

Sand Point Sales Tax Ordinance.

A. Taxation of Sales of Gravel. SCO 6.10.200(16) specifically identifies the “[s]ale of sand, gravel, rock, . . . whether in place or previously quarried” as an example of a “taxed transaction”. Accordingly, the sale of gravel from Shumagin to West is subject to tax. If, for example, West makes a \$9,000 royalty payment to Shumagin, West should include an additional payment of \$240 in sales tax. (3% of \$9,000). In addition, if West sells the same gravel in Sand Point, West must add 3% in sales tax to the bill (or bills) provided to West’s gravel customers. There are two exceptions to this rule discussed below.

B. Exceptions from Tax.

1. Government Sales. SCO 6.10.150(5) indicates sales made “directly to the governments of the United States, the state, the city, the Aleutians East Borough, or any instrumentality or political subdivision thereof” are exempt from tax but also states “this exemption shall not apply to the sale of materials and supplies to contractors for the construction, manufacture, or production of property or rendering services for sale to such government units or agencies pursuant to contract, in which event the contractor shall be deemed the buyer subject to the payment of the tax”. Accordingly, if West itself has a supply contract with the governmental entity and sells gravel to the governmental entity no sales tax should be charged by West to its governmental customer. Similarly, if West has a construction contract with the government and uses Shumagin gravel itself in the course of performing the contract West does not have to charge the government sales tax. However, if West supplies gravel to another contractor or subcontractor for use on a government project West must charge that contractor sales tax. This is true even if West is supplying to its own subcontractor. The ordinance clearly states such sales are not made “directly” to the tax exempt governmental entity and are subject to tax.

2. Out of Town Sales. SCO 6.10.110 indicates sales tax is charged only on “sales within the corporate limits of the city”. SCO 6.10.150(7) indicates “shipments by the seller via common carrier to communities or establishments beyond the city limits” are exempt from tax. Thus, if West sells gravel FOB the dock at Sand Point for shipment outside city limits by “common carrier” West does not have to charge the customer sales tax. A “common carrier” includes a regulated marine transportation company who adds the gravel being shipped to other items being carried on a voyage; typically for multiple customers in the Aleutians. West itself (or any other contractor who happens to own or bareboat charter their own barge) will not be considered a common carrier for purposes of this exemption. Whether a non-bareboat chartered single purpose barge will be considered a “common carrier” may depend on the precise terms of the charter. In such a situation West or its customer should

