

LOS ANGELES MUNICIPAL CODE CHAPTER II, ARTICLE 1.1

SEC. 21.1.1. DEFINITIONS.

The following words and phrases whenever used in this article shall be construed as defined in this section:

(a) "Ancillary Telecommunications Services" shall mean services that are associated with or incidental to the provision, use or enjoyment of Communications Services.

(b) "Communications Services" shall mean the transmission, conveyance, or routing of voice, audio, video communications, data or any other communications information or signals to a point, or between or among points, whatever the technology used, and whether or not that information is transmitted through interconnected service with the public switched network, or through fiber optic, coaxial cable, power line transmission, broadband, digital subscriber line or other wireless transmission. The term "Communications Services" includes transmission, conveyance, or routing in which computer processing applications are used to act on the form, code or protocol of the content for purposes of transmission, conveyance or routing without regard to whether those services are referred to as voice over internet protocol (VoIP) services or are classified by the Federal Communications Commission as enhanced or value added, and includes video and/or data services that are functionally integrated with "Communications Services." "Communications Services" include, but are not limited to the following services, regardless of the manner or basis on which those services are calculated or billed: central office and custom calling features (including but not limited to call waiting, call forwarding, caller identification and three-way calling); local number portability; text messaging; instant messaging; Ancillary Telecommunications Services; prepaid and post-paid telecommunications services (including but not limited to prepaid calling cards); mobile telecommunications services; Private Communications Services; paging services; and 800 services (or any other toll-free numbers designated by the Federal Communications Commission). "Communications Services" does not include either digital downloads, such as downloads of books, music, ringtones, games and similar digital products, or that portion of cable or video television services subject to a cable or video television franchise fee.

(c) "Month" shall mean a calendar month.

(d) "Person" shall mean all individuals, domestic and foreign corporations, associations, syndicates, joint stock companies, partnerships of every kind, joint ventures, clubs, Massachusetts businesses or common law trusts, societies, and, shall include municipal corporations.

(e) "Private Communications Services" shall mean any dedicated Communications Services that entitle the user to the exclusive or priority use of communications channels.

(f) "Service User" shall mean a Person required to pay a tax imposed under the provisions of this article.

SEC. 21.1.2. CONSTITUTIONAL EXEMPTIONS.

Nothing in this article shall be construed as imposing a tax upon any person when imposition of such tax upon that person would be in violation of the Constitution of the United States or that of the State of California.

SEC. 21.1.3. COMMUNICATIONS USERS TAX.

(a) There is hereby imposed a tax upon every Person with a billing or service address in the City of Los Angeles who uses Communications Services, including services for intrastate, interstate or international Communications Services, to the extent permitted by state and federal law. The tax imposed by this section shall be at the rate of nine percent of the charges made for those Communications Services and shall be paid by the Person paying for those services. However, as to the charges made for services to any independent telemarketing agency, as defined in Section 21.47(b) of this Code, incurred solely in performing the functions of an independent telemarketing agency, the tax imposed by this section shall be at the rate of five percent of the charges made for those services.

(b) The tax imposed in this section shall be collected from the Service User by the Person providing the Communications Services. The amount of tax collected from the 26th day of each Month through the 25th day of the following Month shall be remitted to the Director of Finance on or before the 26th day of the following Month, or, at the option of the Person required to collect and remit the tax, an estimated amount of tax collected, measured by the billings of the previous Month, shall be remitted to the Director of Finance on or before the 20th day of each Month.

(c) Charges subject to the Communications Users Tax include, but are not limited to, the following: connection, reconnection, termination, movement, or change of telecommunications services; late payment fees; detailed billing; voice mail and other messaging services; directory assistance; access and line charges; universal service charges; and regulatory, administrative and other cost recovery charges.

