

**ADMINISTRATIVE GUIDELINES  
PROHIBITED FROM TAXATION  
Procedure 402**

The State of Alaska under Title 29 grants authority for municipal governments to levy a sales tax. However, the Constitution and the laws of the United States and the State of Alaska have pre-empted municipal governments from levying the sales tax on certain entities or transactions. Exemption 69.05.040(2) was adopted by the Assembly to specifically address those transactions or entities that CBJ is prohibited from taxing. While the exemption language specifically names certain entities and transactions that CBJ is prohibited from taxing; these guidelines are provided to address all transactions or entities that CBJ is prohibited from taxing.

Please note: regardless if the transaction or entity is exempt from the sales tax, the merchant who is making the sales transaction is required to include the sale in its gross sales and exempt accordingly when reporting on the CBJ sales tax return.

*69.05.040 (2) Sales, services, rentals, and transactions which the municipality is prohibited from taxing under the Constitution and laws of the United States or the State of Alaska, including but not limited to the following:*

- (a) Sales of insurance and bonds of guaranty and fidelity, and the commissions thereon;*
- (b) Sales to or by a federally chartered credit unions;*
- (c) Sales of goods made with food coupons, food stamps or other type of certificate issued under 7 U.S.C. 2011-2025 (Food Stamp Act), or made with food coupons, food vouchers or other type of certificate issued under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children).*

**Insurance:**

The State of Alaska prohibits CBJ from levying the sales tax on sales made by insurers, their general agents, agents and representatives. However, insurance sales agents are not exempt from the sales tax on the purchase of goods, services, or rentals in fulfilling their obligations under the conditions of the insurance policy.

*AS 21.09.210(f) The state hereby pre-empts the field of imposing excise, privilege, franchise, income, license, permit, registration, and similar taxes, licenses, and fees upon insurers and their general agents, agents, and representatives as such; and on the intangible property of insurers or agents; and all political subdivisions of agencies in the state, including home rule boroughs or cities, are prohibited from imposing or levying upon insurers, or upon their general agents, agents, and representatives as such, any tax, license, or fee. However, this subsection shall not be construed as prohibiting the imposition by political subdivisions of taxes upon real and tangible personal property of insurers and their general agents, agents, and representatives.*

Alaska Life and Health Insurance Guaranty Association

*AS 21.79.130 The association is exempt from payment of all fees and taxes levied by the state or its political subdivisions, other than real property taxes.*

Alaska Insurance Guaranty Association

*AS 21.80.130 The association is exempt from payment of all fees and all taxes levied by the state or any of its subdivisions except taxes levied on real or personal property.*

### **Federally Chartered Credit Unions:**

Federally chartered credit unions are instrumentalities of the federal government. Therefore, sales to or by a federal credit union are exempt from the sales tax. The federal government is not required to apply for a certificate of exempt status in order to make exempt purchases. Purchase orders or payment vouchers are sufficient to authorize an exempt purchase.

Federal Credit Union Act 1768 § 122

*Taxation.—The Federal credit unions organized hereunder, their property, their franchises, capital, reserves, surpluses, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority; except that any real property and any tangible personal property of such Federal credit unions shall be subject to Federal, State, Territorial, and local taxation to the same extent as other similar property is taxed. Nothing herein contained shall prevent holdings in any Federal credit union organized hereunder from being included in the valuation of the personal property of the owners or holders thereof in assessing taxes imposed by authority of the State or political subdivision thereof in which the Federal credit union is located; but the duty or burden of collecting or enforcing the payment of such a tax shall not be imposed upon any such Federal credit union and the tax shall not exceed the rate of taxes imposed upon holdings in domestic credit unions.*

Unlike federally chartered credit unions, federally chartered banks and savings and loans are not a federal instrumentalities or corporations. Purchases by federally chartered banks and savings and loans are subject to the CBJ sales tax. (Please see Administrative Guideline 426).

### **State Chartered Credit Unions**

The State of Alaska prohibits CBJ from levying the sales tax on sales made by state chartered credit unions. Therefore, sales to or by a state chartered credit union is exempt from the sales tax

*AS 06.45.230 A credit union organized under this chapter, its property, franchises, capital, reserves, surpluses, and other funds, and its income are exempt from taxation by the state or a political subdivision of the state, except that real property and tangible personal property owned by a credit union is*

*subject to taxation to the same extent that similar property is taxed. This section does not prevent holdings in a credit union organized under this chapter from being included in the valuation of the personal property of the owners or holders under taxes imposed by the state or a political subdivision of the state.*

## **Food Stamps**

CBJ is prohibited from levying the sales tax on the redemption of food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011-2025.

