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OFFICE OF THE CITY CLERK
OAKLAND
2015 AUG 13 AM 8:55

AGENDA REPORT

TO: Sabrina B. Landreth
CITY ADMINISTRATOR

FROM: David McPherson

SUBJECT: Implementation of Collection of
Local Charges on Prepaid Mobile
Telephony Services

DATE: August 5, 2015

City Administrator
Approval

Date

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff recommends that the City Council Adopt a Resolution Authorizing the Examination of Prepaid Mobile Telephony Services Surcharges and Local Charge Records.

OUTCOME

Adoption of the attached resolution will authorize the examination of prepaid mobile telephony services surcharges and local charge records associated with the passing of Assembly Bill 1717 Telecommunications: prepaid mobile telephony services local charges collections. This action must take place during the Council recess. If the City does not contract with California State Board of Equalization (BOE) by September 1, 2015, for revenue collection beginning January 1, the next deadline is December 1, 2015, for revenue collection beginning April 1, 2016. Thus, to ensure the City receives all allowable revenues associated with AB1717, the City must contract with the BOE by September 1, 2015.

BACKGROUND/LEGISLATIVE HISTORY

In late September 2014 Governor Brown signed Assembly Bill 1717, this bill ensures the collection of existing utility user taxes (UUT) currently not being collected on the sale of prepaid wireless services. Currently if a City collects UUT on mobile phone services, the tax appears as a charge on a subscriber's wireless phone bill. The current system for collecting taxes and fees is based on wireless carriers having a contractual relationship with consumers and collecting those taxes and fees on a monthly bill. However, a growing number of consumers choose to purchase wireless minutes on prepaid cards. This shift in consumer preference has created a problem with collection of existing taxes and fees on wireless services. AB 1717 addresses this situation and provides a mechanism by which the City can collect UUT due the City.

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ANALYSIS

Beginning January 1, 2016, AB 1717 requires the City of Oakland to contract with the BOE in order to receive revenue from local utility UUT and any other local charges imposed on consumers of prepaid mobile services.

To ensure the uninterrupted collection of these local revenues, local jurisdictions must contract with the BOE by September 1, 2015. If a local jurisdiction does not contract with the BOE, any local charges imposed upon prepaid mobile telephony services (MTS) will not be collected by the sellers and the local jurisdiction will not receive local charge revenue from prepaid MTS once the new law is effective on January 1, 2016.

If the local jurisdiction does not contract with BOE by September 1, 2015, the next deadline is December 1, 2015, for collection beginning April 1, 2016. Current law imposes a variety of surcharges on phone services, including prepaid mobile phone services. Currently, phone carriers are generally responsible for collecting and paying these surcharges (for example, the 911 emergency surcharge and California Public Utilities Commission surcharges) to the state. The new law replaces all current charges imposed upon prepaid mobile phone services with a new prepaid MTS surcharge. The prepaid MTS surcharge will be paid by purchasers of prepaid wireless services in California and be collected at the time of purchase.

Under the new law, the MTS surcharge will be the only method for local jurisdictions to collect taxes and surcharges imposed upon prepaid mobile telephone services sold in their jurisdiction.

PUBLIC OUTREACH/INTEREST

This item does not require any additional public outreach.

COORDINATION

This item was prepared in coordination with the City Attorney and the Controller's Bureau.

COST SUMMARY/IMPLICATIONS

Adoption of the attached resolution will allow the City to receive revenues associated with prepaid wireless services.

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SOCIAL EQUITY:

Economic: No direct economic opportunities have been identified.

Environmental: No direct environmental opportunities have been identified.

Social Equity: No social equity opportunities have been identified.

For questions regarding this report, please contact David McPherson, Revenue & Tax Administrator, at 510-238-6650

Respectfully submitted,



David McPherson
Revenue & Tax Administrator
Revenue Management Bureau

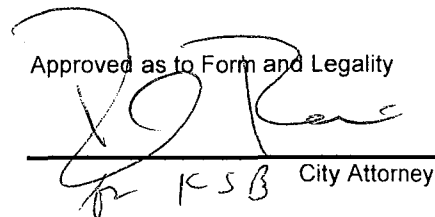
Prepared by:
Margaret O'Brien
Principal Revenue Analyst

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Approved as to Form and Legality


K S B City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE EXAMINATION OF PREPAID MOBILE TELEPHONY SERVICES SURCHARGE AND LOCAL CHARGE RECORDS

WHEREAS, pursuant to Ordinance No. 12844 C.M.S. of the City of Oakland and the Local Prepaid Mobile Telephone Services Collection Act, the City of Oakland, hereinafter called "Local Jurisdiction," entered into a contract with the State Board of Equalization, hereinafter referred to as the "Board," to perform all functions incident to the administration and collection of the prepaid mobile telephony services surcharge and local charges (Rev. & Taxation Code §42101.5); and

WHEREAS, the Local Jurisdiction deems it desirable and necessary for authorized representatives of the Local Jurisdiction to examine confidential prepaid mobile telephony services surcharge and local charge records pertaining to the prepaid mobile telephony services surcharge and local charges collected by the Board for the Local Jurisdiction pursuant to the contract; and

WHEREAS, the Board will make available to the Local Jurisdiction any information that is reasonably available to the Board regarding the proper collection and remittance of a local charge of the Local Jurisdiction by a seller, including a direct seller, subject to the confidentiality requirements of Sections 7284.6, 7284.7, and 19542 of the Revenue and Taxation Code; and

WHEREAS, Sections 42110 and 42103 of the Revenue and Taxation Code set forth certain requirements and conditions for the disclosure of Board of Equalization records and establish criminal penalties for the unlawful disclosure of information contained in or derived from the prepaid mobile telephony services charges and local charge records of the Board; now, therefore, be it

RESOLVED: That the Revenue and Tax Administrator, Principal Revenue Analyst, Revenue Analyst, Revenue Operations Supervisor and Tax Auditor II/III or other officer or employee of the Local Jurisdiction designated in writing by the City Administrator to the Board is hereby appointed to represent the Local Jurisdiction with authority to examine prepaid mobile telephony services surcharge and local charge records of the Board pertaining to prepaid mobile telephony

services surcharge and local charges collected for the Local Jurisdiction by the Board pursuant to the contract between the Local Jurisdiction and the Board; and be it

FURTHER RESOLVED: That the information obtained by examination of the Board records shall be used only for purposes related to the collection of the Local Jurisdiction's prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract; and be it

FURTHER RESOLVED: That the information obtained by examination of the Board records shall only be used for purposes related to the collection of the Local Jurisdiction's prepaid mobile telephony services surcharge and local charges by the Board pursuant to the contract between the Local Jurisdiction and the Board.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California