(d) Exemptions. Except as otherwise provided in this article, Communications Services shall include all Communications Services for which there is a charge, regardless of the means or technology used to provide those services. Notwithstanding the provisions of Subsection (a), the tax imposed under this section shall not be imposed upon any Person for using Communications Services under the circumstances set forth below:

1. News services. No tax shall be imposed under this section, except with respect to local telephone service, on any payment received from any Person for services used in the collection of news for the public press, or a news ticker service furnishing a general news service similar to that of the public press, or radio broadcasting, or in the dissemination of news through the public press, or a news ticker service furnishing a general news service similar to that of the public press, or by means of radio broadcasting, if the charge for that service is billed in writing to that Person.

2. International, etc., organizations. No tax shall be imposed under this section on any payment received for services furnished to a public international organization in which the United States participates pursuant to treaty or Act of Congress, or to the American National Red Cross.

3. Servicemen in combat zone. No tax shall be imposed under this section on any payment received for any toll telephone service, which originates within a combat zone, as defined in Section 112 of Title 26 of the United States Code, from a member of the Armed Forces of the United States performing service in the combat zone, as determined under Section 112 of Title 26 of the United States Code.

4. Items otherwise taxed. Only one payment of tax under this section shall be required with respect to the tax on any service.

5. Common carriers and communications companies. No tax shall be imposed under this section on the amount paid for any Communications Services to the extent that the amount so paid is for use by a common carrier, telephone or telegraph company, or radio broadcasting station or network in the conduct of its business.

6. Installation charges. No tax shall be imposed under this section on any amount paid for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to the installation.

7. Nonprofit hospitals. No tax shall be imposed under this section on any amount paid by a nonprofit hospital for services furnished to that organization. For purposes of this exemption, the term "nonprofit hospital" means a hospital referred to in Section 170(b)(1)(A)(iii) of Title 26 of the United States Code, which is exempt from federal income tax under Section 501(a) of Title 26 of the United States Code.

8. State and local governments. No tax shall be imposed under this section upon any payment received for services or facilities furnished to the government of any State, or any of its political subdivisions, or the District of Columbia.

9. Nonprofit educational organizations. No tax shall be imposed under this section on any amount paid by a nonprofit educational organization for services or facilities furnished to that organization. For purposes of this exemption, the term "nonprofit educational organization" means an educational organization described in Section 170(b)(1)(A)(ii) of Title 26 of the United States Code, which is exempt from federal income tax under Section 501(a) of Title 26 of the United States Code. The term also includes a school operated as an activity of an organization described in Section 501(c)(3) of Title 26 of the United States Code, which is exempt from federal income tax under Section 501(a) of Title 26 of the United States Code, if that school normally maintains a regular facility and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(e) To prevent actual multiple taxation of any Communications Services that are subject to tax under Subsection (a) of this section, any Service User, upon proof that the Service User owed and has paid a tax in another taxing jurisdiction on the Communications Services, shall be allowed a credit against the tax imposed in Subsection (a) to the extent of the amount of the tax properly due and paid in the other taxing jurisdiction. However, no credit may be allowed for any tax paid to another taxing jurisdiction on any call to the extent that the call may not, under the Constitution and statutes of the United States, be made the subject of taxation by the other taxing jurisdiction. Nor shall the amount of credit exceed the tax owed to the City under this section.

(f) Any person claiming to be an independent telemarketing agency, which has charges subject to tax at the five percent rate, shall file an application for rate adjustment with the Director of Finance. This application shall be made on forms provided by the Director of Finance and shall recite facts under oath which qualify the applicant for the five percent tax rate. Notwithstanding any other provision of this article, the five percent rate shall apply only to charges for services that were necessarily incurred solely and exclusively for telemarketing activities. The burden of maintaining records and establishing that this charge is subject to tax at the five percent rate shall be on the applicant. Charges for all other services shall be subject to tax at the nine percent rate.

(g) For purposes of imposing a tax or establishing a duty to collect and remit a tax under this section, "substantial nexus" and "minimum contacts" shall be construed broadly in favor of the imposition, collection and/or remittance of the communications users tax to the fullest extent permitted by state and federal law, and as it may change from time to time by judicial interpretation or by statutory enactment. Any Communications Services used by a Person with a service or billing address in the City shall be subject to a rebuttable presumption that "substantial nexus/minimum contacts" exists for purposes of imposing a tax, or establishing a duty to collect and remit a tax, under this section. For communications services for which there is no billing address or primary physical location for the provision of services, the service address shall mean the point of sale of the services.

