

Introduced by: Borough Manager
Requested by: Borough Assessor
Drafted by: Borough Assessor
Introduced: 11/04/2010
Public Hearing: 12/02/2010
Adopted: 12/02/2010

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2011-07**

**AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH
AMENDING TITLE 3 REVENUE AND FINANCE
CHAPTER 3.40 PERSONAL PROPERTY TAX**

WHEREAS, AS 29.45.050 (b) (2) allows a municipality to classify as to type and exempt or partially exempt some or all types of personal property from ad valorem taxes; and

WHEREAS, KIBC 3.40.070 was written with the intention of exempting personal property belonging to a head of a family or householder from ad valorem taxes; and

WHEREAS, the Borough Assembly wishes to exempt personal property up to an assessed value of \$20,000; and

WHEREAS, it is the intent of the Kodiak Island Borough Assembly to include private, non-commercial aircraft in the exemption of personal property; and

WHEREAS, KIBC 03.40.030 sets penalty rates for failure to file personal property returns as required by KIBC 03.40.10 and KIBC 03.40.020; and

WHEREAS, the penalties set by KIBC 03.40.030 do not adequately encourage non-filers to comply with state and borough code and the cost to administer non-files are higher than the current income from the penalty fee; and

WHEREAS, the following suggested changes in the Personal Property Ordinance will clarify the ordinance to better state the intention of the borough.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

Section 1: This ordinance is of a general and permanent nature and shall become a part of the Kodiak Island Borough Code of Ordinances;

Section 2: Title 3 *Revenue and Finance* Chapter 3.40 *Personal Property Tax* is hereby amended as follows:

- Sections:
- 3.40.010 Property subject to taxation
 - 3.40.020 Exemptions
 - 3.40.04030 Assessment return.
 - 3.40.04540 Tax situs of personal property.
 - 3.40.02050 Liability for and collection of.
 - 3.40.03060 Penalties.
 - 3.40.05070 Classification of boats and vessels.

- 53 3.40.080 Classification of aircraft
- 54 ~~3.40.060 Business inventories exempt.~~
- 55 ~~3.40.070 Household furniture and effects exempt.~~
- 56 ~~3.40.080 Commercial fishing gear exempt.~~
- 57 ~~3.40.090 Personal property minimum billing.~~

58

59 *For statutory provisions granting the power to assess and collect taxes, see AS 29.35.170;
60 for provisions governing municipal assessment and taxation generally, see AS 29.45.

61

62 **3.40.010 Property subject to taxation**

63 Except as otherwise provided in this chapter, a personal property which has a tax situs
64 within the borough is subject to taxation. Business personal property is taxable to the extent
65 that a taxpayer's total assessed value for all business personal property within the Borough
66 of Kodiak exceeds \$20,000. Business personal property includes all personal property
67 including, but not limited to, furniture, furnishings, fixtures, machinery, and equipment used
68 by a business or in a business capacity.

69

70 **3.40.020 Exemptions**

71 A. Individual personal property utilized solely and exclusively for personal, non-business,
72 non-commercial, non-agricultural and non-income producing uses or purposes is exempt
73 from taxation under this chapter. This includes aircraft, boats and vessels used for non-
74 business, non-agricultural, non-commercial and non-income producing purposes.

75 B. The first \$20,000 of assessed valuation of business personal property owned by each
76 taxpayer shall be exempt from borough property taxation. For a taxpayer with more than one
77 business personal property tax account, the \$20,000 exemption shall be distributed pro rata
78 among all of the taxpayer accounts, based on the proportion of the assessed value in each
79 account to the total assessed value of that taxpayer's business personal property.

80 C. Pursuant to AS 29.45.050(b), the inventories of businesses possessing a valid business
81 license from the state of Alaska are exempt from the tax imposed by this chapter. As used
82 herein, "inventories" means personal property in the hands of a retail or wholesale merchant
83 held for sale or personal property held in the form of raw materials or component parts for
84 the manufacture or production of goods.

