

**ORDINANCE NO. 1893**

**AN ORDINANCE OF THE CITY OF PANAMA CITY, FLORIDA, ACKNOWLEDGING, CLARIFYING, RESTATING AND CONFIRMING, AND IF NECESSARY RATIFYING, EXISTING CITY POLICY AND RULE CONCERNING THE COMPUTATION AND COLLECTION OF THE MERCHANTS LICENSE FEE; MAKING FINDINGS OF FACT; PROVIDING STATEMENT OF LEGISLATIVE INTENT; REPEALING ORDINANCES IN CONFLICT; AUTHORIZING CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the City first adopted a merchants license fee ordinance on August 26, 1947, Ordinance 355, that imposed on merchants a license fee measured by the merchants gross sales, and

WHEREAS, through various legislative enactments the merchant license fee ordinance of the City was modified, amended, repealed, restated, and recodified by those ordinances 506, adopted August 3, 1955, 616, adopted August 23, 1960, and 639, adopted August 8, 1961. The merchants license fee ordinance is now codified as Article II, Chapter 15, Panama City Municipal Code, 1992, and

WHEREAS, merchants have sought guidance from the City regarding how the merchant license fee should be computed and collected, and

WHEREAS, the Florida Department of Revenue has issued various directives relating to proper application of the merchant license fee to the sale of goods, which are identified as those letters from the Florida Department of Revenue dated August 28, 1967, September 5, 1972, May 23, 1984, and one undated publication issued sometime between 1990 and 1999, all of which are collectively attached as composite Exhibit "A.", and

WHEREAS, the City Clerk-Treasurer has continuously adopted and applied the methodology and collection policy of the merchants license fee in accordance with the directives of the Florida

Department of Revenue for all periods of time after September 1971, and probably for many years prior thereto or at least since 1967, and has advised merchants within the City to act in accordance with such directives, and

WHEREAS, the directives of the Florida Department of Revenue have been consistently applied by the City for more than 25 years without interruption and has become an administrative rule or regulation of the City deemed necessary by the City for the administration of the merchant license fee, and

WHEREAS, the rule of the City relating to the application of the merchants license fee has been called into question and the City feels the need to clarify and confirm the aforementioned rule and its application, and

WHEREAS, on March 25, 2003, the City Commission conducted a properly noticed public hearing on this ordinance and the foregoing recitals, received comment from the City Clerk-Treasurer and his staff, invited public comment and, at the conclusion of the hearing, adopted this ordinance.

NOW THEREFORE BE IT HEREBY ENACTED BY THE PEOPLE OF THE CITY OF PANAMA CITY, FLORIDA:

**SECTION 1. Findings of fact.**

The City finds and determines that the foregoing recitals are true and correct.

**SECTION 2. Restatement and Clarification of Existing Rule.**

The previously established rule is hereby acknowledged, clarified, restated, confirmed, and if necessary, ratified, as follows:

“City ordinances permit but do not require the separation of the merchants license fee from the sales price of the item which forms the basis of the computation of that fee. Therefore, the merchants license

fee may be, at the option of the seller, either included within the gross sales price or shown as a separate item as a charge to the customer."

**SECTION 3. Statement of legislative intent.**

This ordinance shall be construed as a remedial clarification of existing law.

**SECTION 4. Codification.**

The appropriate officers and agents of the City are authorized and directed to publish within Article II of Chapter 15 of the Code of Ordinances of the City of Panama City the Existing Rule as stated in Section 2 of this ordinance.


**SECTION 5.** All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

**SECTION 6.** This Ordinance shall take effect upon passage.

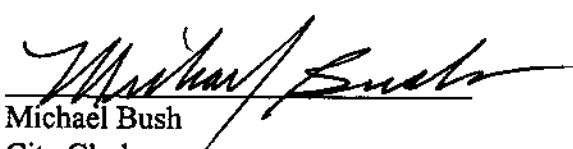
**PASSED, APPROVED AND ADOPTED** at the regular meeting of the City Commission of the City of Panama City, Florida, this 25 day of March, 2003.

CITY OF PANAMA CITY, FLORIDA,  
a Municipal Corporation,

By:

  
Girard L. Clemons, Jr.  
Mayor

ATTEST:

  
Michael Bush  
City Clerk

## **COMPOSITE EXHIBIT "A"**



STATE OF FLORIDA  
DEPARTMENT OF REVENUE

TALLAHASSEE

32284

September 5, 1972

A. ED STRAUCH  
EXECUTIVE DIRECTOR

Sears, Roebuck and Company  
509 Harrison Avenue  
Panama City, Florida

ATTENTION: B. L. ROSENTHAL

Dear Mr. Rosenthal:

This is in further reference to your letter of recent date in which you requested sales tax information and assistance from this office

It is our understanding that the Panama City tax on retail merchants is, in fact, based upon the gross receipts of the merchant. Assuming our assumption is correct, the Panama City taxes would properly be included in the base on which the Florida Sales Tax is computed. The fact that the Panama City tax is separately stated would not have any bearing on this determination.

