

MEMORANDUM

TO: Abigail Flynn, Acting City Clerk
CC: Daniel Decker Sr., City Manager
FROM: Robert Palmer, MCS, Attorneys for City
RE: Property tax appeals and refunds
DATE: May 13, 2025

The City received one or more property tax or personal property tax appeals seeking refunds for prior year's taxes. The following points of law may be helpful.

1. **Settled appeals.** If a taxpayer and the Assessor cannot agree on a valuation determination, then the taxpayer is entitled to a hearing before the Board of Equalization (BOE). However, if the taxpayer and Assessor settle the valuation dispute, the BOE does not typically hold a hearing on those cases.¹ Instead, DMC 4.15.125(D) describes the Assessor presents a memorandum with the reasons for the revised assessment for the BOE to ratify; if the BOE fails to ratify the value, then an appeal hearing is scheduled.
2. **Only 2025 valuation is relevant.** The BOE is charged with resolving annual valuation disputes.² The purpose of the 2025 BOE hearings is to evaluate if the Assessor's 2025 property valuations are lawful.³ This is not the time to argue about 2024 tax assessments because those appeals are time barred. Any such appeal was generally due within 30 days from when the 2024 tax assessment notices were mailed.⁴
3. **AS 29.45.500 & DMC 4.15.360, Refund of taxes.** These legal references require the taxpayer to prove a violation of tax law to trigger a refund. In other words, these legal references do not provide an independent basis for a refund. They simply provide a mechanism and the authority to refund if a genuine error is verified by the City.

¹ See AS 29.45.190(a) ("A person whose name appears on the assessment roll or the agent or assigns of that person may appeal to the board of equalization for relief from an alleged error in valuation not adjusted by the assessor to the taxpayer's satisfaction.") (emphasis added with underlining); DMC 4.15.125(A).

² AS 29.45.190(a)

³ AS 29.45.210(b); DMC 4.15.125(A-B).

⁴ AS 29.45.190(b); DMC 4.15.125(B) (30-day standard); see DMC 4.15.125(G) (the unable to comply exception to the 30-day standard is limited to current tax year appeals).

4. **AS 29.45.090(a) & DMC 4.15.020(C), 3% of assessed value.** Please see the memo dated April 16, 2025, for more information. In short, the assessed value is dependent on the free market, so it can change more than 3% per year. However, AS 29.45.090(a) and DMC 4.15.020(C) limit the annual mill rate to no more than 30 mills for the City's operating budget, which is 3% of assessed value. For 2024, the City imposed a mill rate of 13 mills, which is less than half of the maximum limit imposed by AS 29.45.090(a) and DMC 4.15.020(C).
5. **AS 29.45.040, Property tax equivalency payment.** This statute provides a State-funded subsidy to qualifying senior citizens or disabled veterans who rent, subject to annual Legislative appropriation. This statute does not impose any obligation of the City to fund the State's subsidies.
6. **DMC 4.15.020(B) and AS 29.45.240(b), June 15 mill rate deadline.** Please see the memo dated February 17, 2025, for more information. A challenge to the 2024 mill levy is not relevant to the 2025 property valuation because the two concepts are separate. To the extent a taxpayer's 2025 appeal is premised on the City's 2024 five-day delay to impose the rate of levy, such an appeal is misplaced because the BOE does not have authority to adjust the mill rate a year later. Additionally, a short delay in setting the 2024 mill rate is not a basis for invalidating the tax unless the taxpayer (a) timely filed suit and (b) proves the five-day delay resulted in substantial prejudice to the taxpayer's interest.⁵ Importantly, the Alaska Supreme Court ruled a delay of nine-days, or even twenty days, did not invalidate municipal taxes.⁶
7. **Subsistence waiver.** There is currently no enumerated subsistence exemption, but City code does allow for certain personal property commonly used for subsistence to be exempt from taxation: snowmobiles and lightweight all-terrain vehicles⁷ and recreational boats.⁸ For example, a boat used exclusively for non-commercial purposes is exempt, but a boat used for a commercial purpose would be taxable. This is a fact-intensive determination.

⁵ DMC 4.15.020(B) ("The rate of levy of tax, the date of equalization of the tax, and the date when the taxes shall become delinquent shall be fixed before June 15th of each year by resolution of the council."); AS 29.45.240(b) ("A municipality shall annually determine the rate of levy before June 15.").

⁶ *City of Yakutat v. Ryman*, 654 P.2d 785, 791 (Alaska 1982) (concluding a delay of more than three months could invalidate a tax, but not a delay of less than twenty days).

⁷ DMC 4.15.030(E).

⁸ DMC 4.15.030(F) & (G); DMC 4.15.040.