



# Agenda Report

**TO:** CITY COUNCIL      **DATE:** March 26 , 2007

**FROM:** CITY MANAGER

**SUBJECT:** DIRECT THE CITY ATTORNEY TO PREPARE AN AMENDMENT TO CHAPTER 4.56 OF THE PASADENA MUNICIPAL CODE ("UTILITY USER TAX") TO CLARIFY ITS ORIGINAL INTENT AND TO REMOVE OBSOLETE REFERENCES IN THE TELEPHONE USERS TAX

## **RECOMMENDATION**

It is recommended that the City Council direct the City Attorney to prepare an amendment, and return within 60 days, to chapter 4.56 of the Pasadena Municipal Code ("Utility User Tax") to clarify its original intent and to remove obsolete references in the telephone users tax.

## **BACKGROUND**

In conformity with the model Utility Users Tax ("UUT") ordinance developed by the League of California Cities, § 4.56.030 of the Pasadena Municipal Code limits the UUT tax base to that portion of a customer's telephone bill that is subject to the federal excise tax (the "FET") under 26 USC § 4251. It is generally understood that this limitation was adopted to ease administration of the UUT by allowing telephone carriers to use a single rate base for both local and federal taxation. Recent developments in both federal case law and Internal Revenue Service regulations and policies make it prudent to eliminate the FET references so as to eliminate ambiguity as to the intended meaning and scope of the UUT ordinance and tax base. This is consistent with the position of the Internal Revenue Service with respect to this change which is that it does not affect the ability of state or local governments to impose or collect telecommunication taxes under the respective statutes of those governments.

The proposed revisions to eliminate references to the FET from Pasadena's tax would reorganize the provisions of the ordinance, delete references to the FET, and add into the text of the local ordinance the language of the FET that listed types of telephone charges that were "not subject to" or "exempt from" the federal tax. Thus, instead of using citations to the FET as a short-hand way of referring to these listed exemptions, the proposed revisions would call out those exemptions verbatim. The effect of these revisions would be to restate the language and intent of the existing ordinance without cross-referencing the FET.

The proposed revisions are not intended to increase taxes or to constitute a change in methodology or otherwise constitute a tax increase for the purposes of Proposition 218.

**FISCAL IMPACT:**

There is no fiscal impact associated with this action.

Respectfully submitted,



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City Manager

Approved by:



Stephen C. Stark  
Director of Finance

Prepared by:



Steve Mermell  
Deputy Finance Director