

**S B**

**505**

SB 505: An Act relating to sales taxes levied by general law municipalities.

Sponsor: Senate C&RA Committee

The next bill to be considered is SB 505, an Act relating to sales taxes levied by general law municipalities, sponsored by the Senate C&RA Committee. This bill would remove the 6% sales tax limit in current statute and allow voters within municipalities the flexibility to tax themselves at a higher rate.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to sales taxes levied by general law municipalities."  
 Sponsor: Senate C&RA  
 Requestor: \_\_\_\_\_

Agency Affected: Community & Regional Affairs  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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**FUNDING:** (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS:**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)  
 There is no fiscal effect for FY 90.

Prepared by: Jim Plasman, Deputy Director Phone: 465-4750  
 Division: Municipal & Regional Assistance Date: 3/12/90  
 Approved by Commissioner: [Signature] Date: 3-12-90  
 Agency: Community & Regional Affairs

- Distribution (by preparer):
- Legislative Finance
  - Legislative Sponsor
  - Requestor
  - Office of Management and Budget
  - Impacted Agency(ies)

The Alaska Municipal League endorses the repeal of the limits on sales tax rates and taxable items (specifically alcohol) contained in Title 29 and Title 4 to allow local voters to set the limits according to the public need and acceptance of taxation methods.

Because voters must approve a sales tax before it is levied, there should be no statutory limit on the rate of sales tax a municipality may impose. If the voters in a municipality desire to tax themselves at a rate higher than the 6 percent currently authorized by statute (AS 29.45.650(a)) for general law municipalities, they should be permitted to do so. Sales tax represents a significant revenue source for 89 municipalities in Alaska and accounted for \$60,559,971 in municipal revenues in 1988 (compared to \$281,960,341 in property tax revenues collected by only 25 municipalities in Alaska).

MUNICIPALITIES WITH 5% OR GREATER GENERAL SALES OR USE TAX

Municipality	Percentage of Sales Tax	Percentage of Other Tax	Type
City and Borough of Juneau	4	7	Hotel/Motel
City of Anderson		6	Heating fuel, phone, electricity, TV
City of Bethel	5		
City of Craig	4	6	Liquor
City of Dillingham	5		
City of Fairbanks		8	Liquor; Hotel/Motel
City of Galena	3	6	Liquor
City of Haines	5		
City of Kake	5		
City of Kenai	5		
City of Kodiak	5	5	Hotel/Motel
City of Petersburg	6	3	Hotel/Motel
City of Skagway	4	6	Hotel/Motel
City of Tenakee Springs	1	6	Hotel/Motel
City of Wrangell	6		
Haines Borough	5		
Matanuska-Susitna Borough		5	Hotel/Motel
Municipality of Anchorage		8	Hotel/Motel
North Slope Borough	6		

Source: *Alaska Municipal Officials Directory 1990*, Alaska Municipal League, Alaska Department of Community and Regional Affairs, 2/8/90.

K7/salestax

**Sec. 29.45.600. Combining property tax with incorporation of a second class city.** A petition for second class city incorporation may request that a property tax proposal be placed on the same ballot. The petition must state the proposed tax rate. The petition may request that incorporation be dependent on the passage of the property tax proposition. If so, the incorporation proposition fails if the property tax fails. (§ 12 ch 74 SLA 1985)

**Article 4. Borough Sales and Use Tax.**

**Section**  
 650. Sales and use tax  
 660. Notice of sales and use tax

**Section**  
 670. Referendum, adoption, and modification

**Sec. 29.45.650. Sales and use tax.** (a) Except as provided in (f) of this section, a borough may levy and collect a sales tax not exceeding six percent on sales, rents, and on services provided in the borough. The sales tax may apply to any or all of these sources. Exemptions may be granted by ordinance.

(b) A borough levying a sales tax may also by ordinance levy a use tax on the storage, use, or consumption of tangible personal property in the borough. The use tax rate must equal the sales tax rate and the use tax shall be levied only on buyers.

(c) A person who furnishes proof, in the form required by the borough tax collector, that the person has paid a sales tax on the source on which a use tax is levied by the borough is required to pay the use tax only to the extent of the difference between the amount of the sales tax paid and the amount of the use tax levied by the borough. This subsection applies to a sales tax levied in any taxing jurisdiction whether inside or outside the state.

