



FREQUENTLY ASKED QUESTIONS ON THE SALES TAX CODE

Proceeds from the 3% consumer's sales tax levied by the Borough on all retail sales, rents, and services, (unless specifically exempted) are dedicated solely to Kenai Peninsula Borough schools.

*Finance Department
Sales Tax Division
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Sales Tax Division (907) 714-2175 or within the Borough 1-800-478-4441 Ext 2175

<http://www.borough.kenai.ak.us/financedept/SalesTaxInfo>

Audit Division (907) 714-2170

Upon completion of a sales tax registration application (available from the Borough), a sales tax certificate is issued by the Borough Mayor and is non-assignable and nontransferable to any other seller. Certificates must be returned to the Mayor upon closure of the business or upon sale of the business to another party.

Who must register to collect sales tax?

All sellers are **REQUIRED** to register for sales tax collection. A seller may be structured as a sole-proprietor, partnership, or for-profit or not-for-profit-corporation.

Who is responsible for paying the tax?

The sales tax is a consumer tax, therefore the buyer is responsible for paying the tax, KPB 5.18.120. The seller (registered business) is **liable** for collection and remittance to the Borough, all taxes collected and those taxes that should have been collected.

What sale transactions are taxable?

All sales transactions including retail sales, wholesale sales, rents, and services are taxable unless specifically exempted by the KPB Code, 5.18.200-270.

What is the penalty for not registering to collect sales tax?

A seller failing to register is subject to a civil penalty not to exceed \$1,000, in addition to any taxes, penalties, interest, fees, plus any costs of collection and/or prosecution, KPB 5.18.610.

Are there any other Borough tax registration requirements that a business should be aware of?

All sellers are required to file a Business Personal Property Statement with the Borough Assessing Department prior to February 15th of each year. Business Personal Property consists of items used to operate a business such as desks, tools, fishing gear, etc.

*A sales tax return **MUST** be filed for each reporting period whether or not any sale transactions have occurred. Forms are mailed to registered sellers by the Borough.*

What are the filing periods for the sales tax returns?

All sellers shall file sales tax returns on a quarterly basis. The borough may require more or less frequent filing. Newly registered sellers and delinquent accounts may be required to file on a monthly basis. If a seller's taxable sales for one year are less than \$6,000, the seller may request to file on an annual basis. On a case-by-case basis the borough may determine that an alternate filing schedule is appropriate, KPB 5.18.500.

When are the returns due?

Completed sales tax returns are due no later than the first business day following the last day of the month following the end of each reporting period, KPB 5.18.520(A). (March's reporting period is due the first business day of May.)

What constitutes a completed sales tax return?

A completed sales tax return form should be signed, dated, and delivered to the Borough on time and with the total amount of sales tax due for the reporting period.

What happens if a return is not complete?

If a return is deemed incomplete (not all tax monies collected were remitted with the filed return) the Borough will notify the seller in writing. If the incomplete return is not corrected, the seller is subject to unpaid taxes, penalties, interest, fees, plus any costs of collection.

Can a return be amended once filed?

Yes. A return can be amended under certain circumstances outlined by the Borough within one year of the original due date on the return. A refund on a sale can also be obtained. Amending a return beyond one year after the original due date may be allowed if the seller agrees to a desk audit by the Borough.

What is to be reported on a sales tax return?

Gross Sales - Overall gross sales, but not including the taxes collected during the reporting period.

Non-taxable Sales - Sales included in the gross sales figure which are exempted under the KPB Code by class of exemption.

Computation - The amount of sales tax remitted to the Borough.

Other - Any other information required by the Borough.

KPB 5.10.518(A).

What are the ramifications for not filing a return?

A return **MUST** be filed every period (monthly, quarterly, or annually) even if no transactions have occurred. Failure to file a return is subject to missing filing fees and a reinstatement fee if two (2) consecutive returns are missed. Failure to remit all taxes collected or later found to be due, is subject to penalties and interest on the outstanding tax balance, plus any costs of collection and/or prosecution, KPB 5.18.540.

What about pre-filing a return?

If a seller does not anticipate making sales during specific filing periods (temporarily closed for vacation or operating a seasonal business) the seller may apply to pre-file returns for the periods without sales.

Why do sales tax rates vary from 3% to 7.5% throughout the Borough?

Along with the 3% Borough tax, incorporated cities located in the Borough have levied an additional sales tax within their jurisdiction which is collected by the Borough, KPB 5.18.100(B). These cities are Homer, Kenai, Seldovia, Seward, and Soldotna. Determining the taxing jurisdiction is based on the place where the services are performed or the place of sale of goods and merchandise is the location of the retail outlet at which or from which delivery was made. Alaska State Statute requires that the Borough collects and distributes the sales tax monies to each of the cities. Tax calculation charts are available at the Borough.

What determines which sales tax jurisdiction applies to the selling transaction?

The taxing jurisdiction is determined by the place of sale. The place of sale of goods and merchandise is the location of the retail outlet. The place of sale of services is where the services are performed. Sales of bulk items where delivery is a normal and integral part of the transaction, an exception to the place of sale may apply, so please contact the sales tax department for clarification. If there is a question regarding the place where services are performed, the Borough has sole discretion in determining the location of the taxing jurisdiction. KPB 5.18.450

What are some of the major exemptions allowed under the Code?

