receipt of funds, a contract with the Borough, setting forth terms and conditions deemed necessary to enable the Borough to assure compliance with the purposes of this section and the proper expenditure of funds.

B. A written proposal for a Tourism Enhancement Account discretionary grant shall be submitted on forms provided by the Borough. Any Borough resident or qualified organization, either for- or not-for-profit, is eligible to submit a grant proposal. An organization is considered qualified if a majority of its members, shareholders or partners are Borough residents. Proposals must be submitted by September 30th of a given year, for disbursement of grant funds in the next calendar year.

C. The Assembly shall review submittals and by motion approve grant proposals, in whole or in part, on or before its last meeting in January. Distribution of funds is at the discretion of the Assembly. Any funds in the Account not approved for grant disbursement by the Assembly, or any funds approved but not disbursed, may be retained in the Account for disbursement in the following calendar year.

D. Recipients of grant funds will be required to report to the Borough on how the funds were spent, on forms established by the Borough, with backup financial documents demonstrating such expenditures as required by the Borough.