

BEFORE THE METRO COUNCIL

AN ORDINANCE RELATING TO THE)
METRO EXCISE TAX AMENDING THE)
CODE AND INCREASING THE TAX RATE)
ON USERS OF THE SOLID WASTE)
SYSTEM)
ORDINANCE NO. 94-549B
Introduced by Councilor
Devlin

THE METRO COUNCIL HEREBY ORDAINS:

Section 1. Findings. The Council finds:

- (a) The 1992 Metro Charter mandates that Metro perform regional planning functions as the primary functions of Metro and requires that the Council appropriate funds to assure the timely completion of those functions.
- (b) Metro has a need for additional revenue in order to carry out all functions mandated by the 1992 Metro Charter.
- (c) Pursuant to the authority granted in Section 10 of the 1992 Metro Charter, and ORS chapter 268, the Council has adopted ordinances establishing an excise tax on users and operators of District facilities.
- (d) The Council created a Tax Study Committee pursuant to Section 13 of the 1992 Metro Charter to advise it regarding any new tax that the Metro Council might impose without voter approval in order to provide funding for the mandated regional planning functions.
- (e) The Tax Study Committee has reviewed numerous potential new taxes that the Council might impose and has reviewed the existing Metro Excise Tax. The Tax Study Committee has recommended that the Council adopt a Real Estate Transfer Tax and a Construction Excise Tax, and continue the Metro Excise Tax in order to provide funding for functions mandated by the 1992 Metro Charter.
- (f) By adoption of Ordinance No. 93-484A the Council increased the excise tax rate established by Section 7.01.020(a) from 6 percent to 7 percent for the period from September 1, 1993 to September 1, 1994. Unless the Council adopts an ordinance providing for a different rate, effective September 1, 1994 the tax rate will revert to 6 percent.

Section 2. September 1, 1994 Metro Code Amendments. On the effective date provided in Section 3 of this Ordinance, Sections 7.01.010 and 7.01.020 of the Metro Code are amended to read as follows:

7.01.010 Definitions: Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter:

(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, Metropolitan Exposition-Recreation ERC Facilities, including but not limited to the Oregon Convention Center, the Metro South Station, the St. Johns Landfill, the Metro East Station, the MSW Compost Facility, and other solid waste transfer, processing, disposal or recycling center owned, operated or financed by or for the District, all solid waste facilities subject to the issuance of a franchise pursuant to Metro Code Chapter 5.01 all Solid Waste System Facilities,~~ and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the District.

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

(f) "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) "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) "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) "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.

(ii) "Tax" means the tax imposed in the amount established in subsection 7.01.020(b), 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.

(jk) "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.

7.01.020 Tax Imposed:

(a) For the privilege of use of the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed seven ~~(7)~~ ~~seven and one-half (7.5)~~ percent of the payment charged by the operator or the District for such use. 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 annual period commencing 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 the annual budget 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) Notwithstanding the provisions of Section 7.01.020(a) and (b) above, the tax rate applicable for users and operators of any solid waste system facility shall be 7.7 percent.~~

Section 3. Effective Date. The amendments to the Metro Code provided for in Section 2 of this Ordinance shall take effect September 1, 1994.

~~Section 4. September 1, 1995 Metro Code Amendment. On the effective date provided in Section 5 of this Ordinance, Metro Code Section 7.01.020 is amended to read as follows:~~

~~7.01.020 Tax Imposed:~~

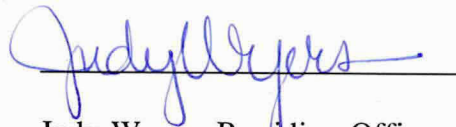
~~(a) For the privilege of use of the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed six (6) seven and one half (7.5) percent of the payment charged by the operator or the District for such use. 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.~~

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~~(c) Notwithstanding the provisions of Section 7.01.020(a) and (b) above, the tax rate applicable for users and operators of any solid waste system facility shall be 7.7 percent.~~

~~Section 5. Effective Date. The amendment to the Metro Code provided for in Section 4 of this Ordinance shall take effect September 1, 1995.~~

ADOPTED by the Metro Council this 26th day of May, 1994.