(h) If a non-taxable service and a taxable service are billed together under a single charge, the entire charge shall be deemed taxable unless the service supplier or taxpayer reasonably identifies actual charges for services not subject to the tax. The service supplier or taxpayer seeking a reduction has the burden of proving the proper valuation and apportionment of taxable and non-taxable charges based upon books and records that are kept in the regular course of business and in a manner consistent with generally accepted accounting principles.

SEC. 21.1.4. ELECTRICITY USERS TAX.

(a) There is hereby imposed a tax upon every person in the City of Los Angeles using electrical energy in the City of Los Angeles. The tax imposed by this section shall be at the rate of 10 percent of the charges made for such energy and shall be paid by the person paying for such energy, provided, however, that commercial or industrial users of electrical energy shall be subject to tax and a tax is hereby imposed upon them at the rate of 12.5 percent of the charges made for such energy, but as to any non-profit educational institution, as defined in Subdivision

3 of Subsection (c) of Section 21.190 of this Code, the tax imposed by this section shall be at the rate of 10 percent of the charges made for such energy. “Charges” as used in this section, shall include charges made for (1) metered energy, and (2) minimum charges for service, including customer charges, service charges, demand charges, standby charges, and annual and monthly charges.

The term “commercial or industrial users” as used in this section, is intended to include, but shall not be limited to, any person who qualifies as a “commercial or industrial” consumer of electrical energy within the electric rate schedules of the Department of Water and Power of the City of Los Angeles or the tariff schedules of the Southern California Edison company, provided however, a user of electrical energy shall not be considered a “commercial or industrial user” of any electrical energy supplied to a single family accommodation separately metered or for energy to two or more individual family accommodations supplied as a unit, upon application under the provisions of the Department’s Domestic Service Schedule D–1, devoted primarily to domestic, residential, household and related purposes, as distinguished from commercial, professional, and industrial purposes.

(b) As used in this section, the term “using electrical energy” shall not be construed to mean that storage of such energy by a person in a battery owned or possessed by him for use in an automobile or other machinery or device apart from the premises upon which the energy was received, provided however, that the term shall include the receiving of such energy for the purpose of using it in the charging of batteries, nor shall the term include the mere receiving of such energy by an electric public utility or government agency at a point within the City of Los Angeles for resale.

(c) The tax imposed in this section shall be collected from the service user by the person supplying such energy. The amount of tax collected from the 26th day of each month through the 25th day of the following month shall be remitted to the Director of Finance on or before the 26th day of such following month, or, at the option of the person required to collect and remit the tax, an estimated amount of tax collected in each month shall be remitted to the Director of Finance on or before the 26th day of such month.

SEC. 21.1.5. GAS USER TAX.

(a) There is hereby imposed a tax upon every person in the City of Los Angeles using in the City gas which is delivered through mains or pipes. The tax imposed by this section shall be at the rate of 10 percent of the charges made for such gas and shall be paid by the person paying for such gas, provided, however, that as to any non-profit educational institution, as defined in subdivision 3 of Subsection (c) of Section 21.190 of this Code, the tax imposed by this section shall be at the rate of 5 percent of the charges made for such gas. (When gas is transported by, but not purchased from, a transporter, the charges subject to tax shall be measured by (1) the transportation cost and (2) the cost of the transported gas, which shall be based on the volume of gas transported multiplied by the core subscription weighted average cost of gas for the calendar month immediately preceding the calendar month in which the billing period terminates.