It is of course true that the basis of computing the sales tax results in the imposition of a tax upon tax, however, there is nothing unusual about that. For example, the State and Federal taxes levied on cigarettes, alcohol beverages, etc., are also included in the tax base when computing the Florida Sales Tax. This is true for the simple reason that most taxes paid in connection with the manufacture and sale of tangible personal property actually become a part of the retailer's selling price and the retailer's sales price is under Florida law the basis on which the sales tax is computed.

If you have any additional questions concerning this matter, please advise.

Yours very truly,

*J. H. Stephens*  
J. H. Stephens, Assistant Chief  
Sales Tax Bureau

JHS/pah

cc: Panama City Area Office

## FLORIDA REVENUE COMMISSION

TAMPA OFFICE

J. ED STRAUHN  
DIRECTOR OF REVENUEHARRY L. COE, JR.  
ASSISTANT DIRECTOR

August 28, 1967

Mr. W. L. Vinson  
Tax Department - Sears Roebuck Co.  
675 Ponce de Leon Avenue, N. E.  
Atlanta, Georgia

Dear Mr. Vinson:

The Panama City 1% tax is an arrangement by ordinance to allow the merchant to recoup his payment of the city occupational license. It is a license tax and the state 3% sales tax should be computed on the total sales price, including the so-called city tax.

We appreciate your cooperation and interest in this matter.

Sincerely,

*HLC*  
Harry L. Coe, Jr.  
Assistant Director

HLC/wc

cc: Mr. Earl Preston

*Re: [unclear]*XERO  
COPYXERO  
COPY



STATE OF FLORIDA  
DEPARTMENT OF REVENUE

TALLAHASSEE, 32301

May 23, 1984

RANDY MILLER  
EXECUTIVE DIRECTOR

NOTICE TO ALL PANAMA CITY AND PANAMA CITY BEACH MERCHANTS

Notice of correct method in computing sales  
tax when the 1% gross receipts tax is applicable

The cities of Panama City and Panama City Beach, Florida imposes a license tax on all retail merchants' gross sales at \$10.00 for each \$1,000 of such gross sales. The local merchants decided to pass this tax on to the consumer at the 1% rate.

However, it has come to our attention that some merchants are having difficulty in determining whether State sales tax is to be imposed on the total taxable amount of sale including the 1% license tax or if the sales tax is imposed excluding the 1% license tax.

A survey conducted by the Department of Revenue indicates that most merchants have improperly computed the state sales tax by not including the 1% license tax in the taxable base.

The following examples are the correct methods in which sales tax should be computed:

Example (A)

\$499.98	Sales Price
5.00	1% License Tax
<u>\$504.98</u>	Total Sales Price
25.25	5% State Sales Tax
<u>\$530.23</u>	Total

Example (B)

\$504.98	Sales Price
25.25	5% State Sales Tax
<u>\$530.23</u>	Total

The city ordinance does not require separation of the license tax from the sales price and it may be included within the gross sales price or shown as a separate item. In cases where there are no separations of the license tax, as in Example (B), state sales tax shall be computed on the basis of the sales price including the 1% license tax collected by the merchant. In cases where the merchant discloses as a separate item the license tax, as in Example (A), state sales tax shall be computed on the sales price added to the license tax, i.e., the gross receipts, exclusive of the state sales tax.

Failure to properly charge, collect and remit sales tax will subject the dealer or purchaser to additional tax, penalty and interest. Should you have any questions regarding the application of these taxes you may call the Department of Revenue, Taxpayer Assistance Section at (904) 488-6800 or contact the local Department of Revenue area office.



STATE OF FLORIDA  
DEPARTMENT OF REVENUE

TALLAHASSEE, FLORIDA 32399-0100

L. H. Fuchs  
Executive Director

General Tax Administration  
Child Support Enforcement  
Property Tax Administration  
Administrative Services  
Information Services

The cities of Panama City and Panama City Beach, Florida, impose a license fee on all retail merchants gross sales at \$10.00 for each \$1,000.00 of sales. The local merchants decided to pass this FEE on to the consumer at the 1% rate. However, the State Sales Tax should be computed on the sales price INCLUDING the license fee. The computation should be as follows:

(A) \$499.98 Amount Sold  
5.00 1% License Fee  
\$504.98 Total Sales Price or  
35.35 7% State Sales Tax  
\$540.33

(B) \$504.98 Sales Price  
35.35 7% Sales Tax  
\$540.33 Total

The city ordinance does not require separation of the license fee from the sales price and may be included within the gross sales price or shown as a separate item as a charge to the customer.

Florida Sales Tax is in addition to all other taxes; Chapter 212.05(8), Florida Statutes, provides:

"The tax so levied is and shall be in addition to all other taxes, whether levied in the form of excise, license or privilege taxes, and shall be in addition to all other fees and taxes levied."

Also, Chapter 212.15, Florida Statutes, states Sales Tax shall be added to the total sales price of the merchandise sold and separately stated to the consumer.

The TOTAL TAX COLLECTED on each sale is due the State of Florida in its entirety, with allowance for the collection commission or applicable penalty and interest.

We hope this clarifies your questions concerning this matter. If we may be of further service, please feel free to call.

Panama City Taxpayer Service Center  
651 W 14<sup>th</sup> St. STE D  
Panama City, FL 32401  
(850) 872-4165

COMPOSITE EXHIBIT A