

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING PROVISIONS OF) ORDINANCE NO. 05-1091A)
METRO CODE CHAPTER 7.01 RELATING TO EXCISE)
TAX IMPOSED ON CERTAIN CONSUMER AND)
EXHIBITOR PAYMENTS AT METRO REGIONAL) Michael Jordan, Chief Operating
PARKS AND AT THE METROPOLITAN EXPOSITION-) Officer in concurrence with Council
RECREATION COMMISSION FACILITIES) President Bragdon

WHEREAS, Chapter 7.01 of the Metro Code imposes an excise tax on certain payments made by consumers and exhibitors at licensed events and retail businesses at Metro regional parks and at the facilities managed by the Metropolitan Exposition-Recreation Commission ("MERC"); and

WHEREAS, Metro does not presently collect excise tax on payments made by consumers or exhibitors when the payments are made to operators only and are not repaid to MERC or Metro; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by members of the public for admission to events held at Metro regional parks and at the MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by members of the public to purchase goods and services from exhibitors at events held at Metro regional parks and at the MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by exhibitors to event organizers for the right to use booth space, exhibit space, or utilities or other event-related services at events held at MERC facilities; and

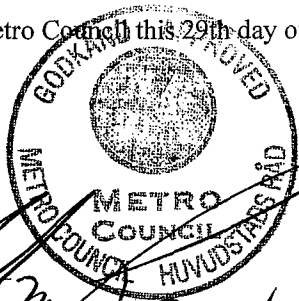
WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by persons to purchase goods or services from retail businesses operating on the premises of the MERC facilities pursuant to long-term lease agreements; and

WHEREAS, it is desirable to amend Chapter 7.01 to include an exemption from the excise tax on payments made by consumers and exhibitors to operators to ensure that Chapter 7.01 accurately reflects Metro's actual excise tax collection practices; now, therefore

THE METRO COUNCIL ORDAINS that:

- 1. Metro Code Chapter 7.01, Section 7.01.010 is amended to read as shown on Exhibit "A".
- 2. Metro Code Chapter 7.01, Section 7.01.050 is amended to read as shown on Exhibit "AB."

ADOPTED by the Metro Council this 29th day of September 2005.



David Bragdon

David Bragdon, Council President

Attest:

Christina Billington

Christina Billington, Recording Secretary

Approved as to form:
Daniel B. Cooper

Daniel B. Cooper, Metro Attorney

7.01.010 Definitions

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) "Cleanup Material Contaminated By Hazardous Substances" means solid waste resulting from the cleanup of release of hazardous substances into the environment, including petroleum contaminated soils and sandbags from containment of chemical spills provided that such substances are derived from nonrecurring environmental cleanup activity. Cleanup Material Contaminated By Hazardous Substances does not mean solid waste generated by manufacturing or industrial processes.

(d) "Metro facility" means any facility, equipment, system, function, service or improvement owned, operated, franchised or provided by Metro. Metro 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 Oregon 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 Metro.

(e) "Inert" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

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

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

(h) "Metro regional park" means any park or park facility, equipment, system, function, service or improvement operated or managed by Metro, including but not limited to Oxbow Regional Park, Blue Lake Regional Park, Smith and Bybee Wetlands Natural

Area, Howell Territorial Park, Chinook Landing Marine Park, M. James Gleason Memorial Boat Ramp, and Sauvie Island Boat Ramp. For purposes of this chapter, "Metro regional park" does not include Glendoveer Golf Course.

(~~h~~i) "Operator" means a person other than Metro who receives compensation from any source arising out of the use of a Metro 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.

(~~i~~j) "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.

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

(~~k~~l) "Processing Residual" shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(~~l~~m) "Facility Recovery Rate" shall have the meaning assigned thereto in Metro Code Section 5.02.015.

(~~m~~n) "Regional Recovery Rate" shall have the meaning assigned thereto in ORS 459A.010(4)(a).

(~~n~~o) "Solid waste system facility" means all facilities defined as such pursuant to Section 5.05.010 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 that receives solid waste from within the Metro Area whether pursuant to an authorized non-system license or otherwise.

