

Supreme Court Copy

S174507

**IN THE SUPREME COURT OF THE
STATE OF CALIFORNIA**

**ESTUARDO ARDON, on behalf of himself
and all others similarly situated,
*Plaintiff/Appellant***

**SUPREME COURT
FILED**

vs.

DEC 28 2009

**CITY OF LOS ANGELES
*Defendant/Respondent***

**Frederick K. Ohlrich Clerk
Deputy**

**After a Decision By The Court of Appeal
Second Appellate District, Division Three
Case No. B201035**

**Appeal from the Superior Court for the County of Los Angeles
Hon. Anthony J. Mohr, Judge
Trial Court Case No. BC 363959**

NOTICE OF MOTION AND MOTION FOR JUDICIAL NOTICE

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...Continued on next page...

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*Attorneys for Defendant/Respondent
City of Los Angeles*

***To the Honorable Chief Justice and Associate Justices of the
Supreme Court of the State of California:***

Please take notice that, pursuant to California Rules of Court 8.252 California and Evidence Code sections 452(b) & (h), and 459, Respondent City of Los Angeles hereby moves this Court to take judicial notice for the purposes of this appeal, of the following true and correct documents, which are attached as Exhibits A through H to the Declaration of Sandra J. Levin filed in support hereof:

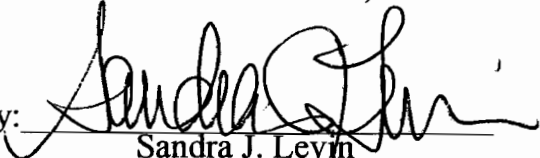
- A. Los Angeles County Registrar-Recorder/County Clerk's Certificate of the Canvass of Election Returns for the election held on February 5, 2008.
- B. Voter Information Pamphlet for the Special Municipal Election held in the City of Los Angeles on February 5, 2008, including Impartial Summary by Gerry F. Miller, Chief Legislative Analyst, at p. 4.
- C. Section 401 of the Charter of the City of Los Angeles.
- D. Internal Revenue Service Revenue Ruling 1979-404, 1979-2 C.B. 382.

- E. Internal Revenue Service Notice 2006-50.
- F. Internal Revenue Service Notice 2007-11.
- G. Section 21.1.12 of the City of Los Angeles Municipal Code.
- H. Section 21.07 of the City of Los Angeles Municipal Code.

This motion is based on the attached Memorandum of Points and Authorities, true and correct copies of the above documents, which are attached as Exhibits A through H to the Declaration of Sandra J. Levin filed in support hereof, and the accompanying proposed order granting this motion.

DATED: December 23, 2009 Respectfully submitted,

COLANTUONO & LEVIN, PC

By: 
Sandra J. Levin
Attorneys for Respondent City of Los Angeles

MEMORANDUM OF POINTS AND AUTHORITIES

I. THE COURT MUST TAKE JUDICIAL NOTICE AS REQUESTED.

A. General Principles of Judicial Notice.

Judicial notice may be taken of “[r]egulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.” (Cal. Evid. Code § 452(b).) Judicial notice also may be taken of “facts . . . that are not reasonably subject to dispute.” (*Id.*, subd. (h).) Judicial notice of such facts are mandatory upon request where the opposing party is permitted to raise objections and the court has enough information about the facts in order to make a determination that they come within a category subject to proper judicial notice. (Cal. Evid. Code § 453(b).) A reviewing court is permitted to judicially notice facts in the same manner as a trial court. (Cal. Evid. Code § 459(a).)

“Judicial notice is the recognition and acceptance by the court, for use . . . by the court, of the existence of a matter of law or fact that is relevant to an issue in the action without requiring formal proof of the matter.” (*Lockley v. Law Office of Cantrell, Green, et al.* (2001) 91 Cal.App.4th 875, 882 (citations and quotations omitted). “The underlying theory of judicial notice is that the matter being judicially noticed is a law or fact that is *not reasonably subject to dispute.*” (*Id.*; Cal. Evid. Code § 452(h)).

B. The Court Should Take Judicial Notice of the Los Angeles Election Returns, Voter Information Pamphlet, City Charter, and Municipal Code.

The Court should judicially notice the documents in Exhibits A, B, C, G, and H. All these documents constitute evidence of legislative action, and may be judicially noticed pursuant to Evidence Code sections 452(b) and (h). Moreover, as duly enacted municipal ordinances Exhibits C, G, and H are proper subjects of judicial notice. *Ste. Marie v. Riverside County Regional Park and Open-Space District* (2009) 46 Cal.4th 282, 293 (judicial notice permissible for regulations and legislative enactments issued by or under the authority of any public entity in the United States). Further, the election results, the contents of the Voter Information Pamphlet, Municipal Code and the City Charter are facts not reasonably subject to dispute, and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. *Robert L. v. Superior Court* (2003) 30 Cal.4th 894, 903 (ballot pamphlets constitute legislative history and are appropriate for judicial notice); *In re Lance W.* (1985) 37 Cal.3d 873, 888, fn. 8 (“Ballot summaries and arguments are accepted sources from which to ascertain the voters’ intent and understanding of initiative measures”); *Garfinkle v. Superior Court* (1978) 21 Cal.3d 268, 282, fn. 19 (relying on Legislative Analyst’s evaluation to determine voters’ intent); *Souza v. Westlands Water Dist.* (2006) 135 Cal.App.4th 879 (judicial notice of water district notice to landowners).

These exhibits are relevant to this appeal which, among other issues, concerns the impact of Respondent's City Charter, Municipal Code, and voter enacted ordinances on the collection of telephone users taxes and tax refunds as more fully explained in the Respondent's Answer Brief on the Merits.

Los Angeles Municipal Code sections 21.1.12, contained in Exhibit G, and 21.07 contained in Exhibit H, were provided to the trial court for judicial notice, and filed concurrently with Respondent's Demurrer to Appellant's First Amended Complaint, on May 2, 2007. The trial court's July 6, 2007 Minute Order relating to hearing on Respondent's Demurrer does not indicate whether judicial notice was granted or declined. These Los Angeles Municipal Code sections were not provided to the Court of Appeal for judicial notice.

The Los Angeles Election Returns, Voter Information Pamphlet, and City Charter Proposition were not provided to the trial court for judicial notice. On April 28, 2008, Respondent requested that the Court of Appeal take judicial notice of the Los Angeles Election Returns contained in Exhibit A, the Voter Information Pamphlet contained in Exhibit B, and City Charter contained in Exhibit C. On May 13, 2008, the Court of Appeal granted Respondent's request for judicial notice.

C. The Court Should Take Judicial Notice of the Internal Revenue Service Ruling and Notices.

The Court should judicially notice the documents in Exhibits D, E

and F. All these documents constitute evidence of regulations or legislative enactments issued under the authority of the Internal Revenue Service, a public entity of the United States. Further, all such documents are not reasonably subject to dispute, and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy. As such, these documents may be judicially noticed pursuant to Evidence Code sections 452(b) and (h). *Ste. Marie v. Riverside County Regional Park and Open-Space District* (2009) 46 Cal.4th 282, 293 (judicial notice permissible for regulations and legislative enactments issued by or under the authority of any public entity in the United States).

These exhibits are relevant to this appeal which, among other issues, concerns the interpretation of Respondent's City Charter and voter enacted ordinances on the collection of telephone users taxes and tax refunds as more fully explained in the Respondent's Answer Brief on the Merits.


The Internal Revenue Service Ruling and Notice were not provided to the trial court for judicial notice. On April 28, 2008, Respondent requested that the Court of Appeal take judicial notice of the Internal Revenue Service Ruling and Notice contained in Exhibits D, E, and F. On May 13, 2008, the Court of Appeal granted Respondent's request for judicial notice.

II. CONCLUSION.

Therefore, this Court must, after expiration of opposing counsel's opportunity to respond under rule 8.54(a)(3) of the California Rules of Court, grant Respondent City of Los Angeles' motion to judicially notice the attached materials.

DATED: December 23, 2009 Respectfully submitted,

COLANTUONO & LEVIN, PC

By: 
Sandra J. Levin
Attorneys for Respondent City of Los Angeles

DECLARATION OF COUNSEL

[CRC 8.54(a)(2)]

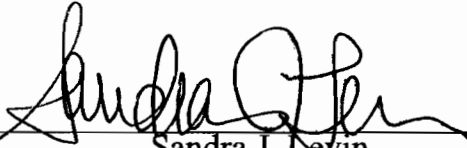
1. I am an attorney in good standing licensed to practice before the Courts of this state.
2. Attached hereto as Exhibit A is a true and correct copy of the Los Angeles County Registrar-Recorder/County Clerk's Certificate of the Canvass of Election Returns for the election held on February 5, 2008.
3. Attached hereto as Exhibit B is a true and correct copy of the Voter Information Pamphlet for the Special Municipal Election held in the City of Los Angeles on February 5, 2008, including Impartial Summary by Gerry F. Miller, Chief Legislative Analyst, at p. 4.
4. Attached hereto as Exhibit C is a true and correct copy of Section 401 of the Charter of the City of Los Angeles.
5. Attached hereto as Exhibit D is a true and correct copy of Internal Revenue Service Revenue Ruling 1979-404, 1979-2 C.B. 382.
6. Attached hereto as Exhibit E is a true and correct copy of Internal Revenue Service Notice 2006-50.

7. Attached hereto as Exhibit F is a true and correct copy of Internal Revenue Service Notice 2007-11.

8. Attached hereto as Exhibit G is a true and correct copy of Los Angeles Municipal Code section 21.1.12.

9. Attached hereto as Exhibit H is a true and correct copy of Los Angeles Municipal Code section 21.07.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed on this, the 23rd day of December, 2009.

By: 
Sandra J. Levin

[Proposed]

**ORDER TAKING JUDICIAL NOTICE OF
REGULATIONS AND LEGISLATIVE ACTIONS**

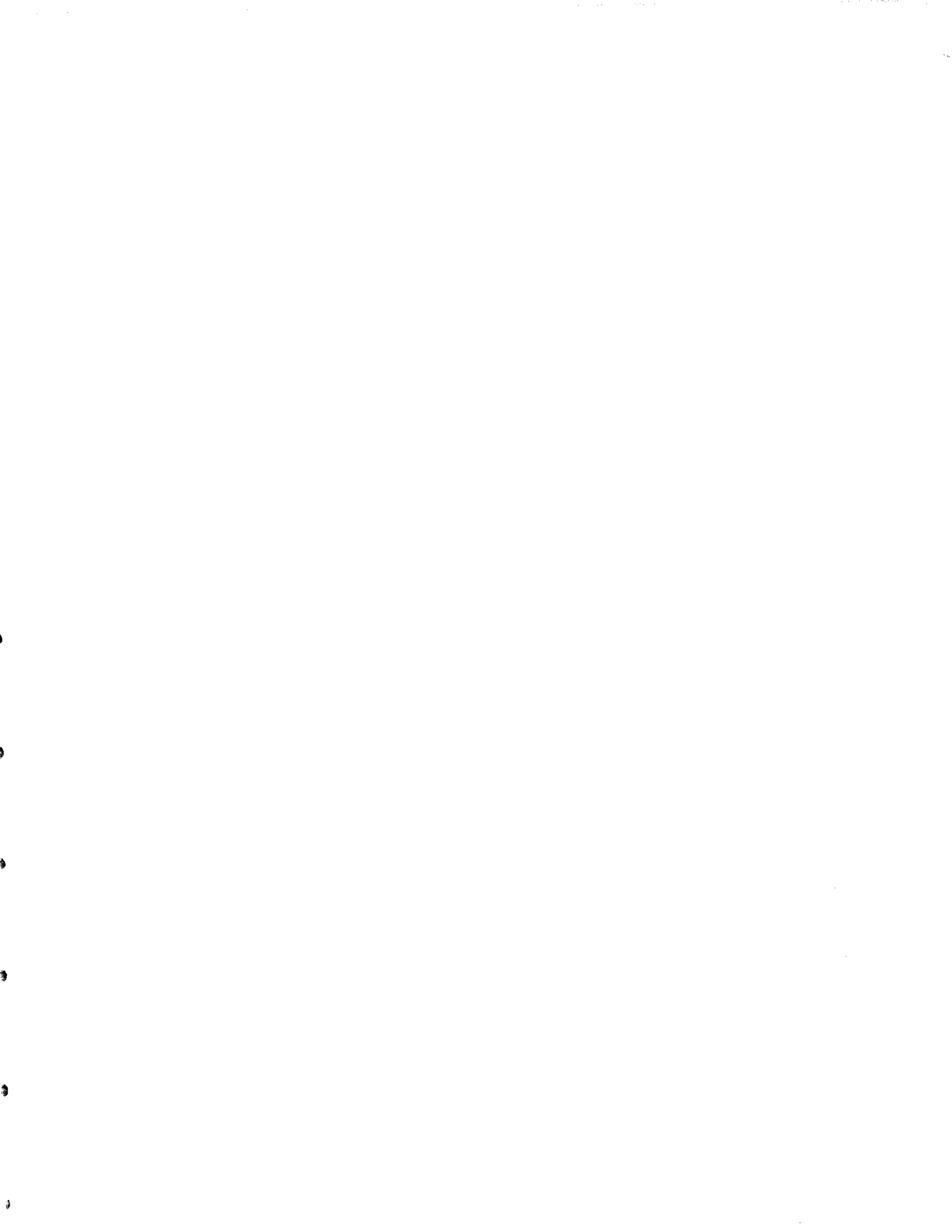
Good cause appearing, IT IS HEREBY ORDERED that the Motion Requesting Judicial Notice is granted. IT IS ORDERED that this Court shall take judicial notice of the following:

1. Los Angeles County Registrar-Recorder/County Clerk's Certificate of the Canvass of Election Returns for the election held on February 5, 2008.
2. Voter Information Pamphlet for the Special Municipal Election held in the City of Los Angeles on February 5, 2008, including Impartial Summary by Gerry F. Miller, Chief Legislative Analyst, at p. 4.
3. Section 401 of the Charter of the City of Los Angeles.
4. Internal Revenue Service Revenue Ruling 1979-404, 1979-2 C.B. 382.
5. Internal Revenue Service Notice 2006-50.
6. Internal Revenue Service Notice 2007-11.
7. Section 21.1.12 of the City of Los Angeles Municipal Code.

8. Section 21.07 of the City of Los Angeles Municipal Code.

Dated: _____

Presiding Justice



Los Angeles County
Registrar-Recorder/County Clerk

Certificate of the canvass of the election returns

I, DEAN C. LOGAN, Acting Registrar-Recorder/County Clerk of the County of Los Angeles, State of California, do hereby certify that the attached is a true and correct Canvass of election returns for the Presidential Primary Election held on February 5, 2008. I further certify that I have completed the canvassing of all votes cast for all candidates for the following offices and all votes cast for and against the following measures:

PARTISAN CANDIDATES FOR THE DEMOCRATIC, REPUBLICAN, AMERICAN INDEPENDENT, GREEN, LIBERTARIAN, AND PEACE & FREEDOM PARTIES.

Member of the State Assembly	55 th District
<u>STATE MEASURES</u>	91-97
<u>SCHOOL MEASURES</u>	
Acton-Agua Dulce Unified School District	V
Long Beach Community College District	E
Redondo Beach Unified School District	C
San Gabriel Unified School District	A
Santa Monica-Malibu Unified School District	R
<u>CITY MEASURES</u>	
Downey City	G
Huntington Park City	B
Inglewood City	F
Los Angeles City	S
Pasadena City	D

I further certify that the total Ballots Cast in the County of Los Angeles is as follows:

<u>PRECINCT BALLOTS CAST</u>	<u>VOTE BY MAIL BALLOTS CAST</u>	<u>TOTAL BALLOTS CAST</u>
1,701,077	482,921	2,183,998

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 4th day of March, 2008.



Dean Logan
 DEAN C. LOGAN
 Acting Registrar-Recorder/County Clerk
 County of Los Angeles

Los Angeles County
Registrar-Recorder/County Clerk

Certificate of the Canvass of the Election Returns

I, DEAN C. LOGAN, Acting Registrar-Recorder/County Clerk of the County of Los Angeles, State of California, do hereby certify that the attached is a full, true and correct Summary of the Statement of the Votes Cast in said County at the Presidential Primary Election held on February 5, 2008, relating to the votes cast for Presidential Preference contests.

I hereby certify that the total ballots cast is as follows:

Democratic	1,363,845
Republican	551,722
American Independent	24,385
Green	8,035
Libertarian	6,155
Peace & Freedom	3,776
Nonpartisan	226,081
COUNTY TOTAL	2,183,998

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 4th day of March, 2008.



