

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	ORDINANCE NO. 99-824A
CODE CHAPTER 7.01 TO MODIFY AND ADJUST	)	
METRO EXCISE TAXES AND MAKING OTHER	)	Introduced by
RELATED AMENDMENTS	)	Councilor Bragdon

WHEREAS, it is desirable to review the excise tax imposed use of the facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by Metro; and

WHEREAS, it is necessary to adjust the excise taxes imposed by Metro Chapter 7.01 to take advantage for the public interest of the savings resulting from certain recent amendments to significant Metro solid waste contracts; and

WHEREAS, this ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 7.01.010 is amended to read:

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meaning indicated:

(a) "Accrual basis accounting" means revenues are recorded in the accounting period in which they are earned and become measurable whether received or not.

(b) "Cash basis accounting" means revenues are recorded when cash is received.

(c) "District facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the district. District facility includes but is not limited to all services provided for compensation by employees, officers or agents of Metro, including but not limited to the Metro Washington Park Zoo, Metro ERC facilities, all solid waste system facilities, and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the district.

(d) "Facility Retrieval Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015(i).

(e) "Installment payments" means the payment of any amount that is less than the full payment owed either by any user to the district or to an operator or by an operator to the district.

(f) "Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

(g) "Operator" means a person other than the district who receives compensation from any source arising out of the use of a district facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

(h) "Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

(i) "Payment" means the consideration charged, whether or not received by the district or an operator, for the use of a district facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

(j) "Processing Residual shall have the meaning assigned thereto in Metro Code Section 5.02.015(s).

(k) "Recovery Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015(u).

(l) "Solid waste system facility" means all facilities defined as such pursuant to section 5.05.010(t) including but not limited to all designated facilities set forth in section 5.05.030 and any non-system facility as defined in section 5.05.010(i) that receives solid waste from within the Metro boundary whether pursuant to an authorized non-system license or otherwise.

(m) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

(n) "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting.

(o) "Tax" means the tax imposed in the amount established in subsection 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

(p) "User" means any person who pays compensation for the use of a district facility or receives a product or service from a district facility subject to the payment of compensation

SECTION 2. Metro Code Section 7.01.020 is amended to read:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) In lieu of taxes imposed under (a) of this section, for the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of all solid waste system facilities shall pay a tax of \$9.00 for each ton of solid waste exclusive of source separated recyclable materials accepted at the solid waste system facilities.

(d) The following users of solid waste system facilities shall be allowed a credit in the amount of \$5.17 per ton against the Excise Tax otherwise due under Section 7.01.020(c):

- (1) Any person delivering authorized, non-putrescible waste to any landfill that is authorized to receive such waste through a Metro franchise or Designated Facility Agreement; or
- (2) Any person delivering authorized, non-putrescible waste under the authority of a Metro Non System License.

(e) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(c) or (d) for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the

Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:

Excise Tax Credit Schedule

Recovery Rate		Excise Tax Credit per ton of no more than
From Above	Up To & Including	
0%	20%	0.00
20%	25%	0.15
25%	30%	0.50
30%	35%	1.00
35%	40%	1.25
40%	100%	1.50

(f) In lieu of taxes imposed under (a) and (c) of this section and notwithstanding section 7.01.050(a)(6), operators of solid waste facilities licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contract operator for disposal of putrescible waste shall pay a tax in the amount of \$9.00 per ton of putrescible waste delivered directly to the district's contract operator for disposal of putrescible waste."

### SECTION 3. Alternative Interim Excise Tax for Qualifying Facilities

(a) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each Qualifying Facility as defined in this Section shall pay a tax of 8.5 percent of the payments charged by the operator or the district for the use of all solid waste system facilities, together with any tax due under Metro Code Section 5.02.045, during any month in which the provisions of this Section are effective. Such taxes shall be in lieu of the taxes imposed under Section 2 of this Ordinance.

(b) For the purpose of this section, a Qualifying Facility shall mean a solid waste system facility which obtains a negative Net Revenue Impact as calculated under this Section during any month in which the provisions of this section are effective.