Specific Industries - The sales from such industries as freight hauling services, most medical services, and school activities are exempt from collecting sales tax. For more information and a complete list of exemptions see KPB 5.18.200-270.

Non-profit or Government Sales - Buyers must present to the seller a current year's "Exempt Certificate" with the authorized buyer's name at the time of each purchase. Additionally, a government agency may present a purchase order, check, or credit card issued in the name of the government agency. (Note: The seller should include the Exempt Certificate or Purchase Order Number on each invoice.)

Resale Sales - Buyers must present a current year's "Resale Certificate" for purchased items to be considered for resale treatment (exempt from sales tax). Items must either be for resale (sold by another business who is collecting the tax) or a component part of a manufacturing or construction process which **will** remain a permanent part of the final salable product. Only the categories listed on each Resale Certificate qualify for the exemption. To qualify for a resale certificate, a business must be in full compliance. KPB 5.18.210. (Note: The seller should include the Resale Certificate Number and exact items exempted on each invoice.)

Maximum Tax - The tax shall be applied only to the first \$500 of each separate sale, rent, or service transaction, except as otherwise provided in the KPB Code, mainly Section 5.18.430.

Is the information a seller provides to the Borough public information?

Information provided on individual returns is confidential. Proof of the seller's identity will be required prior to releasing any confidential information. Information such as a seller's name, estimates of outstanding balances, or current status of payments are subject to publication on a quarterly basis. They may also be used in an enforcement action and are subject to public inspection, KPB 5.18.540.

Reminders: *It is the responsibility of the seller to determine if a sale is exempt or not exempt. If there is doubt, collect the sales tax and contact the Borough for a determination; a refund to the buyer is possible. The seller is responsible for all sales tax collected and those taxes that should have been collected.

*If a seller is in compliance with the KPB Code, they are eligible to receive a 5% credit on the taxes collected up to \$1,000 per quarter, to assist in covering some of the costs associated with collecting the tax.

The Borough is responsible for determining that all sellers conducting sales transactions within the boundaries of the Kenai Peninsula Borough are accurately calculating, collecting, and remitting taxes paid by the buyers of goods and services according to the KPB Code.

How does the Borough enforce the Code?

The Borough performs random audits on sellers conducting sale transactions within its boundaries. The purpose of the sales tax audit is to certify the correctness of the Borough records, to determine the accuracy of the seller's reported sales versus their business records, and answer questions posed by sellers.

What business records can be requested by the Borough's Audit Division?

Under KPB 5.18.570, the Borough may request all books, papers, memoranda, returns, and records regarding sales made in the Borough for a specific time period (CURRENT year plus 3 prior years), KPB 5.18.560. This may include, but is not limited to: sales invoices, daily cash register tapes, sales journals/summary, general ledgers, bank statements, and copies of filed federal income tax returns. A physical review of the Business Personal Property listed with the Borough will also be conducted to certify that the personal property filing is current.

What can result from an audit?

Once the Borough Auditor has completed the audit, the seller will be notified in writing if it has accurately reported sales tax collection. If the Auditor determines that sales tax collection has been reported inaccurately, an estimate of the inaccurately reported taxes will be _____

generated and forwarded to the seller. If taxes have been under reported, the tax estimate may also include any penalties, interest, fees, and other associated costs. If taxes have been over paid, a credit balance will be applied to the seller's account or refunded to the seller. Any finding on the review of the Business Personal Property will also be noted.

If the seller disagrees with the Borough's final audit result, estimate result, exemption determination, or other sales tax determination, the seller has the right to appeal the final determination to court within 30 days.

What is the appeal process for an audit or estimate?

If the seller disagrees with the written determination of the Borough Auditor, a protest may be filed with the Finance Director, KPB 5.18.580. The Director will review the methods used, documents presented, and results of the audit or estimate. The Director will issue a written decision regarding the validity of the audit or estimate. If the determination involves estimate results, as opposed to audit results, the Borough may require the seller to submit to an audit. If the seller disagrees with the Director's final written decision, the decision may be appealed within 30 days of distribution to the Superior Court in Kenai, Alaska.

What is the appeal process for an exemption?

If the seller or consumer believes a sale is exempt, either the seller or the buyer may protest taxing the sale by filing a protest with the Borough within 60 days of the date of the sale. The Mayor will issue a written determination regarding the exemption. The seller must continue to collect the tax until the Borough issues a determination regarding the exemption. If the exemption is allowed, the sales tax paid will be remitted to the consumer with the determination. The determination may be appealed within 30 days of distribution to the Superior Court at Kenai, Alaska, KPB 5.18.250.

What is the appeal process for other decisions regarding application of the sales tax code?

If a written decision has been issued by the Mayor regarding application of the KPB Code to a particular factual situation, the decision may be appealed by the seller or consumer within 30 days of distribution to Superior Court at Kenai, Alaska KPB 5.18.140(C).