

**N MATANUSKA-SUSITNA BOROUGH INFORMATION MEMORANDUM IM No. 24-044**

**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY AMENDING MSB 3.70, SERVICE AREA SALES TAX, TO CHANGE MONTHLY TALKEETNA SEWER AND WATER SPECIAL SERVICE AREA NO. 36 SALES TAX RETURNS TO QUARTERLY RETURNS.

**AGENDA OF: February 6, 2024**

**ASSEMBLY ACTION:**  
 Adopted without objection. 02/20/24 - *emw*

**AGENDA ACTION REQUESTED:** Introduce and set for public hearing.

Route To	Signatures
Originator	1 / 18 / 2 0 2 4 X      L e s l e y   N   o r r i s _____ S i g n e d   b y :   L e s l e y   N   o r r i s
Finance Director	1 / 1 9 / 2 0 2 4 X      L i e s e l   W e i l a n d   f o r   C H _____ S i g n e d   b y :   L i e s e l   W e i l a n d
Borough Attorney	1 / 2 3 / 2 0 2 4 X      N i c h o l a s   S p i r o p o u l o s _____ S i g n e d   b y :   N i c h o l a s   S p i r o p o u l o s
Borough Manager	1 / 2 3 / 2 0 2 4 X      M i c h a e l   B r o w n _____ S i g n e d   b y :   M i c h a e l   B r o w n
Borough Clerk	1 / 2 4 / 2 0 2 4 X      L o n n i e   M c K e c h n i e _____ S i g n e d   b y :   L o n n i e   M c K e c h n i e

**ATTACHMENT (S):** Ordinance Serial No. 24-029 ( pp)

**SUMMARY STATEMENT:** This ordinance is sponsored by the Borough Manager to amend MSB 3.70, Service Area sales tax, to change monthly Talkeetna Sewer and Water Special Service Area No. 36 sales tax returns to quarterly returns.

Sales tax is currently reported monthly, and citizens have requested that it mirror the reporting of the Borough’s Transient Accommodations tax, which is reported quarterly.

The revenue and penalty and interest structure will not be affected.

**RECOMMENDATION OF ADMINISTRATION:** Introduce ordinance for public hearing and adoption of legislation.

**3.70.120 TAX RETURNS, CONTENTS, PENALTY FOR DELINQUENCY.**

(A) A seller shall prepare a sales tax return for each calendar month. The sales tax return shall state the total amount of the seller's sales, rentals and services; the amounts of the seller's exempt and taxable sales, rentals and services; and the amount of sales tax that is due from the seller. The seller shall submit on or with the return such additional information as the Borough may require to determine the amount of sales tax due for the month. The seller shall prepare the return and remit sales tax to the Borough on the same basis, cash or accrual, that the seller uses in preparing its federal income tax return. The seller shall sign the return, and transmit the return, with the amount of sales tax that it shows to be due, to the Borough.

(B) A seller that filed or should have filed a sales tax return for any month during a Borough fiscal year ending on June 30 shall file a return for every month remaining in the fiscal year even though no tax may be due. The return shall show why no tax is due.

(C) A sales tax return, and the related remittance of sales tax, is due, and must be received by the Borough, not later than 5 p.m. on the last business day of the month immediately following the month for which the return was prepared. The failure of the U.S. Postal Service or any private delivery service to make timely delivery of a sales tax return or the related remittance of sales tax shall not excuse an untimely filing or remittance.

(D) Sales tax that is not received on or before the time when due is delinquent. Delinquent sales tax bears interest at the rate of 15 percent per annum until paid. In addition, delinquent sales tax shall be subject to a late payment penalty equal to 5 percent of the amount of the delinquent sales tax multiplied by the number of calendar months (or portions thereof) that elapse until the delinquent sales tax, interest and penalty are paid in full; provided, that the amount of penalty shall not exceed 25 percent of the amount of the delinquent sales tax. The penalty does not bear interest.

(E) The finance director may require a seller that fails to submit a sales tax return or remit taxes when due to submit tax returns and remit taxes more frequently than monthly.

(Ord. 17-075, § 2 (part), 2017)

**3.70.125 APPLICATION OF SALES TAX PAYMENTS.**

(A) Except as this section provides otherwise, payments on sales tax accounts shall be applied to the amount due for each calendar month, in chronological order, and within the amount due for each calendar month first to fees, accrued penalty, accrued interest and then to sales tax payments owed by the seller.

(B) Payments on sales tax accounts submitted with sales tax returns shall be applied to the most current return period, first to fees, accrued penalty, accrued interest and then to sales tax payable under the return. Any remaining moneys shall be applied as provided in subsection (A) of this section.

(C) Amounts of delinquent sales tax, interest, penalty or fees that have been reduced to judgment, are the

subject of a confession of judgment, or are the subject of a written payment agreement between the Borough and the seller are payable as provided in the judgment, confession of judgment or payment agreement, respectively, and, except as provided otherwise in the judgment, confession of judgment or payment agreement, thereafter cease to be subject to the further accrual of interest or penalty under this chapter.

(Ord. 17-075, § 2 (part), 2017)

### **3.70.180 ESTIMATED TAX.**

(A) If a seller fails to file a sales tax return, or if the Borough has reasonable cause to believe that any information on a sales tax return is not accurate, the Borough may estimate the sales tax due based on any information available.

(B) The Borough shall notify the seller in writing that the Borough has estimated the amount of sales tax that is due from the seller under subsection (A) of this section, stating the estimated amount. The Borough shall serve the notice on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address.

(C) The Borough's estimate of the amount of sales tax that is due from a seller shall become a final determination of the amount that is due unless the seller, within 15 days after service of notice of the estimated sales tax, gives the Borough a written request for a hearing.

(D) A hearing requested under subsection (C) of this section shall be conducted before the manager or the manager's designee, who may be a Borough employee. At the hearing, the seller shall have the burden of proving, by testimony or documentary evidence, that the amount of sales tax that is due is less than the amount that the Borough estimated. After the hearing, the person conducting the hearing shall issue a decision determining the amount of sales tax that is due from the seller. The Borough shall serve the decision on the seller by delivering the notice to the seller's place of business, or by mailing the notice by certified mail, return receipt requested, to the seller's last known mailing address.

(E) A decision under subsection (D) of this section determining the amount of sales tax that is due may be appealed to the Superior Court for the State of Alaska, Third Judicial District at Palmer in accordance with the Alaska Appellate Rules of Procedure.

(F) The amount of sales tax finally determined to be due under this section shall bear interest and penalty as provided in MSB [3.70.120](#) from the date that the sales tax originally was due, plus an additional civil penalty of \$250 for each calendar month for which the amount of sales tax that is due has been determined.

(Ord. 17-075, § 2 (part), 2017)