
CHAPTER 4.13

RAW SEAFOOD PRODUCT SALES TAX

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4.13.010 – Definitions.

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

- A. **“Buyer or Collector”**: means any person, whether acting as principal, agent or broker, making purchases of raw seafood product from a seller and who is also an individual or entity, according to this Chapter, required and responsible to collect and remit raw seafood sales tax levied by the City of Adak.
- B. **“Place of Business”** means a place where raw seafood product is purchased.
- C. **“Primary Gross Sales Value”**: means the consideration, whether money, credit, rights or other property, expressed in the terms of money due to, paid or delivered by a buyer to a seller. This shall be without any deduction on account of the cost of materials used, labor costs incurred, interest, delivery costs, taxes or any other expenses whatsoever paid or accrued and without any deduction on account of losses. This may also be referred to as a primary gross purchase value.
- D. **“Processed or Processing”**: means cooking, canning, smoking, butchering, freezing, salting, dehydrating and other activities that modify the condition of the raw seafood product in preparation of the raw seafood product for sale, but does not include decapitating, gutting, gilling, sliming, or icing by the person harvesting the fish if done for the purpose of maintaining the quality of the raw seafood product until it can be sold.
- E. **“Raw Seafood Product”**: means fin fish and shellfish including, but not limited to crab, shrimp, scallops, groundfish, sablefish, salmon, halibut, cod, herring, flat fish, mackerel and pollock that have not been processed.

- F. **“Seller”** means a person or entity who has caught raw seafood product and sells it to a buyer. (Ord. No. 12-2013-079, 2012)

4.13.020 – Imposition of tax.

A raw seafood product sales tax is levied on all raw seafood product sales made in the City for the purpose of processing, resale, storing, transshipping or consumption for profit at the rate of two percent (2%) of the primary gross sales value. The tax levied under this Chapter is an obligation of the seller and collected by the buyer. (Ord. No. 12-2013-079, 2012)

4.13.030 – Exemptions.

The following sales are exempt from the tax imposed by this Chapter:

- A. All sales which are not raw seafood product.
- B. The sale of raw seafood product, for the sole purpose and use as bait, from one boat to another. This exemption does not apply to sales or purchases of raw seafood product by seafood processors. (Ord. No. 12-2013-079, 2012)

4.13.040 – Exemption Procedures.

The burden of establishing any tax exemption is on the buyer. (Ord. No. 12-2013-079, 2012)

4.13.050 – – Collection of tax.

- A. A collector shall add the raw seafood sales tax to the primary gross sale value which the collector collects at the time of purchase from the seller. The tax is a debt from the seller to the collector until paid and is recoverable at law in the same manner as other debts. Notwithstanding the liability of the seller, taxes collected or which should have been collected by the collector under this Chapter are monies of the City for which the collector is at all times liable to the City.
- B. Collectors shall add the tax levied in this Chapter to the selling price in accordance with this Chapter, showing the tax as a separate and distinct item. The tax imposed on the sale of more than one separately priced item may be shown as a total tax on the aggregate price of all items purchased and delivered at one time. (Ord. No. 12-2013-079, 2012)

4.13.060 – Remittance of tax.

Collectors shall complete and file required returns and remit the tax collected in accordance with the following schedule:

- A. **MONTHLY.** Taxes collected by the collector shall be paid to the City by the twenty-fifth (25th) of the month following the calendar month in which the taxes were collected. If a collector fails to file or is late in filing returns for three or more months, the City Clerk may require the collector to submit returns and payment on a weekly basis.
- B. **SALE OF BUSINESS ASSETS TO ANOTHER.** A collector who sells their business, business inventory, or accounts receivable to another, shall make a final raw seafood sales tax return within fifteen (15) days after the date of sale. The purchaser of the business, business inventory, or accounts receivable shall withhold a portion of the purchase money sufficient to pay the tax, penalties, and

interest that may be due until the seller displays a receipt from the City showing that all tax obligations imposed by this Chapter have been paid. If any purchaser of a business, business inventory, or accounts receivable fails to withhold this sum, the purchaser shall be personally liable for the taxes, penalties and interest owed by the seller of the business, business inventory, or accounts receivable to the City. The City may continue to make efforts to collect the tax from the person or entity who owned the business or accounts receivables at the time the liability was incurred.