(c) Net Revenue Impact shall be calculated by adding:

(i) The total amount of any charges exclusive of any excise tax that would have been due under Metro Code Section 5.02.030 prior to February 1, 2000 from the solid waste system facility, less the total amount of charges, if any, that would be due from such facility as of February 1, 2000, in the event that Section 1 of Metro Ordinance No. 99-823 is adopted;

To the sum of

(ii) The total amount of excise tax that would have been due from the solid waste system facility under both Metro Code Section 5.02.045 and 7.01.020 prior to February 1, 2000, less the total amount of excise tax that would be due on such tonnage in the event that Section 2 of this Ordinance is adopted.

(d) If the result of the calculation set forth in subsection (c) is a negative number, the solid waste system facility shall be deemed a Qualifying Facility and shall be entitled to pay a tax of 8.5 percent of the payment charged by the operator for the use of such facility. If result of the calculation set forth in subsection (c) is a positive number, the solid waste system facility shall pay the tax set forth in Section 2 of this Ordinance.

(e) The provisions of this Section are repealed June 30, 2000.

SECTION 4. Section 5 of this Ordinance is added to and made a part of Metro Code Chapter 7.01.


SECTION 5. Commencing with the Metro fiscal year beginning July 1, 2002, and each year thereafter, the taxes imposed by Section 7.01.020(c) shall be increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Vancouver (All Urban Consumers) reported for the first six months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued.

SECTION 6. Section 7 is added to and made a part of Metro Code 7.01.050(a)

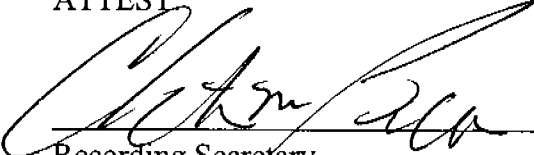
SECTION 7. Users disposing of solid waste that has been generated outside the district and is disposed at any privately owned facility franchised under Metro 5.01.045(c)(1), provided that the tonnage amount of out of district solid waste disposed each month at such facility does not exceed 10% of the total amount of solid waste disposed each month at the facility. Any tonnage amount of out of district solid waste which exceeds 10% of the total amount of solid waste disposed each month at such facility shall be subject to the provisions of Metro Code 7.01.020

SECTION 8. The amendments to the Metro Code provided for in this Ordinance shall take effect on February 1, 2000.


ADOPTED by the Metro Council this 28<sup>th</sup> day of OCTOBER, 1999.

  
Rod Monroe, Presiding Officer

ATTEST:

  
Recording Secretary  
MDF:jep ord99-824.rdl.doc

Approved as to Form:

  
Daniel B. Cooper, General Counsel

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(d) "Facility Retrieval Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015(i).

(d)(e) "Installment payments" means the payment of any amount that is less than the full payment owed either by any user to the district or to an operator or by an operator to the district.

~~(e)~~(f) "Metro ERC facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.

~~(f)~~(g) "Operator" means a person other than the district who receives compensation from any source arising out of the use of a district facility. Where the operator performs his/her functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his/her principal. Compliance with the provisions of this chapter by either the principal or managing agent shall be considered to be compliance by both.

~~(g)~~(h) "Person" means any individual, firm, partnership, joint venture, association, governmental body, joint stock company, corporation, estate, trust, syndicate, or any other group or combination acting as a unit.

~~(h)~~(i) "Payment" means the consideration charged, whether or not received by the district or an operator, for the use of a district facility, valued in money, goods, labor, credits, property or other consideration valued in money, without any deduction.

~~(i)~~(j) "Processing Residual shall have the meaning assigned thereto in Metro Code Section 5.02.015(s).

~~(j)~~(k) "Recovery Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015(u).

~~(k)~~(l) "Solid waste system facility" means all facilities defined as such pursuant to section 5.05.010(t) including but not limited to all designated facilities set forth in section 5.05.030 and any non-system facility as defined in section 5.05.010(i) that receives solid waste from within the Metro boundary whether pursuant to an authorized non-system license or otherwise.

~~(l)~~(m) "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

~~(m)~~(n) "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting.