Judy Wyers, Presiding Officer

ATTEST:


Clerk of the Council

BEFORE THE METRO COUNCIL

AN ORDINANCE RELATING TO THE)
METRO EXCISE TAX AMENDING THE)
CODE AND INCREASING THE TAX RATE)
ON USERS OF THE SOLID WASTE)
SYSTEM)

ORDINANCE NO. 94-549~~AB~~
Introduced by
Council Finance Committee
and Councilor Rod Monroe

THE METRO COUNCIL HEREBY ORDAINS:

Section 1. Findings. The Council finds:

- (a) The 1992 Metro Charter mandates that Metro perform regional planning functions as the primary functions of Metro and requires that the Council appropriate funds to assure the timely completion of those functions.
- (b) Metro has a need for additional revenue in order to carry out all functions mandated by the 1992 Metro Charter.
- (c) Pursuant to the authority granted in Section 10 of the 1992 Metro Charter, and ORS chapter 268, the Council has adopted ordinances establishing an excise tax on users and operators of District facilities.
- (d) The Council created a Tax Study Committee pursuant to Section 13 of the 1992 Metro Charter to advise it regarding any new tax that the Metro Council might impose without voter approval in order to provide funding for the mandated regional planning functions.
- (e) The Tax Study Committee has reviewed numerous potential new taxes that the Council might impose and has reviewed the existing Metro Excise Tax. The Tax Study Committee has recommended that the Council adopt a Real Estate Transfer Tax and a Construction Excise Tax, and continue the Metro Excise Tax in order to provide funding for functions mandated by the 1992 Metro Charter.
- ~~(f) The Tax Study Committee has recommended that any tax source used to fund the Metro regional planning functions should be as broad based as possible in order to have the impact of the tax be a reflection of the broad benefit all residents of the District will receive from the carrying out of Metro's regional planning functions.~~
- ~~(g) The Metro Excise Tax on the Metro solid waste system is a broad based tax in that all residents and businesses in the District generate solid waste and, therefore, are subject to the burden of the tax. Many businesses have the ability to pass on to their~~

~~customers in part or in whole the incidence of the tax on users of the solid waste system thereby further broadening the base of the tax.~~

~~(h) — Generators of waste are encouraged by the imposition of the tax to reduce waste production, reuse waste and recycle waste in order to avoid the incidence of the tax thereby promoting compliance with important Metro, state and national policies and goals protecting the environment. This adds further fairness to the imposition of any excise tax on solid waste system users because the incidence of the tax may be reduced by such voluntary action.~~

~~(i) — By adoption of Ordinance No. 93-484-A the Council increased the excise tax rate established by Section 7.01.020(a) from 6 percent to 7 percent for the period from September 1, 1993 to September 1, 1994. Unless the Council adopts an ordinance providing for a different rate, effective September 1, 1994 the tax rate will revert to 6 percent.~~

~~(j) — The Council by adoption of this Ordinance desires to allow the tax rate for all District facilities other than solid waste system facilities to revert to 6 percent effective September 1, 1994 for a one-year period.~~

~~(k) — Adoption of an Excise Tax rate of 7.7 percent on users of the Metro solid waste system while retaining a 6 percent tax rate on users of other Metro facilities is consistent with the recommendations of the Tax Study Committee and will provide a source of needed revenue while the Council gives further consideration to the recommendation of the Tax Study Committee that the Metro Council impose new taxes.~~

~~(l) — The cost of collection of any increase in the Excise Tax on solid waste system users is negligible and any of the new taxes recommended would have considerable costs to implement and collect.~~

~~(m) — The class of individuals and businesses who use the Metro solid waste system is broad based and distinctly different from the class of individuals who use all other District facilities particularly the Metro Washington Park Zoo and the Oregon Convention Center.~~

~~(n) — The Council intends to actively consider alternative methods to raise needed revenues to provide funds for functions mandated by the 1992 Metro Charter if however if such alternative revenue sources cannot be made available it will be appropriate to increase the excise tax rate on District facilities other than solid waste system facilities to an amount equal to the rate on solid waste system facilities in order to continually ensure that needed revenues are available. In this event a tax rate not to exceed 7.5 percent on all District facilities would be appropriate.~~

Section 2. September 1, 1994 Metro Code Amendments. On the effective date provided in Section 3 of this Ordinance, Sections 7.01.010 and 7.01.020 of the Metro Code are amended to read as follows:

7.01.010 Definitions: Except where the context otherwise requires, the definitions given in this Section govern the construction of this Chapter:

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- (d) "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) "Metro ERC Facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.
- (f) "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) "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) "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) "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(t) that receives solid waste from within the Metro boundary whether pursuant to an authorized non-system license or otherwise.