(~~o~~p) "Source Separate" or "Source Separated" or "Source Separation" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~p~~q) "Source-separated recyclable material" or "Source-separated recyclables" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~e~~r) "Tax" means the tax imposed in the amount established in Section 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.

(~~r~~s) "Useful material" shall have the meaning assigned thereto in Metro Code Section 5.01.010.

(~~s~~t) "User" means any person who pays compensation for the use of a Metro facility or receives a product or service from a Metro facility subject to the payment of compensation.

7.01.050 Exemptions

(a) The following persons, users and operators are exempt from the requirements of this chapter:

- (1) Persons, users and operators whom Metro is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
- (2) Persons who are users and operators of the Portland Center for the Performing Arts.
- (3) Persons whose payments to Metro or to an operator constitute a donation, gift or bequest for the receipt of which neither Metro nor any operator is under any contractual obligation related thereto.
- (4) Any persons making payment to Metro for a business license pursuant to ORS 701.015.
- (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to Metro for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Oregon Zoo.
- (6) Users of the following facilities:
 - (A) Facilities that are certified, licensed, franchised or exempt from regulation under Metro Code Chapter 5.01 other than Disposal Sites or Transfer Stations that are not subject to the requirements of Metro Code Section 5.01.125(a) as amended by Metro Ord. 00-866;
 - (B) Facilities that treat to applicable DEQ standards Cleanup Material Contaminated by Hazardous Substances;
 - (C) Licensed yard debris processing facilities or yard debris reload facilities;

- (D) Tire processing facilities that sort, classify or process used tires into fuel or other products and thereafter produce a Processing Residual that is regulated under Metro Code Chapter 5.01 and that conforms to standards established pursuant to ORS 459.710(2) by the Oregon Environmental Quality Commission.
- (7) Persons making payments to Metro for the following purposes:
- (A) Individual or corporate sponsorship or naming rights contracts. A naming rights contract is any contract under which a Metro or Metro ERC facility or part of a facility (as authorized by Metro Code Chapter 2.16) will be named for the sponsor in exchange for payment from the sponsor. A sponsorship contract is a contract under which the sponsor's name or logo will be used in connection with a district facility's goods, buildings, parts of buildings, services, systems, or functions in exchange for payment from the sponsor. This exemption applies to any payments pursuant to sponsorship or naming rights contracts, including payments of money, goods, services, labor, credits, property, or other consideration.
 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

- (E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
 - (F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;
 - (G) Notwithstanding the provisions of subsection (C) through (F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.
- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor which is regulated pursuant to Metro Code Chapter 5.01 and which sorts, classifies or processes used tires into fuel or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process, provided said residual conforms to Environmental Quality Commission standards established pursuant to ORS 459.710(2). This exemption is only granted to the extent, and under the terms, specified in the Metro certificate, license or franchise.

(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(11) Persons making the following payments:

(A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and

(B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and

(C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.

(D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.

(12) Persons making the following payments:

(A) Payments to a person or entity other than Metro that entitle a person to admission to an event that is held at a Metro regional park; and

(B) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food or beverages at an event being held at a Metro regional park pursuant to the terms of a special use permit issued by Metro; and

(C) Payments to an operator that entitle a person to buy goods, services, food or beverages from an operator selling such goods, services, food, or beverages at an event that is being sponsored and conducted by Metro at a Metro regional park.

(D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to an operator authorized by Metro to sell goods, food or beverages or to provide services at a Metro regional park shall be subject to tax.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 05-1091A, FOR THE PURPOSE OF AMENDING PROVISIONS OF METRO CODE CHAPTER 7.01 RELATING TO EXCISE TAX IMPOSED ON CERTAIN CONSUMER AND EXHIBITOR PAYMENTS AT THE METROPOLITAN EXPOSITION-RECREATION COMMISSION FACILITIES

Date: September 29, 2005

Prepared by: Jeff Miller and Kathy Taylor

BACKGROUND

Metro does not presently collect sales tax on payments made by consumers and exhibitors at licensed events and retail businesses at facilities managed by the Metropolitan Exposition-Recreation Commission. Amending Metro code chapter 7.01 to include an exemption from excise tax on payments made by consumers and exhibitors to operators accurately reflects Metro's actual excise tax collection practices.