Dean Logan
DEAN C. LOGAN
Acting Registrar-Recorder/County Clerk
County of Los Angeles

Los Angeles County Registrar-Recorder/County Clerk

SUPPLEMENTAL

Certificate of the canvass of the election returns

I, DEAN C. LOGAN, Acting Registrar-Recorder/County Clerk of the County of Los Angeles, State of California, do hereby certify that the attached is a full, true and correct summary of supplemental votes cast by Nonpartisan Voters for the American Independent and Democratic Parties; presidential preference (contests), at the Presidential Primary Election held on February 5, 2008.

	Press Bulletin (2/29)	Supplemental		Final Results
Presidential Preference	AI	Nonpartisan Cross Over Votes *		
Don J. Grundmann	4,329	30	0	4,359
Mad Max Riekse	3,452	32	0	3,484
Diane B. Templin	4,218	18	0	4,236
Nonpartisan Voters	9,992	80	0	10,072
Presidential Preference	DEM			
Joe Biden	5,755	604	19	6,378
Hillary Clinton	771,700	23,895	743	796,338
Chris Dodd	3,628	417	17	4,062
John Edwards	28,634	1,201	35	29,870
Mike Gravel	2,055	325	19	2,399
Dennis Kucinich	4,523	583	23	5,129
Barack Obama	593,003	19,796	507	613,306
Bill Richardson	4,567	252	9	4,828
Nonpartisan Voters	99,072	47,073	1,372	147,517

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 3RD day of March, 2008.



Dean Logan
DEAN C. LOGAN

Acting Registrar-Recorder/County Clerk
County of Los Angeles

* Includes electronic and manual supplemental counts of nonpartisan cross over votes for the American Independent and Democratic Parties presidential preference contests.

COUNTY OF LOS ANGELES
 DEPARTMENT OF REGISTRAR-RECORDER/COUNTY CLERK
 SUPPLEMENTAL NON-PARTISAN CROSS-OVER VOTES
 FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

	4,766	74.05	DEM		PF
TOTAL PRECINCTS	4,766	74.05			0 0.00
PRECINCTS REPORTING	3,529				0 0.00
PARTY REGISTRATION					0 0.00
NONPARTISAN	655,810				0 0.00
DEMOCRATIC	1,585,327				0 0.00
REPUBLICAN	829,197				0 0.00
AMERICAN INDEPENDENT	55,424				0 0.00
GREEN	20,503				0 0.00
LIBERTARIAN	15,129				0 0.00
PEACE AND FREEDOM	18,542				0 0.00
TOTAL	3,185,624				0 0.00
BALLOTS CAST/TURNOUT					0 0.00
ABSENTEE TOTAL	9,227				0 0.00
NONPARTISAN	47,153	100.00			0 0.00
DEMOCRATIC	0	0.00			0 0.00
REPUBLICAN	0	0.00			0 0.00
AMERICAN INDEPENDENT	0	0.00			0 0.00
GREEN	0	0.00			0 0.00
LIBERTARIAN	0	0.00			0 0.00
PEACE AND FREEDOM	0	0.00			0 0.00
TOTAL	47,153	1.48			0 0.00
PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)					
JOE BIDEN	604	1.28	DEM		
HILLARY CLINTON	23,895	50.76			
CHRIS DODD	417	0.89			
JOHN EDWARDS	1,201	2.55			
MIKE GRAVEL	325	0.69			
DENNIS KUCINICH	583	1.24			
BARACK OBAMA	19,796	42.05			
BILL RICHARDSON	252	0.54			
PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)					
SAM BROWNBACK	0	0.00	REP		
JOHN H COX	0	0.00			
RUDY GIULIANI	0	0.00			
MIKE HUCKABEE	0	0.00			
DUNCAN HUNTER	0	0.00			
ALAN KEYES	0	0.00			
JOHN MCCAIN	0	0.00			
RON PAUL	0	0.00			
MITT ROMNEY	0	0.00			
TOM TANCREDO	0	0.00			
FRED THOMPSON	0	0.00			
PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)					
DON J GRUNDMANN	30	37.50	AI		
MAD MAX RIEKSE	32	40.00			
DIANE B TEMPLIN	18	22.50			
PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)					
JARED BALL	0	0.00	GR		
ELAINE BROWN	0	0.00			
JESSE JOHNSON	0	0.00			
CYNTHIA MCKINNEY	0	0.00			
KENT WESPLAY	0	0.00			
RALPH NADER	0	0.00			
KAT SWIFT	0	0.00			
PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)					
JOHN FINAN	0	0.00	LIB		
-CONTINUED NEXT COLUMN-					
PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)					
S A ALEXANDER	0	0.00			
JOHN CROCKFORD	0	0.00			
STANLEY HETZ	0	0.00			
GLORIA E LA RIVA	0	0.00			
CYNTHIA MCKINNEY	0	0.00			
BRIAN MOORE	0	0.00			
RALPH NADER	0	0.00			
TO VOTE FOR NONPARTISAN CANDIDATES, NONPARTISAN VOTERS MUST FIRST SELECT PARTY IN THE BOX BELOW.					
THIS BOX FOR NONPARTISAN VOTERS ONLY					
DEMOCRATIC	47,073	99.83			
A INDEPENDENT	80	0.17			
STATE MEASURES - 91 (LA COUNTY ONLY)					
TRANSPORTATION FUNDS, INITIATIVE					
CONSTITUTIONAL AMENDMENT					
VOTES REQUIRED: MAJORITY OF VOTES CAST					
YES.....	0	0.00			
NO.....	0	0.00			
STATE MEASURES - 92 (LA COUNTY ONLY)					
COMMUNITY COLLEGES, FUNDING.					
GOVERNANCE, FEES, INITIATIVE					
CONSTITUTIONAL AMENDMENT AND STATUTE					
VOTES REQUIRED: MAJORITY OF VOTES CAST					
YES.....	0	0.00			
NO.....	0	0.00			

SUPPLEMENTAL NON-PARTISAN CROSS-OVER VOTES - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

STATE MEASURES - 93 (LA COUNTY ONLY)
LIMITS ON LEGISLATORS' TERMS IN OFFICE.
INITIATIVE CONSTITUTIONAL AMENDMENT
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 333
***PCTS 46 RPTG 43

STATE MEASURES - 94 (LA COUNTY ONLY)
REFERENDUM PETITION TO OVERTURN
AMENDMENT TO INDIAN GAMING COMPACT
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 152
***PCTS 15 RPTG 12

STATE MEASURES - 95 (LA COUNTY ONLY)
REFERENDUM PETITION TO OVERTURN
AMENDMENT TO INDIAN GAMING COMPACT
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 152
***PCTS 15 RPTG 12

STATE MEASURES - 96 (LA COUNTY ONLY)
REFERENDUM PETITION TO OVERTURN
AMENDMENT TO INDIAN GAMING COMPACT
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 579
***PCTS 47 RPTG 38

STATE MEASURES - 97 (LA COUNTY ONLY)
REFERENDUM PETITION TO OVERTURN
AMENDMENT TO INDIAN GAMING COMPACT
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 2,403
***PCTS 239 RPTG 176

MEMBER OF THE STATE ASSEMBLY
55TH DISTRICT
(UNEXPIRED TERM ENDING 12/01/08)
HERB PETERS -LIB- 0 0.00
CHARLOTTE S GIBSON -AL- 0 0.00
WARREN FURUTANI -DEM- 0 0.00
***TOTAL BALLOTS CAST 2,403
***PCTS 239 RPTG 176

ACTON-AGUA DULCE UNIFIED SCHOOL
DISTRICT - V
SCHOOL IMPROVEMENT BONDS
VOTES REQUIRED: 55% OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 48
***PCTS 17 RPTG 6

DOWNEY CITY - G
LIMITATION OF TERMS
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 333
***PCTS 46 RPTG 43

HUNTINGTON PARK CITY - B
COMMUNICATIONS USERS'
TAX REDUCTION
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 152
***PCTS 15 RPTG 12

INGLEWOOD CITY - F
FIREWORKS ORDINANCE
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 579
***PCTS 47 RPTG 38

LONG BEACH COMMUNITY COLLEGE
DISTRICT - E
SCHOOL IMPROVEMENT BONDS
VOTES REQUIRED: 55% OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 2,308
***PCTS 271 RPTG 208

LOS ANGELES CITY - S
REDUCTION OF TAX RATE AND
MODERNIZATION OF COMMUNICATIONS
USERS TAX. PROPOSITIONS
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 19,210
***PCTS 1637 RPTG 1,286

PASADENA CITY - D
UTILITY USERS TAX
CONTINUATION
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 500
***PCTS 77 RPTG 41

REDONDO BEACH UNIFIED SCHOOL
DISTRICT - C
SCHOOL IMPROVEMENT BONDS
VOTES REQUIRED: 55% OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 514
***PCTS 46 RPTG 41

SAN GABRIEL UNIFIED SCHOOL
DISTRICT - A
SCHOOL IMPROVEMENT BONDS
VOTES REQUIRED: 55% OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 311
***PCTS 24 RPTG 17

SANTA MONICA-MALIBU UNIFIED SCHOOL
DISTRICT - R
SCHOOL IMPROVEMENT BONDS
VOTES REQUIRED: 2/3 OF VOTES CAST
YES..... 0 0.00
NO..... 0 0.00
***TOTAL BALLOTS CAST 1,273
***PCTS 71 RPTG 63

DELEGATES TO NATIONAL CONVENTION
22ND CONGRESSIONAL DISTRICT
(SHARED W/KERN CO &
SAN LUIS OBISPO CO)
JOE BIDEN -DEM- 2 1.59
HILLARY CLINTON -DEM- 39 30.95
CHRIS DODD -DEM- 6 4.76
JOHN EDWARDS -DEM- 28 22.22
MIKE GRAVEL -DEM- 2 1.59
DENNIS KUCINICH -DEM- 2 1.59
BARACK OBAMA -DEM- 44 34.92
BILL RICHARDSON -DEM- 3 2.38
***TOTAL BALLOTS CAST 126

DELEGATES TO NATIONAL CONVENTION
22ND CONGRESSIONAL DISTRICT
(SHARED W/KERN CO &
SAN LUIS OBISPO CO)
SAM BROWNBACK -REP- 0 0.00
JOHN H COX -REP- 0 0.00
RUDY GIULIANI -REP- 0 0.00
MIKE HUCKABEE -REP- 0 0.00
DUNCAN HUNTER -REP- 0 0.00
ALAN KEYES -REP- 0 0.00
JOHN MCCAIN -REP- 0 0.00
RON PAUL -REP- 0 0.00
-CONTINUED ON NEXT PAGE-

SUPPLEMENTAL NON-PARTISAN CROSS-OVER VOTES - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
30TH CONGRESSIONAL DISTRICT						
JOE BIDEN	36	0.63		JOE BIDEN	42	1.31
HILLARY CLINTON	2,249	39.66		HILLARY CLINTON	2,148	67.06
CHRIS DODD	56	0.99		CHRIS DODD	10	0.31
JOHN EDWARDS	142	2.50		JOHN EDWARDS	45	1.40
MIKE GRAVEL	26	0.46		MIKE GRAVEL	16	0.50
DENNIS KUCINICH	41	0.72		DENNIS KUCINICH	43	1.34
BARACK OBAMA	3,100	54.67		BARACK OBAMA	885	27.63
BILL RICHARDSON	20	0.35		BILL RICHARDSON	14	0.44
***TOTAL BALLOTS CAST	5,670			***TOTAL BALLOTS CAST	3,203	

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
30TH CONGRESSIONAL DISTRICT						
SAM BROWNBACK	0	0.00		SAM BROWNBACK	0	0.00
JOHN H COX	0	0.00		JOHN H COX	0	0.00
RUDY GIULIANI	0	0.00		RUDY GIULIANI	0	0.00
MIKE HUCKABEE	0	0.00		MIKE HUCKABEE	0	0.00
DUNCAN HUNTER	0	0.00		DUNCAN HUNTER	0	0.00
ALAN KEYES	0	0.00		ALAN KEYES	0	0.00
JOHN MCCAIN	0	0.00		JOHN MCCAIN	0	0.00
RON PAUL	0	0.00		RON PAUL	0	0.00
MITT ROMNEY	0	0.00		MITT ROMNEY	0	0.00
TOM TANCREDO	0	0.00		TOM TANCREDO	0	0.00
FRED THOMPSON	0	0.00		FRED THOMPSON	0	0.00
***TOTAL BALLOTS CAST	0			***TOTAL BALLOTS CAST	0	
***PCTS	439			***PCTS	283	
						RPTG
						213

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
31ST CONGRESSIONAL DISTRICT						
JOE BIDEN	32	1.39		JOE BIDEN	61	1.66
HILLARY CLINTON	1,564	68.18		HILLARY CLINTON	1,346	36.57
CHRIS DODD	8	0.35		CHRIS DODD	13	0.35
JOHN EDWARDS	33	1.44		JOHN EDWARDS	47	1.28
MIKE GRAVEL	14	0.61		MIKE GRAVEL	9	0.24
DENNIS KUCINICH	18	0.78		DENNIS KUCINICH	19	0.52
BARACK OBAMA	607	26.46		BARACK OBAMA	2,173	59.03
BILL RICHARDSON	18	0.78		BILL RICHARDSON	13	0.35
***TOTAL BALLOTS CAST	2,294			***TOTAL BALLOTS CAST	3,681	

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
31ST CONGRESSIONAL DISTRICT						
SAM BROWNBACK	0	0.00		SAM BROWNBACK	0	0.00
JOHN H COX	0	0.00		JOHN H COX	0	0.00
RUDY GIULIANI	0	0.00		RUDY GIULIANI	0	0.00
MIKE HUCKABEE	0	0.00		MIKE HUCKABEE	0	0.00
DUNCAN HUNTER	0	0.00		DUNCAN HUNTER	0	0.00
ALAN KEYES	0	0.00		ALAN KEYES	0	0.00
JOHN MCCAIN	0	0.00		JOHN MCCAIN	0	0.00
RON PAUL	0	0.00		RON PAUL	0	0.00
MITT ROMNEY	0	0.00		MITT ROMNEY	0	0.00
TOM TANCREDO	0	0.00		TOM TANCREDO	0	0.00
FRED THOMPSON	0	0.00		FRED THOMPSON	0	0.00
***TOTAL BALLOTS CAST	0			***TOTAL BALLOTS CAST	0	
***PCTS	212			***PCTS	296	
						RPTG
						240

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
34TH CONGRESSIONAL DISTRICT						
JOE BIDEN	47	2.47		JOE BIDEN	47	2.47
HILLARY CLINTON	1,162	61.09		HILLARY CLINTON	1,162	61.09
CHRIS DODD	9	0.47		CHRIS DODD	9	0.47
JOHN EDWARDS	34	1.79		JOHN EDWARDS	34	1.79
MIKE GRAVEL	18	0.95		MIKE GRAVEL	18	0.95
DENNIS KUCINICH	40	2.10		DENNIS KUCINICH	40	2.10
BARACK OBAMA	584	30.70		BARACK OBAMA	584	30.70
BILL RICHARDSON	8	0.42		BILL RICHARDSON	8	0.42
***TOTAL BALLOTS CAST	1,902			***TOTAL BALLOTS CAST	1,902	

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
34TH CONGRESSIONAL DISTRICT						
SAM BROWNBACK	0	0.00		SAM BROWNBACK	0	0.00
JOHN H COX	0	0.00		JOHN H COX	0	0.00
RUDY GIULIANI	0	0.00		RUDY GIULIANI	0	0.00
MIKE HUCKABEE	0	0.00		MIKE HUCKABEE	0	0.00
DUNCAN HUNTER	0	0.00		DUNCAN HUNTER	0	0.00
ALAN KEYES	0	0.00		ALAN KEYES	0	0.00
JOHN MCCAIN	0	0.00		JOHN MCCAIN	0	0.00
RON PAUL	0	0.00		RON PAUL	0	0.00
MITT ROMNEY	0	0.00		MITT ROMNEY	0	0.00
TOM TANCREDO	0	0.00		TOM TANCREDO	0	0.00
FRED THOMPSON	0	0.00		FRED THOMPSON	0	0.00
***TOTAL BALLOTS CAST	0			***TOTAL BALLOTS CAST	0	
***PCTS	215			***PCTS	215	
						RPTG
						171

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
35TH CONGRESSIONAL DISTRICT						
JOE BIDEN	42	1.76		JOE BIDEN	42	1.76
HILLARY CLINTON	651	27.34		HILLARY CLINTON	651	27.34
CHRIS DODD	10	0.42		CHRIS DODD	10	0.42
JOHN EDWARDS	32	1.34		JOHN EDWARDS	32	1.34
MIKE GRAVEL	8	0.34		MIKE GRAVEL	8	0.34
DENNIS KUCINICH	30	1.26		DENNIS KUCINICH	30	1.26
BARACK OBAMA	1,601	67.24		BARACK OBAMA	1,601	67.24
BILL RICHARDSON	7	0.29		BILL RICHARDSON	7	0.29
***TOTAL BALLOTS CAST	2,381			***TOTAL BALLOTS CAST	2,381	

DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		DELEGATES TO NATIONAL CONVENTION		
DEM	REP	DEM	REP	DEM	REP	
35TH CONGRESSIONAL DISTRICT						
SAM BROWNBACK	0	0.00		SAM BROWNBACK	0	0.00
JOHN H COX	0	0.00		JOHN H COX	0	0.00
RUDY GIULIANI	0	0.00		RUDY GIULIANI	0	0.00
MIKE HUCKABEE	0	0.00		MIKE HUCKABEE	0	0.00
DUNCAN HUNTER	0	0.00		DUNCAN HUNTER	0	0.00
ALAN KEYES	0	0.00		ALAN KEYES	0	0.00
JOHN MCCAIN	0	0.00		JOHN MCCAIN	0	0.00
RON PAUL	0	0.00		RON PAUL	0	0.00
MITT ROMNEY	0	0.00		MITT ROMNEY	0	0.00
TOM TANCREDO	0	0.00		TOM TANCREDO	0	0.00
FRED THOMPSON	0	0.00		FRED THOMPSON	0	0.00
***TOTAL BALLOTS CAST	0			***TOTAL BALLOTS CAST	0	
***PCTS	279			***PCTS	279	
						RPTG
						205

SUPPLEMENTAL NON-PARTISAN CROSS-OVER VOTES - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

DELEGATES TO NATIONAL CONVENTION	DEM	DELEGATES TO NATIONAL CONVENTION	DEM	DELEGATES TO NATIONAL CONVENTION	DEM
36TH CONGRESSIONAL DISTRICT		39TH CONGRESSIONAL DISTRICT		42ND CONGRESSIONAL DISTRICT	
JOE BIDEN	68	JOE BIDEN	10	JOE BIDEN	7
HILLARY CLINTON	2,389	HILLARY CLINTON	1,564	HILLARY CLINTON	218
CHRIS DODD	5	CHRIS DODD	20	CHRIS DODD	13
JOHN EDWARDS	101	JOHN EDWARDS	43	JOHN EDWARDS	15
MIKE GRAVEL	15	MIKE GRAVEL	38	MIKE GRAVEL	22
DENNIS KUCINICH	52	DENNIS KUCINICH	68	DENNIS KUCINICH	40
BARACK OBAMA	1,179	BARACK OBAMA	750	BARACK OBAMA	181
BILL RICHARDSON	25	BILL RICHARDSON	16	BILL RICHARDSON	14
***TOTAL BALLOTS CAST	3,834	***TOTAL BALLOTS CAST	2,509	***TOTAL BALLOTS CAST	510

DELEGATES TO NATIONAL CONVENTION	REP	DELEGATES TO NATIONAL CONVENTION	REP	DELEGATES TO NATIONAL CONVENTION	REP
36TH CONGRESSIONAL DISTRICT		39TH CONGRESSIONAL DISTRICT		42ND CONGRESSIONAL DISTRICT	
SAM BROWNBACK	0	SAM BROWNBACK	0	SAM BROWNBACK	0
JOHN H COX	0	JOHN H COX	0	JOHN H COX	0
RUDY GIULIANI	0	RUDY GIULIANI	0	RUDY GIULIANI	0
MIKE HUCKABEE	0	MIKE HUCKABEE	0	MIKE HUCKABEE	0
DUNCAN HUNTER	0	DUNCAN HUNTER	0	DUNCAN HUNTER	0
ALAN KEYES	0	ALAN KEYES	0	ALAN KEYES	0
JOHN MCCAIN	0	JOHN MCCAIN	0	JOHN MCCAIN	0
RON PAUL	0	RON PAUL	0	RON PAUL	0
MITT ROMNEY	0	MITT ROMNEY	0	MITT ROMNEY	0
TOM TANCREDO	0	TOM TANCREDO	0	TOM TANCREDO	0
FRED THOMPSON	0	FRED THOMPSON	0	FRED THOMPSON	0
***TOTAL BALLOTS CAST	0	***TOTAL BALLOTS CAST	0	***TOTAL BALLOTS CAST	0
***PCTS 370	RPTG	***PCTS 278	RPTG	***PCTS 201	RPTG

DELEGATES TO NATIONAL CONVENTION	DEM	DELEGATES TO NATIONAL CONVENTION	DEM	DELEGATES TO NATIONAL CONVENTION	DEM
37TH CONGRESSIONAL DISTRICT		39TH CONGRESSIONAL DISTRICT		46TH CONGRESSIONAL DISTRICT	
JOE BIDEN	22	JOE BIDEN	46	JOE BIDEN	7
HILLARY CLINTON	1,388	HILLARY CLINTON	1,458	HILLARY CLINTON	631
CHRIS DODD	4	CHRIS DODD	20	CHRIS DODD	3
JOHN EDWARDS	48	JOHN EDWARDS	53	JOHN EDWARDS	36
MIKE GRAVEL	7	MIKE GRAVEL	24	MIKE GRAVEL	2
DENNIS KUCINICH	37	DENNIS KUCINICH	42	DENNIS KUCINICH	8
BARACK OBAMA	1,119	BARACK OBAMA	959	BARACK OBAMA	265
BILL RICHARDSON	18	BILL RICHARDSON	15	BILL RICHARDSON	6
***TOTAL BALLOTS CAST	2,643	***TOTAL BALLOTS CAST	2,617	***TOTAL BALLOTS CAST	958

DELEGATES TO NATIONAL CONVENTION	REP	DELEGATES TO NATIONAL CONVENTION	REP	DELEGATES TO NATIONAL CONVENTION	REP
37TH CONGRESSIONAL DISTRICT		39TH CONGRESSIONAL DISTRICT		46TH CONGRESSIONAL DISTRICT	
SAM BROWNBACK	0	SAM BROWNBACK	0	SAM BROWNBACK	0
JOHN H COX	0	JOHN H COX	0	JOHN H COX	0
RUDY GIULIANI	0	RUDY GIULIANI	0	RUDY GIULIANI	0
MIKE HUCKABEE	0	MIKE HUCKABEE	0	MIKE HUCKABEE	0
DUNCAN HUNTER	0	DUNCAN HUNTER	0	DUNCAN HUNTER	0
ALAN KEYES	0	ALAN KEYES	0	ALAN KEYES	0
JOHN MCCAIN	0	JOHN MCCAIN	0	JOHN MCCAIN	0
RON PAUL	0	RON PAUL	0	RON PAUL	0
MITT ROMNEY	0	MITT ROMNEY	0	MITT ROMNEY	0
TOM TANCREDO	0	TOM TANCREDO	0	TOM TANCREDO	0
FRED THOMPSON	0	FRED THOMPSON	0	FRED THOMPSON	0
***TOTAL BALLOTS CAST	0	***TOTAL BALLOTS CAST	0	***TOTAL BALLOTS CAST	0
***PCTS 333	RPTG	***PCTS 307	RPTG	***PCTS 223	RPTG

-CONTINUED ON NEXT PAGE-

SUPPLEMENTAL NON-PARTISAN CROSS-OVER VOTES - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

CONTINUED FROM PREVIOUS PAGE		
ALAN KEYES	-REP-	0 0.00
JOHN MCCAIN	-REP-	0 0.00
RON PAUL	-REP-	0 0.00
MITT ROMNEY	-REP-	0 0.00
TOM TANCREDO	-REP-	0 0.00
FRED THOMPSON	-REP-	0 0.00
***TOTAL BALLOTS CAST		0
***PCTS	126 RPTG	95

COUNTY OF LOS ANGELES
DEPARTMENT OF REGISTRAR-RECORDER/COUNTY CLERK
FINAL OFFICIAL ELECTION RETURNS
FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

TOTAL PRECINCTS 4.766
PRECINCTS REPORTING 4.766 100.00

PARTY REGISTRATION

NONPARTISAN 808.126
DEMOCRATIC 1.975.000
REPUBLICAN 1.026.092
AMERICAN INDEPENDENT 68.762
GREEN 24.896
LIBERTARIAN 18.413
PEACE AND FREEDOM 23.296

TOTAL 3.951.957

BALLOTS CAST/TURNOUT

ABSENTEE TOTAL 482.921

NONPARTISAN 226.081 10.35
DEMOCRATIC 1.363.845 62.45
REPUBLICAN 551.722 25.26
AMERICAN INDEPENDENT 24.385 1.12
GREEN 8.035 0.37
LIBERTARIAN 6.155 0.28
PEACE AND FREEDOM 3.776 0.17

TOTAL 2.183.998 55.26

BOARD OF SUPERVISORS

YVONNE B. BURKE, CHAIR
2ND DISTRICT
GLORIA MOLINA, 1ST DISTRICT
ZEV YAROSLAVSKY, 3RD DISTRICT
DON KNABE, 4TH DISTRICT
MICHAEL D. ANTONOVICH, 5TH DISTRICT

DEAN C. LOGAN
ACTING REGISTRAR-RECORDER/COUNTY CLERK

PRESIDENTIAL PREFERENCE (LA COUNTY ONLY)
JOE BIDEN 5.755 0.41
HILLARY CLINTON 771.700 54.58
CHRIS DODD 3.628 0.26
JOHN EDWARDS 28.634 2.03
MIKE GRAVEL 2.055 0.15
DENNIS KUCINICH 4.523 0.32
BARACK OBAMA 593.003 41.94
BILL RICHARDSON 4.567 0.32

PRESIDENTIAL PREFERENCE (LA COUNTY ONLY) REP
SAM BROWNBACK 881 0.17
JOHN H COX 983 0.19
RUDY GIULIANI 18.986 3.65
MIKE HUCKABEE 54.470 10.48
DUNCAN HUNTER 1.695 0.33
ALAN KEYES 2.765 0.53
JOHN MCCAIN 226.328 43.53
RON PAUL 23.806 4.58
MITT ROMNEY 183.630 35.31
TOM TANCREDO 1.055 0.20
FRED THOMPSON 5.390 1.04

PRESIDENTIAL PREFERENCE (LA COUNTY ONLY) AI
DON J GRUNDMANN 4.329 36.08
MAD MAX RIEKSE 3,452 28.77
DIANE B TEMPLIN 4,218 35.15

PRESIDENTIAL PREFERENCE (LA COUNTY ONLY) GR
JARED BALL 108 1.83
ELAINE BROWN 298 5.06
JESSE JOHNSON 112 1.90
CYNTHIA MCKINNEY 1.225 20.78
KENT MESPLAY 117 1.99
RALPH NADER 3.848 65.29
KAT SWIFT 186 3.16

PRESIDENTIAL PREFERENCE (LA COUNTY ONLY) LIB
JOHN FINAN 124 3.55

-CONTINUED NEXT COLUMN-

BARRY HESS 193 5.53
DAVE HOLLIST 150 4.30
DANIEL IMPERATO 192 5.50
BOB JACKSON 355 10.17
M P JINGOZIAN 165 4.73
STEVE KUBBY 515 14.75
ALDEN LINK 108 3.09
ROBERT MILNES 174 4.98
GEORGE PHILLIES 209 5.99
WAYNE A ROOT 466 13.34
CHRISTINE SMITH 841 24.08

PRESIDENTIAL PREFERENCE (LA COUNTY ONLY) PF
S A ALEXANDER 114 5.57
JOHN CROCKFORD 91 4.44
STANLEY HETZ 47 2.29
GLORIA E LA RIVA 552 26.95
CYNTHIA MCKINNEY 469 22.90
BRIAN MOORE 90 4.39
RALPH NADER 685 33.45

TO VOTE FOR NONPARTISAN CANDIDATES,
NONPARTISAN VOTERS MUST FIRST SELECT
PARTY IN THE BOX BELOW.
THIS BOX FOR NONPARTISAN VOTERS ONLY
DEMOCRATIC 99,072 90.84
A INDEPENDENT 9,992 9.16

STATE MEASURES - 91 (LA COUNTY ONLY)
TRANSPORTATION FUNDS, INITIATIVE
CONSTITUTIONAL AMENDMENT
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 796,770 42.05
NO.....1,098,186 57.95

STATE MEASURES - 92 (LA COUNTY ONLY)
COMMUNITY COLLEGES, FUNDING,
GOVERNANCE, FEES, INITIATIVE
CONSTITUTIONAL AMENDMENT AND STATUTE
VOTES REQUIRED: MAJORITY OF VOTES CAST
YES..... 946,459 48.07
NO.....1,022,557 51.93

FINAL OFFICIAL ELECTION RETURNS - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

STATE MEASURES - 93 (LA COUNTY ONLY)
 LIMITS ON LEGISLATORS' TERMS IN OFFICE.
 INITIATIVE CONSTITUTIONAL AMENDMENT
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES..... 969,358 48.67
 NO.....1,022,541 51.33

STATE MEASURES - 94 (LA COUNTY ONLY)
 REFERENDUM PETITION TO OVERTURN
 AMENDMENT TO INDIAN GAMING COMPACT
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES.....1,213,850 59.31
 NO..... 832,927 40.69

STATE MEASURES - 95 (LA COUNTY ONLY)
 REFERENDUM PETITION TO OVERTURN
 AMENDMENT TO INDIAN GAMING COMPACT
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES.....1,214,975 59.39
 NO..... 830,898 40.61

STATE MEASURES - 96 (LA COUNTY ONLY)
 REFERENDUM PETITION TO OVERTURN
 AMENDMENT TO INDIAN GAMING COMPACT
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES.....1,212,161 59.31
 NO..... 831,653 40.69

STATE MEASURES - 97 (LA COUNTY ONLY)
 REFERENDUM PETITION TO OVERTURN
 AMENDMENT TO INDIAN GAMING COMPACT
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES.....1,209,657 59.17
 NO..... 834,815 40.83

MEMBER OF THE STATE ASSEMBLY
 55TH DISTRICT
 (UNEXPIRED TERM ENDING 12/01/08)
 HERB PETERS -LIB- 10,168 14.66
 CHARLOTTE S GIBSON -AI- 10,785 15.55
 WARREN FURUTANI -DEM- 48,419 69.80
 ***TOTAL BALLOTS CAST 87,042
 ***PCTS 239 RPTG 239

ACTON-AGUA DULCE UNIFIED SCHOOL
 DISTRICT - V
 SCHOOL IMPROVEMENT BONDS
 VOTES REQUIRED: 55% OF VOTES CAST
 YES..... 2,365 51.06
 NO..... 2,267 48.94
 ***TOTAL BALLOTS CAST 4,875
 ***PCTS 17 RPTG 17

DOWNEY CITY - G
 LIMITATION OF TERMS
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES..... 6,977 32.96
 NO..... 14,192 67.04
 ***TOTAL BALLOTS CAST 23,688
 ***PCTS 46 RPTG 46

HUNTINGTON PARK CITY - B
 COMMUNICATIONS USERS'
 TAX REDUCTION
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES..... 4,804 78.27
 NO..... 1,334 21.73
 ***TOTAL BALLOTS CAST 6,959
 ***PCTS 15 RPTG 15

INGLEWOOD CITY - F
 FIREWORKS ORDINANCE
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES..... 9,772 42.28
 NO..... 13,339 57.72
 ***TOTAL BALLOTS CAST 25,629
 ***PCTS 47 RPTG 47

LONG BEACH COMMUNITY COLLEGE
 DISTRICT - E
 SCHOOL IMPROVEMENT BONDS
 VOTES REQUIRED: 55% OF VOTES CAST
 YES..... 79,204 73.84
 NO..... 28,057 26.16
 ***TOTAL BALLOTS CAST 118,875
 ***PCTS 271 RPTG 271

LOS ANGELES CITY - S
 REDUCTION OF TAX RATE AND
 MODERNIZATION OF COMMUNICATIONS
 USERS TAX. PROPOSITIONS
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES..... 463,621 65.94
 NO..... 239,513 34.06
 ***TOTAL BALLOTS CAST 807,465
 ***PCTS 1637 RPTG 1,637

PASADENA CITY - D
 UTILITY USERS TAX
 CONTINUATION
 VOTES REQUIRED: MAJORITY OF VOTES CAST
 YES..... 21,375 58.41
 NO..... 15,219 41.59
 ***TOTAL BALLOTS CAST 41,116
 ***PCTS 77 RPTG 77