~~(n)~~~~(o)~~ (o) "Tax" means the tax imposed in the amount established in subsection 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

~~(o)~~(p) "User" means any person who pays compensation for the use of a district facility or receives a product or service from a district facility subject to the payment of compensation



SECTION 2. Metro Code Section 7.01.020 is amended to read:

7.01.020 Tax Imposed

~~\_\_\_\_\_ (a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). Each user of all solid waste system facilities shall pay an additional tax of 1.0 percent of the payment charged by the operator or the district. The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.~~

~~\_\_\_\_\_ (b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.~~

~~\_\_\_\_\_ (c) In lieu of taxes imposed under (a) of this section, for the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of all solid waste system facilities shall pay a tax of \$8.23 for each ton of solid waste exclusive of source separated recyclable materials accepted at the solid waste system facilities.~~

~~\_\_\_\_\_ (d) The following users of solid waste system facilities shall be allowed a credit in the amount of \$4.40 per ton against the Excise Tax otherwise due under Section 7.01.020(c):~~

~~\_\_\_\_\_ (1) Any person delivering authorized, non-putrescible waste to any landfill that is authorized to receive such waste through a Metro franchise or Designated Facility Agreement; or~~

~~\_\_\_\_\_ (2) Any Person delivering authorized, non-putrescible waste under the authority of a Metro Non System License.~~

~~\_\_\_\_\_ (e) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(c) or (d)~~

~~for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:~~

Excise Tax Credit Schedule

<u>Recovery Rate</u>		<u>Excise Tax Credit per ton of no more than</u>
<u>From Above</u>	<u>Up To &amp; Including</u>	
<u>0%</u>	<u>20%</u>	<u>0.00</u>
<u>20%</u>	<u>25%</u>	<u>0.15</u>
<u>25%</u>	<u>30%</u>	<u>0.50</u>
<u>30%</u>	<u>35%</u>	<u>1.00</u>
<u>35%</u>	<u>40%</u>	<u>1.25</u>
<u>40%</u>	<u>100%</u>	<u>1.50</u>

~~(c)(f) In lieu of taxes imposed under (a) and (c) of this section and notwithstanding section 7.01.050(a)(6), operators of solid waste facilities licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contract operator for disposal of putrescible waste shall pay a tax in the amount of \$1.76 \$8.23 per ton of putrescible waste delivered directly to the district's contract operator for disposal of putrescible waste.~~

SECTION 2. Metro Code Section 7.01.020 is amended to read:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). Each user of all solid waste system facilities shall pay an additional tax of 1.0 percent of the payment charged by the operator or the district. The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all

operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) In lieu of taxes imposed under (a) of this section, for the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements; owned, operated, certified, licensed, franchised, or provided by the district, each user of all solid waste system facilities shall pay a tax of ~~\$8.23~~\$9.00 for each ton of solid waste exclusive of source separated recyclable materials accepted at the solid waste system facilities.

(d) The following users of solid waste system facilities shall be allowed a credit in the amount of ~~\$4.40~~\$5.17 per ton against the Excise Tax otherwise due under Section 7.01.020(c):

(1) Any person delivering authorized, non-putrescible waste to any landfill that is authorized to receive such waste through a Metro franchise or Designated Facility Agreement; or

(2) Any person delivering authorized, non-putrescible waste under the authority of a Metro Non System License.

(e) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(c) or (d) for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:

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(f) In lieu of taxes imposed under (a) and (c) of this section and notwithstanding section 7.01.050(a)(6), operators of solid waste facilities licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contract operator for disposal of putrescible waste shall pay a tax in the amount of ~~\$1.76~~\$9.00 per ton of putrescible waste delivered directly to the district's contract operator for disposal of putrescible waste."

### SECTION 3. Alternative Interim Excise Tax for Qualifying Facilities

(a) For the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each Qualifying Facility as defined in this Section shall pay a tax of 8.5 percent of the payments charged by the operator or the district for the use of all solid waste system facilities, together with any tax due under Metro Code Section 5.02.045, during any month in which the provisions of this Section are effective. Such taxes shall be in lieu of the taxes imposed under Section 2 of this Ordinance.

(b) For the purpose of this section, a Qualifying Facility shall mean a solid waste system facility which obtains a negative Net Revenue Impact as calculated under this Section during any month in which the provisions of this section are effective.