The proposed exemption does not affect the following revenue, all of which will continue to be subject to the excise tax of 7.5%:

- Facility rental charges (paid by event licensees) and all event-related charges (paid by both event licensees and by event participants, such as exhibitors), when such payments are made directly to MERC;
- Rent payments paid to MERC by the retail lessees (Kinko's, Appellation Oregon, Your Northwest, Pacific Coast Bank);
- Gross concessions and catering revenue collected by MERC's authorized concessionaire;
- Gross parking revenue collected by MERC's authorized parking lot management contractor;
- Commissions paid to MERC by private operators of miscellaneous services provided at the MERC facilities, including commissions paid by ATM operators, vending machine operators, and electrical contractor Hollywood Lights (at the Expo Center).

See attachment for detailed analysis.

ANALYSIS/INFORMATION

1. Known Opposition: None known.

2. Legal Antecedents ORS 268.507 authorizes Metro, subject to the provisions of its charter, to impose by ordinance excise taxes on any person using the facilities, equipment, systems, functions, services or improvements owned, operated, franchised or provided by Metro.

Ordinance No. 90-333-A added Chapter 7.01, Excise Taxes, to the Metro Code. Section 7.01.020(a) of the Code imposed a tax on users of Metro facilities, including the facilities operated by the Metropolitan Exposition-Recreation Commission. However, Ordinance No. 90-333-A exempted the following users from the tax:

Users who are sublessees, subtenants, sublicensees, or other persons paying compensation for the use of Metro ERC Facilities including payments by users for concessions or catering services made to the Commission or its agents but not users who purchase admission tickets for events at Metro ERC Facilities that are available to members of the general public.

Ordinance No. 95-590 deleted the entire exemption quoted above.

- 3. Anticipated Effects:** This action codifies the actual practice of how Metro imposes an excise tax.
- 4. Budget Impacts:** Gross revenue collected by OCC's wireless internet provider would be exempt under this section. The 2004-05 excise tax generated from this revenue source was \$7,500, the estimate for 2005-06 is approximately \$7,800.

RECOMMENDED ACTION

Adopt ordinance 05-1091 amending Metro code chapter 7.01 relating to excise tax imposed on certain consumer and exhibitor payments at the Metropolitan Exposition-Recreation Commission facilities.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING PROVISIONS) ORDINANCE NO. 05-1091
OF METRO CODE CHAPTER 7.01 RELATING TO)
EXCISE TAX IMPOSED ON CERTAIN CONSUMER) Michael Jordan, Chief Operating
AND EXHIBITOR PAYMENTS AT THE) Officer in concurrence with Council
METROPOLITAN EXPOSITION-RECREATION) President Bragdon
COMMISSION FACILITIES)

WHEREAS, Chapter 7.01 of the Metro Code imposes an excise tax on certain payments made by consumers and exhibitors at licensed events and retail businesses at the facilities managed by the Metropolitan Exposition-Recreation Commission ("MERC"); and

WHEREAS, Metro does not presently collect excise tax on payments made by consumers or exhibitors when the payments are made to operators only and are not repaid to MERC; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by members of the public for admission to events held at the MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by members of the public to purchase goods and services from exhibitors at events held at the MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by exhibitors to event organizers for the right to use booth space, exhibit space, or utilities or other event-related services at events held at MERC facilities; and

WHEREAS, Chapter 7.01 does not presently exempt from the excise tax those payments made by persons to purchase goods or services from retail businesses operating on the premises of the MERC facilities pursuant to long-term lease agreements; and

WHEREAS, it is desirable to amend Chapter 7.01 to include an exemption from the excise tax on payments made by consumers and exhibitors to operators to ensure that Chapter 7.01 accurately reflects Metro's actual excise tax collection practices; now, therefore

THE METRO COUNCIL ORDAINS that:

- 1. Metro Code Chapter 7.01, Section 7.01.050 is amended to read as shown on Exhibit "A."