REDONDO BEACH UNIFIED SCHOOL
 DISTRICT - C
 SCHOOL IMPROVEMENT BONDS
 VOTES REQUIRED: 55% OF VOTES CAST
 YES..... 13,516 65.92
 NO..... 6,989 34.08
 ***TOTAL BALLOTS CAST 22,581
 ***PCTS 46 RPTG 46

SAN GABRIEL UNIFIED SCHOOL
 DISTRICT - A
 SCHOOL IMPROVEMENT BONDS
 VOTES REQUIRED: 55% OF VOTES CAST
 YES..... 5,240 70.10
 NO..... 2,235 29.90
 ***TOTAL BALLOTS CAST 8,437
 ***PCTS 24 RPTG 24

SANTA MONICA-MALIBU UNIFIED SCHOOL
 DISTRICT - R
 SCHOOL IMPROVEMENT BONDS
 VOTES REQUIRED: 2/3 OF VOTES CAST
 YES..... 27,525 73.03
 NO..... 10,165 26.97
 ***TOTAL BALLOTS CAST 42,867
 ***PCTS 71 RPTG 71

DELEGATES TO NATIONAL CONVENTION DEM
 22ND CONGRESSIONAL DISTRICT
 (SHARED W/KERN CO &
 SAN LUIS OBISPO CO)
 JOE BIDEN -DEM- 64 0.87
 HILLARY CLINTON -DEM- 3,631 49.33
 CHRIS DODD -DEM- 19 0.26
 JOHN EDWARDS -DEM- 301 4.09
 MIKE GRAVEL -DEM- 9 0.12
 DENNIS KUCINICH -DEM- 30 0.41
 BARACK OBAMA -DEM- 3,252 44.18
 BILL RICHARDSON -DEM- 54 0.73
 ***TOTAL BALLOTS CAST 7,717

DELEGATES TO NATIONAL CONVENTION REP
 22ND CONGRESSIONAL DISTRICT
 (SHARED W/KERN CO &
 SAN LUIS OBISPO CO)
 SAM BROWNBACK -REP- 6 0.07
 JOHN H COX -REP- 8 0.10
 RUDY GIULIANI -REP- 298 3.59
 MIKE HUCKABEE -REP- 1,317 15.88
 DUNCAN HUNTER -REP- 21 0.25
 ALAN KEYES -REP- 51 0.61
 JOHN MCCAIN -REP- 3,153 38.01
 RON PAUL -REP- 370 4.46
 -CONTINUED ON NEXT PAGE-

FINAL OFFICIAL ELECTION RETURNS - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

CONTINUED FROM PREVIOUS PAGE				DELEGATES TO NATIONAL CONVENTION		REP	BARACK OBAMA		-DEM-	34,172	37.16	
MITT ROMNEY	-REP-	2,875	34.66	26TH CONGRESSIONAL DISTRICT			BILL RICHARDSON		-DEM-	259	0.28	
TOM TANCREDO	-REP-	12	0.14	(SHARED W/SAN BERNARDINO CO)			***TOTAL BALLOTS CAST			94,972		
FRED THOMPSON	-REP-	184	2.22	SAM BROWNBACK	-REP-	74	0.14	DELEGATES TO NATIONAL CONVENTION				
***TOTAL BALLOTS CAST		8,613		JOHN H COX	-REP-	52	0.10	28TH CONGRESSIONAL DISTRICT				
***PCTS 44	RPTG	44		RUDY GIULIANI	-REP-	1,778	3.30	SAM BROWNBACK	-REP-	45	0.21	
DELEGATES TO NATIONAL CONVENTION				DEM	MIKE HUCKABEE	-REP-	5,676	10.54	JOHN H COX	-REP-	99	0.47
25TH CONGRESSIONAL DISTRICT					DUNCAN HUNTER	-REP-	110	0.20	RUDY GIULIANI	-REP-	883	4.15
(SHARED W/INYO CO, MONO CO &					ALAN KEYES	-REP-	197	0.37	MIKE HUCKABEE	-REP-	1,541	7.25
SAN BERNARDINO CO)					JOHN MCCAIN	-REP-	23,886	44.34	DUNCAN HUNTER	-REP-	106	0.50
JOE BIDEN	-DEM-	298	0.53	RON PAUL	-REP-	1,918	3.56	ALAN KEYES	-REP-	196	0.92	
HILLARY CLINTON	-DEM-	30,394	54.14	MITT ROMNEY	-REP-	19,563	36.32	JOHN MCCAIN	-REP-	9,563	44.97	
CHRIS DODD	-DEM-	160	0.28	TOM TANCREDO	-REP-	99	0.18	RON PAUL	-REP-	1,198	5.63	
JOHN EDWARDS	-DEM-	1,941	3.46	FRED THOMPSON	-REP-	514	0.95	MITT ROMNEY	-REP-	7,393	34.77	
MIKE GRAVEL	-DEM-	98	0.17	***TOTAL BALLOTS CAST		56,226		TOM TANCREDO	-REP-	40	0.19	
DENNIS KUCINICH	-DEM-	165	0.29	***PCTS 273	RPTG	273		FRED THOMPSON	-REP-	200	0.94	
BARACK OBAMA	-DEM-	22,817	40.64	DELEGATES TO NATIONAL CONVENTION				DEM	***TOTAL BALLOTS CAST			
BILL RICHARDSON	-DEM-	270	0.48	27TH CONGRESSIONAL DISTRICT					***PCTS 256 RPTG 256			
***TOTAL BALLOTS CAST		58,337		JOE BIDEN	-DEM-	374	0.40	DELEGATES TO NATIONAL CONVENTION				
DELEGATES TO NATIONAL CONVENTION				REP	HILLARY CLINTON	-DEM-	55,787	59.39	29TH CONGRESSIONAL DISTRICT			
25TH CONGRESSIONAL DISTRICT					CHRIS DODD	-DEM-	270	0.29	JOE BIDEN	-DEM-	339	0.36
(SHARED W/INYO CO, MONO CO &					JOHN EDWARDS	-DEM-	2,456	2.61	HILLARY CLINTON	-DEM-	49,137	52.21
SAN BERNARDINO CO)					MIKE GRAVEL	-DEM-	143	0.15	CHRIS DODD	-DEM-	248	0.26
SAM BROWNBACK	-REP-	33	0.06	DENNIS KUCINICH	-DEM-	389	0.41	JOHN EDWARDS	-DEM-	1,925	2.05	
JOHN H COX	-REP-	55	0.10	BARACK OBAMA	-DEM-	34,168	36.38	MIKE GRAVEL	-DEM-	127	0.13	
RUDY GIULIANI	-REP-	1,990	3.61	BILL RICHARDSON	-DEM-	344	0.37	DENNIS KUCINICH	-DEM-	368	0.39	
MIKE HUCKABEE	-REP-	7,167	13.00	***TOTAL BALLOTS CAST		97,276		BARACK OBAMA	-DEM-	41,679	44.29	
DUNCAN HUNTER	-REP-	126	0.23	DELEGATES TO NATIONAL CONVENTION				REP	BILL RICHARDSON			
ALAN KEYES	-REP-	242	0.44	27TH CONGRESSIONAL DISTRICT					***TOTAL BALLOTS CAST			
JOHN MCCAIN	-REP-	21,234	38.53	SAM BROWNBACK	-REP-	75	0.18	DELEGATES TO NATIONAL CONVENTION				
RON PAUL	-REP-	2,087	3.79	JOHN H COX	-REP-	81	0.20	29TH CONGRESSIONAL DISTRICT				
MITT ROMNEY	-REP-	21,316	38.68	RUDY GIULIANI	-REP-	1,514	3.67	SAM BROWNBACK	-REP-	40	0.09	
TOM TANCREDO	-REP-	128	0.23	MIKE HUCKABEE	-REP-	4,132	10.02	JOHN H COX	-REP-	53	0.12	
FRED THOMPSON	-REP-	733	1.33	DUNCAN HUNTER	-REP-	119	0.29	RUDY GIULIANI	-REP-	1,495	3.43	
***TOTAL BALLOTS CAST		57,403		ALAN KEYES	-REP-	288	0.70	MIKE HUCKABEE	-REP-	4,229	9.70	
***PCTS 355	RPTG	355		JOHN MCCAIN	-REP-	17,448	42.29	DUNCAN HUNTER	-REP-	145	0.33	
DELEGATES TO NATIONAL CONVENTION				DEM	RON PAUL	-REP-	2,059	4.99	ALAN KEYES	-REP-	332	0.76
26TH CONGRESSIONAL DISTRICT					MITT ROMNEY	-REP-	15,074	36.54	JOHN MCCAIN	-REP-	19,775	45.37
(SHARED W/SAN BERNARDINO CO)					TOM TANCREDO	-REP-	80	0.19	RON PAUL	-REP-	2,158	4.95
JOE BIDEN	-DEM-	248	0.45	FRED THOMPSON	-REP-	384	0.93	MITT ROMNEY	-REP-	14,892	34.17	
HILLARY CLINTON	-DEM-	29,821	54.07	***TOTAL BALLOTS CAST		43,799		TOM TANCREDO	-REP-	68	0.16	
CHRIS DODD	-DEM-	242	0.44	***PCTS 302	RPTG	302		FRED THOMPSON	-REP-	401	0.92	
JOHN EDWARDS	-DEM-	1,774	3.22	DELEGATES TO NATIONAL CONVENTION				DEM	***TOTAL BALLOTS CAST			
MIKE GRAVEL	-DEM-	81	0.15	28TH CONGRESSIONAL DISTRICT					***PCTS 329 RPTG 329			
DENNIS KUCINICH	-DEM-	211	0.38	JOE BIDEN	-DEM-	287	0.31	DELEGATES TO NATIONAL CONVENTION				
BARACK OBAMA	-DEM-	22,532	40.86	HILLARY CLINTON	-DEM-	54,829	59.62	29TH CONGRESSIONAL DISTRICT				
BILL RICHARDSON	-DEM-	241	0.44	CHRIS DODD	-DEM-	243	0.26	SAM BROWNBACK	-REP-	40	0.09	
***TOTAL BALLOTS CAST		56,971		JOHN EDWARDS	-DEM-	1,772	1.93	JOHN H COX	-REP-	53	0.12	
				MIKE GRAVEL	-DEM-	138	0.15	RUDY GIULIANI	-REP-	1,495	3.43	
				DENNIS KUCINICH	-DEM-	270	0.29	MIKE HUCKABEE	-REP-	4,229	9.70	
				-CONTINUED NEXT COLUMN-								

FINAL OFFICIAL ELECTION RETURNS - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

DELEGATES TO NATIONAL CONVENTION DEM
 30TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 483 0.30
 HILLARY CLINTON -DEM- 78,526 49.53
 CHRIS DODD -DEM- 252 0.16
 JOHN EDWARDS -DEM- 3,447 2.17
 MIKE GRAVEL -DEM- 220 0.14
 DENNIS KUCINICH -DEM- 601 0.38
 BARACK OBAMA -DEM- 74,660 47.09
 BILL RICHARDSON -DEM- 353 0.22
 ***TOTAL BALLOTS CAST 162,394

DELEGATES TO NATIONAL CONVENTION DEM
 32ND CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 319 0.43
 HILLARY CLINTON -DEM- 53,414 71.30
 CHRIS DODD -DEM- 515 0.69
 JOHN EDWARDS -DEM- 1,561 2.08
 MIKE GRAVEL -DEM- 165 0.22
 DENNIS KUCINICH -DEM- 287 0.38
 BARACK OBAMA -DEM- 18,331 24.47
 BILL RICHARDSON -DEM- 324 0.43
 ***TOTAL BALLOTS CAST 78,256

DELEGATES TO NATIONAL CONVENTION DEM
 34TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 526 0.78
 HILLARY CLINTON -DEM- 48,771 72.62
 CHRIS DODD -DEM- 216 0.32
 JOHN EDWARDS -DEM- 1,005 1.50
 MIKE GRAVEL -DEM- 122 0.18
 DENNIS KUCINICH -DEM- 160 0.24
 BARACK OBAMA -DEM- 16,099 23.97
 BILL RICHARDSON -DEM- 263 0.39
 ***TOTAL BALLOTS CAST 69,925

DELEGATES TO NATIONAL CONVENTION REP
 30TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 41 0.08
 JOHN H COX -REP- 46 0.09
 RUDY GIULIANI -REP- 2,120 3.97
 MIKE HUCKABEE -REP- 2,908 5.45
 DUNCAN HUNTER -REP- 131 0.25
 ALAN KEYES -REP- 167 0.31
 JOHN MCCAIN -REP- 24,888 46.62
 RON PAUL -REP- 2,760 5.17
 MITT ROMNEY -REP- 19,909 37.29
 TOM TANCREDO -REP- 68 0.13
 FRED THOMPSON -REP- 346 0.65
 ***TOTAL BALLOTS CAST 56,249
 ***PCTS 439 RPTG 439

DELEGATES TO NATIONAL CONVENTION REP
 32ND CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 72 0.30
 JOHN H COX -REP- 79 0.33
 RUDY GIULIANI -REP- 943 3.94
 MIKE HUCKABEE -REP- 3,322 13.88
 DUNCAN HUNTER -REP- 143 0.60
 ALAN KEYES -REP- 123 0.51
 JOHN MCCAIN -REP- 10,735 44.84
 RON PAUL -REP- 1,018 4.25
 MITT ROMNEY -REP- 7,131 29.79
 TOM TANCREDO -REP- 83 0.35
 FRED THOMPSON -REP- 291 1.22
 ***TOTAL BALLOTS CAST 25,904
 ***PCTS 283 RPTG 283

DELEGATES TO NATIONAL CONVENTION REP
 34TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 47 0.31
 JOHN H COX -REP- 91 0.61
 RUDY GIULIANI -REP- 535 3.57
 MIKE HUCKABEE -REP- 1,951 13.03
 DUNCAN HUNTER -REP- 122 0.81
 ALAN KEYES -REP- 80 0.53
 JOHN MCCAIN -REP- 5,718 44.87
 RON PAUL -REP- 843 5.63
 MITT ROMNEY -REP- 4,341 28.99
 TOM TANCREDO -REP- 56 0.37
 FRED THOMPSON -REP- 188 1.26
 ***TOTAL BALLOTS CAST 16,308
 ***PCTS 215 RPTG 215

DELEGATES TO NATIONAL CONVENTION DEM
 31ST CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 314 0.44
 HILLARY CLINTON -DEM- 45,477 63.31
 CHRIS DODD -DEM- 77 0.11
 JOHN EDWARDS -DEM- 888 1.24
 MIKE GRAVEL -DEM- 112 0.16
 DENNIS KUCINICH -DEM- 248 0.35
 BARACK OBAMA -DEM- 24,494 34.10
 BILL RICHARDSON -DEM- 225 0.31
 ***TOTAL BALLOTS CAST 74,653

DELEGATES TO NATIONAL CONVENTION DEM
 33RD CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 273 0.21
 HILLARY CLINTON -DEM- 47,873 36.39
 CHRIS DODD -DEM- 146 0.11
 JOHN EDWARDS -DEM- 1,353 1.03
 MIKE GRAVEL -DEM- 138 0.10
 DENNIS KUCINICH -DEM- 349 0.27
 BARACK OBAMA -DEM- 81,233 61.75
 BILL RICHARDSON -DEM- 185 0.14
 ***TOTAL BALLOTS CAST 135,287

DELEGATES TO NATIONAL CONVENTION DEM
 35TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 444 0.44
 HILLARY CLINTON -DEM- 39,130 38.72
 CHRIS DODD -DEM- 386 0.38
 JOHN EDWARDS -DEM- 1,057 1.05
 MIKE GRAVEL -DEM- 92 0.09
 DENNIS KUCINICH -DEM- 187 0.19
 BARACK OBAMA -DEM- 59,564 58.94
 BILL RICHARDSON -DEM- 197 0.19
 ***TOTAL BALLOTS CAST 104,654

DELEGATES TO NATIONAL CONVENTION REP
 31ST CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 34 0.33
 JOHN H COX -REP- 56 0.54
 RUDY GIULIANI -REP- 418 4.05
 MIKE HUCKABEE -REP- 1,209 11.72
 DUNCAN HUNTER -REP- 118 1.14
 ALAN KEYES -REP- 150 1.45
 JOHN MCCAIN -REP- 4,964 48.12
 RON PAUL -REP- 800 7.75
 MITT ROMNEY -REP- 2,426 23.52
 TOM TANCREDO -REP- 46 0.45
 FRED THOMPSON -REP- 95 0.92
 **TOTAL BALLOTS CAST 11,466
 **PCTS 212 RPTG 212