85 D. Pursuant to AS 29.54.025(b), fishing gear (i.e., nets, seines, crab pots, long lines, trawls)
86 and any or all associated paraphernalia utilized for commercial fishing is exempt from
87 property tax.

88

89 **3.40.04030 Assessment return.**

90 Every person with ownership in business personal property shall submit to the borough
91 assessor a personal property return of any property owned by him, or in which he has an
92 interest, and of the property held or controlled by him in a representative capacity, in the
93 manner prescribed, which return shall be based on property values existing as of the first
94 day of January of the year for which the return is made. The person making the return in
95 every case shall state an address to which all notices required to be given to him under this
96 section may be mailed or delivered. The return shall show the nature, quantity, description,
97 amount, value, purchase price new or used, depreciable basis, and current condition of all
98 personal property, the place where the property is situated, and said return shall be in such
99 form and include such additional information as the assembly may prescribe, and shall be

100 signed and verified under oath by the person liable, or his or its authorized agent or
101 representative. Said return shall be filed on or before the fifteenth day of January of each tax
102 year. The borough assessor may, by notice in writing to any person by whom a return has
103 been made, require from him a further return containing additional details and more explicit
104 particulars and, upon receipt of the notice, that person shall comply fully with its
105 requirements within 30 days.

106 In the event of any person failing, refusing, or neglecting to make or file said personal
107 property return of property owned by him, as required herein, the assessor shall make an
108 assessment which shall be as fair and equitable as he is able to make from the best
109 information in his possession concerning said property.
110

111 **3.40.04540 Tax situs of personal property.**

112 A. Tax Situs. All personal property which has a tax situs within the borough on January 1st
113 of the tax year is subject to taxation. "Tax situs" means the principal place where an item of
114 personal property is located, having due regard to the residence and domicile of its owner,
115 the place where it is registered or licensed, whether it is taxed by other municipalities, and
116 any other factors which may indicate the principal location of the property.
117

118 B. Tax Situs, Conclusive Presumptions

119 1. Tax situs shall be conclusively presumed to be within the borough when the property,
120 although not within the borough on January 1st of the assessment year, either:

121 a. Has been or is usually, normally, or regularly kept or used within the borough;

122 b. Has been or is kept or used within the borough for any 90 days or more in the 12
123 months preceding the January 1st assessment; or

124 c. Has been or is kept or used within the borough for any length of time preceding
125 January 1st of the assessment year if such presence or use is intended to be permanent;
126 "permanent" in this subsection means for a period of 90 days or more.

127 2. Tax situs shall also be presumed conclusively to be within the borough where the
128 ownership, maintenance, or use of such property requires a license or permit, and a license
129 or permit has been issued by the state of Alaska or the borough or any other political
130 subdivision within the borough, and:

131 a. The property is so licensed or permit so issued and either the actual residence
132 address or the mailing address of the licensee or permittee, or of the permissive user
133 thereunder, is within the borough; or

134 b. The property is so licensed or the permit so issued and the domicile of the
135 licensee or permittee, or the permissive user thereunder, is in the borough; this subsection
136 is to apply expressly to, but is not limited to, situations wherein the subject property is in the
137 custody of persons in educational institutions outside of the borough; or

138 c. The property is so licensed or the permit is issued and the property is
139 permanently outside the borough when such licensing frees the owner, user or custodian of
140 liability for similar taxes in any other country, state, or political subdivision thereof.

141 **3.40.02050 Liability for and collection of.**

142 A. The owner of personal property assessed is personally liable for the amount of taxes
143 assessed against the property. The tax, together with penalty and interest, may be collected
144 in a personal action brought in the name of the borough.

145 B. If the tax on personal property is not paid when due, the borough may, in addition to other
146 remedies available, enforce the tax lien by distraint and sale of the property after first
147 making demand of the person assessed for the amount of the tax, penalty, and interest. The
148 demand shall be in writing addressed to the person whose name appears on the last
149 assessment roll as the owner of the property, describing the personal property assessed
150 and the amount of the tax, penalty, and interest and demanding that the total be paid within
151 10 days after service of the demand personally or by registered mail.