(c) Net Revenue Impact shall be calculated by adding:

(i) The total amount of any charges exclusive of any excise tax that would have been due under Metro Code Section 5.02.030 prior to February 1, 2000 from the solid waste system facility, less the total amount of charges, if any, that would be due from such facility as of February 1, 2000, in the event that Section 1 of Metro Ordinance No. 99-823 is adopted;

To the sum of

(ii) The total amount of excise tax that the solid waste system facility would have been due under both Metro Code Section 5.02.045 and 7.01.020 prior to February 1, 2000, less the total amount of excise tax that would be due on such tonnage in the event that Section 2 of this Ordinance is adopted.

(d) If the result of the calculation set forth in subsection (c) is a negative number, the solid waste system facility shall be deemed a Qualifying Facility and shall be entitled to pay a tax of 8.5 percent of the payment charged by the operator for the use of such facility. If result of the calculation set forth in subsection (c) is a positive number, the solid waste system facility shall pay the tax set forth in Section 2 of this Ordinance.

(e) The provisions of this Section are repealed June 30, 2000.

SECTION 34. Section 5 of this Ordinance is added to and made a part of Metro Code Chapter 7.01.

SECTION 45. Commencing with the Metro fiscal year beginning July 1, 2002, and each year thereafter, the taxes imposed by Section 7.01.020(c) shall be increased by a percentage equal to

(a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Vancouver (All Urban Consumers) reported for the first six months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued.

SECTION 6. Section 7 is added to and made a part of Metro Code 7.01.050(a)

SECTION 7. Users disposing of solid waste that has been generated outside the district and is disposed at any privately owned facility franchised under Metro 5.01.045(c)(1), provided that the tonnage amount of out of district solid waste disposed each month at such facility does not exceed 10% of the total amount of solid waste disposed each month at the facility. Any tonnage amount of out of district solid waste which exceeds 10% of the total amount of solid waste disposed each month at such facility shall be subject to the provisions of Metro Code 7.01.020

SECTION 8. The amendments to the Metro Code provided for in this Ordinance shall take effect on February 1, 2000.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

MDF:jep ord99-824.rdl.doc

\_\_\_\_\_  
Daniel B. Cooper, General Counsel

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~~(i)~~(l) "Solid waste system facility" means all facilities defined as such pursuant to section 5.05.010(t) including but not limited to all designated facilities set forth in section 5.05.030 and any non-system facility as defined in section 5.05.010(i) that receives solid waste from within the Metro boundary whether pursuant to an authorized non-system license or otherwise.

~~(m)~~ "Source Separate" or "Source Separated" or "Source Separation" means that the person who last uses recyclable material separates the recyclable material from Solid Waste.

~~(n)~~ "Source-separated recyclable material" or "Source-separated recyclables" means material that has been Source Separated for the purpose of Reuse, Recycling, or Composting.

~~(j)~~(o) "Tax" means the tax imposed in the amount established in subsection 7.01.020, and includes both the tax payable by a user and the aggregate amount of taxes due from an operator during the period for which he/she is required to report and pay the tax.

~~(k)~~(p) "User" means any person who pays compensation for the use of a district facility or receives a product or service from a district facility subject to the payment of compensation

SECTION 2. Metro Code Section 7.01.020 is amended to read:

7.01.020 Tax Imposed

(a) For the privilege of the use of the facilities, equipment, systems, functions, services, or improvements owned, operated, certified, licensed, franchised, or provided by the district, each user shall pay a tax of 7.5 percent of the payment charged by the operator or the district for such use unless a lower rate has been established as provided in subsection 7.01.020(b). ~~Each user of all solid waste system facilities shall pay an additional tax of 1.0 percent of the payment charged by the operator or the district.~~ The tax constitutes a debt owed by the user to the district which is extinguished only by payment of the tax directly to the district or by the operator to the district. The user shall pay the tax to the district or to an operator at the time payment for the use is made. The operator shall enter the tax on his/her records when payment is collected if the operator keeps his/her records on the cash basis of accounting and when earned if the operator keeps his/her records on the accrual basis of accounting. If installment payments are paid to an operator, a proportionate share of the tax shall be paid by the user to the operator with each installment.