(d) If the assembly charges interest on sales taxes not paid when due, the rate of interest may not exceed 15 percent a year on the delinquent taxes and shall be charged from the due date until paid in full. This subsection applies to home rule and general law municipalities.

(e) A borough may provide for the creation, recording, and notice of a lien on real or personal property to secure the payment of a sales and use tax, and the interest, penalties, and administration costs in the event of delinquency. When recorded, a lien authorized under this section has priority over other liens except those for property taxes and special assessments.

(f) A borough may not levy and collect a sales tax on a purchase made with food coupons, food stamps, or other type of certificate issued under 7 U.S.C. 2011 — 2025 (Food Stamp Act). This subsection applies to home rule and general law municipalities. (§ 12 ch 74 SLA 1985; am §§ 3, 4 ch 38 SLA 1986)

**Effect of amendments.** — The 1986 amendment substituted "Except as provided in (f) of this section, a" for "A" at the

beginning of subsection (a) and added subsection (f).

#### NOTES TO DECISIONS

**Editor's notes.** — The cases cited in the notes below were decided under a former, similar provision.

**Evolutionary development of present language of subsection (a).** — See *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

**Subsection (a) of this section permits a selective sales tax.** *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

**This section states no limits on what may be exempted.** *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

**And there is nothing in the statute which expressly requires a general tax.** *Liberati v. Bristol Bay Borough*, Sup.

Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

The term "sales tax" carries no connotation of generality. *Liberati v. Bristol Bay Borough*, Sup. Ct. Op. No. 1735 (File No. 3365), 584 P.2d 1115 (1978).

**The city of Homer bed tax, based upon the actual rental of a room, and imposed, computed and collected according to traditional sales tax methods, is a sales tax within the meaning of this section.** *City of Homer v. Gangl*, Sup. Ct. Op. No. 2559 (File Nos. 5702, 5743), 650 P.2d 396 (1982).

**A real property lien is beyond the scope of what may be "necessarily or fairly implied in or incident to" the authority to collect a sales tax.** *Fairbanks N. Star Borough v. Howard*, Sup. Ct. Op. No. 2036 (File No. 4575), 608 P.2d 32 (1980).

**Collateral references.** — 68 Am. Jur. 2d, Sales and Use Taxes, § 1 et seq.

**Sec. 29.45.660. Notice of sales and use tax.** (a) If the borough levies and collects only a sales tax and use tax, the assembly shall provide a notice substantially in the form set out in AS 29.45.020. In providing notice under this subsection, the assembly shall substitute for the millage equivalency its estimate of the equivalent sales tax rate for each of the categories of financial assistance set out in AS 29.45.020. Notice shall be provided

(1) by publishing in a newspaper of general circulation in the borough a copy of the notice once each week for a period of three successive weeks, with publication to occur not later than 45 days after the final adoption of the borough's budget; or

(2) if there is no newspaper of general circulation in the borough, by posting a copy of the notice for at least 20 days in at least two public places in the borough, with posting to occur not later than 45 days after the final adoption of the borough's budget.

(b) Compliance with the provisions of this section is a prerequisite to receipt of municipal tax resource equalization assistance under AS 29.60.010 — 29.60.080 and state aid for miscellaneous municipal services under AS 29.60.100 — 29.60.180. The department shall withhold annual allocations under those sections until municipal officials demonstrate that the requirements of this section have been met. (§ 12 ch 74 SLA 1985)

WORK ORDER REQUEST FORM

W.O. 16- 2258

Keywords: \_\_\_\_\_

Assigned To: \_\_\_\_\_

Request For:

Bill

Resolution

Research

Other

Subject \_\_\_\_\_

Requested For \_\_\_\_\_ By \_\_\_\_\_ Phone \_\_\_\_\_

Deliver To \_\_\_\_\_ Taken By \_\_\_\_\_

Instructions, Explanations \_\_\_\_\_

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Obtain

Special Drafting Instructions Attached

Authorized to Confer With \_\_\_\_\_

Return \_\_\_\_\_

\_\_\_\_\_ To Requester

Approved: \_\_\_\_\_ Director, Legal Services

Special Instructions to Typist/Proofreader

Reviewed \_\_\_\_\_

In \_\_\_\_\_ Due \_\_\_\_\_

Typed: Draft \_\_\_\_\_ Date \_\_\_\_\_

Final \_\_\_\_\_ Date \_\_\_\_\_

Proofed \_\_\_\_\_ Delivered \_\_\_\_\_

Draft

Final