(j) "Tax" means the tax imposed in the amount established in subsection 7.01.020(b), 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) "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.

7.01.020 Tax Imposed:

(a) For the privilege of use of the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed seven ~~(7)~~ ~~seven and one-half (7.5)~~ percent of the payment charged by the operator or the District for such use. 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 annual period commencing 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 the annual budget 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) Notwithstanding the provisions of Section 7.01.020(a) and (b) above, the tax rate applicable for users and operators of any solid waste system facility shall be 7.7 percent.~~

Section 3. Effective Date. The amendments to the Metro Code provided for in Section 2 of this Ordinance shall take effect September 1, 1994.

~~Section 4. September 1, 1995 Metro Code Amendment. On the effective date provided in Section 5 of this Ordinance, Metro Code Section 7.01.020 is amended to read as follows:~~

~~7.01.020 Tax Imposed:~~

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~~(c) Notwithstanding the provisions of Section 7.01.020(a) and (b) above, the tax rate applicable for users and operators of any solid waste system facility shall be 7.7 percent.~~

~~Section 5. Effective Date. The amendment to the Metro Code provided for in Section 4 of this Ordinance shall take effect September 1, 1995.~~

ADOPTED by the Metro Council this ____ day of _____, 199__.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

gl
1160D

FINANCE COMMITTEE REPORT

ORDINANCE NO. 94-549A RELATING TO THE METRO EXCISE TAX AMENDING THE CODE AND INCREASING THE TAX RATE ON USERS OF THE SOLID WASTE SYSTEM

Date: May 18, 1994

Presented By: Councilor Monroe

COMMITTEE RECOMMENDATION: At its May 11, 1994 meeting the Committee voted 3 to 2 to send Ordinance No. 94-549 as amended to the Council without recommendation. Committee members voting in favor were Councilors Gardner, McLain and Monroe. Committee members voting in opposition were Councilors Devlin and Van Bergen. Councilors Buchanan and Kvistad were absent.

COMMITTEE DISCUSSION/ISSUES: Don Carlson, Council Administrator gave the Staff Report. He indicated that Ordinance No. 94-549 was introduced by the Finance Committee at its April 21, 1994 meeting following agreement on the expenditure plan for the FY 1994-95 General Fund Budget. The rates set in the ordinance are such that sufficient revenue will be received to pay for the expenditure plan in the General Fund. Mr. Carlson pointed out that the ordinance contains a split rate excise tax (7.7% on the users of the solid waste system and 6.0% on the users of all other applicable facilities and services) which will take effect on September 1, 1994. The rate on the users of all applicable Metro facilities and services will remain at the current 7% until September 1, 1994.

Councilor Monroe stated that he had requested General Counsel to prepare amendments to the ordinance to provide a sunset provision for the split rate system on September 1, 1995. Dan Cooper, General Counsel explained the provisions of Ordinance No. 94-549A. He stated Sections 2 and 3 provide for the split rate excise tax effective September 1, 1994; and Sections 4 and 5 provide for a uniform excise tax of 7.5 % effective September 1, 1994.

Councilor Gardner moved to substitute Ordinance No. 94-549A for the original ordinance and Councilor Van Bergen moved to amend the motion to delete subsections (g) and (l) of Section 1 from Ordinance No. 94-549A. Councilor Van Bergen stated that the increase did not benefit the user, is not equitable and use of the term "broad base" is not appropriate. Councilor Van Bergens motion was approved by a 3 to 2 vote (Councilors Devlin, McLain and Van Bergen voting yes and Councilors Gardner and Monroe voting no). Councilor Gardners motion to substitute 94-549A for the original ordinance was approved by a 3-2 vote (Councilors Devlin, Gardner and Monroe voted yes and Councilors McLain and Van Bergen voted no).