(b) The council may for any period commencing no sooner than July 1 of any year and ending on June 30 of the following year establish a tax rate lower than the rate of tax provided for in subsection 7.01.020(a) by so providing in an ordinance adopted by the district. If the council so establishes a lower rate of tax, the executive officer shall immediately notify all operators of the new tax rate. Upon the end of the fiscal year the rate of tax shall revert to the maximum rate established in subsection 7.01.020(a) unchanged for the next year unless further action to establish a lower rate is adopted by the council as provided for herein.

(c) In lieu of taxes imposed under (a) of this section, for the privilege of the use of the solid waste system facilities, equipment, systems, functions, services, or improvements, owned, operated, certified, licensed, franchised, or provided by the district, each user of all solid waste system facilities shall pay a tax of \$8.23 for each ton of solid waste exclusive of source separated recyclable materials accepted at the solid waste system facilities.

(d) The following users of solid waste system facilities shall be allowed a credit in the amount of \$4.40 per ton against the Excise Tax otherwise due under Section 7.01.020(c):

(1) Any person delivering authorized, non-putrescible waste to any landfill that is authorized to receive such waste through a Metro franchise or Designated Facility Agreement; or

(2) Any Person delivering authorized, non-putrescible waste under the authority of a Metro Non System License.

(e) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Excise Tax otherwise due under Section 7.01.020(c) or (d)



for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:

Excise Tax Credit Schedule

<u>Recovery Rate</u>		<u>Excise Tax Credit per ton of no more than</u>
<u>From Above</u>	<u>Up To &amp; Including</u>	
<u>0%</u>	<u>20%</u>	<u>0.00</u>
<u>20%</u>	<u>25%</u>	<u>0.15</u>
<u>25%</u>	<u>30%</u>	<u>0.50</u>
<u>30%</u>	<u>35%</u>	<u>1.00</u>
<u>35%</u>	<u>40%</u>	<u>1.25</u>
<u>40%</u>	<u>100%</u>	<u>1.50</u>

(e)(f) In lieu of taxes imposed under (a) and (c) of this section and notwithstanding section 7.01.050(a)(6), operators of solid waste facilities licensed or franchised under chapter 5.01 of this Code to deliver putrescible waste directly to the district's contract operator for disposal of putrescible waste shall pay a tax in the amount of ~~\$1.76~~ \$8.23 per ton of putrescible waste delivered directly to the district's contract operator for disposal of putrescible waste.

SECTION 3. Section 4 of this Ordinance is added to and made a part of Metro Code Chapter 7.01.

SECTION 4. Commencing with the Metro fiscal year beginning July 1, 2002, and each year thereafter, the taxes imposed by Section 7.01.020(c) shall be increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Vancouver (All Urban Consumers) reported for the first six months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued.

ADOPTED by the Metro Council this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Recording Secretary

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Daniel B. Cooper, General Counsel

## **STAFF REPORT**

### **CONSIDERATION OF ORDINANCE NO. 99-824 AMENDING METRO CODE CHAPTER 7.01 TO MODIFY AND ADJUST METRO EXCISE TAXES AND MAKING OTHER RELATED AMENDMENTS**

Date: October 1, 1999

Presented by: Terry Petersen

## **BACKGROUND**

At the present time an excise tax is collected from users of facilities, products or services provided by Metro or its licensed, franchised, or regulated interests. The rate established by the Council is 7.5% of the payment for that use, product or service. Also, each user of solid waste system facilities pays an additional 1% to be used to support Regional Parks and Greenspaces programs. The exceptions to this tax are listed in subsection 7.01.050 of the Metro Code.

The recently re-negotiated solid waste contracts for transport and disposal have provided an opportunity to consider how to allocate the resulting cost reductions. In order to capture these cost reductions for other uses, the level of the excise tax needs to be adjusted. The Council has held a number of public hearings to receive comment on how to utilize the contract cost reductions. Options included:

- *Funding of charter mandated programs;*
- *Restoring fund balances to fiscally prudent levels;*
- *Mitigating cost increases in disposal of solid waste within the Region;*
- *Enhancing recycling efforts to meet regional targets and funding the growth in hazardous waste services; and*
- *Many other suggestions.*

## **ANALYSIS AND OPTIONS**

An analysis was performed by staff that compared the present percentage tax structure to a per-ton tax. A number of per ton options were initially analyzed, including a flat rate, a higher rate at Metro transfer stations only, and a 3-tier system (wet waste, dry waste, and residual from Material Recovery Facilities).

