

LEGAL SERVICES

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MEMORANDUM

March 17, 2025

SUBJECT: Vehicle Rental Tax (Work Order No. 34-LS0749\A)

TO: Senator Matt Claman
Attn: Carly Dennis

FROM: Emily Nauman 
Director

Your draft bill, reintroducing SB 127 from the 33rd Legislature, which relates to the vehicle rental tax, is attached. Please consider the following questions and comments.

1. Equal Protection Concern. Charging different tax rates, based on the transaction structure, may trigger an equal protection concern under the state and federal constitutions. "The common question in equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment."¹ Notably, "[f]reedom from disparate taxation lies at the low end of the continuum of interests protected by the equal protection clause."² In order for the difference in taxation to be valid under the state's equal protection test applicable to disparate taxation, the tax "must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective."³ You will be responsible for building a legislative record that demonstrates both the governmental purpose in the differing tax rates based on the transaction type and how the difference fairly relates to the purpose. The outcome of a challenge to the exemption may depend on the record you build.

2. Effective Date. The bill has an immediate effective date. Is that sufficient notice for the Department of Revenue and taxpayers and collectors to make the changes provided for in the bill?

If I may be of further assistance, please advise.

ELN:mjt
25-117.mjt

Attachment

¹ *Stanek v. Kenai Peninsula Borough*, 81 P.3d 268, 270 (Alaska 2003) (quoting *Gonzales v. Safeway Stores, Inc.*, 882 P.2d 389, 396 (Alaska 1994)).

² *Id.* (quoting *Matanuska-Susitna Borough Sch. Dist. v. State*, 931 P.2d 391, 398 (Alaska 1997)).

³ *Wilson v. Municipality of Anchorage*, 669 P.2d 569, 572 (Alaska 1983).