DELEGATES TO NATIONAL CONVENTION REP
 33RD CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 31 0.23
 JOHN H COX -REP- 39 0.29
 RUDY GIULIANI -REP- 491 3.62
 MIKE HUCKABEE -REP- 1,157 8.54
 DUNCAN HUNTER -REP- 73 0.54
 ALAN KEYES -REP- 103 0.76
 JOHN MCCAIN -REP- 5,890 43.48
 RON PAUL -REP- 1,093 8.07
 MITT ROMNEY -REP- 4,438 32.76
 TOM TANCREDO -REP- 61 0.45
 FRED THOMPSON -REP- 169 1.25
 ***TOTAL BALLOTS CAST 14,765
 ***PCTS 295 RPTG 295

DELEGATES TO NATIONAL CONVENTION REP
 35TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 54 0.39
 JOHN H COX -REP- 50 0.36
 RUDY GIULIANI -REP- 482 3.47
 MIKE HUCKABEE -REP- 1,396 10.06
 DUNCAN HUNTER -REP- 31 0.22
 ALAN KEYES -REP- 66 0.48
 JOHN MCCAIN -REP- 6,256 45.09
 RON PAUL -REP- 732 5.28
 MITT ROMNEY -REP- 4,624 33.33
 TOM TANCREDO -REP- 35 0.25
 FRED THOMPSON -REP- 149 1.07
 ***TOTAL BALLOTS CAST 14,995
 ***PCTS 279 RPTG 279

FINAL OFFICIAL ELECTION RETURNS - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

DELEGATES TO NATIONAL CONVENTION DEM
 36TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 627 0.59
 HILLARY CLINTON -DEM- 55,466 51.82
 CHRIS DODD -DEM- 150 0.14
 JOHN EDWARDS -DEM- 2,908 2.72
 MIKE GRAVEL -DEM- 134 0.13
 DENNIS KUCINICH -DEM- 456 0.43
 BARACK OBAMA -DEM- 46,954 43.86
 BILL RICHARDSON -DEM- 351 0.33
 ***TOTAL BALLOTS CAST 110,294

DELEGATES TO NATIONAL CONVENTION REP
 36TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 41 0.08
 JOHN H COX -REP- 31 0.06
 RUDY GIULIANI -REP- 1,931 3.61
 MIKE HUCKABEE -REP- 4,770 8.93
 DUNCAN HUNTER -REP- 78 0.15
 ALAN KEYES -REP- 195 0.37
 JOHN MCCAIN -REP- 23,970 44.87
 RON PAUL -REP- 2,386 4.47
 MITT ROMNEY -REP- 19,436 36.38
 TOM TANCREDO -REP- 67 0.13
 FRED THOMPSON -REP- 515 0.96
 ***TOTAL BALLOTS CAST 56,140
 ***PCTS 370 RPTG 370

DELEGATES TO NATIONAL CONVENTION DEM
 37TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 330 0.36
 HILLARY CLINTON -DEM- 40,271 43.47
 CHRIS DODD -DEM- 124 0.13
 JOHN EDWARDS -DEM- 1,238 1.34
 MIKE GRAVEL -DEM- 81 0.09
 DENNIS KUCINICH -DEM- 191 0.21
 BARACK OBAMA -DEM- 50,133 54.12
 BILL RICHARDSON -DEM- 264 0.28
 ***TOTAL BALLOTS CAST 96,167

DELEGATES TO NATIONAL CONVENTION REP
 37TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 66 0.38
 JOHN H COX -REP- 30 0.17
 RUDY GIULIANI -REP- 657 3.79
 MIKE HUCKABEE -REP- 2,025 11.68
 DUNCAN HUNTER -REP- 64 0.37
 ALAN KEYES -REP- 162 0.93
 JOHN MCCAIN -REP- 7,542 43.50
 RON PAUL -REP- 822 4.74
 MITT ROMNEY -REP- 5,703 32.89
 TOM TANCREDO -REP- 32 0.18
 FRED THOMPSON -REP- 236 1.36
 ***TOTAL BALLOTS CAST 18,807
 ***PCTS 333 RPTG 333

DELEGATES TO NATIONAL CONVENTION DEM
 38TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 295 0.35
 HILLARY CLINTON -DEM- 61,161 72.30
 CHRIS DODD -DEM- 274 0.32
 JOHN EDWARDS -DEM- 1,685 1.99
 MIKE GRAVEL -DEM- 168 0.20
 DENNIS KUCINICH -DEM- 229 0.27
 BARACK OBAMA -DEM- 20,431 24.15
 BILL RICHARDSON -DEM- 352 0.42
 ***TOTAL BALLOTS CAST 87,866

DELEGATES TO NATIONAL CONVENTION REP
 38TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 100 0.47
 JOHN H COX -REP- 77 0.36
 RUDY GIULIANI -REP- 858 4.00
 MIKE HUCKABEE -REP- 3,228 15.06
 DUNCAN HUNTER -REP- 139 0.65
 ALAN KEYES -REP- 104 0.49
 JOHN MCCAIN -REP- 9,506 44.34
 RON PAUL -REP- 755 3.52
 MITT ROMNEY -REP- 6,298 29.38
 TOM TANCREDO -REP- 70 0.33
 FRED THOMPSON -REP- 305 1.42
 ***TOTAL BALLOTS CAST 23,395
 ***PCTS 278 RPTG 278

DELEGATES TO NATIONAL CONVENTION DEM
 39TH CONGRESSIONAL DISTRICT
 JOE BIDEN -DEM- 325 0.41
 HILLARY CLINTON -DEM- 53,249 56.48
 CHRIS DODD -DEM- 222 0.28
 JOHN EDWARDS -DEM- 1,809 2.26
 MIKE GRAVEL -DEM- 127 0.16
 DENNIS KUCINICH -DEM- 220 0.27
 BARACK OBAMA -DEM- 23,764 29.67
 BILL RICHARDSON -DEM- 381 0.48
 ***TOTAL BALLOTS CAST 83,477

DELEGATES TO NATIONAL CONVENTION REP
 39TH CONGRESSIONAL DISTRICT
 SAM BROWNBACK -REP- 81 0.26
 JOHN H COX -REP- 107 0.34
 RUDY GIULIANI -REP- 1,073 3.41
 MIKE HUCKABEE -REP- 4,845 15.38
 DUNCAN HUNTER -REP- 89 0.28
 ALAN KEYES -REP- 187 0.59
 JOHN MCCAIN -REP- 12,823 40.71
 RON PAUL -REP- 1,181 3.75
 MITT ROMNEY -REP- 10,718 34.03
 TOM TANCREDO -REP- 63 0.20
 FRED THOMPSON -REP- 331 1.05
 ***TOTAL BALLOTS CAST 33,615
 ***PCTS 307 RPTG 307

DELEGATES TO NATIONAL CONVENTION DEM
 42ND CONGRESSIONAL DISTRICT
 (SHARED W/ORANGE CO &
 SAN BERNARDINO CO)
 JOE BIDEN -DEM- 60 0.38
 HILLARY CLINTON -DEM- 9,546 60.86
 CHRIS DODD -DEM- 40 0.26
 JOHN EDWARDS -DEM- 463 2.95
 MIKE GRAVEL -DEM- 32 0.20
 DENNIS KUCINICH -DEM- 33 0.21
 BARACK OBAMA -DEM- 5,422 34.57
 BILL RICHARDSON -DEM- 88 0.56
 ***TOTAL BALLOTS CAST 16,306

DELEGATES TO NATIONAL CONVENTION REP
 42ND CONGRESSIONAL DISTRICT
 (SHARED W/ORANGE CO &
 SAN BERNARDINO CO)
 SAM BROWNBACK -REP- 20 0.15
 JOHN H COX -REP- 17 0.13
 RUDY GIULIANI -REP- 467 3.44
 MIKE HUCKABEE -REP- 1,677 12.35
 DUNCAN HUNTER -REP- 36 0.27
 ALAN KEYES -REP- 46 0.34
 JOHN MCCAIN -REP- 5,490 40.42
 RON PAUL -REP- 469 3.45
 MITT ROMNEY -REP- 5,213 38.38
 TOM TANCREDO -REP- 15 0.11
 FRED THOMPSON -REP- 132 0.97
 ***TOTAL BALLOTS CAST 14,214
 ***PCTS 69 RPTG 69

DELEGATES TO NATIONAL CONVENTION DEM
 46TH CONGRESSIONAL DISTRICT
 (SHARED W/ORANGE CO)
 JOE BIDEN -DEM- 149 0.50
 HILLARY CLINTON -DEM- 15,217 50.59
 CHRIS DODD -DEM- 44 0.15
 JOHN EDWARDS -DEM- 1,051 3.49
 MIKE GRAVEL -DEM- 67 0.22
 DENNIS KUCINICH -DEM- 129 0.43
 BARACK OBAMA -DEM- 13,298 44.21
 BILL RICHARDSON -DEM- 124 0.41
 ***TOTAL BALLOTS CAST 31,080

DELEGATES TO NATIONAL CONVENTION REP
 46TH CONGRESSIONAL DISTRICT
 (SHARED W/ORANGE CO)
 SAM BROWNBACK -REP- 21 0.07
 JOHN H COX -REP- 12 0.04
 RUDY GIULIANI -REP- 1,053 3.59
 MIKE HUCKABEE -REP- 1,920 6.55
 DUNCAN HUNTER -REP- 44 0.15
 -CONTINUED ON NEXT PAGE-

Fri Feb 29 15:04:39 2008

PAGE 6

FINAL OFFICIAL ELECTION RETURNS - FEBRUARY 5, 2008 PRESIDENTIAL PRIMARY ELECTION

CONTINUED FROM PREVIOUS PAGE			
ALAN KEYES	-REP-	76	0.26
JOHN MCCAIN	-REP-	12,487	42.62
RON PAUL	-REP-	1,157	3.95
MITT ROMNEY	-REP-	12,280	41.91
TOM TANCREDO	-REP-	32	0.11
FRED THOMPSON	-REP-	217	0.74
***TOTAL BALLOTS CAST		30,640	
***PCTS	126	RPTG	126

Los Angeles County
Registrar-Recorder/County Clerk

Certificate of the Canvass of the Election Returns

OFFICIAL ELECTION RETURNS
PRESIDENTIAL PRIMARY ELECTION - FEBRUARY 5, 2008
CANVASS OF WRITE-IN VOTES

PRESIDENT OF THE UNITED STATES

<u>DEMOCRATIC</u>	<u>VOTES CAST</u>
BRIAN F. CALEF	0
WILLIE FELIX CARTER	2
PHIL EPSTEIN	0
DAVID ROBT. FREY	0
ERIC HINZMAN	2
KEITH RUSSELL JUDD	0
JOSEPH MCANDREW	0
JULIUS E. MOGYROSSY	0
<u>REPUBLICAN</u>	
ROBERT BRICKELL	0
BRIAN F. CALEF	0
DAVID ROBT. FREY	0
KAREN IRISH	1
EDWARD MARSHALL	0
JOEL GARY NEUBERG	0
WALTER JAMES ROTHNIE, JR.	0
MICHAEL P. SHAW	0
JOHN SUTHERLAND	0
<u>AMERICAN INDEPENDENT</u>	
DAVID ANDREW LARSON	1
<u>LIBERTARIAN</u>	
LEON LEO RAY	0

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this
4th day of March, 2008.



Dean Logan
DEAN C. LOGAN
Acting Registrar-Recorder/County Clerk
County of Los Angeles

**For General Election Information,
please call 1-888-873-1000**

Under federal law, voter information pamphlets are available in English as well as in the following languages:

**Si Usted desea obtener una copia del folleto en español,
por favor llame al teléfono 1-800-994-VOTE (8683)**

**Kung kailangan ninyo ng kopya ng pamplet sa Tagalog,
tumawag po lamang sa 1-800-994-VOTE (8683)**

**이 팜플릿을 한국어로 원하시면 다음 전화번호로
연락하십시오. 1-800-994-VOTE(8683)**

**Nếu quý vị muốn có tập sách bằng tiếng Việt,
xin gọi cho số điện thoại này 1-800-994-VOTE (8683)**

**若您希望索取手冊的中文譯本，
請撥此電話號碼。 1-800-994-VOTE (8683)**

**このパンフレットの日本語版をご希望の方は、
お電話ください。1-800-994-VOTE(8683)**

This pamphlet contains only information on a ballot measure pertaining to the City of Los Angeles. It is not a sample ballot. You will receive your sample ballot with polling place location from the Los Angeles County Registrar-Recorder.

TABLE OF CONTENTS

	Page
BALLOT SUMMARY	3
BALLOT MEASURE ARGUMENTS AND TEXT (City of Los Angeles Proposition 5)	4

VOTER INFORMATION

The County of Los Angeles is conducting the February 5, 2008 Presidential Primary Election.

For information concerning the election, such as polling place locations, please contact the County Registrar-Recorder at (800) 815-2666 or visit their website at www.lavoter.net.

Audio Cassette Recordings (City Measures) (213) 978-0444
(323) 660-3880

Braille Institute Library (800) 808-2555

Central Library 630 W. 5th Street, Los Angeles, CA 90071

Cassette recordings of the City measure included in this voter information pamphlet are available in English, Spanish, Chinese, Japanese, Korean, Tagalog or Vietnamese.

CITY OF LOS ANGELES PROPOSITION S

TITLE

REDUCTION OF TAX RATE AND MODERNIZATION OF COMMUNICATIONS USERS TAX PROPOSITION S

THE ISSUE

Shall an ordinance be adopted to reduce the City's tax on communications users from 10% to 9%, modernize the ordinance to treat taxpayers equally regardless of technology used, exempt low-income senior-citizen and disabled households to fund general municipal services, such as 911, police, fire protection, street maintenance, parks and libraries, subject to an annual independent audit?

THE SITUATION

The City currently receives approximately \$270 million yearly from the tax on communications users. The City's tax is outdated, because of new communication technologies and billing practices. Because it is outdated, the City's tax is the subject of lawsuits. The City could lose the entire \$270 million if it loses the lawsuits. These revenues pay for numerous City services including police, fire protection, libraries, and parks.

THE PROPOSAL

The proposed Communications Users Tax ordinance would reduce the existing tax rate. It would also update the tax to cover modern communications technologies and billing practices. This ordinance would:

- Reduce the tax rate on communications users from 10% to 9%.
- Continue the existing tax on telephone communications, including landline and wireless communications.
- Continue existing tax exemptions, including exemptions for low-income senior-citizen and disabled households.
- Apply the tax equally to all communications technologies, including new and emerging technologies, and
- Comply with the federal law that currently prohibits taxing internet access.

A YES VOTE MEANS

You want to modernize the tax on communications users.

A NO VOTE MEANS

You do not want to modernize the tax on communications users.

THE FULL TEXT OF THIS MEASURE BEGINS ON PAGE 10

The next page contains a simplified version of the City ballot measure. The full text of the measure, along with other information, is printed after the Ballot Summary (see TABLE OF CONTENTS).

S REDUCTION OF TAX RATE AND MODERNIZATION OF COMMUNICATIONS USERS TAX. PROPOSITION 18

Shall an ordinance be adopted to reduce the City's tax on communications users from 10% to 9%, modernize the ordinance to treat taxpayers equally regardless of technology used, exempt low-income senior citizen and disabled households, to fund general municipal services such as 911, police, fire protection, street maintenance, parks and libraries, subject to an annual independent audit?

IMPARTIAL SUMMARY **BY GERRY F. MILLER, CHIEF LEGISLATIVE ANALYST**

This measure would amend the City's existing utility users tax on telephone services (TUT) by replacing it with a communications users tax (CUT). The CUT would reduce the existing TUT rate from 10 percent to nine percent and would be modernized to apply to current and evolving communications technologies. Since 1967, the City has had a utility tax on telephone use. Similar taxes on telephone services exist in cities throughout the country. The funding from the existing TUT is placed in the City's General Fund to finance such services as police, fire, street resurfacing, traffic lights, street repairs, library, staffing and recreation and parks programs. Currently, the TUT generates approximately \$270 million per year.

A variety of factors is leading to declining revenues. New technologies, such as voice over internet protocol (essentially telephone calls through a computer), and private communications lines, are replacing land lines. As a result, communications that could only occur over landlines are now occurring using modern technology. Communications over land lines and cell phones are still taxed, while similar communications using new technologies are not.

Additionally, lawsuits have been filed challenging the legality of the TUT. The City's TUT ordinance referenced the Federal Excise Tax (FET) when the City's ordinance was originally adopted. In recent years, changes in FET taxing policy have expanded exemptions to charges that were not included when the City's utility tax was enacted. The lawsuits contend that because of the change in federal taxing policy, certain telephone services should now be exempt from the City TUT. However, the City asserts that it never intended to allow the federal government to control the City's TUT through changes in federal taxing policy and has continued to levy the tax. This court cases involving the City and various other cities throughout the State of California are ongoing. While many other cities throughout the country had similar telephone utility taxes which referenced FET exemptions, other states do not have the equivalent of

California's Proposition 18 which requires voter approval of an update to the City's TUT. Those cities have simply updated their ordinances without going to a vote of the people. Pursuant to Proposition 18, the City is submitting this replacement charge to the voters for approval.

