

Chapter 15
FUEL TRANSFER TAX

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Section 3.15.010 Definitions

For the purpose of this chapter, the following words and phrases have the meanings set out in this section unless a different meaning is clearly indicated from the context:

- A. "City" is the City of Cold Bay, Alaska.
- B. "Container" includes aircraft, motor vehicles, watercraft and other mobile devices used for transporting fuel in bulk as well as tanks, barrels, cans and other objects used for holding, storing or transporting fuel.
- C. "Fuel" includes all liquid substances refined, compounded or produced primarily for the purpose of consumption in an internal combustion engine.
- D. "Fuel supply tank" is a tank used solely to supply fuel to an engine to which it is connected that consumes fuel for the production of motive power.
- E. "Mayor" is the Mayor of the City of Cold Bay.
- F. "Person" includes individuals and every person recognized in law and every person or group of persons acting as a unit without regard to the form of organization, whether acting as a corporation, partnership, joint venture, club, trust, or other form association.
- G. "Transfer" includes the transfer of fuel from the possession or ownership of one person to another and the transfer of fuel from one container to another container, but does not include a transfer to a fuel supply tank.

Section 3.15.020 Fuel Transfer Tax Levied.

There is levied and shall be paid to the city a tax on each gallon or part of a gallon of fuel transferred within the city. The rate is reviewed annually and shall be set in a non-code ordinance.

Section 3.15.030 Payment of Tax.

The tax levied under this chapter is a liability of and shall be paid by the person or firm purchasing the fuel immediately prior to the transfer.

Section 3.15.040 Regulations; Forms and Interpretations.

- A. The Mayor may adopt forms and promulgate regulations to implement this ordinance. Regulations or procedures adopted by the Mayor are effective at the time indicated but are subject to revision or repeal by the City Council at the next meeting following their promulgation or at any time that the City Council acts thereon. The Council shall be provided with a copy of regulations immediately upon promulgation by the Mayor.
- B. Should a taxpayer be in doubt as to the application of this chapter to an actual situation, the person may apply to the Mayor for an informal ruling on the issue. Rulings having general application may, at the direction of the Mayor, be promulgated as regulations.

Section 3.15.050 Quarterly Returns Required.

- A. Taxes required to be paid under this chapter during a calendar year quarter are due and payable to the city on the last day of the calendar quarter. Every person liable for the payment of the tax shall file with the city on forms furnished by the city, a return containing information on the following:
 - 1. All fuel transfers, including exempt transfers, by the person during the calendar quarter;
 - 2. Nontaxable transfer during the calendar quarter;
 - 3. Taxable transfers during the calendar quarter;
 - 4. Taxes due; and
 - 5. Interest penalties and such other information as may be required.
- B. The return shall be signed, and its completeness and accuracy sworn to under penalty of perjury by the individuals filling out the return.
- C. The completed return, together with the tax due for the calendar quarter, must be received by the City within 15 days of the end of each quarter. Taxes and returns received after such time are delinquent and are subject to penalty and interest.
- D. Any person who is required to pay a tax during a calendar quarter shall file a return for the next following calendar quarter even though no tax may be due during that quarter. A return filed for a quarter in which no tax was due must show why no tax was due.

- E. If the business is sold or transferred to another, whether voluntarily or involuntarily, a final return shall be filed, paying the tax due up to the time of sale or transfer, and identifying to whom the business was sold or transferred.
- F. Amounts received by the city as taxes, penalty or interest under this chapter shall be applied in the following order;
 - 1. Penalties due, beginning with the oldest penalty;
 - 2. Interest due, beginning with the interest due on the oldest quarter;
and
 - 3. Taxes due, beginning with the taxes due from the oldest quarter.

Section 3.15.060 Confidential Material.