Notwithstanding the foregoing, the tax on the cost of transported gas may be determined by applying the tax rate to the actual purchase cost, either by the service user applying to the Director of Finance for a refund or the Director of Finance billing the service user, for the amount which represents the difference between the tax paid by the service user to the transporter and the tax determined by the actual purchase cost of the gas. In a claim for refund, the service user shall provide the Director of Finance with satisfactory evidence of the quantity and cost of the gas purchased from a party other than the transporter. When the Director of Finance believes that direct collection of the tax from the service user is in the best interest of the City, as provided in Subsection (b) of Section 21.1.10 of this Code, the transporter, upon request from the Director of Finance, shall furnish the Director of Finance, with respect to each service user for whom gas is transported, the name, mailing address, service address, gas meter number, transportation cost, volume of gas transported and the core subscription weighted average cost of gas for the calendar month immediately preceding the calendar month in which the billing period terminates. This information shall be confidential and shall be used only for the purpose of administering the tax.

(b) There shall be excluded from the base on which the tax imposed in this section is computed charges made for gas which is to be resold and delivered through main or pipes, charges made for gas sold for use in the generation of electrical energy by a public utility or a governmental agency; and charges made by a gas public utility for gas used and consumed in the conduct of the business of as public utilities.

(c) The tax imposed in this section shall be collected from the service user by the person selling gas or, when gas is purchased from and transported by separate persons, the tax shall be collected by the transporter. The amount of tax collected from the 26th day of each month through the 25th day of the following month shall be remitted to the Director of Finance on or before the 26th day of such following month, or, at the option of the person required to collect and remit the tax, an estimated amount of tax collected, measured by the billings of the previous month, shall be remitted to the Director of Finance on or before the 26th day of each month.

(d) There shall be exempt from the base on which the tax imposed in this section is computed charges made for gas used for non-utility purposes. For the purposes of this subsection, the term “gas used for non-utility purposes” shall mean gas used as a raw material in a manufactured product, and shall exclude gas used to produce light, heat or power. Any service user claiming an exemption under this subsection shall file an application with the Director of Finance for such exemption. Such application shall be made upon forms supplied by the Director of Finance and shall recite under oath facts which qualify the applicant for an exemption. The Director of Finance shall review each such application, certify as exempt such service determined to qualify therefor and notify each affected service supplier that such exemption has been approved, stating the name of the applicant, the address to which such exempt service is being supplied, the account number, if any, and such other information as may be necessary for the service supplier to remove the exempt service from the tax billing procedure. Upon receipt of such notice, the service supplier shall not be required to continue to bill any further tax imposed by this section for such exempt service until given further notice by the Director of Finance.

(e) Notwithstanding the provisions of Subsection (a) of this section and Section 21.1.8(b) of this article, the collection rate of the tax imposed in Subsection (a) of this section at the rate of 10 percent shall be reduced temporarily for residential users to 6 percent for the first four regular billing periods ending on or after December 1, 2001, and on or before April 15, 2002. For all subsequent regular billing periods, the collection rate for residential users shall revert to the 10 percent rate imposed in Subsection (a) of this section.

SEC. 21.1.6. INTEREST AND PENALTY.

(a) Taxes collected from a service user which are not remitted to the Director of Finance on or before the due dates provided in this article are delinquent.

(b) Interest and penalties for delinquency in remittance of any tax collected, or any deficiency determination shall attach and be paid by the person required to collect and remit at the rates and in the same manner as is provided in Sec. 21.05 of this chapter for delinquency in payment of Business Tax.

(c) The Director of Finance shall have power to impose additional penalties upon persons required to collect and remit taxes under the provisions of this article for fraud and negligence in reporting and remitting in the same manner and at the same rates as are provided in Sec. 21.05 of this chapter for such penalties upon persons required to pay Business Tax.

(d) For collection purposes only, every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be remitted.

SEC.21.1.7. ACTIONS TO COLLECT.

Any tax required to be paid by a Service User under the provisions of this article shall be deemed a debt owed by the Service User to the City. Any such tax collected from a Service User, which has not been remitted to the Director of Finance, shall be deemed a debt owed to the City by the Person required to collect and remit. Any Person owing money to the City under the provisions of this article shall be liable to an action brought in the name of the City for the recovery of that amount. In the event that a service supplier required to collect and remit a tax under the provisions of this article fails to do so in whole or in part, the amount of the unremitted tax shall be deemed a debt owed by the service supplier to the City.