USC Sec. 2013. - Establishment of program

### **(a) Use of coupons; redeem ability**

Subject to the availability of funds appropriated under section 2027 of this title, the Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided an opportunity to obtain a more nutritious diet through the issuance to them of an allotment, except that a State may not participate in the food stamp program if the Secretary determines that State or local sales taxes are collected within that State on purchases of food made with coupons issued under this chapter. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this chapter shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

### **AS 47.25.975. Food Stamp Program.**

**(a)** The department is authorized to implement the food stamp program.

AS 47.25.990 (4) "food stamp program" means the federal food stamp program authorized by 7 U.S.C. 2011-2025;

## **Air Transportation:**

Under 49 U.S.C. 1513, CBJ is pre-empted from taxing interstate/intrastate air transportation.

*a) No State ... shall levy or collect a tax, fee, head charge or other charge, directly or indirectly, on persons traveling in air commerce or on the carriage of persons traveling in air commerce or on the sale of air transportation or on the gross receipts derived therefrom; ...*

*(b) Nothing in this section shall prohibit a State . . . from the levy or collection of taxes other than those enumerated in subsection (a) of this section, including property taxes, net income taxes, franchise taxes, and sales or use taxes on the sale of goods or services; ...*

In addition, the State of Alaska prohibits municipalities from taxing air transportation.

**AS 29.47.470. Taxes or Fees On Transportation By Certain Air Carriers Prohibited.**

*Notwithstanding other provisions of law, a municipality may not levy or collect a tax or fee on the air transportation of individuals or goods by a federally certificated air carrier other than a tax or fee authorized under 49 U.S.C. 40116(e) or 40117. This section applies to home rule and general law municipalities.*

Many merchants provide tours of which air transportation is a part of the tour. The Sales Tax Office has reviewed the various segments of those tours, which include air transportation, to determine which segments are subject to the CBJ sales tax. The taxable segments are:

- 1) Ground transportation.
- 2) Passengers disembarking for, but not limited to, scenic tours, glacier walks, hiking, fishing, skiing, dog mushing.

**The Sales Tax Office has determined that only the portion of the tour considered air transportation would be exempt from the sales tax.**

Merchants are responsible for:

- 1) Reviewing their transactions, and
- 2) Assigning values to the taxable portion of the tour, or for providing evidence that the transaction meets the burden of proof necessary to be exempt.

The Sales Tax Office recommends that Merchants submit in writing their allocation method as to reasonable value or documentation that meets the burden of proof necessary for exemption from the sales tax for the taxable portion of their tours. Submission to and approval by the Sales Tax Office will help avoid possible future tax audit assessments based on an unacceptable allocation plan.

**Foreign Diplomat**

Under the authority of the Foreign Missions Act (22 USC 4301 et seq.), tax exemption cards are issued to certain official personnel from foreign countries who are stationed in the United States while working as diplomats, consular officers, or staff members at foreign embassies and consulates, and other organizations such as the United Nations.

Blue-striped card entitles the holder to full tax exemption on all personal purchases. Includes hotel taxes.

Yellow-striped card entitles the holder to tax exemption on personal purchases with restrictions. Identified on the face of the card will be the restricted categories. It may exempt purchases over \$100 and exclude hotel and restaurant purchases. You must view the card for any restrictions on its use.

Restrictions are imposed because certain foreign governments restrict the tax exemption privileges of United States Missions and personnel overseas. Tax exemption is a treaty obligation of the United States under Article VI of the Constitution. The United States is a party to various treaties and agreements that recognize diplomats as official, duly accredited representatives of foreign sovereign countries. Under international law, sovereign countries cannot impose certain taxes on accredited diplomats or other representatives of foreign countries. The treaties referred to above are the Vienna Convention on Diplomatic Relations (VCDR), The Vienna Convention on Consular Relations (VCCR), and the United Nations Headquarters Agreement (UNHQ). Also, the International Organizations Immunities Act, 22 U.S.C. Sec 288 et seq (1946), mandates tax exemption for representatives to certain international organizations.

#### Regional Electrical Authority

Alaska statute AS 18.57.030 prohibits municipalities from the levy of the sales tax on a regional electrical authority.