

**TOWN OF SAN ANSELMO  
ORDINANCE NO. 1091**

AN ORDINANCE OF THE PEOPLE OF THE TOWN OF SAN ANSELMO  
ADDING CHAPTER 8-8 TO THE SAN ANSELMO MUNICIPAL CODE IMPOSING  
A TRANSACTIONS AND USE TAX TO BE  
ADMINISTERED BY THE STATE BOARD OF EQUALIZATION  
(November 5, 2013 Ballot Measure)

**Section 1.** The People of the Town of San Anselmo ordain as follows: that a new Chapter 8 shall be added to Title 8, Finance, Revenue, and Taxation, subject to voter approval as set forth herein, as follows:

**Chapter 8-8 TRANSACTIONS AND USE TAX**

**Sections:**

- 8-8.01. Title.**
- 8-8.02. Operative Date.**
- 8-8.03. Purpose.**
- 8-8.04. Contract with State.**
- 8-8.05. Transactions Tax Rate.**
- 8-8.06. Place of Sale.**
- 8-8.07. Use Tax Rate.**
- 8-8.08. Adoption of Provisions of State Law.**
- 8-8.09. Limitations on Adoption of State Law and Collection of Use Taxes.**
- 8-8.10. Permit Not Required.**
- 8-8.11. Exemptions and Exclusions.**
- 8-8.12. Amendments.**
- 8-8.13. Enjoining Collection Forbidden.**
- 8-8.14. Severability.**
- 8-8.15. Effective Date.**
- 8-8.16. Use of Proceeds.**
- 8-8.17. Fiscal Accountability Provisions.**

**8-8.01. TITLE.** This ordinance shall be known as the Town of San Anselmo Transactions and Use Tax. The Town of San Anselmo hereinafter shall be referred to as "the Town." This ordinance shall be applicable in the incorporated territory of the Town.

**8-8.02. OPERATIVE DATE.** "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**8-8.03. PURPOSE.** This ordinance is adopted to achieve the following, among other purposes, and the provisions hereof should be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section

7285.9 of Part 1.7 of Division 2 which authorizes the Town to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

**8-8.04. CONTRACT WITH STATE.** Prior to the operative date, the Town shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the Town shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**8-8.05. TRANSACTIONS TAX RATE.** For the privilege of selling tangible personal property at retail, a tax hereby is imposed upon all retailers in the incorporated territory of the Town at the rate of .50% (one half of one percent) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

**8-8.06. PLACE OF SALE.** For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

**8-8.07. USE TAX RATE.** An excise tax is hereby imposed on the storage, use or other consumption in the Town of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use, or other consumption in said territory at the rate of .50% (one half of one percent) of the sales price of the property. The sales price shall

include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

**8-8.08. ADOPTION OF PROVISIONS OF STATE LAW.** Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code ("Transactions and Use Taxes"), all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code ("Sales and Use Taxes") are hereby adopted and made a part of this ordinance as though fully set forth herein.

**8-8.09. LIMITATIONS ON ADOPTION OF STATE LAW AND COLLECTION OF USE TAXES.** In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of the Town shall be substituted therefor. However, the substitution shall not be made under the following circumstances:

1. When the word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California.

2. When the result of that substitution would require action to be taken by or against this Town or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

3. In those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "Town" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

**8-8.10. PERMIT NOT REQUIRED.** If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

## 8-8.11. EXEMPTIONS AND EXCLUSIONS.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made, and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the Town which is shipped to a point outside the Town, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the Town shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-Town address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-Town and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use, or other consumption in this Town of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease that is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time during which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the Town shall not be required to collect the use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the Town or participates within the Town in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the Town or through any representative, agent, canvasser, solicitor, subsidiary, or person in the Town under the authority of the retailer.

7. "A retailer engaged in business in the Town" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect the use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the Town.

D. Any person subject to the use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use, or other consumption of which is subject to the use tax.

**8-8.12. AMENDMENTS.** All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation

Code, shall automatically become a part of this ordinance, provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

**8-8.13. ENJOINING COLLECTION FORBIDDEN.** No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the Town, or against any officer of the State or the Town, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

**8-8.14. SEVERABILITY.** If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**8-8.15. EFFECTIVE DATE.** This ordinance relates to the levying and collecting of the Town transactions and use tax and shall be in full force and effect ten (10) days after the certification by the Town Council of the election returns indicating passage of the Ordinance by a majority of the voters casting votes in the Uniform District Election of November 5, 2013. The San Anselmo Transactions and Use Tax will be assessed beginning April 1, 2014. The authority to levy the tax imposed by this ordinance shall expire ten years after the Effective Date.

**8-8.16. USE OF PROCEEDS.** The proceeds from the transactions and use tax imposed by this ordinance shall be for general governmental purposes of the Town and shall be received into the general fund of the Town. Nothing herein shall bind the Town to use the proceeds for any specific purpose or function. This ordinance raises the Town's appropriations limit by the amount of the tax for the next 10 years.

**8-8.17. FISCAL ACCOUNTABILITY PROVISIONS.** The Town shall include in its annual audit of the Town's financial operations by an independent certified public accountant, an accounting of the revenue generated by the San Anselmo Transactions and Use Tax, and how the revenue was used. Additionally, the Town Council will establish a Transactions and Use Tax Oversight Committee to review and report on the use of the general purpose revenues generated by the San Anselmo Transactions and Use Tax.

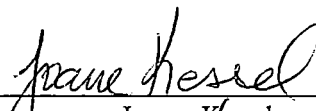
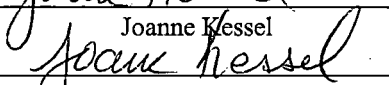
**Section 2.** This Ordinance was approved for placement on the November 5, 2013 ballot by a two-thirds vote of all members of the Town Council. The Ordinance was adopted by the voters of the Town of San Anselmo at the Uniform District Election held on the 5th day of November, 2013, by the following vote tally:


2376 YES Votes

1022 NO Votes

San Anselmo voters passed the initiative ballot measure by 69.92%

Attest:

  
Joanne Kessel  
  
Administrative Services Technician  
For Barbara Chambers, Town Clerk

  
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Mayor  
Kay Coleman