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Title: Staff Report for Resolutions to Collect Communication Utility Users' Tax (UUT) and Emergency Communication System Access Tax (9-1-1) on Prepaid Wireless Service and to Authorize Examination of Prepaid Mobile Telephone Services Surcharge and Local Charge Records

Indexes:

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Attachments:

Date	Ver.	Action By	Action	Result
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Staff Report for Resolutions to Collect Communication Utility Users' Tax (UUT) and Emergency Communication System Access Tax (9-1-1) on Prepaid Wireless Service and to Authorize Examination of Prepaid Mobile Telephone Services Surcharge and Local Charge Records

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council authorize the City Manager to execute certain documents required by the California State Board of Equalization (BOE) to collect the City's Utility Users' Tax (UUT) and Emergency Communication System Access Tax (9-1-1) on prepaid wireless service, and to approve and authorize the following relating to this tax collection process:

- A resolution authorizing examination of prepaid mobile telephone services surcharge and local charge records
- A resolution authorizing the City Manager to execute an agreement with the State Board of Equalization for implementation of the Local Prepaid Mobile Telephony Services Collection Act
- A resolution to approve amendment No. 4 to the MuniServices, LLC agreement to examine BOE records relating to prepaid wireless UUT and 9-1-1 tax collections
- An amended ordinance for the temporary reduction of the single access line tax on prepaid wireless services

BACKGROUND

Traditionally, a city's UUT and 9-1-1 tax is collected by wireless service providers who include the charge on their customers' monthly invoices. In contrast to this arrangement, customers who purchase prepaid wireless services usually avoid paying any UUT or 9-1-1 tax due to collection complications. With prepaid wireless, there is no contract, no monthly invoices, and the prepaid wireless services are usually sold by retailers, not service providers themselves. It is estimated that approximately 70% of all prepaid wireless services are sold by retailers. Since these transactions

bypass our local UUT and 9-1-1 tax collection channels, the City has experienced a loss of revenues as customers expand their use of prepaid wireless telephone services. Additionally, traditional phone plan users are treated disparately and the burden of the UUT is not equally shared among all telephone users.

Beginning January 1, 2016, AB 1717 will begin collection efforts and solve the collection problem by requiring California retailers and online sellers to collect the local UUT and 9-1-1 tax at the same time it collects sales tax on its other retail products, based on the point of sale (for retail stores in our City). Under this new law, all local jurisdictions have to contract with the State Board of Equalization (BOE) in order to receive UUT and 9-1-1 tax imposed on consumers of prepaid wireless phone service. It should be noted that AB 1717 has a sunset provision of January 1, 2020, to allow time to evaluate if the implementation cost of collection is reasonable and the level of collections are what has been anticipated.

The City of San Leandro enacted a local tax ordinance, with voter approval, imposing a charge on telephone lines that access local 9-1-1 services. This charge is applicable to all wireless or cellphone lines, whether paid on a postpaid (contract) or prepaid basis. The monthly charge for a single access line is \$2.32. In accordance with the Local Prepaid Mobile Telephony Services Collection Act (AB 1717) a collection process to collect the local access line charge on prepaid wireless will be effective January 1, 2016. On the advice of the City's consultant, MuniServices, LLC, the City needs to temporarily reduce the local access line charge for prepaid wireless from \$2.32 to \$1.65 for the period of January 1, 2016 to January 1, 2020, when AB 1717 is scheduled to sunset. This temporary reduction will convert to a percentage rate that is unlikely to render a fixed charge that is higher than the voter approved charge of \$2.32. The City Council may, at any time, restore the \$2.32 rate without voter approval.

In order to receive the UUT and 9-1-1 tax collected by the BOE commencing on January 1, 2016, the City Manager must execute certain documents required by the State BOE as soon as possible, so revenues may be collected for the quarter beginning January 1, 2016. This agreement between the City and the BOE allows for the collection of local charges by the State. If the City elects not to contract with the BOE, it will not receive this revenue. The documents also authorize the City and our UUT revenue consultants to examine the local charge records and surcharges on prepaid mobile telephone services. Finally, the City must amend its agreement with MuniServices, LLC to examine the local charge records and surcharges on prepaid mobile telephone services.

Fiscal Impact

On January 1, 2015, AB 1717 became effective and on January 1, 2016 BOE will allow the City to commence collecting Utility Users' Tax (UUT) and 9-1-1 tax on prepaid mobile telephone services (also referred to as prepaid wireless). While the actual impact of this new revenue source is unknown, the City's UUT revenue consultant (MuniServices, LLC) estimates it will range from 15% to 20% of current **wireless** UUT telecommunication and 9-1-1 tax revenues, which is approximately \$500,000 to \$650,000 per year. This estimate is a statewide average, and individual cities will vary depending on their demographics and the number of large retail stores (located in a city) selling prepaid wireless services. The City will be required to reimburse the State Board of Equalization (BOE) for its implementation costs, with the City's share estimated to be 5% to 6% of the total amounts collected on behalf of the City, or approximately \$25,000 to \$39,000 annually. The BOE costs, and the City's proportionate share, are expected to decline after the first year. The estimated net impact to the fiscal year 2015-16 General Fund Adopted Budget is a net increase of revenues of

approximately \$475,000 to \$611,000.

Budget Authority

The prepaid wireless UUT and 9-1-1 revenues were not included in the adopted biennial budget for 2015-16 and 2016-17, and would be an addition to general fund revenues of approximately \$475,000 to \$611,000.

ATTACHMENTS

Attachments to Resolutions

- Agreement with the State BOE for Collection and Administration of Local Charges
- Agreement Amendment No. 4 with MuniServices, LLC to examine BOE records relating to prepaid wireless UUT and 9-1-1 tax collections

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