ADOPTED by the Metro Council this 29th day of September 2005.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 05-1091

7.01.050 Exemptions

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 - (B) Payments for advertising at Metro facilities and Metro ERC facilities.
 - (C) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether Metro agrees to utilize the payment for a specific purpose including all payments to the Oregon Zoo Parents program;
 - (D) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects;

- (E) Payments that entitle a person to admission to a fund-raising event benefiting the Oregon Zoo that is not held on the grounds of the Oregon Zoo;
 - (F) Payments that entitle a person to admission to a special fund-raising event held at the Oregon Zoo where the event is sponsored and conducted by a nonprofit organization approved by the Council and the primary purpose of which is to support the Oregon Zoo and the proceeds of the event are contributed to the Oregon Zoo;
 - (G) Notwithstanding the provisions of subsection (C) through (F) above, all payments received by Metro for admission to the Oregon Zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the Oregon Zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.
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(10) Persons who deliver useful material to disposal sites, provided that such sites are listed as a Metro Designated Facility under Metro Code Chapter 5.05 or are named in a Metro Non-System License and provided further that the Useful Material: (A) is intended to be used, and is in fact used, productively in the operation of such site for purposes including roadbeds and alternative daily cover; and (B) is accepted at such site at no charge.

(11) Persons making the following payments:

(A) Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and

(B) Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator; and

(C) Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility.

(D) Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions services (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.

STAFF REPORT

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Date: September 29, 2005

Prepared by: Jeff Miller and Kathy Taylor

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The proposed exemption does not affect the following revenue, all of which will continue to be subject to the excise tax of 7.5%:

- Facility rental charges (paid by event licensees) and all event-related charges (paid by both event licensees and by event participants, such as exhibitors), when such payments are made directly to MERC;
- Rent payments paid to MERC by the retail lessees (Kinko's, Appellation Oregon, Your Northwest, Pacific Coast Bank);
- Gross concessions and catering revenue collected by MERC's authorized concessionaire;
- Gross parking revenue collected by MERC's authorized parking lot management contractor;
- Commissions paid to MERC by private operators of miscellaneous services provided at the MERC facilities, including commissions paid by ATM operators, vending machine operators, and electrical contractor Hollywood Lights (at the Expo Center).

See attachment for detailed analysis.

ANALYSIS/INFORMATION

1. Known Opposition: None known

2. Legal Antecedents

ORS 268.507 authorizes Metro, subject to the provisions of its charter, to impose by ordinance excise taxes on any person using the facilities, equipment, systems, functions, services or improvements owned, operated, franchised or provided by Metro.

Ordinance No. 90-333-A added Chapter 7.01, Excise Taxes, to the Metro Code. Section 7.01.020(a) of the Code imposed a tax on users of Metro facilities, including the facilities operated by the Metropolitan Exposition-Recreation Commission. However, Ordinance No. 90-333-A exempted the following users from the tax:

Users who are sublessees, subtenants, sublicensees, or other persons paying compensation for the use of Metro ERC Facilities including payments by users for concessions or catering services made to the Commission or its agents but not users who purchase admission tickets for events at Metro ERC Facilities that are available to members of the general public.

Ordinance No. 95-590 deleted the entire exemption quoted above.

- 3. Anticipated Effects:** This action codifies the actual practice of how Metro imposes an excise tax.
- 4. Budget Impacts:** Gross revenue collected by OCC's wireless internet provider would be exempt under this section. The 2004-05 excise tax generated from this revenue source was \$7,500, the estimate for 2005-06 is approximately \$7,800.

RECOMMENDED ACTION

Adopt ordinance 05-1091 amending Metro code chapter 7.01 relating to excise tax imposed on certain consumer and exhibitor payments at the Metropolitan Exposition-Recreation Commission facilities.