At the public hearing the Committee heard testimony in opposition to the proposed ordinance from Estle Harlan, Tri-County Council (haulers); Susan Kiel, City of Portland Director of Solid Waste; Bruce Broussard, Citizen member of SWPAC; Tom Miller, Miller Sanitary Services; and Gaylen Kiltow, Kiltow Sanitary Service.

Several other haulers and interested persons expressed opposition to the ordinance by a show of hands. Ms. Harlan's written testimony is included as Attachment 1 to this report.

Councilor Devlin presented a "B" version of Ordinance No. 94-549 which among other things set the excise tax rate at a uniform 7.5%. The motion to substitute the "B" version failed by a 2 to 3 vote (Councilors Devlin and McLain voted yes and Councilors Gardner, Monroe and Van Bergen voted no).

The Committee then approved a motion to send Ordinance 94-549A to the full Council without recommendation.

Tri-County Council

Reply to: 2202 SE Lake Rd., Milwaukie, OR 97222 654-9533 (FAX 654-8414)

May 11, 1994

TO: METRO FINANCE COMMITTEE
Re: Excise Tax and Disposal Fee

Excise Tax
A SPLIT EXCISE TAX THAT IS HIGHER ON SOLID WASTE REVENUE THAN ON OTHER REVENUE IS INEQUITABLE. THE DOLLAR AMOUNT REALLY IS NOT THE ISSUE. THE PRECEDENT THIS IS SETTING IS THE ISSUE.

THE SOLID WASTE BUDGET REFLECTS SOME SAVINGS. THERE IS LITTLE INCENTIVE TO TRY TO HOLD DOWN BUDGETS WHEN POLICY CAN BE SET TO RAISE THE EXCISE TAX TO PAY FOR TRANSPORTATION AND LAND USE PLANNING.

THE ZOO IS NOT EXPECTED TO LOWER TICKET PRICES IF THEY GET A LOWER EXCISE TAX, SO IT SEEMS TO MAKE LITTLE SENSE TO SET THIS BAD PUBLIC POLICY OF A SPLIT EXCISE TAX.

EACH TIME THE COUNCIL DUCKS A TOUGH POLITICAL CALL, IT GETS EASIER TO GO THROUGH THE DUCKING EXERCISE THE NEXT TIME A TOUGH ISSUE ARISES. JUST BECAUSE SOLID WASTE REVENUE IS THE "EASY HANDLE," THAT EASY FUNDING SOURCE SHOULD NOT BE USED TO PAY FOR SERVICES THAT ARE TOTALLY UNRELATED TO SOLID WASTE. SOLID WASTE PAYS FOR ALL OF ITS PLANNING FUNCTIONS THROUGH THE TIP FEE, SO MOST OF THE CURRENT 7% EXCISE TAX GOES TO PAY FOR FUNCTIONS UNRELATED TO SOLID WASTE. DO NOT CREATE EVEN MORE OF AN INEQUITY BY APPROVING A SPLIT EXCISE TAX.

THE RATE COMMITTEE IS FORMALLY CHARTERED TO GIVE ADVICE ON RATES. THAT COMMITTEE VOTED UNANIMOUSLY AGAINST THE SPLIT EXCISE TAX ON SOLID WASTE. THE SOLID WASTE ADVISORY COMMITTEE (SWAC) VOTED UNANIMOUSLY ON TWO OCCASIONS AGAINST THE SPLIT EXCISE TAX. IT IS HARD TO BELIEVE THE COUNCIL IS LISTENING TO THEIR ADVISORY COMMITTEES IF THERE IS A FLAGRANT DISREGARD FOR THEIR UNANIMOUS VOTES.

THE NOTION THAT A SPLIT EXCISE TAX IS ACCEPTABLE BECAUSE IT IS ONLY "TEMPORARY," AND THAT A MORE STABLE AND EQUITABLE FUNDING SOURCE FOR PLANNING WILL BE EXPLORED AFTER THE PRIMARY ELECTION IS ONE OF THE WORST REASONS FOR SETTING A BAD PUBLIC POLICY PRECEDENT. PLEASE EXERCISE YOUR POLITICAL INTEGRITY BY REJECTING THIS ARGUMENT.