152 C. If the tax has not been paid after the expiration of 10 days from service of demand, the
153 clerk may issue a warrant directing a peace officer to seize the personal property for which
154 the tax was levied and to sell it at public auction after at least 15 days' notice of the sale by
155 posting and publication. If the proceeds from the property sold are not sufficient to satisfy
156 the tax, penalty, interest and costs of sale, the warrant may authorize the seizure of other
157 personal property sufficient to satisfy the tax, penalty, interest, and costs of sale.

158
159 **3.40.03060 Penalties and Interest.**

160 A person who fails, refuses, or neglects to file a personal property return in accordance with
161 KIBC ~~3.6540.010~~ and ~~3.6540.020~~ shall, in addition to other penalties provided by law, be
162 liable for a penalty of ~~10 percent of the tax assessed against said personal property as~~
163 ~~assessed by the assessor, in accordance with KIBC ~~3.65.010~~~~ 20% of the tax assessed, in
164 accordance with AS 29.45.250. Said person shall pay interest at the rate of 12 percent per
165 year, exclusive of penalty, from the due date until paid in full. This section shall apply to all
166 persons having personal property within the borough, irrespective of residence. However,
167 when such penalty and interest amount to \$1.00 or less, there shall be assessed a minimum
168 penalty of \$1.00. A person who files a completed return after the filing deadline, but before
169 the mailing of the assessment notices shall, in addition to other penalties provided by law,
170 be liable for a penalty of five percent of the tax assessed against said personal property for
171 that tax year.

172
173 **3.40.05070 Classification of boats and vessels.**

174 Pursuant to AS 29.45.050(b)(2), boats and vessels are classified for purposes of taxation as
175 a special category and shall be taxed at the rate determined annually by the assembly
176 during the budget adoption process ~~for a boat or vessel of more than five net tons~~ for boats
177 with an overall length longer than twenty (20) feet, measured bow to stern, rather than on an
178 ad valorem basis.

179
180 **3.40.080 Classification of aircraft.**

181 A. Pursuant to AS 29.45.050(b)(2), for purposes of taxation, commercial aircraft that have
182 been issued an N number by the Federal Aviation administration ("FAA") by January 1 of the
183 tax year and are less than 12,500 pounds takeoff weight shall be totally exempted from ad
184 valorem taxes and shall be taxed at the rate determined annually by the assembly during
185 the budget adoption process.

186 B. The owner of record of an aircraft that has been dismantled, destroyed or crashed and
187 the FAA N number has been retained by the aircraft's owner of record may submit to the
188 assessor proof of condition that would allow for taxation of that aircraft, if approved by the
189 assessor, at a rate determined by the assembly during the budget adoption process.

190 Aircraft for which such registration or licensing has lapsed or that has not passed the annual
191 inspection required by the FAA shall not qualify on this basis alone for ad valorem taxation
192 unless it has been dismantled, destroyed or crashed.

193 C. Commercial aircraft with a gross takeoff weight of more than 12,500 pounds shall be
194 taxed on an ad valorem basis and in accordance with the Kodiak Island Borough landing
195 schedule formula. The KIB landing schedule formula provides for the prorated calculation of
196 scheduled aircraft by dividing the total hours in a year into the total time aircraft operated by
197 a scheduled carrier are in the Kodiak Island Borough, and multiplying the result by the
198 assessed value of each aircraft.

199 D. Definitions. For purposes of this section:

200 Aircraft means any engine powered contrivance invented, used, or designed to
201 navigate, or fly in, the air and that is capable of being manned and is required by the FAA to
202 be registered and certified in order to be manned.

203 Commercial aircraft means any aircraft transporting passengers and/or cargo or is
204 employed for fish spotting, agricultural, aquacultural or other purposes for some payment, or
205 other consideration, including money or services rendered.

