



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: August 11, 2015

TO: Mayor and Councilmembers

FROM: Treasury Division, Finance Department
City Attorney's Office

SUBJECT: Resolutions To Execute Documents To Collect Prepaid Mobile Telephony Services Surcharges And To Examine Records

RECOMMENDATION: That Council:

- A. Authorize the City Administrator to Enter Into an Agreement with the California Board of Equalization in Order to Receive Utility Users Taxes Imposed on Consumers of Prepaid Mobile Services;
- B. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the City Administrator and the City Attorney to Execute Certain Documents Required by the Board of Equalization to Collect the City's Utility Users Tax on Prepaid Wireless Service; and
- C. Adopt, by reading of title only, A Resolution of the Council of the City of Santa Barbara Authorizing the Examination of Prepaid Mobile Telephony Services Surcharge and Local Charge Records.

DISCUSSION:

Under State Law and the City's Municipal Code, utility users taxes (UUT) are excise taxes imposed on consumers for the consumption of utility services, including electricity, gas, water, sewer, telephone, sanitation, and cable television. In Santa Barbara, a utility company (or its billing agent) collects the tax through the billings it sends to utility customers, and remits the revenues to the City each month.

Currently, UUT is collected by wireless service providers who include the charge on their customers' monthly invoices. For cellular utility taxes, customers pay 5.75% of the customer's telephone charges. However, customers who purchase prepaid wireless services usually avoid paying any UUT 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. Since these transactions bypass the City's local UUT, the City experiences a significant loss of revenue.

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, Chapter 885, Statutes of 2014 (also known as Assembly Bill 1717) will take effect and establishes a prepaid mobile telephony services (MTS) surcharge based on a percentage of the sales price of each retail transaction that occurs in the state for prepaid wireless service. The law establishes a tiered rate structure, which results in the City's rate of 5.75% converting to a MTS rate of 5.5%. AB 1717 will require California retailers and on-line sellers to collect the local UUT at the same time it collects sales tax on its other retail products, based on the point of sale (for retail stores in the City of Santa Barbara). The law requires the retail seller to remit the amounts to the California State Board of Equalization (BOE) who will then distribute the proceeds of the tax related to local UUT charges, less administrative expenses, to the City each quarter. All local jurisdictions must contract with the BOE in order to receive UUT imposed on customers of prepaid wireless phone service.

The proposed resolutions will authorize the City Administrator and the City Attorney to execute certain documents required by the State Board of Equalization to collect the City's UUT on prepaid wireless service, including authorizing the City Administrator to enter into an agreement with the BOE in order to receive UUT imposed on consumers of prepaid mobile services. The resolutions will also authorize the Finance Director or other designated employee/officer to examine the prepaid mobile telephony services surcharge and local charge records. The State Board of Equalization requires local jurisdictions to enter into an agreement by September 1, 2015 in order to begin collecting UUT by January 1, 2016. Any agreements entered between September 1, 2015 and December 1, 2015, will delay the start of collection until April 1, 2016.

BUDGET/FINANCIAL INFORMATION:

Adopting the two resolutions and entering into an agreement with the State Board of Equalization by September 1, 2015 in order to begin receiving UUT imposed on consumers of prepaid wireless services by January 1, 2016 will result in additional revenues for the City. The City has estimated an increase in UUT revenues from cellular charges of approximately \$350,000 for Fiscal Year 2016. These estimates are already included in the recently approved budget for Fiscal Year 2016.

PREPARED BY: Julie Nemes, Treasury Manager

SUBMITTED BY: Robert Samario, Finance Director

APPROVED BY: City Administrator's Office