\$74 vs \$75 Per Ton Disposal Fee

APPROXIMATELY \$750,000 IN SAVINGS WAS REALIZED BY THE REVISED CONTRACT WITH OREGON WASTE SYSTEMS. AN APPROXIMATELY \$300,000 IN SAVINGS WAS REALIZED IN FUEL SAVINGS. THAT IS OVER \$1 MILLION IN SAVINGS FOR THE NEXT BUDGET YEAR THAT COULD BE PASSED ON TO CUSTOMERS BY LOWERING THE DISPOSAL FEE TO \$74 PER TON. THE ORDINANCE THAT WOULD EFFECT THIS LOWERED TIP FEE HAS BEEN HELD UP IN THE FINANCE COMMITTEE AND NOT BROUGHT FORWARD FOR COUNCIL APPROVAL. THE RESULT IS THAT OVER \$1 MILLION IN SAVINGS WILL BE PIGEON-HOLED IN UNAPPROPRIATED FUND BALANCE. AT THE VERY LEAST, THAT SHOULD BE PUT IN A RATE STABILIZATION ACCOUNT. THE RIGHT THING TO DO WOULD BE TO GIVE IT BACK TO YOUR CUSTOMERS.

Representing:

Clackamas County Refuse Disposal Association
Multnomah County Refuse Disposal Association
Oregon Sanitary Service Institute

Portland Association of Sanitary Service Operators
Teamsters Local 281 305
Washington County Solid Waste Collectors Association

BEFORE THE METRO COUNCIL

AN ORDINANCE RELATING TO THE)
METRO EXCISE TAX AMENDING THE)
CODE AND INCREASING THE TAX RATE)
ON USERS OF THE SOLID WASTE)
SYSTEM)

ORDINANCE NO. 94-549A
Introduced by
Council Finance Committee
and Councilor Rod Monroe

THE METRO COUNCIL HEREBY ORDAINS:

Section 1. Findings. The Council finds:

- (a) The 1992 Metro Charter mandates that Metro perform regional planning functions as the primary functions of Metro and requires that the Council appropriate funds to assure the timely completion of those functions.
- (b) Metro has a need for additional revenue in order to carry out all functions mandated by the 1992 Metro Charter.
- (c) Pursuant to the authority granted in Section 10 of the 1992 Metro Charter, and ORS chapter 268, the Council has adopted ordinances establishing an excise tax on users and operators of District facilities.
- (d) The Council created a Tax Study Committee pursuant to Section 13 of the 1992 Metro Charter to advise it regarding any new tax that the Metro Council might impose without voter approval in order to provide funding for the mandated regional planning functions.
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- ~~(g) The Metro Excise Tax on the Metro solid waste system is a broad-based tax in that all residents and businesses in the District generate solid waste and, therefore, are subject to the burden of the tax. Many businesses have the ability to pass on to their~~

~~customers in part or in whole the incidence of the tax on users of the solid waste system thereby further broadening the base of the tax.~~

(h)(g) Generators of waste are encouraged by the imposition of the tax to reduce waste production, reuse waste and recycle waste in order to avoid the incidence of the tax thereby promoting compliance with important Metro, state and national policies and goals protecting the environment. This adds further fairness to the imposition of any excise tax on solid waste system users because the incidence of the tax may be reduced by such voluntary action.

(h)(h) By adoption of Ordinance No. 93-484-A the Council increased the excise tax rate established by Section 7.01.020(a) from 6 percent to 7 percent for the period from September 1, 1993 to September 1, 1994. Unless the Council adopts an ordinance providing for a different rate, effective September 1, 1994 the tax rate will revert to 6 percent.

(h)(i) The Council by adoption of this Ordinance desires to allow the tax rate for all District facilities other than solid waste system facilities to revert to 6 percent effective September 1, 1994 for a one year period.

