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DEPARTMENT OF
FINANCE

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 104
SACRAMENTO, CA
95814-2696

December 4, 1990
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916-449-5454

REVENUE DIVISION

Budget & Finance Committee
Sacramento, California

Honorable Members in Session:

SUBJECT: UTILITY USERS TAX REFUND

SUMMARY

This is an informational report relating to the refunding of Utility Users Tax paid to the City of Sacramento by insurance companies. The report addresses the impact to the City of the required refunds as mandated by a recent California Supreme Court decision.

BACKGROUND

On March 26, 1990 the California Supreme Court upheld a 1988 California Court of Appeal decision that under Article XIII, Section 28(f), of the California Constitution, insurance companies are generally exempt from municipal taxes because of the state tax paid by insurance companies. The decision applied not only to insurance companies' business operations but also to property held for investment and managed by insurance companies. The decision exempts insurance companies and their investments from all taxation except for real estate and motor vehicle taxes. Because of the court decision and in accordance with California Civil Code, refunds will be made for only two years of tax paid in error.

FINANCIAL DATA

There are currently two refund requests pending. They are United Services Automobile Association (USAA) for \$59,124.41 (two years tax paid through SMUD) and Cal Farm Insurance Company for \$125.83 (two years tax paid through SMUD). It is anticipated that there will be additional requests for refunds.

A review of SMUD accounts has been accomplished in order to identify the potential liability for Utility Users Tax refunds. Given that it is extremely difficult to positively identify insurance companies and their investment properties from SMUD customer names, staff's best estimate for potential refunds for a two-year period is approximately \$400,000 to possibly \$500,000. The FY 1990/91 budget for Utility Users Tax is \$32,811,000 and the possible refunds would be 1.7% of the total budget. Refunds would be applicable for taxes collected and remitted by SMUD, PG&E, telephone service companies, and cable television.

POLICY CONSIDERATIONS

There is no Council adopted policy related to the refund of taxes; however, the City currently has a policy to refund claims for City utility service charges for three years. This policy, as enacted by Resolution No. 84-149, is only specific for City provided and City billed utility services.

The Utility Users Tax refund is mandated by law and the City's legal responsibility is to refund for up to two years for taxes paid in error. Refunds would be for two years from the date of notification or request for refund. A refund for up to two years would not be inconsistent with previous policy or practice.

Given the lack of detail data available to the City since Utility Users Tax is collected and remitted by utility companies, administrative refund procedures will be as follows:

1. Require proof of local tax-exempt status from company requesting refund.
2. Require proof of tax paid from company requesting refund: source documents reflecting tax.
3. Verify tax paid through utility company that collected and remitted Utility Users Tax.
4. Provide City notification to utility companies of service addresses that should be exempt from the tax.

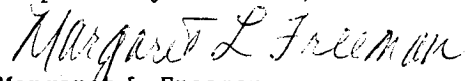
MBE/WBE EFFORTS

Not applicable.

RECOMMENDATION

It is recommended that the Budget and Finance Committee direct staff to transmit this report to the City Council for its information. This report requires no action by City Council.

Respectfully submitted,


Margaret L. Freeman
Revenue Manager

APPROVED:


BETTY MASUOKA
Director of Finance

RECOMMENDATION APPROVED:


JACK R. CRIST
Deputy City Manager

Contact Person: Margaret L. Freeman, Revenue Manager
449-5724

December 4, 1990
All Districts