In order to protect this revenue source for municipal services, and update the application of the TUT to recognize evolving communications technologies, the Mayor and Council are proposing that the City's utility tax on telephones be replaced with a CUT. The CUT would reduce the existing TUT rate from 10 percent to nine percent and the ordinance would be modernized to include communications through new technologies. The tax would not apply to digital downloads such as books, music, ringtones, games and similar products, or cable or video television services that are instead subject to State and federal franchise fees.

Various rate reductions and/or exemptions will remain unchanged from the existing ordinance, including exemptions for low-income elderly and disabled persons, non-profit hospitals and non-profit educational institutions. The CUT also imposes new requirements on the City to annually review application of this ordinance and provides other clarifying administrative language. Any future increase in the CUT rate or elimination of exemptions would require a vote of the electorate.

Approval of this measure would require a majority vote of the electorate. If this measure fails to receive a majority vote, the existing 10 percent TUT will remain in effect.

FINANCIAL IMPACT STATEMENT

BY KAREN SISSON, CITY ADMINISTRATIVE OFFICER

This measure would reduce the rate of the city tax on users of communications services from ten percent to nine percent. This is expected to reduce revenue by approximately \$27 million in the first year. Some of that loss would be made up in future years because this measure would more fairly distribute the tax burden.

The City now receives \$270 million in telephone taxes annually. This revenue is used for such services as police, fire, street services, parks and libraries. Adverse court decisions could result in the sudden partial or complete loss of this revenue. This measure would remove uncertainty regarding this tax and help ensure the continued provision of essential services.

If this measure is not approved, the tax rate would remain at ten percent and as much as \$270 million annually would continue to be at risk from legal challenges.

ARGUMENT IN FAVOR OF PROPOSITION S

Proposition S updates, modernizes and reduces the current telephone tax in Los Angeles. By applying the tax more evenly and fairly to businesses and consumers, Proposition S will replace the current 10 percent tax with a 9 percent tax.

Proposition S is fairer than the current tax because it will apply equally to large businesses that use private networks, not just residents and small businesses that currently pay. Proposition S does NOT allow a tax on Internet access and small downloads.

Under Proposition S, the new reduced tax will be used for essential services such as police, emergency 911 response, fire protection and street maintenance. Proposition S is necessary to comply with recent court decisions. If not passed by voters, substantial cuts in important City services may occur.

Proposition S completely exempts low-income seniors and low-income persons with disabilities from paying the tax.

Once Proposition S is adopted, the tax cannot be increased or changed without voter approval. A YES vote on Proposition S requires annual audits by the Office of Finance to ensure that the tax is collected properly at the lowest rate and that all monies are deposited in the general fund and properly spent.

Firefighters, police officers and paramedics Urge You to Vote YES on S for safety, and to reduce the telephone tax.

Vote YES on Proposition S

PERSONS SIGNING ARGUMENT IN FAVOR OF PROPOSITION S

ANTONIGER VILLARIGOSA
Mayor, City of Los Angeles

WILLIAM J. BRATTON
Chief of Police

STEVE TUFTS
President

United Firefighters Los Angeles
Councilmember 8th District

TAMMY FLORES

President
Sylvan Neighborhood Council

MARVIN TAVELIN
President, Westside Chapter
California Alliance for Retired Americans

RICHARD J. RIORDAN
Former Mayor, City of Los Angeles

DOUGLAS BARRY
Fire Chief

TIM SANDS
President

Los Angeles Police Protective League
Former Chairman
United Chambers of Commerce
San Fernando Valley

MARVIN TAVELIN

President, Westside Chapter
California Alliance for Retired Americans

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REBUTTAL TO THE ARGUMENT IN FAVOR OF PROPOSITION S

Prop S would raise -- not reduce -- taxes by restoring the 2003 tax hike and creating a new internet and wireless tax.

Prop S would not tax more evenly and fairly. You pay 9% telemarkers, 5% for essential services. Prop S would not require taxes to be used for essential services. Read it for yourself.

The Superior Court did not "require" restoring the old tax, adding a new tax or favoring telemarketers. It simply invalidated the illegal tax hike.

Cuts in important services are unnecessary, annual revenues are \$1.4 billion higher than in 2004-05, only 4% comes from phone taxes.

Existing law already requires voter approval for tax hikes.

City Hall should already ensure taxes are "collected properly" and "properly spent."

City Hall will fool many good people into supporting Prop S. Have them visit NoOnPropS.com.

PERSON SIGNING REBUTTAL TO THE ARGUMENT IN FAVOR OF PROPOSITION S

WALTER MOORE

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ARGUMENT AGAINST PROPOSITION S

1. Your taxes would go up.

Proposition S would restore an illegal tax hike the courts threw out. In March 2003, City Hall increased your phone tax illegally by failing to get voters' approval. In July 2005, the Superior Court threw out the illegal tax hike; City Hall filed an appeal—but continued to collect the tax, despite the ruling. In May 2007, the Court of Appeal affirmed the Superior Court's ruling: the tax hike was illegal.

Now City Hall wants to restore the illegal tax hike. To trick you into thinking Proposition S is a tax cut, proponents say it would reduce the tax rate from 10% to 9%. Don't fall for it: if you vote "no," you won't have to pay the tax at all, because the courts threw it out; if you vote "yes," the tax comes back and you'll pay 9%. "No" means no tax.

2. You would pay more 19% triant telemarketers (5%).

Proposition S would create a new tax on Internet and wireless services. City Hall would tax you for using the Internet, wireless networks, text messaging, instant messaging, VoIP and similar services.

3. You already pay more than enough taxes.

City Hall's annual revenues are at an all-time high, \$6.7 billion per year. That's over \$1.4 billion more per year than in 2004-5. Taxes are higher in LA than in surrounding cities, and high enough to hire more police. As for the City's "general fund," it is just one of over 50 budget funds. Rather than raising our taxes for the "general fund," City Hall should cut waste, and ask voters to amend the City Charter to use other budget funds to hire police.

4. You can learn more at NoOnPropS.com.

PERSON SIGNING ARGUMENT AGAINST PROPOSITION S

WALTER MOORE

REBUTTAL TO THE ARGUMENT AGAINST PROPOSITION S

1. Proposition S reduces the telephone tax from 10% to 9%.

Once Proposition S is adopted, the tax cannot be increased without voter approval.

2. Proposition S does NOT allow a tax on Internet access, email, and downloads.

Proposition S is fairer than the current tax because it will apply equally to large businesses using private networks, not just residents and small businesses that currently pay.

Low-income seniors and persons with disabilities are exempted from paying.

3. A YES vote on Proposition S requires annual audits by the Office of Finance to ensure that the tax is collected at the lower rate, and that all monies are properly spent.

The reduced tax will be used for services such as police emergency 911 response, fire protection and street maintenance. If not passed by voters, substantial cuts in essential City services may occur.

4. Vote YES on S for safety, and to reduce the telephone tax.

PERSONS SIGNING REBUTTAL TO THE ARGUMENT AGAINST PROPOSITION S

RICHARD J. FIORDAN, Former Mayor, City of Los Angeles
WILLIAM J. BRATTON, Chief of Police

GEORJA POLLACK, Director, United Chambers of Commerce, San Fernando Valley

MARVIN TAVEN, President, Westside Chapter, California Alliance for Retired Americans

DOUGLAS BARRY, Fire Chief

TIM SANDS, President, Los Angeles Police Protective League

ANTONIO R. VILLARAIGOSA, Mayor, City of Los Angeles

STEVE TUFTS, President, United Firefighters Los Angeles

BERNARD C. PARKS, Councilmember, 8th District

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PROPOSITIONS

An ordinance amending Article 1111 of Chapter 11 of the Los Angeles Municipal Code to modernize and clarify the Telephone Users Tax by replacing it with a Communications Users Tax applicable to current technology, updating the terminology and reducing the tax rate.

WHEREAS, since 1957, the City of Los Angeles has collected a Utility Users Tax on telephone communication services (Telephone Users Tax or TUT) levied under the City's inherent powers as a charter city, and the current rate of the tax is 10%.

WHEREAS, the City desires to reduce the tax rate on telecommunications services from 10% to 9%.

WHEREAS, the City desires to treat users of communications services in a uniform and equitable manner, regardless of the means of transmission or technology used, so that users of communications services transmitted by traditional technologies (such as land lines) do not bear a greater tax burden than users of communications services transmitted via newly developed technologies.

WHEREAS, the TUT contained exemptions for low income, senior citizens and persons with disabilities and the City desires to continue those exemptions.

WHEREAS, this communications user tax shall not apply to charges for the portion of cable or video television services that are subject to a cable or video television franchise fee.

WHEREAS, telephony and related communications services have changed dramatically in the intervening decades; communications technology, telephone calling and marketing plans and state and federal legislation continue to evolve at a rapid pace.

WHEREAS, in particular, communications are no longer accomplished entirely through the switched network; wireless service has become prevalent; communications through other means are increasing in popularity; the overall cost of communications is declining; common charges are no longer based upon distance and the federal government has been extremely active in adopting laws affecting the telecommunications industry.

WHEREAS, modernization and clarification of the TUT to include current technologies and reflect the realities of the current communications industry require voter approval under the California Constitution.

WHEREAS, the revenue generated by the TUT is likely to be lost over time due to market erosion, changing technology and other factors.

WHEREAS, the City needs the revenue generated by the TUT to continue to provide essential city services such as safety services, housing programs, street maintenance and park and recreation services.

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10

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NOW THEREFORE

THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1 Sections 21.1.1, 21.1.3, 21.1.7, 21.1.8, 21.1.9, 21.1.12, and 21.1.13 of Article 11.1, Chapter 11 of the Los Angeles Municipal Code are amended, and new Sections 21.1.14 and 21.1.15 are added to Article 11.1, Chapter 11 of the Los Angeles Municipal Code to read:

SEC. 21.1.1. DEFINITIONS

The following words and phrases, where 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.

(g) **Communications Services** shall mean the transmission, conveyance or routing of voice and/or 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 a pre-connected service with the public switched network, or through fiber, optic, coaxial cable, power line transmission, broadband or 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 postpaid 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, ring-tones, 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.

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11

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(c) "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. 21.13. 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 26th 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 telecommunication 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 services, 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)(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.

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 179(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 of students in attendance at the place where its educational activities are regularly carried on.

(f) 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

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14

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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. 21-17. 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. 21-18. 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 practices. 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 proportional 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. 21-19. 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.

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15

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(c) The provisions of Sections 21, 17, 21, 20, and 2121 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 denying 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, 34, 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 for 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 other law. 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. 21.12. 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 from the 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 User 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 \$300 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 years preceding the filing of the refund claim, the maximum refund shall be \$1800 or \$150 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 XIII, c and California Government Code Section 53750(f).

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. 21.11.15. 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.

Sec. 2. Majority Approval/Effective Date. This ordinance shall be effective only if approved by a majority of the voters voting on this ordinance, provision and shall go into effect ten days after the vote is declared by the City Council.



VOTER'S NOTES

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334-B East Second Street, Los Angeles, CA 90012

done@mailbox.lacity.org
www.lacityneighborhoods.com

VOTER BILL OF RIGHTS

1. You have the right to cast a ballot if you are a valid registered voter.
2. You have the right to cast a provisional ballot if your name is not listed on the voting rolls.
3. You have the right to cast a ballot if you are present and in line at the polling place for the close of the polls.
4. You have the right to cast a secret ballot free from intimidation.
5. You have the right to cast a new ballot if, prior to casting your ballot, you make an error.
6. You have the right to request assistance in casting your ballot if you are unable to do so on your own.
7. You have the right to return a completed absentee ballot to your precinct in person.
8. You have the right to request materials in another language if you are a student in your precinct to assist you in casting your ballot.
9. You have the right to ask questions about election procedures and observe the elections process.
10. You have the right to report any illegal or fraudulent activity to a local elections official or to the Secretary of State's Office.

If you believe you have been denied any of these rights, or if you are aware of any election fraud or misconduct, please call the Secretary of State's confidential toll-free VOTER PROTECTION HOTLINE 1-800-345-VOTE (8683).

VOTE BY MAIL



EXERCISE YOUR RIGHT TO VOTE!

- Would you prefer to vote at your convenience?
- Are you unable to go to your polling place on Election Day?
- Did you know that any registered voter can vote by mail?

You don't have to be absent to vote by mail. Use the form on the back cover of your Sample Ballot, which you will receive from the Los Angeles County Registrar-Recorder. Your request for a Vote-By-Mail Ballot must include your residence and mailing address and your signature. Requests for a Vote-By-Mail Ballot should be sent to: Los Angeles County Registrar-Recorder/County Clerk, P.O. Box 30450, Los Angeles, CA 90030-0450.

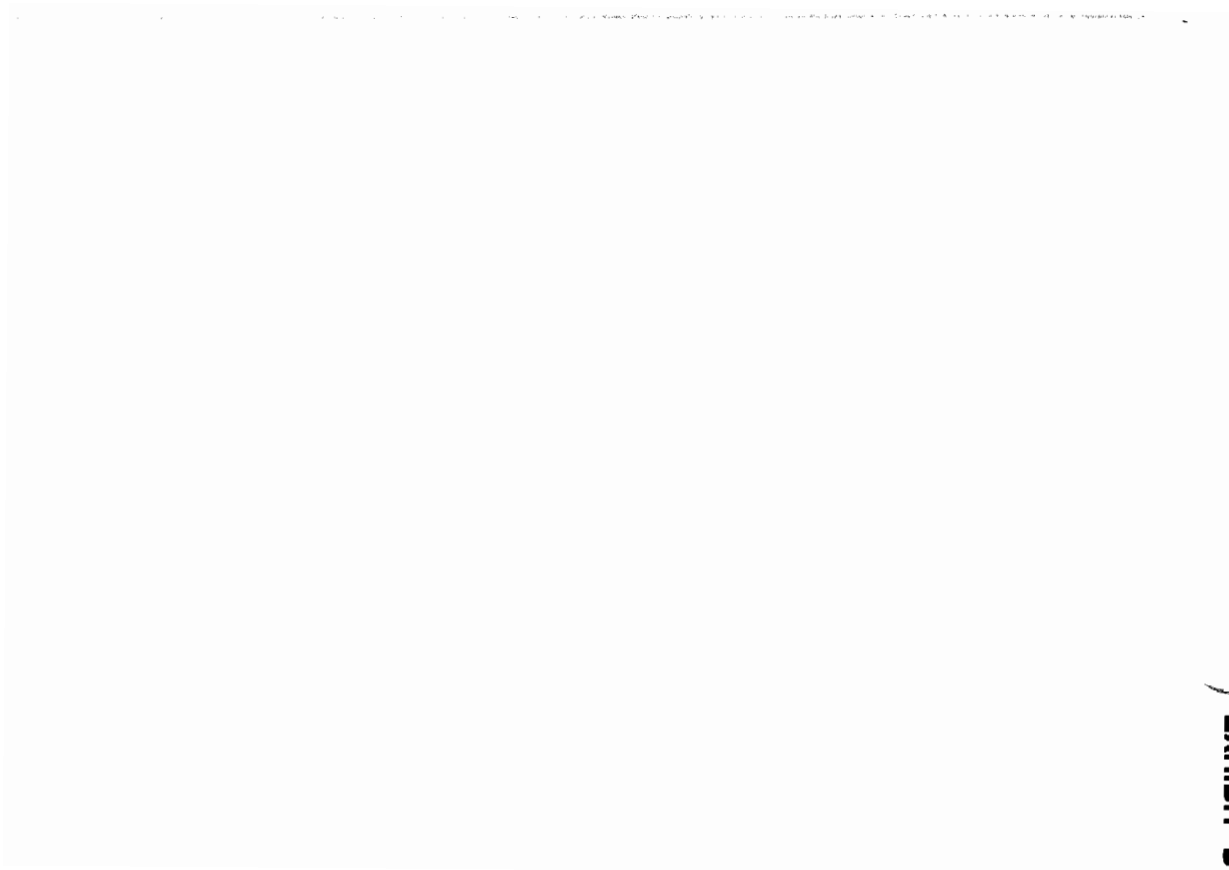
For more information on the absent voter process, please call the County Registrar-Recorder at (562) 466-1323 or visit their website for Election Information at www.lavote.net.



PRINTED ON RECYCLED PAPER

Sec. 401. Election Days – City of Los Angeles and Board of Education.

