

Submitted by: Chair of the Assembly at the
Request of the Acting Mayor

Prepared by: Dept. of Finance

For reading: June 9, 2009

CLERK'S OFFICE

APPROVED

ANCHORAGE, ALASKA

Date: _____

7-9-09

AO No. 2009-77

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.40,
2 EXCISE TAX ON CIGARETTES AND TOBACCO PRODUCTS, TO ALLOW
3 SHARING OF INFORMATION FOR ENFORCEMENT PURPOSES WITH LOCAL,
4 STATE, OR FEDERAL GOVERNMENT AGENCIES.
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6
7 THE ANCHORAGE ASSEMBLY ORDAINS:
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9 **Section 1.** Anchorage Municipal Code section 12.40.110 is amended to read as
10 follows (*the remainder of the section is not affected and therefore not set out*):
11

12 **12.40.110 Amended tax returns.**
13

14 A. Any tax return filed under Section 12.40.090 may be amended by the
15 licensee [WITHIN ONE YEAR AFTER THE DUE DATE OF THE TAX RETURN BEING
16 AMENDED. NO AMENDMENT BY THE LICENSEE SHALL BE ALLOWED AFTER THIS
17 ONE-YEAR PERIOD].
18

19 *** **

20
21 (AO No. 89-142(S); AO No. 90-137(S-1); AO No. 95-77(S), § 9, 4-25-95)
22
23

24 **Section 2.** Anchorage Municipal Code Section 12.40.240 is amended to add a new
25 section to read as follows (*the remainder of the section is not affected and therefore*
26 *not set out*):
27

28 **12.40.240 Confidentiality of records.**
29

30 *** **


31
32 **D. This section does not prohibit the chief fiscal officer from sharing**
33 **information obtained from tax returns, documents, records, and/or**
34 **reports filed with the municipality pursuant to this chapter with**
35 **any local, state, or federal government agency for the purpose of**
36 **enforcing this chapter.**
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38 (AO No. 90-137(S-1); AO No. 95-77(S), § 17, 4-25-95)
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Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 7th day of July, 2009.


Chair of the Assembly

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2009-77

Title: **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.40, EXCISE TAX ON CIGARETTES AND TOBACCO PRODUCTS, TO ALLOW SHARING OF INFORMATION FOR ENFORCEMENT PURPOSES WITH LOCAL, STATE, OR FEDERAL GOVERNMENT AGENCIES**

Sponsor: Acting Mayor
 Preparing Agency: Finance Department
 Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES: (Thousands of Dollars)

	FY09	FY10	FY11	FY12	FY13
Operating Expenditures					
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
TOTAL DIRECT COSTS:	0	0	0	0	0
Add: 6000 Charges from Others	0	0	0	0	0
Less: 7000 Charges to Others	0	0	0	0	0
FUNCTION COST:	0	0	0	0	0
REVENUES:	25	50	50	50	50
CAPITAL:	0	0	0	0	0
POSITIONS: FT/PT and Temp.	0	0	0	0	0

PUBLIC SECTOR ECONOMIC EFFECTS:

This ordinance enables the Finance Department to increase tobacco tax collections by working with the State of Alaska Department of Revenue, obtaining the results of their tobacco tax enforcement efforts, and assessing tax on unreported cigarettes and other tobacco products (CTP) purchased via mail order or the Internet and imported into the Municipality. In addition, the ability to share information with other local governments, primarily the Mat-Su Borough, will allow both jurisdictions to ensure CTP purchased tax-exempt in one jurisdiction and imported into the other is appropriately reported and taxed.

PRIVATE SECTOR ECONOMIC EFFECTS:

This ordinance results in tobacco taxes, penalties, and interest being paid to MOA by local businesses and individual consumers who acquire CTP from the Mat-Su Valley, via the Internet, or mail order and who are not currently reporting/remitting the tobacco tax due to MOA. Changes implemented by this ordinance will not result in new costs or other economic effects experienced by local businesses and persons currently complying with chapter 12.40.



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 323-2009

Meeting Date: June 9, 2009

1 **From: ACTING MAYOR**

2
3 **Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE**
4 **CHAPTER 12.40, EXCISE TAX ON CIGARETTES AND TOBACCO**
5 **PRODUCTS, TO ALLOW SHARING OF INFORMATION FOR**
6 **ENFORCEMENT PURPOSES WITH LOCAL, STATE, OR FEDERAL**
7 **GOVERNMENT AGENCIES**

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9 This ordinance improves the Finance Department's effectiveness and efficiency in
10 enforcing Anchorage Municipal Code chapter 12.40 by allowing the Chief Fiscal
11 Officer to share and exchange information obtained from tobacco tax returns and
12 related business records with the State of Alaska (SOA) Revenue Department, the
13 Matanuska-Susitna Borough Finance Department, and other pertinent government
14 agencies at the local, state, or federal level.

