

Introduced by: Mayor Cleworth
Finance Committee: October 16, 2012
Date: October 22, 2012

ORDINANCE NO. 5902, AS AMENDED

AN ORDINANCE AMENDING FGC CHAPTER 74 TAXATION, ARTICLE V, TOBACCO PRODUCTS DISTRIBUTION AND EXCISE TAX, SECTIONS 74-154(a), 74-154(d)-(e), 74-154.2(a), AND 74-157(a)-(c) TO MODIFY FACTORS RELATING TO TAXES DUE AND THE PENALTY STRUCTURE

WHEREAS, City tax reports are to be filed and taxes remitted on or before the 15th day of the month for the preceding month; and

WHEREAS, the City's new financial software cannot handle the existing complex tax structure, and penalty revisions must be made to accommodate the new system; and

WHEREAS, this module is one of the last systems that must be removed from the existing AS400 that is no longer being maintained; and

WHEREAS, it is the Mayor's mandate to remove all active programs from the AS400; and

WHEREAS, it is the desire of city staff to educate sales tax customers on these changes prior to the proposed implementation date of January 1, 2013.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

Section 1. That FGC Sections 74-154(a), 74-154(d-e), 74-154.2(a), and 74-157(a-c) are amended as follows [new text in underline/bold font; deleted text in ~~strikethrough~~ font]:

Sec. 74-154. - Tax returns; transmittal; and payment of taxes due.

(a) On or before the 15th day of each calendar month, the distributor shall file with the chief financial officer a tax return **and remit payment** for the preceding month upon forms furnished by the city for each place of business. The tax return shall state the wholesale value of tobacco products sold by the distributor during the preceding calendar month, and other information which the chief financial officer requires. If a distributor ceases to sell tobacco products, the distributor shall immediately file with the chief financial officer a return for the period ending with the cessation.

~~(d) If the 15th of the month is a Saturday, Sunday, or a federal, state or city holiday, the due date under this section shall be extended until the next business day~~ **All returns must be received by the City Clerk's Office no later than 4:00 PM on the 15th day of the month following tax collection. Postmarks will not be considered.**

~~(e) A return is considered filed, and taxes are considered remitted, on the date received by the city's collection office or on the date postmarked by the U.S. Postal Service.~~

Sec. 74-154.2. - Administrative appeals.

(a) A distributor may appeal to the city mayor any estimated tax, penalties, costs fees, or other decision under this article made by the chief financial officer. Any appeal must be filed within 30 days after the notice of any decision is mailed to the distributor. The failure to appeal a decision of the chief financial officer renders the decision final.

Sec. 74-157. - Penalties for violations.

(a) ~~Failure to file or remit.~~ A distributor having taxable transactions under this article in the city and who thereafter fails to file a tobacco tax return or remit the collected tax as required by this article shall incur a civil penalty of \$100.00 if the return or the tax is received later than the last day of the month in which it is due and shall incur a civil penalty of \$1,000.00 if the return or the tax is received later than the last day of the next month following the month in which it was due 50 percent of the tax due but not to exceed \$500.00; however, if the return is filed later than 30 days from the time it is due, the civil penalty shall be \$500.00 for each tax return not submitted on time.

(b) ~~Failure to remit.~~ A distributor who fails to transmit the applicable tobacco tax as required by this article shall incur a civil penalty of five percent of the applicable taxes per month or fraction of a month for the time between the date the taxes should have been transmitted and the date they were transmitted, but not to exceed 100 percent. In an action to recover the penalty if the failure of the distributor to transmit the tobacco taxes on time is due to a reasonable cause, and the taxes have been transmitted, such shall constitute a defense, which may also be recognized administratively through the appeals process outlined in section 74-154.2

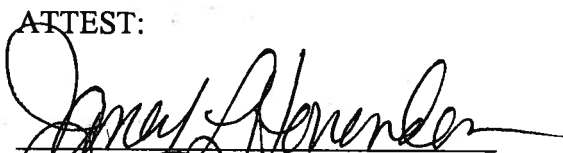
(c) ~~[Additional penalty.]~~ A distributor shall pay an additional \$1,000.00 civil penalty if the distributor's report or remittance is not received by the city within 60 days of the original due date provided under this section.

Section 2. That the effective date of this Ordinance shall be the 1st day of January 2013.




JERRY CLEWORTH, MAYOR

AYES: Walley, Matherly, Gatewood, Hilling, Eberhart, Staley
NAYS: None
ABSENT: None
ADOPTED: November 5, 2012

ATTEST:


Janey Hoyenden, CMC, City Clerk

APPROVED AS TO FORM:


Paul Ewers, City Attorney