For City offices and elections of the Board of Education, primary nominating elections shall be held on the first Tuesday after the first Monday in March in every odd-numbered year, and general municipal elections shall be held on the third Tuesday in May in every odd-numbered year. However, if holding the election on that day would conflict with a significant event or occurrence, and the Council finds that holding the election on that day would substantially reduce voter participation, the Council may set the election on a specific alternate day not earlier than the previous Tuesday nor later than the subsequent Tuesday from the regularly scheduled election day. The Council may set the alternate day only if it finds that holding the election on such alternate day would not substantially reduce voter participation. Any action setting an alternate election day must be adopted by the Council by resolution no later than six months before the date on which the affected election would otherwise take place.



ISSUE

Whether the federal excise tax on communication services applies to amounts paid in the United States for certain communications services between telephones in the United States and offshore facilities.

FACTS

X Company offers a service that enables communication between ships at sea or other offshore facilities (such as drilling platforms) and telephone subscribers in the United States. A message or call from a ship's radio station is relayed through an earth satellite, in orbit over the equator, to a landline station of X in the United States that is connected into the regular long distance telephone system for completion of the call. The procedure is reversed for calls from the United States. Thus, the service provided by X offers offshore stations access by radio into the United States land telephone network.

The charge for this service is 3x dollars for the first three minutes or fraction thereof, and 1x dollars for each additional minute or fraction thereof, regardless of the location of either the land telephone or maritime radio stations.

LAW AND ANALYSIS

Section 4251 of the Internal Revenue Code imposes a tax on the amounts paid for local telephone service and toll telephone service.

Section 4252(a)(1) of the Code defines "local telephone service" to include the access to a local telephone system and the privilege of telephonic quality communication with substantially all persons having telephone or radio stations constituting a part of such system, and any facility or service provided in connection with such service. The term "local telephone service" does not include any service that is a "toll telephone service" or a "private communication service."

Section 4252(b)(1) of the Code defines the term toll telephone service to include a telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication and the charge is paid within the United States.

Rev. Rul. 77-49, 1977-1 C.B. 341, holds taxable amounts paid for radio telephone facilities and services that make regular telephone service accessible to offshore subscribers. The ruling points out that such radio service is an adjunct to the landline service by performing that function.

The mere fact that access into the telephone network is by radio is not a basis for exclusion from the tax. This is shown by the specific reference in section 4252(a) of the Code to radio stations,

and the position of the Service set forth in Rev. Rul. 77-49. The service in this case is similar to that in Rev. Rul. 77-49 in that it serves as an adjunct to the American continental telephone network by making telephones in that network accessible to the maritime telephone stations.

Literally, the service provided in this case does not come within the definition of "local telephone service" or "toll telephone service" as those terms are currently defined in section 4252 of the Code. It is not local telephone service because it provides access to the long distance telephone system in the United States. It is not toll telephone service because the charge for such service does not vary with distance and therefore does not meet the requirement of section 4252(b)(1).

It is well established, however, that a statute may be given an interpretation other than that which follows from its literal language where such interpretation is required in order to comport with the legislative intent.

The Supreme Court has stated:

There is, of course, no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression to its wishes. Often these words are sufficient in and of themselves to determine the purpose of the legislation. In such cases we have followed their plain meaning. When that meaning has led to absurd or futile results, however, this Court has looked beyond the words to the purpose of the act. Frequently, however, even when the plain meaning did not produce absurd results but merely an unreasonable one "plainly at variance with the policy of the legislation as a whole" this Court has followed that purpose, rather than the literal words. When aid to construction of the meaning of words, as used in the statute, is available, there certainly can be no "rule of law" which forbids its use, however clear the words may appear on "superficial examination." *United States v. American Trucking Associations*, 310 U.S. 534, 543-44 (1940).

See also *Corn Products Refining Company v. Commissioner*, 350 U.S. 46 (1955), 1955-2 C.B. 511, a tax case in which the Supreme Court departed from the literal wording of a statute. The Court did so because to hold otherwise would have been "to defeat rather than further the purpose of Congress." 350 U.S. at 51, 52.

The legislative history of section 4252 of the Code indicates that the type of service at issue here is within the intended scope of taxable "toll telephone service."

Prior to the amendment of section 4252 of the Code by section 302 of the Excise Tax Reduction Act of 1965, 1965-2 C.B. 568, 577-578, one of the services taxed was "toll telephone service", which was defined, in part, as a telephone or radio telephone message or conversation for which (1) there is a toll charge, and (2) the charge is paid within the United States.

Prior to the 1965 amendment the communication service considered here would have been within the definition of toll telephone service. The legislative history pertaining to the Excise Tax Reduction Act of 1965, 1965-2 C.B. 643 and 676, indicates that Congress intended to exempt certain private communication services from the tax and repeal the tax on telegraph

service and wire and equipment service. There is no indication that Congress otherwise intended to make changes in the types of service subject to tax.

The service in this case is essentially "toll telephone service" as described in section 4252(b)(1) of the Code, even though the charge for calls between remote maritime stations and stations in the United States vary with elapsed transmission time only. The toll charges described in section 4252(b)(1), that vary in amount with both distance and elapsed transmission time of the individual communication, reflect Congress' understanding of how the charges for long distance calls were computed at the time the section was enacted. The intent of the statute would be frustrated if a new type of service otherwise within such intent were held to be nontaxable merely because charges for it are determined in a manner which is not within the literal language of the statute.

HOLDING

The communication service in this case is toll telephone service within the meaning of section 4252(b)(1) of the Code, and amounts paid in the United States for this toll telephone service are subject to the tax imposed by section 4251(a).

Communications Excise Tax; Toll Telephone Service

Table of Contents

- SECTION 1. PURPOSE
- SECTION 2. BACKGROUND
- SECTION 3. TERMS DEFINED
- SECTION 4. EFFECT OF ABIG, OFFICEMAX, AMTRAK, FORTIS, AND REESE BROS.
- SECTION 5. REQUESTS FOR CREDIT OR REFUND
- SECTION 6. EFFECT ON OTHER DOCUMENTS
- SECTION 7. DRAFTING INFORMATION

SECTION 1. PURPOSE

(a) *In general.* As further described in this notice, the Internal Revenue Service will follow the holdings of *Am. Bankers Ins. Group v. United States*, 408 F.3d 1328 (11th Cir. 2005) (*ABIG*); *OfficeMax, Inc. v. United States*, 428 F.3d 583 (6th Cir. 2005); *Nat'l R.R. Passenger Corp. v. United States*, 431 F.3d 374 (D.C. Cir. 2005) (*Amtrak*); *Fortis v. United States*, 2006 U.S. App. LEXIS 10749 (2d Cir. Apr. 27, 2006); and *Reese Bros. v. United States*, 2006 U.S. App. LEXIS 11468 (3d Cir. May 9, 2006). These cases hold that a telephonic communication for which there is a toll charge that varies with elapsed transmission time and not distance (time-only service) is not taxable toll telephone service as defined in § 4252(b)(1) of the Internal Revenue Code. As a result, amounts paid for time-only service are not subject to the tax imposed by § 4251. Accordingly, the government will no longer litigate this issue and Notice 2005-79, 2005-46 I.R.B. 952, which states otherwise, is revoked.

(b) *Credits and refunds.* Taxpayers may be entitled to request credit or refund of the excise taxes paid for the services covered by this notice. This notice provides guidance regarding these requests. In addition, the Commissioner will authorize the scheduling of an overassessment under § 6407 to keep the period of limitations open for these requests. This overassessment will apply to all taxpayers and to all taxes paid for the services covered by this notice beginning with the tax paid on services that were billed to customers after February 28, 2003.

SECTION 2. BACKGROUND

(a) *In general—(1) Tax imposed.* Section 4251(a)(1) imposes a tax on amounts paid for communications services.

(2) *Payment of tax.* Section 4251(a)(2) provides that the tax imposed shall be paid by the person paying for the service (taxpayer). Section 4251(b)(2) provides that the applicable percentage is 3 percent of amounts paid for communications services.

(3) *Collection of tax.* Section 4291 provides that the tax is collected by the person receiving the payment (collector). In most cases, the collector, which is also responsible for paying over the tax to the government, is the telecommunications company that provides the communications services to the taxpayer.

(b) *Definitions—(1) Communications services.* Section 4251(b)(1) provides that the term communications services means (A) local telephone service; (B) toll telephone service; and (C) teletypewriter exchange service. This notice does not address teletypewriter exchange service.

(2) *Local telephone service.* Section 4252(a) provides that local telephone service means (1) the access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; and (2) any facility or service provided in connection with such a service. Local telephone service does not include any service that is a toll telephone service as defined in § 4252(b) or a private communications service as defined in § 4252(d). This notice does not address private communications service.

(3) *Toll telephone service—(i) Time and distance.* Section 4252(b)(1) provides that toll telephone service includes a telephonic quality communication for which there is a toll charge that varies in amount with the distance and elapsed transmission time of each individual communication and for which the charge is paid within the United States.

(ii) *Periodic charge for a specified area.* Section 4252(b)(2) provides that toll telephone service also includes a service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission

time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

(c) *Rev. Rul. 79-404.* Rev. Rul. 79-404, 1979-2 C.B. 382, concludes that a long distance telephone call for which the charge varies with elapsed transmission time but not with distance is toll telephone service described in § 4252(b)(1).

(d) *Notice of proposed rulemaking.* In a notice of proposed rulemaking (REG-141097-02, 2003-1 C.B. 807 [68 FR 15690]; April 1, 2003), the Service proposed an amendment to the Facilities and Services Excise Taxes Regulations to provide that toll telephone service described in section 4252(b)(1) may include a communication service for which the charge does not vary with the distance of each individual communication.

(e) *Recent litigation.* ABIG, OfficeMax, Amtrak, and Reese Bros. hold time-only service is not toll telephone service as defined in § 4252(b)(1). Further, ABIG, OfficeMax, and Reese Bros. hold that the communications service provided was not a service described in § 4252(b)(2) because the end result was not a "periodic charge" based on total elapsed time but rather a monthly bill based on a summation of toll charges for individual communications. (In *Amtrak*, toll telephone service described in § 4252(b)(2) would have been exempt from tax under the common carrier exception in § 4253(f).) ABIG, OfficeMax, Amtrak, and Reese Bros. also hold that the communications services provided were not local service, notwithstanding the access the services provided to the local telephone system. (*Fortis* affirms, in a *per curiam* opinion, a district court decision reaching the same results.)

(f) *Notice 2005-79.* Notice 2005-79, 2005-46 I.R.B. 952, states that the Service will continue to assess and collect the tax imposed by § 4251 on all taxable communications services, including those similar to the services in ABIG.

SECTION 3. TERMS DEFINED

The following terms are defined solely for purposes of this notice:

(a) *Bundled service.* Bundled service is local and long distance service provided under a plan that does not separately state the charge for the local telephone service. Bundled service includes, for example, Voice over Internet Protocol service, prepaid telephone cards, and plans that provide both local and long distance service for either a flat monthly fee or a charge that varies with the elapsed transmission time for which the service is used. Telecommunications companies provide bundled service for both landline and wireless (cellular) service.

(b) *Local-only service.* Local-only service is local telephone service, as defined in § 4252(a), provided under a plan that does not include long distance telephone service or that separately states the charge for local service on its bill to customers. The term also includes services and facilities provided in connection with service described in the preceding sentence even though these services and facilities may also be used with long distance service. See, for example, Rev. Rul. 72-537, 1972-2 C.B. 574 (telephone amplifier); Rev. Rul. 73-171, 1973-1 C.B. 445 (automatic call distributing equipment); and Rev. Rul. 73-269, 1973-1 C.B. 444 (special telephone).

(c) *Long distance service.* Long distance service is telephonic quality communication with persons whose telephones are outside the local telephone system of the caller.

(d) *Nontaxable service.* Nontaxable service means bundled service and long distance service.

SECTION 4. EFFECT OF ABIG, OFFICEMAX, AMTRAK, FORTIS, AND REESE BROS.

(a) *Tax treatment of communications service after ABIG, OfficeMax, Amtrak, Fortis, and Reese Bros.* The Service will follow ABIG, OfficeMax, Amtrak, Fortis, and Reese Bros. Accordingly, taxpayers are no longer required to pay tax under § 4251 for nontaxable service. In addition, collectors or taxpayers may request a refund of tax paid under § 4251 on nontaxable service that was billed to the taxpayers during the period after February 28, 2003, and before August 1, 2006 (the relevant period).

(b) *Tax on local-only service.* Collectors should continue to collect and pay over the § 4251 tax on amounts paid for local-only service. As noted in section 3(b) of this notice, local-only service includes amounts paid for facilities or services provided in connection with local telephone service. Thus, for example, tax will continue to be imposed on amounts paid by a taxpayer for renting an amplifier phone provided in connection with local telephone service that is subject to tax.

(c) *Effect on collectors.* Collectors are directed to cease collecting and paying over tax under § 4251 on nontaxable service that is billed after July 31, 2006, and are not required to report to the IRS any refusal by their customers to pay any tax on nontaxable service that is billed after May 25, 2006. Collectors should not pay over to the IRS any tax on nontaxable service that is billed after July 31, 2006. The form will require collectors to certify that for the third quarter of 2006 the § 4251 tax reported on the Form 720 does not include any tax on nontaxable service that was billed after July 31, 2006. Consequently, the IRS will deny all taxpayer

requests for refund of tax on nontaxable service that was billed after July 31, 2006. All such requests should be directed to the collector. In addition, collectors may repay to taxpayers the tax on nontaxable service that was billed before August 1, 2006, but are not required to repay such tax. Collectors may also request a refund or make an adjustment to their separate accounts, as appropriate, subject to the provisions of § 6415 and section 5(d)(4) of this notice. Collectors must continue to collect and pay over tax under § 4251 on amounts paid for local only service.

SECTION 5. REQUESTS FOR CREDIT OR REFUND

(a) *In general*—(1) *Request must follow this notice.* The Commissioner agrees to credit or refund the amounts paid for nontaxable service if the taxpayer requests the credit or refund in the manner prescribed in this notice.

(2) *Form of request.* Taxpayers may request a credit or refund of tax on nontaxable service that was billed after February 28, 2003, and before August 1, 2006, only on their 2006 Federal income tax returns. For this purpose, the 2006 income tax return is the income tax return for calendar year 2006 or for the first taxable year including December 31, 2006. Forms 1040 (series), 1041, 1065, 1120 (series), and 990-T will include a line for requesting the overpayment amount. Persons that are not otherwise required to file a federal income tax return must nevertheless file a return to obtain the credit or refund. Except as provided in section 5(d)(4) of this notice, a request for this credit or refund on any other form (such as a Form 720, 843, or 8849) will not be processed by the Service. Taxpayers will be permitted to request the safe harbor amount under paragraph (c) of this section only if they have paid all taxes billed by their service provider after February 28, 2003, and before August 1, 2006.

(3) *Guidance on the form.* The instructions to the respective federal income tax return forms will provide additional guidance. The forms and instructions will require taxpayers to certify that (1) the taxpayer has not received from the collector a credit or refund of the tax paid on nontaxable service billed during the relevant period and (2) the taxpayer will not ask the collector for a credit or refund of that tax and has withdrawn any such request that was previously submitted. The instructions will also require that taxpayers, except for those individuals using the safe harbor amount, retain records that substantiate the request. These records should include bills from the collector that show the amount of tax charged for nontaxable service for each month during the relevant period and receipts, canceled checks, or other evidence that the amount requested was actually paid.

(b) *Period of request.* The Commissioner will authorize the scheduling of an overassessment under § 6407 to preserve the period of limitations during which taxpayers may request refunds of the tax on nontaxable service that was billed to customers after February 28, 2003, and before August 1, 2006. Therefore, requests may be made for credits or refunds of tax paid for nontaxable service billed after February 28, 2003, and before August 1, 2006.

(c) *Amount of the request*—(1) *Requests by individual taxpayers*—(i) *Safe harbor amount.* Individual taxpayers may request a safe harbor amount. No documentation will be required to be submitted or kept to support the safe harbor request. However, taxpayers will be permitted to request the safe harbor amount only if they have paid all taxes billed by their service provider after February 28, 2003, and before August 1, 2006; have not received a credit or refund of these taxes from the service provider, and either have not requested such a credit or refund from the service provider or have withdrawn any such request. The amount of this safe harbor is still under consideration and will be announced in later guidance.

(ii) *Actual amount.* Taxpayers that do not request the safe harbor amount may request a credit or refund of the actual amount of tax they paid.

