

City Attorney's Impartial Analysis Of Proposition H

Since 1970, the City of Chula Vista has had a Utility Users' Tax, which includes a Telephone Users' Tax. The Telephone Users' Tax imposes a five percent (5%) tax on the use of intrastate telephone communication services in the City of Chula Vista. Since the tax's inception, there have been significant advances in telecommunications, both technological and legal.

In terms of technology, Chula Vista residents, instead of solely using traditional landline telephones, now have additional technologies and services to choose from, including private network communications (T-1 lines), cell phones, voice-over-internet telephone services (VoIP), 800 and 900 services, pre-paid calling card services, and paging services.

In terms of the legal changes, the current Utility Users' Tax was written before changes to federal law, including The Mobile Telecommunications Sourcing Act of 2000 and IRS regulations, concerning how the Federal Excise Tax ("FET") applies to long distance services, were made.

If approved by a majority of voters, Proposition H would modernize the Utility Users' Tax to correspond with changes in telecommunications since the 1970's. Other cities have similarly modernized their Utility Users' Tax. Consistent with the modernization of the Utility Users' Tax, Proposition H renames the "Telephone Users' Tax", the "Telecommunications Users' Tax."

Proposition H establishes a modern definition of telecommunication services subject to the tax. The modern definition would apply to all types of telecommunications regardless of the technology that is used and regardless of whether the communication is intrastate, interstate, or international. Among the telecommunication services are private network communications (T-1 line), cell phones, voice-over-internet telephone services (VoIP), 800 and 900 services, pre-paid calling card services, and paging services. The Proposition ensures the Telecommunications User's Tax is in compliance with current federal laws and assists to avoid potential litigation.

Proposition H continues the current tax rate of five percent (5%) that is imposed on telecommunication services. While the tax rate has not changed, some types of telecommunication services, which were not previously taxed, are now also taxed. Proposition H does not tax Internet services or cable or video programming services subject to franchise fees.

Taxes generated from Proposition H are general taxes, meaning they go into the general fund. General fund monies are used to pay for many public services, such as police, fire, libraries, park and recreation services, and maintenance, repair, and replacement of City property.

Proposition H assigns the City Finance Director the duties of Tax Administrator, tasked with administering the Proposition. The Proposition provides that the tax will be collected from the telecommunications carrier. Should they fail to pay in a timely fashion, penalties and interest will be assessed.

Proposition H provides that independent third party audits may continue to be conducted to ensure the tax has been properly applied, exempted, collected and remitted, and revenues were properly expended. Over paid taxes will be refunded. Anyone may appeal the assessment of the tax. The Proposition continues the existing exemption for qualified senior citizens. The tax cannot be increased without a vote of the residents of Chula Vista.

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