SEC.21.1.8. DUTY TO COLLECT - PROCEDURES.

The duty to collect and remit the taxes imposed by this article shall be performed as set forth in this section.

(a) The tax shall be collected insofar as practicable at the same time as and along with the charges made in accordance with the regular billing practice. If the amount paid by a

Service User is less than the full amount of the charge and tax that has accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid.

(b) The duty to collect tax from a Service User shall commence with the beginning of the first regular billing period applicable to that Person, which starts on or after the operative date of this article. When the rate of the tax is increased or decreased, the duty to collect at the new rate shall commence with the beginning of the first regular billing periods applicable to that Person, which starts on or after the effective date of the new rate. Where a Person receives more than one billing, one or more being for different periods than another, the duty to collect shall arise separately for each billing period.

SEC. 21.1.9. ADDITIONAL POWERS AND DUTIES OF DIRECTOR OF FINANCE, ETC.

(a) The Director of Finance shall have the power and duty, and is hereby directed to enforce all of the provisions of this article.

(b) In administering and enforcing the provisions of this article, the Director of Finance shall have the same powers and duties with respect to collecting the tax provided in this article as he or she has under Section 21.15 of this chapter with respect to collecting the Business Tax.

(c) The provisions of Sections 21.17, 21.20 and 21.21 of this chapter shall apply to the administration and collection of the tax imposed under the provisions of this article in the same manner as they apply to the administration and collection of the Business Tax.

(d) The Director of Finance may, from time to time, issue and disseminate administrative agreements or rulings identifying those services or Persons that are subject to the requirements imposed by this article, deferring implementation or enforcement of requirements imposed by this article or interpreting the provisions of this article. These administrative rulings shall be consistent with federal, state and local law. To the extent that the Director of Finance, or the City Attorney pursuant to Section 21.31, determines that the tax imposed under this article shall not be collected in full for any period of time from any particular service suppliers or Service Users, that determination shall be considered an exercise of the Director's discretion to settle disputes and shall not constitute a change in taxing methodology for purposes of Government Code section 53750 or otherwise. Neither the Director of Finance nor the City Attorney is authorized to amend the City's methodology for purposes of Government Code section 53750 and the City does not waive or abrogate its ability to impose the communications users tax in full as a result of promulgating administrative rulings or entering into agreements.

SEC. 21.1.10. ASSESSMENT – ADMINISTRATIVE REMEDY.

(a) The Director of Finance may make an assessment for taxes not remitted by a person required to remit for any reason specified in Sec. 21.16 of this chapter for making an assessment for unpaid Business Tax. The manner of making and providing notice of such assessment; the right to a hearing and the conduct of such hearing; the preparation and service of

findings; filing exceptions; and passing upon exceptions shall be the same as provided in Sec. 21.16 of this chapter.

(b) Whenever the Director of Finance determines that a service user has deliberately withheld the amount of the tax owed by him from the amounts remitted to a person required to collect the tax, or that a service user has failed to pay the amount of the tax to such person for a period of two or more billing periods, or whenever the Director of Finance deems it in the best interests of the City, he may relieve such person of the obligation to collect taxes due under this article from certain named service users for specified billing periods. The Office of Finance shall notify the service user that he has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the person required to collect the tax; or, should the service user have changed his address, to his last known address. If a service user fails to remit the tax to the Director of Finance within fifteen days from the date of the service of the notice upon him, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five percent of the amount of the tax set forth in the notice shall be imposed, but not less than \$5.00. The penalty shall become part of the tax herein required to be paid.

SEC. 21.1.11. RECORDS.

It shall be the duty of every person required to collect and remit to the City any tax imposed by this article to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and remittance to the Director of Finance, which records the Clerk shall have the right to inspect at all reasonable times.

