

5971 Los Santos Dr.  
Long Beach 90815

September 8, 2006

Long Beach City Council

Ladies and Gentlemen:

Item 27 on the council agenda for September 12, an amendment of the ordinance pertain to the telephone utility tax, includes what I believe to be significant errors which should be addressed before it is adopted. These errors arise because of the references to the historical interpretations of the City's UUT. The UUT has been imposed and collected according to the rules set forth in Sec. 4251 of Title 26 of the Internal Revenue Code and interpretations thereof by the IRS General Counsel. A portion of these rules has been declared illegal by federal courts and must not be followed in the implementation of the UUT. Item 27 removes the reference to Sec 4251, but states that the UUT will continue to be imposed, as it has been, according to 4251 rules.

Another objection to the amendment is that it accepts the IRS General Counsel's designation of items as communications services which do not comply with criteria set forth in other documents including Sec 3.68.050 of the Municipal Code. For example General Counsel Memorandum 39671, IRC Sec. 4252 states that the Subscriber Line Charge is taxable as a communications service charge because it provides access to the telephone network, which is false. It actually compensates local service providers for revenue lost when their long distance business was taken away. Furthermore the same memo states that the SLC does not entitle the subscriber to make any local or toll telephone call or to access any facility or service, which obviously eliminates it as a communications service charge.

Other fees and surcharges included on our telephone bills are de facto taxes imposed by the feds and the Public Utilities Commission which have been converted to taxable communication services by the same General Counsel. The amendment before the Council should limit the UUT to the amounts paid for genuine communications services. All references to historical methods should be eliminated and the specific items subject to the UUT should be identified. The UUT is meant to be applied to amounts paid for utilities consumed; therms of gas, 100 cu ft units of water and actual telephone calls.

John W. McWilliams