(k)(j) Adoption of an Excise Tax rate of 7.7 percent on users of the Metro solid waste system while retaining a 6 percent tax rate on users of other Metro facilities is consistent with the recommendations of the Tax Study Committee and will provide a source of needed revenue while the Council gives further consideration to the recommendation of the Tax Study Committee that the Metro Council impose new taxes.

(k)(k) The cost of collection of any increase in the Excise Tax on solid waste system users is negligible and any of the new taxes recommended would have considerable costs to implement and collect.

~~(m) — The class of individuals and businesses who use the Metro solid waste system is broad based and distinctly different from the class of individuals who use all other District facilities particularly the Metro Washington Park Zoo and the Oregon Convention Center.~~

(n)(l) The Council intends to actively consider alternative methods to raise needed revenues to provide funds for functions mandated by the 1992 Metro Charter if however if such alternative revenue sources cannot be made available it will be appropriate to increase the excise tax rate on District facilities other than solid waste system facilities to an amount equal to the rate on solid waste system facilities in order to continually ensure that needed revenues are available. In this event a tax rate not to exceed 7.5 percent on all District facilities would be appropriate.

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- (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, Metropolitan Exposition-Recreation ERC Facilities, including but not limited to the Oregon Convention Center, the Metro South Station, the St. Johns Landfill, the Metro East Station, the MSW Compost Facility, and other solid waste transfer, processing, disposal or recycling center owned, operated or financed by or for the District, all solid waste facilities subject to the issuance of a franchise pursuant to Metro Code Chapter 5.01~~ **all Solid Waste System Facilities** and any other facility, equipment, system, function, service or improvement owned, operated, franchised or provided by the District.
- (d) "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) "Metro ERC Facility" means any facility operated or managed by the Metropolitan Exposition-Recreation Commission.
- (f) "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) "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) "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) "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.

(j) "Tax" means the tax imposed in the amount established in subsection 7.01.020(b), 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) "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.

7.01.020 Tax Imposed:

(a) For the privilege of use of the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed seven ~~(7)~~ six (6) percent of the payment charged by the operator or the District for such use. 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 annual period commencing 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 the annual budget 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) Notwithstanding the provisions of Section 7.01.020(a) and (b) above, the tax rate applicable for users and operators of any solid waste system facility shall be 7.7 percent.

Section 3. Effective Date. The amendments to the Metro Code provided for in Section 2 of this Ordinance shall take effect September 1, 1994.

Section 4. September 1, 1995 Metro Code Amendment. On the effective date provided in Section 5 of this Ordinance, Metro Code Section 7.01.020 is amended to read as follows:

7.01.020 Tax Imposed:

(a) For the privilege of use of the facilities, equipment, systems, functions, services, or improvements owned, operated, franchised, or provided by the District, each user shall pay a tax in the amount established in subsection 7.01.020(b) but not to exceed ~~six (6)~~ seven and one-half (7.5) percent of the payment charged by the operator or the District for such use. 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 annual period commencing 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 the annual budget 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) Notwithstanding the provisions of Section 7.01.020(a) and (b) above, the tax rate applicable for users and operators of any solid waste system facility shall be 7.7 percent.~~

Section 5. Effective Date. The amendment to the Metro Code provided for in Section 4 of this Ordinance shall take effect September 1, 1995.

ADOPTED by the Metro Council this ____ day of _____, 199__.

Judy Wyers, Presiding Officer

ATTEST:

Clerk of the Council

gl
1160c



METRO

DATE: May 31, 1994
TO: Rena Cusma, Executive Officer
FROM: Paulette Allen, Clerk of the Council *PA*
RE: TRANSMITTAL OF ORDINANCE NOS. 94-551A and 94-549B

Attached for your consideration are true copies of the ordinances referenced above adopted by the Council on May 26, 1994.

If you wish to veto any of the ordinances referenced above, I must receive a signed and dated written veto message from you no later than 5:00 p.m., Thursday, June 2, 1994. The veto message, if submitted, will become part of the permanent record. If no veto message is received by the time and date stated above, these ordinances will be considered finally adopted.

I, *Paulette Allen*, received this memo and true copies of Ordinance Nos. 94-551A and 94-549B from the Clerk of the Council on *June 1, 1994*.