SEC. 21.1.12. EXEMPTIONS AND REFUNDS.

(a) The tax imposed by this article shall not apply to any individual 62 years of age or older or any disabled individual who uses Communications Services, electric, or gas services in or upon any premises occupied by that individual, provided the combined adjusted gross income (as used for purposes of the California Personal Income Tax Law) of all members of the household in which the individual resided was less than the figure in effect on the preceding first day of April as the "very low income" limitation for a family of two persons in the City of Los Angeles under the Section 8 housing programs of the United States Housing Act of 1937, as amended, as published by the United States Department of Housing and Urban Development.

For the purposes of this section, an individual shall be considered to be disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, which can be expected to result in death, or to be of long-continued and indefinite duration.

The exemption granted by this section shall not eliminate the duty of the service supplier from collecting taxes from the exempt individuals or the duty of the exempt individuals from

paying those taxes to the service supplier unless the Service User applies for an exemption and the Director of Finance grants the exemption in accordance with the provisions of Subsection (b).

For each fiscal year, the Director of Finance is directed to determine, and utilize as the prior calendar year's adjusted gross income limitation, the figure in effect on the preceding first day of April as the "very low income" limitation for a family of two persons in the City of Los Angeles under the Section 8 housing programs of the United States Housing Act of 1937, as amended, as published by the United States Department of Housing and Urban Development.

(b) Any Service User exempt from the taxes imposed by this article because of the provisions of Subsection (a) above or any other applicable exemption, may file an application with the Director of Finance for an exemption. The applications shall be made upon forms supplied by the Director of Finance and shall recite facts under oath, which qualify the applicant for an exemption. The Director of Finance shall review all applications and certify as exempt those applicants determined to qualify and shall notify all service suppliers affected that the exemption has been approved, stating the name of the applicant, the address to which the exempt service is being supplied, the account number, if any, and any other information as may be necessary for the service supplier to remove the exempt Service User from its tax billing procedure. Upon receipt of this notice, the service supplier shall not be required to continue to bill any further tax imposed by this article from the exempt Service User until further notice by the Director of Finance is given. The service supplier shall eliminate the exempt Service User from its tax billing procedure no later than 60 days after the receipt of the notice from the Director of Finance.

All applications for exemption for any given fiscal year shall be filed with the Director of Finance on or before the 30th day of April preceding the fiscal year. All exemptions shall continue and be renewed automatically by the Director of Finance so long as the prerequisite facts supporting the initial qualification for exemption shall continue. Upon any change in the service address or residence of the exempt individual, the service supplier, at its option, may either terminate the exemption immediately or continue the exemption until notified by the Director of Finance that the exempt individual has not filed an application for continuation of exemption within 90 days after the change in the service address or residence. Each individual exempt from the tax may apply to the Director of Finance for a new or continued exemption with each change of address or residence. Any individual exempt from the tax shall notify the Director of Finance within ten days of any change of fact or circumstance, which might disqualify the individual from receiving the exemption. It shall be a misdemeanor for any Person to knowingly receive the benefits of the exemption provided by this section when the basis for the exemption does not exist or ceases to exist.

Notwithstanding any of the provisions of this subsection, however, any service supplier who determines by any means that a new or nonexempt Service User is receiving service through a meter or connection exempt by virtue of an exemption issued to a previous user or exempt user of the same meter or connection, that service supplier shall immediately notify the Director of Finance of that fact and the Director of Finance shall conduct an investigation to ascertain

whether or not the provisions of this section have been complied with, and where appropriate, order the service supplier to commence collecting the tax from the nonexempt Service User.

Applications for exemptions may be filed during any given fiscal year, for the remaining portion of the fiscal year, provided the application is filed not later than the 60th day prior to the commencement of the billing period for the affected utility companies for which the exemption is to commence and shall be valid through the remainder of that fiscal year, as set forth above.