15
16 The SOA Tax Division, under the authority of Alaska Statute 43.50.420, is able to
17 share information it has obtained from businesses importing cigarettes and other
18 tobacco products into Alaska. The language in the state statute contemplates
19 reciprocity – the "sharing" of information for the purpose of enforcing the tax statute.
20 Because section 12.40.240 does not allow the municipality to release the relevant
21 information to SOA, the SOA Tax Division has not shared its information with the
22 Municipality.

23
24 This ordinance also amends the provision for increased accuracy of tax return
25 information by removing a one-year limitation for a licensee to amend an incorrect
26 return. A refund of overpaid tobacco tax is still restricted to one year by
27 section 12.40.070 C.

28
29 The ability for MOA to share tobacco information enhances effective enforcement
30 and increases revenues in at least the following ways:

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- 32 • Access to detailed cigarette and other tobacco products (CTP) import data
33 gained from SOA enforcement efforts, both from its own investigations as
34 well as joint efforts with other states and the federal government. For
35 example, SOA concluded an investigation in 2005 which could have resulted
36 in increased revenue to MOA estimated to be approximately \$78k in tobacco
37 tax, plus penalties and interest, for untaxed imports into MOA for the years
38 2001 through 2004.
- 39

- 1 • Access to federally-required monthly Jenkins Act reports on cigarette imports
2 filed with SOA. The Jenkins Act requires persons who export cigarettes –
3 including, but not limited to internet-based businesses, tobacco
4 manufacturers, and tobacco wholesalers - across state lines to report those
5 movements of product to the state receiving the imports. The Jenkins Act
6 does not require comparable reporting to local governments within the states.
7 While chapter 12.40 strives to require tobacco manufacturers to file monthly
8 reports to MOA identifying shipments of tobacco product into MOA, the
9 Municipality's ability to enforce code requirements on entities physically
10 located outside our jurisdiction is very limited.
- 11
- 12 • Exchange of tax-exempt sales data with other local governments within
13 Alaska, primarily the Mat-Su Borough, ensures CTP sold exempt in one
14 jurisdiction and imported into the other jurisdiction is appropriately reported
15 and taxed. A tax-exempt sale in one jurisdiction is a taxable acquisition in
16 the other jurisdiction; this sharing of information is an effective and efficient
17 way to indentify the existence of these taxable events.
- 18
- 19 • Finally, with this code amendment in place, MOA and SOA are able to
20 collaborate in jointly performed audits of local businesses that import CTP
21 into MOA. Such an audit should be less cumbersome for the business than
22 two separate audits, and should also be more efficient for both governmental
23 entities as each could share and rely on the audit work performed by the
24 other.
- 25

26 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**
27 **AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 12.40, EXCISE TAX ON**
28 **CIGARETTES AND TOBACCO PRODUCTS, TO ALLOW SHARING OF**
29 **INFORMATION FOR ENFORCEMENT PURPOSES WITH LOCAL, STATE, OR**
30 **FEDERAL GOVERNMENT AGENCIES.**

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32 Prepared by:	Daniel Moore, Municipal Treasurer
33 Approved:	Sharon Weddleton, CFO
34 Concur:	James N. Reeves, Municipal Attorney
35 Concur:	Michael K. Abbott, Municipal Manager
36 Respectfully submitted:	Matt Claman, Acting Mayor

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Author: pruittns

Initiating Dept: Finance

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Director Name: Sharon Weddleton

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Public Hearing Date: 6/23/09 7/7/09

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Clerk_Admin_SubWorkflow	5/29/09 2:00 PM	Exit	Joy Maglaqui	Public	007798
MuniMgrCoord_SubWorkflow	5/29/09 2:00 PM	Approve	Joy Maglaqui	Public	007798
MuniManager_SubWorkflow	5/29/09 2:00 PM	Approve	Joy Maglaqui	Public	007798
Legal_SubWorkflow	5/29/09 1:22 PM	Approve	Dean Gates	Public	007798
OMB_SubWorkflow	5/29/09 11:41 AM	Approve	Bruce Holmes	Public	007798
Finance_SubWorkflow	5/28/09 2:46 PM	Approve	Teresa Peterson	Public	007798
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