206 Crashed means aircraft for which only parts remain that, due to their condition, can
207 no longer be assembled to create any contrivable aircraft. This shall be evidenced by an
208 FAA accident report and/or copy of an insurance claim that determines the aircraft to be a
209 total loss.

210 Destroyed means aircraft that have been damaged by age, weather, neglect and/or
211 external influences outside the owner's control, and only unusable parts remain that, due to
212 their condition can no longer be assembled to create any contrivable aircraft. This shall be
213 evidenced by photographs and a physical inspection by the borough Assessing staff
214 appraiser if deemed necessary by the borough assessor.

215 Dismantled means aircraft that have been voluntarily disassembled and only parts
216 remain that can no longer be assembled to create any contrivable aircraft. Evidence such as
217 photographs and a physical inspection by the borough Assessing staff appraiser shall be
218 provided or allowed if deemed necessary by the borough assessor

219

220 E. An aircraft owner may appeal the determination of the borough assessor under this
221 sections B and C above using the same procedures for appeal of real and personal
222 property assessments as set out in KIB 3.35.040 (C) (3) and 3.35.050 (C).

223

224 **~~3.40.060 Business inventories exempt.~~**

225 ~~A. Pursuant to AS 29.45.050(b), the inventories of businesses possessing a valid business~~
226 ~~license from the state of Alaska are exempt from the tax imposed by this chapter.~~

227 ~~B. As used herein, "inventories" means personal property in the hands of a retail or~~
228 ~~wholesale merchant held for sale or personal property held in the form of raw materials or~~
229 ~~component parts for the manufacture or production of goods.~~

230

231 **~~3.40.070 Household furniture and effects exempt.~~**

232 ~~All household furniture and effects (i.e., snow machines, unlicensed ATVs, TVRO earth~~
233 ~~stations) including noncommercial, nonbusiness, nonagricultural, and nonincome-producing~~
234 ~~personal property of the head of a family or householder is exempt from property tax. This~~

235 ~~exemption also includes all personal property in a rental unit when the building owner is~~
236 ~~owner occupied and the total square footage of the rental unit does not exceed 35 percent~~
237 ~~of the gross living area of the structure. [Ord. 92-25 §2, 1992; Ord. 84-25-O §1, 1984.~~
238 ~~Formerly §3.24.070].~~

239
240 **3.40.080 Commercial fishing gear exempt.**

241 ~~Pursuant to AS 29.54.025(b), fishing gear (i.e., nets, seines, crab pots, long lines, trawls)~~
242 ~~and any or all associated paraphernalia utilized for commercial fishing is exempt from~~
243 ~~property tax.~~

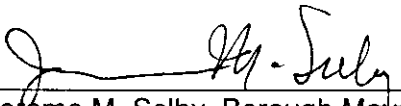
244
245 **3.40.090 Personal property minimum billing.**

246 ~~Pursuant to AS 29.45.050(d)(2), only personal property accounts (not including boats) with a~~
247 ~~value greater than the amount listed on the annual budget ordinance will be billed.~~

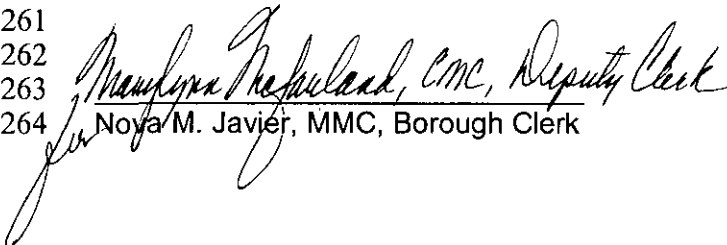
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249 Section 3: This ordinance shall take effect on January 1, 2011.

250
251 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
252 **THIS SECOND DAY OF DECEMBER 2010**

253
254 KODIAK ISLAND BOROUGH

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256 
257
258 Jerome M. Selby, Borough Mayor

259
260 ATTEST:

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262 
263 Nova M. Javier, MMC, Borough Clerk
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