- A. Returns filed with the City for the purpose of complying with the terms of this chapter and all data obtained from such returns are confidential and shall be kept from inspection by all private persons except as necessary to enforce the collection of the tax levied under this chapter or to investigate and prosecute violations of this chapter.
- B. Nothing contained in this section shall prohibit the delivery to a person or a duly authorized representative of the person a copy of any return or report filed by the person, nor prohibit the publication of statistics classified as to prevent the identification of particular taxpayers nor prohibit the furnishings of information on a reciprocal basis to other agencies of the State of Alaska or the United States concerned with the enforcement of tax laws.

Section 3.15.070 Forced Filing.

If a person required to pay taxes under this chapter fails to file a complete and accurate return or to pay all the taxes due, the Mayor may make an estimate of the tax due based upon any information available. The Mayor shall file a return for such person and shall provide a copy of the return to the person with a request that the person file a correct return along with payment of the taxes due. The Mayor may require the person filing the return to provide sufficient information to support the corrected return. If the person has not filed a corrected return satisfactory to the Mayor along with the taxes due within fifteen (15) days of the date of the mailing of the filing made by the Mayor, a penalty equal to fifteen percent (15%) of the taxes shown as due shall be paid in addition to all other penalties and interest due. The amounts shown as due on the filing made by the Mayor are presumed to be true and accurate unless different amounts are proven by the taxpayer.

Section 3.15.080 Preservation of Records; Audits; Falsification.

- A. Persons required to pay tax on the transfer of fuel shall preserve, for three years, all books, records and other documents relating to all transfers of fuel by the person without regard to whether such transfers are taxable.
- B. For the purpose of determining the correctness of a return or determining the amount of tax owed by any person required to pay the tax under this chapter, the Mayor may appoint a disinterested third party to conduct audits, investigations and hearing concerning any matters covered by this chapter and to examine any relevant books, papers, records, or memoranda of any person or any officer or employee of a business that transfers fuel. Persons required to attend such a hearing may be required to give testimony under oath. The cost of the person appointed for this review would be paid by either the city or business, depending on findings.
- C. No person required to provide the information or keep or provide records of any nature may falsify or change the content of a record so as to misrepresent the facts or information contained therein, nor submit to the city any information or record that has been falsified or changed to create a misrepresentation.

Section 3.15.090 Exemptions.

The following transfers are exempt from provisions of this chapter.

- A. Transfers of fuel where a prior transfer of the same fuel has been subject to the tax;
- B. Transfers of fuel upon which the tax levied under this chapter is prohibited by state or federal law;
- C. Transfers of ten (10) gallons or less, including transfers of a total of more than ten (10+) gallons is package in barrels or cans that contain less ten gallons or less; and
- D. All sales to federal, state and local government agencies.

Section 3.15.100 Penalties and Interest.

- A. A person who fails to file a return, or who fails to remit by the due date of the quarterly return all the taxes due the city by that person, shall pay a penalty of fifteen percent (15%) of the taxes due if no return is filed and a penalty of \$100.00 per month for the failure of filing a return. The filing of an incomplete return shall be treated as the filing of no return.
- B. Interest at the rate of twelve percent (12%) per annum shall be paid on all taxes due the city that are not received by the city as required under this chapter.

- C. A person required to maintain records under the provisions of this chapter shall immediately notify the city of any fire, theft, or other casualty that would prevent the person from complying with the provisions of this chapter. Such casualty is a defense to a civil penalty levied under this section, but does not excuse the person from the liability for payments to the city of taxes due. Accidental or unexplained loss of funds or records does not excuse a person from the performance of any of the requirements under this chapter.

Section 3.15.110

Enforcement and Penalties.

- A. Violation of any of the requirements of this chapter is a misdemeanor. For convictions for a violation of a provision of this chapter, a fine not to exceed one thousand dollars (\$1,000.00) may be imposed; except, for a subsequent violation of any provision of this chapter, whether similar to or different from the prior conviction, the maximum penalty that may be imposed is a fine of fifteen hundred dollars (\$1,500.00), if the subsequent conviction is for a violation that occurred within three (3) years after the conviction for the prior violation.
- B. Each day upon which a violation of this chapter continues is a separate offense.
- C. The city may recover taxes, interest and civil penalties due in a civil action independent of or in addition to any criminal action filed.