(c) Individuals 62 years of age or older and disabled individuals, any individual entitled to be exempt from the taxes imposed by this article pursuant to Subsection (a) who used telephone, electric or gas services and paid more than \$3.00 in those taxes may, within 12 Months of the date of payment, apply for a refund on forms provided by the Director of Finance. The refund application shall contain a declaration of those facts, under oath that qualify the applicant for a refund, and shall also be accompanied by the customer's original bills showing the amount of the taxes billed by service suppliers during the preceding year. Likewise, refund claims may be filed by an individual who used telephone, electric and gas service and paid the taxes prescribed by this article either directly or indirectly to the Service User rather than the service supplier.

In the event the applicant has lost or destroyed any relevant billings or statements showing the amount of tax paid, or if the applicant indirectly paid the taxes in conjunction with the occupation of any premises without receiving a specific billing from the Service User, or if the applicant has been granted an exemption during the year preceding the filing of the refund claim, the maximum refund shall be \$18.00, or \$1.50 for each full Month of service received by the applicant, whichever is less.

(d) Except as otherwise provided in this section, refunds of overpaid taxes shall be made in the same manner as is provided in Section 21.07 of this chapter for refunds of overpayments in Business Taxes.

(e) A Person required to collect and remit taxes imposed under this article may claim a refund or take as credit against taxes collected and remitted the amounts overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the Director of Finance that the Service User from whom the tax has been collected did not owe the tax; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the Service User or credited to charges subsequently payable by the Service User to the Person required to collect and remit.

(f) If any application for an exemption or refund as permitted to be filed by this section is determined to be deficient by the Director of Finance for failure to set forth the facts necessary to qualify the applicant for an exemption or refund or if the Director of Finance has reason to believe the applicant has failed to truthfully set forth those facts, the Director may deny the application by giving written notice of the denial and by stating in the notice the grounds for the denial and mailing the notice in a sealed envelope, postage prepaid, addressed to the applicant at the address shown upon the application. The applicant shall thereafter have a right to

a hearing with the Director of Finance in accordance with a hearing procedure to be established by the Director.

(g) No exemption or refund shall be granted pursuant to this section with respect to any tax imposed by this article, which is or has been paid by a public agency or where the applicant receives funds from a public agency specifically for the payment of the tax.

(h) If an individual is delinquent in the payment of any utility users tax at the time his claim for refund is filed, the Director of Finance shall apply the refund or as much of the refund as may be necessary to satisfy the delinquency.

(i) The tax imposed by this article shall not apply to communication, electric and gas services acquired by any nonprofit corporation for the use of its tenants in any housing project in which at least 80 percent of the dwelling units are occupied by a person meeting the requirements for exemption under Subsection (a) of this section.

(j) Upon request of the Director of Finance, a service supplier shall provide a list of the names and addresses of those customers that, according to its billing records, are exempt from a tax imposed by this article.

(k) To the extent that the City's authorization to impose or collect the tax imposed in this article is expanded or limited as a result of changes in state or federal law, no amendment or modification of this article shall be required to conform the tax to those changes, and the tax shall be imposed and collected to the full extent of the City's authorization up to the full amount of the tax imposed by the terms of this article.

SEC. 21.1.13. AMENDMENT OR REPEAL.

This Communications Users Tax imposed by this article may be decreased, repealed or amended by the City Council, but may not be increased without a vote of the people as required in California Constitution Article XIIC and California Government Code Section 53750(h).

SEC.21.1.14. AUDIT OF COMMUNICATIONS USERS TAX.

The City shall annually verify that the Communications Users Tax imposed by this article has been properly collected and remitted in accordance with this article, and properly expended according to applicable law. The annual verification shall be performed under the direction of the Director of Finance by a qualified independent third party employing reasonable, cost-effective procedures.

SEC. 21.1.15. SEVERABILITY.

If any portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this ordinance shall remain in effect. The people of the City of Los Angeles hereby declare that they would have adopted each portion

of this ordinance, notwithstanding the fact that any one or more portions of this ordinance is declared invalid or unenforceable and, to that end, the provisions of this ordinance are severable.