

KENAI PENINSULA BOROUGH

Kenai Peninsula Borough Assembly

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Kelly Cooper, Assembly President
Wayne Ogle, Vice President

MEMORANDUM

TO: Kelly Cooper, Assembly President
Kenai Peninsula Borough Assembly Members

FROM: Dale Bagley, Assembly Member *DLB*

DATE: November 9, 2016

RE: Ordinance 2016-40, Amending KPB 5.18.200(A)(11) and KPB 5.18.900(Q) to Exempt Flightseeing from Sales Taxes (Bagley)

In ordinance 2016-31, the assembly enacted changes to the Kenai Peninsula Borough ("borough") sales tax code, including changes which resulted in the imposition of a sales tax on flightseeing. The assembly originally exempted air charter and air taxi services, which included flightseeing, from sales tax in ordinance 94-54 following the enactment of Alaska Statute 29.47.470 (now 29.45.820) which prohibits municipal taxes on air transportation of individuals or goods by certain air carriers. As stated in ordinance 94-54, this exemption was enacted to avoid expensive protracted litigation with questionable long term benefits.

This ordinance would amend KPB 5.18.200(A)(11) and KPB 5.18.900(Q) to exempt flightseeing from sales taxes. This change will bring the borough back into clear compliance with legal restrictions regarding imposition of a sales tax on flightseeing tours under both state and federal law thereby avoiding potentially expensive protracted litigation.

Because ordinance 2016-31 takes effect on January 1, 2017, this ordinance is retroactively effective on that date in case any sales that would be taxable take place between January 1 and January 3, 2017, the scheduled hearing date.