

AN ORDINANCE OF THE HAINES BOROUGH AMENDING HAINES BOROUGH CODE TITLE 3 CHAPTER 3.82 TO APPLY EXISTING SALES TAX SECTIONS INCLUDING PENALTIES AND INTEREST TO EXCISE TAXES.

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance shall become effective immediately upon adoption.

Section 4. Amendment of Chapter 3.82. Chapter 3.82 of the Haines Borough Code of Ordinances is amended to read as follows:

NOTE: **Bolded/UNDERLINED** ITEMS ARE TO BE ADDED
STRIKETHROUGH ITEMS ARE DELETED

Chapter 3.82

TOBACCO PRODUCTS AND MARIJUANA CULTIVATION FACILITIES EXCISE TAX

Sections:

- 3.82.010 Purpose and intent.
- 3.82.020 Definitions.
- 3.82.030 Levy of excise tax on tobacco products – Rate.
- 3.82.031 Levy of excise tax on marijuana cultivation facilities – Rate.
- 3.82.040 Exemptions.
- 3.82.050 Registration.
- 3.82.060 Quarterly returns – Penalties and interest for delinquency.
- 3.82.070 Delinquency – Failure to submit return or to remit taxes.
- 3.82.080 Records maintenance and inspection.
- 3.82.090 Sale of business – Final tax return – Liability of purchaser.
- 3.82.100 Lien for tax, interest and penalties due.
- 3.82.101 Penalty for violation.
- 3.82.110 Separate accounting.**
- 3.82.120 Protest of tax.**
- 3.82.130 Borough business license.**

Section 5. Amendment of Section 3.82.060. Section 3.82.060 of the Haines Borough Code of Ordinances is amended to read as follows:

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3.82.060 Quarterly returns – Penalties and interest for delinquency.

A. Every distributor or marijuana cultivation facility shall, on or before the last day of the month succeeding the end of each quarter year ending March 31st, June 30th, September 30th and December 31st, complete an excise tax return for the preceding quarter year upon forms to be furnished by the borough, and sign and transmit the return to the borough

manager. The return must include a total count of the number of packs of cigarettes and the wholesale price of the other tobacco products brought into the borough during the preceding quarter, the amount of marijuana sold or transferred to retail marijuana stores and marijuana product manufacturing facilities (including the total number of ounces, including fractional ounces, sold or transferred, the names and Alaska address of each buyer and transferee, and the weight of marijuana sold or transferred to the respective buyers or transferees), the amount of excise tax due, and other information and supporting documentation as the borough may require.

B. Subject to subsection (C) of this section, the tax levied under this chapter must be remitted by the distributor or marijuana cultivator to the borough at the time of transmitting the return, and if not so remitted or if the return is not filed in a timely manner, such tax is delinquent. The postmark shall determine the date of filing mailed returns. In addition, a late payment penalty of 10 percent for the first month or any fraction thereof, and an additional five percent per month accrued, until a total late payment penalty of 25 percent has accrued shall be added to all returns until such tax, penalty, and interest thereon have been paid. Such penalty shall be assessed and collected in the same manner as the tax is assessed and collected. In addition to these penalties, interest at a rate of 15 percent per year on the delinquent tax, from the date of delinquency until paid, shall accrue and be collected in the same manner the delinquent tax is collected.

C. The distributor or marijuana cultivator shall report and remit excise tax to the borough on the same basis, cash or accrual, the distributor or marijuana cultivator uses for reporting federal income tax. A distributor or marijuana cultivator reporting on the accrual basis shall be allowed a tax credit for sales previously paid by the distributor or marijuana cultivator on any sale made on credit to the extent they declare such debt to be uncollectible and a bad debt for federal income tax purposes. Such bad debt must be claimed on a timely filed sales tax return within two years from the date of sale in which the bad debt arose.

Section 6. Amendment of Section 3.82.101. Section 3.82.101 of the Haines Borough Code of Ordinances is amended to read as follows:

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3.82.101 Penalty for violation.

A violation of any of the provisions of this chapter is a misdemeanor. **Any special remedies for the recovery of excise tax shall not be deemed exclusive of any other remedy, civil or criminal or both, now provided by law for the recovery of moneys due and owing the borough.**

Section 7. Addition of HBC Section 3.82.110. Section 3.82.110 of the Haines Borough Code is hereby added, as follows:

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3.82.110 Separate accounting.

The taxes hereby imposed shall be paid to and collected by the borough, and shall be accounted for separately and utilized for any lawful use for which the funds shall have been appropriated by the assembly.

Section 8. Addition of HBC Section 3.82.120. Section 3.82.120 of the Haines Borough Code is hereby added, as follows:

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3.82.120 Protest of tax.

A. A buyer who protests the payment of the tax levied under this chapter shall pay the tax and shall provide the distributor or marijuana cultivator and the clerk with a written statement of protest within five working days of the sale that identifies the sale that is the subject of the tax protested, the amount of tax paid, the buyer's and distributor or marijuana cultivator's name, mailing address, telephone number and the basis for the protest.

B. If the distributor or marijuana cultivator protests their liability on an assessment under HBC 3.82.070 which has become final, the distributor or marijuana cultivator shall pay the tax under written protest setting forth the basis for the protest. No action for a refund may be maintained nor may a defense to nonpayment be maintained in a civil action unless the amount in dispute has been paid by the distributor or marijuana cultivator under written protest filed at or before the time of payment.

Section 9. Addition of HBC Section 3.82.130. Section 3.82.130 of the Haines Borough Code is hereby added, as follows:


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3.82.130 Borough business license.


No individual or entity may engage in business in the Haines Borough without first having been issued a Haines Borough business license pursuant to Chapter 5.02 HBC.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 24th DAY OF APRIL, 2018.

ATTEST:


Alekka Fullerton, Borough Clerk




Janice Hill, Mayor

Date of Introduction: 3/27/18
Date of First Hearing: 4/10/18
Date of Second Hearing: 4/24/18