**ANALYSIS OF PROPOSED NEW EXCISE TAX EXEMPTION FOR CONSUMER AND EXHIBITOR
PAYMENTS AT MERC FACILITIES**

The proposed exemption does not affect the following revenue, all of which will continue to be subject to the excise tax of 7.5%:

- Facility rental charges (paid by event licensees) and all event-related charges (paid by both event licensees and by event participants, such as exhibitors), when such payments are made directly to MERC;
- Rent payments paid to MERC by the retail lessees (Kinko’s, Appellation Oregon, Your Northwest, Pacific Coast Bank);
- Gross concessions and catering revenue collected by MERC’s authorized concessionaire;
- Gross parking revenue collected by MERC’s authorized parking lot management contractor;
- Commissions paid to MERC by private operators of miscellaneous services provided at the MERC facilities, including commissions paid by ATM operators, vending machine operators, the wireless internet service provider, and electrical contractor Hollywood Lights (at the Expo Center).

The proposed exemption exempts the following payments:

| PROPOSED EXEMPTION LANGUAGE | EFFECT OF PROPOSED EXEMPTION |
|---|--|
| <p>“Payments that entitle a person to admission to an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator” are exempt.</p> | <p><i>Codifies actual practice.</i> Exempts all ticket/admissions revenues, whether paid to the event promoter (the “operator”) or to MERC itself at the MERC box office</p> |
| <p>“Payments to an operator that entitle a person to purchase booth space or exhibit space, or utilities or services associated with such booth or exhibit space, at an event that is held in a Metro ERC facility pursuant to a license agreement between Metro ERC and an operator” are exempt.</p> | <p><i>Codifies actual practice.</i> Exempts payments made by event participants (typically exhibitors) who pay the event promoter (the “operator”) for booth space and on some occasions for utilities and other event-related services.</p> <p>Does not exempt payments <u>to MERC</u> by event participants or promoters for reimbursed labor, utilities, or similar event-related charges. (MERC currently pays excise tax on this revenue.)</p> |

| PROPOSED EXEMPTION LANGUAGE | EFFECT OF PROPOSED EXEMPTION |
|--|--|
| <p>“Payments to a user or operator that entitle a person to purchase goods, services, food, or beverages from a user or operator selling such goods, services, food, or beverages at a Metro ERC facility” are exempt.</p> | <p><i>Codifies actual practice.</i> Exempts the following payments:</p> <ul style="list-style-type: none"> • Payments made to purchase goods, services, food, or beverages from any of the retail lessees; • Payments made to purchase goods, services, food, or beverages during an event (except for payments made to Aramark); • Payments made to purchase food or beverages from vending machines at the MERC facilities; • Service charges paid by consumers to ATMs at MERC facilities; • Payments for food or beverages supplied by a vending machine; • Payments that entitle a person to use a pay phone. <p>Does not exempt any payment <u>to MERC</u> for MERC’s sale of goods or services (e.g., OCC sweatshirts or similar souvenirs).</p> <p><i>Effect of Exemption on Wireless Internet Revenues.</i> <u>Gross</u> revenue collected by OCC’s wireless internet service provider (Eleven Wireless) would be exempt under this section. MERC currently pays excise tax on this gross revenue. (MERC receives a percentage of the gross revenue from Eleven Wireless as MERC’s fee for permitting Eleven Wireless to provide the service.) Under the proposed exemption, MERC would pay excise tax on MERC’s share of revenues MERC actually receives from Eleven Wireless.</p> <p>Estimated excise tax impact for FY 05-06: <i>\$7,800.</i></p> |

| PROPOSED EXEMPTION LANGUAGE | EFFECT OF PROPOSED EXEMPTION |
|---|---|
| <p>“Notwithstanding the provisions of subsections (A) through (C) above, all payments made to any operator authorized by a management agreement or services agreement with Metro ERC to provide catering services, to provide food and beverage concessions (other than vending machines), or to operate parking lots at Metro ERC facilities shall be subject to tax.”</p> | <p><i>Codifies actual practice.</i> Confirms that excise tax will still be imposed on all <u>gross</u> revenues received by MERC’s contracted concessions/catering and parking lot operators.</p> |

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