



OFFICE OF THE CITY ATTORNEY  
ROCKARD J. DELGADILLO  
CITY ATTORNEY

REPORT NO. R 0 6 - 0 4 2 5

DEC 0 1 2006

REPORT RE:

**A DRAFT ORDINANCE AMENDING SECTION 21.1.3 OF  
THE LOS ANGELES MUNICIPAL CODE  
TO MAKE TECHNICAL CLARIFICATIONS**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, California 90012

Council File No. 06-1332

Honorable Members:

In accordance with your action on September 27, 2006, this office has prepared and now transmits for your action the attached draft ordinance, approved as to form and legality. The draft ordinance amends the Telephone Users Tax section of the Los Angeles Municipal Code, making technical clarifications.

Pursuant to Council Rule 38, we transmitted a copy of the draft ordinance to the Office of Finance as well as the offices of the Chief Legislative Analyst and the City Administrative Officer.

If you have any questions, please contact Deputy City Attorney Brian Cheng at (213) 978-7726. Either he or another member of this office will be available when you consider this matter to answer any questions you may have.

Sincerely,

ROCKARD J. DELGADILLO, City Attorney

By

*Claudia Culling*

Claudia Culling

Special Counsel - Municipal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Article 1.1, Chapter II, Section 21.1.3 of the Los Angeles Municipal Code making technical clarifications.

**WHEREAS**, since 1967, the City of Los Angeles has collected a Utility Users Tax on telephone communication services (Telephone Users Tax or TUT), levied under the City's inherent powers as a charter city;

**WHEREAS**, the TUT's reference to Section 4251 of Title 26 of the United States Code (Federal Excise Tax or FET) was added in 1967, shortly after the TUT was adopted, for the administrative convenience of telephone service providers, who were able to bill customers based on an existing tax base;

**WHEREAS**, the FET was not a basis or authority for the City's imposition of the TUT;

**WHEREAS**, on May 25, 2006, the United States Treasury Secretary issued Revenue Notice 2006-50, announcing that the Internal Revenue Service (IRS) would no longer interpret the FET to apply to toll calls billed on the basis of time only, or to certain other "bundled" services; and

**WHEREAS**, the City will continue to carry out its original intent and its long-standing practice of applying its TUT in a manner consistent with the IRS' interpretation of the FET that was in effect prior to the issuance of Revenue Notice 2006-50;

**NOW, THEREFORE,**

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (d) of Section 21.1.3 of the Los Angeles Municipal Code is amended to read:

(d) Exemptions. Notwithstanding the provisions of Subsection (a), the tax imposed under this section shall not be imposed upon any person for using telephone communications services or teletypewriter exchange services under the circumstances set forth below:

1. Certain coin-operated service. Service paid for by inserting coins in coin-operated telephones available to the public shall not be subject to the tax imposed by this section with respect to local telephone service, or with respect to toll telephone service if the charge for such toll telephone service is less than

25 cents; except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax.

2. News services. No tax shall be imposed under this section, except with respect to local telephone service, on any payment received from any person for services used in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for such service is billed in writing to such person.
3. International, etc., organizations. No tax shall be imposed under this section on any payment received for services furnished to an international organization, or to the American National Red Cross.
4. Servicemen in combat zone. No tax shall be imposed under this section on any payment received for any toll telephone service which originates within a combat zone, as defined in Section 112 of Title 26 of the United States Code, from a member of the Armed Forces of the United States performing service in such combat zone, as determined under Section 112 of Title 26 of the United States Code.
5. Items otherwise taxed. Only one payment of tax under this section shall be required with respect to the tax on any service, notwithstanding the lines or stations of one or more persons are used in furnishing such service.
6. Common carriers and communications companies. No tax shall be imposed under this section on the amount paid for any toll telephone service described in Sec. 4252(b)(2) of Title 26 of the United States Code to the extent that the amount so paid is for use by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business as such.
7. Installation charges. No tax shall be imposed under this section on so much of any amount paid for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to such installation.

8. Nonprofit hospitals. No tax shall be imposed under this section on any amount paid by a nonprofit hospital for services furnished to such organization. For purposes of this exemption, the term “nonprofit hospital” means a hospital referred to in Section 170(b)(1)(A)(iii) of Title 26 of the United States Code which is exempt from federal income tax under Section 501(a) of Title 26 of the United States Code.
9. State and local government exemption. No tax shall be imposed under this section upon any payment received for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.
10. Exemption for nonprofit educational organizations. No tax shall be imposed under this section on any amount paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this exemption, the term “nonprofit educational organization” means an educational organization described in Section 170(b)(1)(A)(ii) of Title 26 of the United States Code which is exempt from federal income tax under Section 501(a) of Title 26 of the United States Code. The term also includes a school operated as an activity of an organization described in Section 501(c)(3) of Title 26 of the United States Code which is exempt from federal income tax under Section 501(a) of Title 26 of the United States Code, if such school normally maintains a regular facility and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

**Sec. 2. This ordinance shall not be construed as imposing a new tax, or extending or increasing an existing tax.**

Sec. 3. If this ordinance is declared to be invalid by final judgment or order of a court of competent jurisdiction, then the provisions of Section 21.1.3 as that section read on December 1, 2006, will be reinstated and become effective as of the date of the judgment or order.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

FRANK T. MARTINEZ, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By Brian I. Cheng  
BRIAN I. CHENG  
Deputy City Attorney

Date Dec. 1, 2006

File No. 06-1332