- C. UPON TERMINATION OF BUSINESS ACTIVITIES. If a collector terminates their business without the benefit of a purchaser, successor, successors or assigns, the collector shall make a final return and settlement of tax obligations within fifteen (15) days of the termination of business.
- D. FILINGS TO BE CONTINUOUS. A collector which has filed a tax return will be presumed to be purchasing raw seafood product in successive months unless that collector files a return showing termination or sale of the business. (Ord. No. 12-2013-079, 2012)

4.13.070 – Application for a tax refund.

- A. SELLER. An application for tax refund may be filed by any seller where:
 - 1. The seller believes the sale to be excepted or exempt from taxation; and
 - 2. The seller has paid the tax levied by the City at the time of the sale; and
 - 3. The seller files the application with the City within one (1) year of the date of the sale on a form prescribed by the City or by written notice containing the names of the seller and the buyer, the items purchased, the date, the price, the amount of tax paid, and a brief statement of the claim of exemption.
- B. BUYER. If a collector has remitted tax in excess of what is due to the City, the collector may apply to the City for a refund within one (1) year of the date the overpayment was made. The City shall audit the collector's account and may request any additional information the City requires to determine that a refund is due. If the City determines that a refund is due, the collector may take a credit on the next sales tax report, or the City shall pay the refund of the tax paid. A claim for refund not filed within one (1) year of the date the tax was remitted to the City is forever barred. A collector may claim a refund only where the collector has filed a timely tax return and therewith remitted the taxes due under that return.
- C. The City Clerk shall prepare applications for refunds which shall be available at City Hall. (Ord. No. 12-2013-079, 2012)

4.13.080 – Form of return.

On forms furnished by the City and available at City Hall, the collector shall furnish the following information, sign the form and certify that the form correctly states the information set forth therein. The tax return shall set forth:

- A. Name and address of taxpayer;
- B. The calendar month covered by the return;
- C. The date the return is prepared;

- D. Primary gross sales value (sometimes referred as a primary gross purchase value) of raw seafood product purchased or delivered within the City during the calendar month by pounds, average price per pound, and by species;
- E. Taxes due;
- F. Such other information as may be required by the City. (Ord. No. 12-2013-079, 2012)

4.13.090 – Returns and information declared confidential; exemptions.

The provisions of Section 4.06.090 shall apply to returns submitted under this Chapter. (Ord. No. 12-2013-079, 2012)

4.13.100 – Delinquency procedures.

The procedures on delinquencies set forth in Section 4.06.45 shall apply to delinquent payments and reporting of tax under this Chapter. (Ord. No. 12-2013-079, 2012)

4.13.110 – Period of limitation.

The period of limitation set forth in Section 4.06.070 shall apply to tax imposed under this Chapter. (Ord. No. 12-2013-079, 2012)

4.13.120 – Record keeping and audit

Every collector shall retain for a period of six (6) years all of the tax returns for purchases of raw seafood product, reports, forms, records and supporting schedules as may be necessary to determine the amount of tax required to be collected. All such records and documentation shall be made available for examination at reasonable times by the City or agents of the City for the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or levied. (Ord. No. 12-2013-079, 2012)

4.13.130 – Written Tax Ruling.

- A. The City Manager or their designee may rule upon specific transactions upon request by a seller or buyer. The written ruling on a specific sale may be relied upon by the parties to that sale unless essential facts were not provided to the person making the ruling or the ruling is clearly contrary to the provisions of this Code.
- B. The City Manager or their designee shall take all steps necessary and appropriate to administer this Chapter which includes the authority to enter into payment plans for delinquent taxes, penalties and interest. (Ord. No. 12-2013-079, 2012)

4.13.140 - Personal Liability of Corporate Officer for Unpaid Taxes.

The provisions of Section 4.06.140 shall apply to the tax collected under this Chapter. (Ord. No. 12-2013-079, 2012)

4.13.150 – Withholding of Personal Property of Taxpayer.

The provisions of Section 4.06.150 shall apply to persons holding any things of value belonging to a taxpayer, tax collector or to an officer of a person liable for unpaid tax under this Chapter. (Ord. No. 12-2013-079, 2012)

4.13.160 - Security for the Payment of Taxes.

The provisions of Section 4.06.160 shall apply to the tax imposed by this Chapter. (Ord. No. 12-2013-079, 2012)