Each of these options were measured against the following design criteria:

- ◆ What is the level of certainty that this option would produce revenue that would continue at a stable predictable rate?
- ◆ How does this option promote waste reduction activities?
- ◆ Would this option be fair and understandable?
- ◆ What would be the administrative costs associated with this option?
- ◆ Does this option provide a level playing field for all stakeholders?

This analysis was reviewed with the REM Council Committee on September 22, 1999. The committee gave general direction to staff to develop the 3-tier tax option because it:

- ◆ Provides a stable basis for forecasting revenue
- ◆ Ensures that the facilities that receive the greatest benefit from the contract savings will pay a higher proportion of the tax
- ◆ Shares the tax burden more equally across the region
- ◆ Promotes waste reduction activities by holding the rate paid by the Material Recovery Facilities (MRFs) steady at the current effective rate per ton

The tax structure in Ordinance 99-824 establishes a version of the 3-tier option, with the tiers accomplished through credits. A single per ton tax of \$8.23 is proposed with a credit of \$4.40 for non-putrescible waste. In addition, there is a proposed credit system whereby material recovery facilities can receive a further tax credit depending upon their recovery rate. The proposed credit schedule is shown below.

The proposed Excise Tax Credit for recycling will allow facilities that have higher recovery rates to receive a tax credit based on a sliding scale as outlined below. This scale is similar to the one used for the Regional System Fee Credit program.

Recovery Rate		Tax Credit Per Ton
From	To	
0%	20%	\$0
20%	25%	\$0.15
25%	30%	\$0.50
30%	35%	\$1.00
35%	40%	\$1.25
40%	100%	\$1.50

## **FISCAL IMPACT**

At the currently authorized rate of 8.5% it is forecast that excise tax receipts from solid waste facilities will be approximately \$6 million in FY 2000-01. Due to the re-negotiation of the solid waste contracts, there is \$6.1 million "gross" savings available in FY 2000-01. Ordinance 99-824 as proposed would replace \$3 million of the contract cost reductions with additional general revenue that can be used for non-solid waste purposes.

On average, the effective financial impact on solid waste facilities, projected for FY 2000-01 is shown below:

<u>Type of Facility</u>	<u>Effective Rate Per Ton (w/current tax rates)</u>	<u>Effective Rate Per Ton * (w/proposed tax rates)</u>	<u>Change from Current Rate</u>
Transfer Stations	\$5.05	\$8.23	\$3.18
Reloads/Wet Waste	\$4.78	\$8.23	\$3.45
Landfills	\$3.83	\$3.83	\$0
MRFs/Residual	\$2.72	\$2.72**	\$0

\* After tax credit

\*\* This is the effective tax rate if the MRF recovers 35% or more of the mixed dry waste received at the facility. If the MRF recovers 20% or less, the per-ton tax rate would effectively be the same as the landfills. If the recovery rate is between 20-35%, the effective tax rate will be between \$3.83 and \$2.72.

Within each of the facility types shown, there is currently variation between individual facilities in the per ton amount of excise tax paid to Metro. This variation is caused by the different prices charged at different facilities. For example, the current per ton excise tax at Hillsboro Landfill is \$4.30 and the current rate at Lakeside Landfill is \$3.28.

The proposed tax rate structure in Ordinance 99-824 effectively averages the current tax rates for the same facility types. Therefore, converting to the proposed rate structure will cause some facilities to pay more, and other less, than they currently pay. Of all the options studied, the proposed tax structure is the most revenue neutral in terms of tax increases being associated with offsetting decreases in contract savings.

Ordinance 99-824 also includes an inflationary adjustment. Beginning in FY 2002-03, the excise tax on solid waste facilities would be annually adjusted by the percentage change in the Consumer Price Index (CPI), all items, for Portland-Vancouver (all Urban Consumers) as reported for the first half of the Federal reporting year.