(d) *How to file*—(1) *Requests by individual taxpayers.* Individual taxpayers may request a credit or refund of federal excise taxes paid on nontaxable service only on their 2006 Form 1040, 1040A, or 1040-EZ, *U.S. Individual Income Tax Return*. Individuals who are not otherwise required to file a federal income tax return must nevertheless file Form 1040EZ-T to request the credit or refund. Individual taxpayers, including Schedule C filers, may request either the safe harbor amount or the actual amount of tax paid for nontaxable service.

(2) *Requests by taxpayers other than individual taxpayers.* Taxpayers other than individual taxpayers (entities) may request only the actual amount of tax paid on nontaxable service billed during the relevant period. No safe harbor amount is allowed for entities.

(3) *Requests by entities*—(i) *In general.* Entities may request a credit or refund of federal excise taxes paid on nontaxable service only on their 2006 income tax returns. Any part of the credit or refund attributable to tax payments that were deducted as an ordinary and necessary business expense (including in the determination of unrelated business taxable income) must be included in income for the taxable year in which the refund is received or accrued to the extent that the tax payments reduced the amount of federal income tax (or unrelated business income tax) imposed.

(ii) *Partnerships.* A partnership, as defined in § 7701(a)(2), may request a credit or refund of federal excise taxes paid on nontaxable service only on its 2006 Form 1065, *U.S. Return of Partnership Income*. Any amount of the credit or refund included in partnership income and any interest on the credit or refund must be reported on the partnership's return for the taxable year in which received or accrued and must be allocated to its partners on the Schedule K-1, *Partner's Share of Income, Deductions, Credits, etc.*, for that taxable year.

(iii) *S Corporations.* An S Corporation, as defined in § 1361, may request a credit or refund of federal excise taxes paid on nontaxable service only on its 2006 Form 1120S, *U.S. Income Tax Return for an S Corporation*. Any amount of the credit or refund included in S Corporation income and any interest on the credit or refund must be reported on the S Corporation's return for the taxable year in which received or accrued and must be allocated to its shareholders on the Schedule K-1, *Shareholder's Share of Income, Deductions, Credits, etc.*, for that taxable year.

(iv) *Estates and trusts.* An estate or a trust, as defined in § 301.7701-4(a) of the Procedure and Administration Regulations, may request a credit or refund of federal excise taxes paid on nontaxable service only on its 2006 Form 1041, *U.S. Income Tax Return for Estates and Trusts*. Any amount of the credit or refund included in the estate's or trust's income and any interest on the credit or refund must be reported on the estate's or trust's Form 1041, *U.S. Income Tax Return for Estates and Trusts*, for the taxable year in which received or accrued. However, for a trust that is treated as owned by the grantor or other person under subpart E (§ 671 and following), part I, subchapter J, chapter 1 of the Internal Revenue Code (grantor trust), the owner of the trust may request a credit or refund of federal excise taxes treated as paid by the owner for nontaxable service only on its applicable 2006 federal tax return.

(v) *Tax exempt organizations.* An organization that is described in § 501(a) may request a credit or refund of federal excise taxes paid on nontaxable service only on its 2006 Form 990-T, *Exempt Organization Business Income Tax Return*. Tax exempt organizations that are not otherwise required to file a federal income tax return must nevertheless file Form 990-T to request the credit or refund. Any amount of the credit or refund included in the organization's unrelated business taxable income must be reported on the organization's Form 990-T, *Exempt Organization Business Income Tax Return*, for the taxable year in which received or accrued. An organization that is subject to tax on its interest income must also report any interest on the credit or refund on its Form 990-T, *Exempt Organization Business Income Tax Return*, for the taxable year in which received or accrued.

(vi) *Corporations.* A corporation, as defined in § 7701(a)(3), that is not described in section 5(d)(3)(iii) of this notice may request a credit or refund of federal excise taxes paid on nontaxable service only on its 2006 Form 1120 (series) income tax return (generally, Form 1120, *U.S. Corporation Income Tax Return*). Any amount of the credit or refund included in the corporation's income and any interest on the credit or refund must be reported on the corporation's income tax return for the taxable year in which received or accrued. Corporations that are not otherwise required to file a federal income tax return must nevertheless file Form 1120 (series) to request the credit or refund.

(vii) *Other nonfiling entities.* Entities that are not otherwise required to file a federal income tax return must file Form 990-T to request the credit or refund.

(4) *Requests and adjustments by collectors—(i) Section 6415 conditions to allowance.* The conditions to allowance described in § 6415 apply to all requests and adjustments by collectors, as defined by section 2(a)(3) of this notice. Thus, a request by a collector is allowed only if the person that paid over the tax establishes that it has repaid the amount of the tax to the person from whom the tax was collected, or obtains the written consent of such person to the allowance of the credit or refund.

(ii) *Requests for regular method collectors—(A) In general.* A person that collected the tax imposed by § 4251 on nontaxable service and paid it over to the government based on amounts actually collected under § 40.6302(c)-1(a)(2)(i) of the Excise Tax Procedural Regulations (regular method collectors) may request a credit or refund.

(B) *Form of the request.* Regular method collectors may use Form 720X, *Amended Quarterly Federal Excise Tax Return*, line 1, IRS No. 22, for credit or refund of amounts collected and repaid to taxpayers.

(iii) *Account adjustments for alternative method collectors.* A person that collected the tax imposed by § 4251 on nontaxable service and paid it over to the government based on amounts considered as collected under § 40.6302(c)-1(a)(2)(ii) (alternative method collectors) may adjust the separate account for the amount of an overpayment. The required adjustment to the separate account is described in § 40.6302(c)-3(b)(2)(ii)(C). The adjustment is reflected on Form 720, Schedule A, line 2, but may not reduce tax liability on Form 720 below zero.

(e) *Interest on the credit or refund included in income.* If a taxpayer requests a credit or refund of the actual amount of tax paid, interest on the credit or refund of the tax paid for nontaxable service must be included as income on the taxpayer's income tax return for the taxable year in which the interest is received or accrued. Thus, individuals are generally required to report the interest on their 2007 income tax returns.

(f) *Estimated tax effects.* Although the credit or refund allowed to a taxpayer under this notice will be requested on the taxpayer's income tax return, it is not a credit against tax for purposes of §§ 6654 and 6655. Accordingly, the taxpayer may not take the credit or refund into account in determining the amount of the required installments of estimated tax for 2006. In determining the amount of the required installments of estimated tax for 2007, the income attributable to the credit or refund is taken into account on the date the income is paid or credited in the case of a cash method taxpayer and on the date the return making the request is filed in the case of an accrual method taxpayer.

(g) *Requests that do not follow the provisions of this notice.* Requests that do not follow the provisions of this notice (whether filed before or after its publication)—

(1) Will not be processed to the extent they relate to the tax paid on nontaxable service that was billed after February 28, 2003; and

(2) Will be processed normally to the extent they relate to the tax paid on nontaxable service that was billed before March 1, 2003.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Notice 2005-79, 2005-46 I.R.B. 952, is revoked. Rev. Rul. 79-404, 1979-2 C.B. 382, will be revoked in a later revenue ruling.

SECTION 7. DRAFTING INFORMATION

The principal author of this notice is Taylor Cortright of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact (202) 622-3130 (not a toll-free call).

Internal Revenue Bulletin: 2007-5
January 29, 2007

Notice 2007-11

Communications Excise Tax; Toll Telephone Service

Table of Contents

- SECTION 1. PURPOSE
- SECTION 2. BACKGROUND
- SECTION 3. STANDARD AMOUNT
- SECTION 4. DISTINCTION BETWEEN LOCAL-ONLY SERVICE AND BUNDLED SERVICE
- SECTION 5. CLARIFICATION OF DEFINITION OF BUNDLED SERVICE
- SECTION 6. PREPAID TELEPHONE CARDS (PTC)
- SECTION 7. PREPAID CELLULAR TELEPHONES
- SECTION 8. CHARGES IN CONNECTION WITH LOCAL-ONLY SERVICE
- SECTION 9. PERSON TO MAKE REQUEST IF TAXPAYER IS NO LONGER IN BUSINESS OR DECEASED
- SECTION 10. EFFECT OF NOTICE 2006-50 ON STATE AND LOCAL TELECOMMUNICATIONS TAXES
- SECTION 11. NO OBLIGATION OF TELECOMMUNICATIONS PROVIDERS TO SUPPLY RECORDS TO CUSTOMERS
- SECTION 12. BUSINESS AND NONPROFIT ESTIMATION METHOD
- SECTION 13. FORM 1040EZ-T, REQUEST FOR REFUND OF FEDERAL TELEPHONE EXCISE TAX
- SECTION 14. MODIFICATION OF PROVISION REGARDING REQUESTS FOR CREDIT OR REFUND
- SECTION 15. EFFECT ON OTHER DOCUMENTS
- SECTION 16. DRAFTING INFORMATION

SECTION 1. PURPOSE

This notice amplifies, clarifies, and modifies Notice 2006-50, 2006-25 I.R.B. 1141. That notice provides that the tax imposed by § 4251 of the Internal Revenue Code (relating to communications excise tax) does not apply to amounts paid for long distance service and bundled service (collectively, nontaxable service) and also provides that taxpayers may request a credit or refund of tax on nontaxable service that was billed to the taxpayer after February 28, 2003, and before August 1, 2006, only on their 2006 federal income tax returns. This notice—

- (a) Provides the conditions under which individual taxpayers may use the standard amounts announced in IR-2006-137 (August 31, 2006) on their 2006 federal income tax returns to request a credit or refund of the excise tax paid on nontaxable service;
- (b) Provides guidance regarding the Business and Nonprofit Estimation Method, announced in IR-2006-179 (November 16, 2006);
- (c) Answers questions that have been raised since the issuance of Notice 2006-50; and
- (d) Modifies the requirement for claims filed on or before May 25, 2006.

SECTION 2. BACKGROUND

For the statutory background of the tax imposed by § 4251, see section 2 of Notice 2006-50. When used in this notice, *local-only service*, *long distance service*, and *nontaxable service* have the meaning given to the terms in section 3 of Notice 2006-50. *Bundled service* has the meaning given to the term by section 5 of this notice.

SECTION 3. STANDARD AMOUNT

(a) *Conditions to allowance of standard amount.* A request for credit or refund of the standard amount, instead of the actual amount of federal communications excise tax paid for nontaxable service, may be made on a 2006 Form 1040 Series, *U.S. Individual Income Tax Return*, if any person filing the return, or any dependent listed on the return—

(1) Paid for any nontaxable service (other than for a prepaid telephone card or prepaid cellular telephone) that was billed to the taxpayer after February 28, 2003, and before August 1, 2006;

(2) Paid all federal communications excise taxes billed by their telecommunications provider after February 28, 2003, and before August 1, 2006;

(3) Has not received a credit or refund of these taxes from the telecommunications provider;

(4) Has not requested a credit or refund from the telecommunications provider or, if so requested, has withdrawn any such request; and

(5) Did not file any other claim or request for credit or refund with the IRS for the federal communications excise tax for a period after February 28, 2003.

(b) *Calculating standard amounts—(1) In general—(i) 2006 Form 1040 Series (other than EZ).* To determine the standard amount, taxpayers must first determine the number of exemptions for which they are entitled on their 2006 Form 1040 Series federal income tax return (other than the 2006 Form 1040 EZ). The Instructions to the 2006 Form 1040 Series federal income tax return and Publication 501, *Exemptions, Standard Deduction, and Filing Information*, provide guidance on determining the correct number of exemptions. Once the individual determines the number of exemptions, the individual can select the appropriate standard amount based upon the number of those exemptions. Individuals should refer to the 2006 federal income tax return instructions to ensure that the standard amount is entered on the appropriate part of the return.

(ii) *2006 Form 1040 EZ.* On line 5, a taxpayer that checks the box for "you" is treated as having one exemption. A taxpayer that checks the boxes for "you" and "spouse" is treated as having two exemptions.

(2) *Amounts—(i)* For each 2006 Form 1040 Series federal income tax return filed showing one exemption for purposes of determining the standard amount, the standard amount allowed on that return is \$30.

(ii) For each 2006 Form 1040 Series federal income tax return filed showing two exemptions for purposes of determining the standard amount, the standard amount allowed on that return is \$40.

(iii) For each 2006 Form 1040 Series federal income tax return filed showing three exemptions for purposes of determining the standard amount, the standard amount allowed on that return is \$50.

(iv) For each 2006 Form 1040 Series federal income tax return filed showing four or more exemptions for purposes of determining the standard amount, the standard amount allowed on that return is \$60.

(c) *Interest.* The standard amount represents both the overpayment of the federal communications excise tax paid on nontaxable service and the interest on that overpayment.

(d) *Actual Amounts.* To request a credit or refund for the actual amount of federal communications excise tax paid, taxpayers must complete Form 8913, *Credit for Federal Telephone Excise Tax Paid*, and attach that form to their 2006 Form 1040 Series federal income tax return.

(e) *Examples.* The following examples illustrate the application of this section.

Example 1. A, an individual, files a joint return with Z, A's spouse. A meets the conditions to allowance described in paragraph (a) of this section. A used the 2006 federal income tax return instructions to determine that their correct number of exemptions is two. A may request the credit or refund of the federal communications excise tax under § 4251 for \$40.

Example 2. B, an individual, used the 2006 federal income tax return instructions to determine that she had one exemption. B further used her telephone bills for the period March 1, 2003, through July 31, 2006, to determine that the total amount paid for federal communications excise tax under § 4251 for nontaxable service to all telecommunications providers was \$45. Completing Form 8913 and attaching it to her 2006 Form 1040 Series federal income tax return, B may request a credit or refund of \$45, the actual amount she paid in federal communications excise tax on nontaxable service under § 4251. As an alternative, B may request a credit or refund of the standard amount of \$30 without having to complete Form 8913.

Kim Nielsen

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Sent: Wednesday, April 30, 2008 10:15 AM
To: Kim Nielsen
Subject: FedEx Shipment 791892252801 Delivered

This tracking update has been requested by:

Company Name: COLANTUONO & LEVIN, PC
 Name: Kim Nielsen
 E-mail: knielsen@cllaw.us

Our records indicate that the following shipment has been delivered:

Reference: 42007-5
 Ship (P/U) date: Apr 29, 2008
 Delivery date: Apr 30, 2008 10:11 AM
 Sign for by: K.RUBIO
 Delivered to: Receptionist/Front Desk
 Service type: FedEx Standard Overnight
 Packaging type: FedEx Pak
 Number of pieces: 1
 Weight: 1.00 lb.
 Special handling/Services: Deliver Weekday

Tracking number: 791892252801

Shipper Information

Kim Nielsen
 COLANTUONO & LEVIN, PC
 555 W. 5th St.;31st Floor
 Los Angeles
 CA
 US
 900131018

Recipient Information

Scott N. Yamaguchi
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SECTION 4. DISTINCTION BETWEEN LOCAL-ONLY SERVICE AND BUNDLED SERVICE

(a) *Technology for transmitting telephone call.* The method for sending or receiving a call, such as on a landline telephone, wireless (cellular) telephone or some other method, does not affect whether a service is local-only or bundled.

(b) *Combined local exchanges.* If two or more telecommunications providers combine their resources to expand the geographic area that each treats as "local" service and each bills its customers for that service as local-only service, then that service is local-only service.

(c) *Billing method.* Section 3(a) of Notice 2006-50 and section 5 of this notice provide that bundled service is local and long distance service provided under a plan that does not separately state the charge for the local telephone service. Thus, if local and long distance service is billed to a customer on a single bill but the telecommunications company separately states the amount paid for local-only service and the amount paid for long distance service, the amount paid for local-only service is subject to federal communications excise tax.

(d) *Examples.* The following examples illustrate the application of this section.

Example 1. Customer A purchases telecommunications service from B, a telecommunications provider. Such service includes both local-only service and long distance service. B's bill to A states \$X for telecommunications service. The bill does not separately state a charge for either local-only service or long distance service. Since the bill does not separately state the charge for local-only service, the service is a bundled service. Thus, the entire amount of A's telecommunications service is bundled service and thus nontaxable service.

Example 2. Customer C purchases telecommunications service from D, a telecommunications provider. Such service includes both local-only service and long distance service. D's bill to C states \$X amount for telecommunications service. The bill further states \$Y amount for local-only service and \$Z amount for long distance service. Since the charges for local-only service and long distance service are separately stated, the service is not bundled service. Accordingly, only the amounts charged for long distance service are for nontaxable service; tax is imposed on the amounts paid for the local-only service.

SECTION 5. CLARIFICATION OF DEFINITION OF BUNDLED SERVICE

(a) *Present definition.* Section 3(a) of Notice 2006-50 defines bundled service as local and long distance service provided under a plan that does not separately state the charge for the local telephone service. Bundled service includes, for example, Voice over Internet Protocol service, prepaid telephone cards, and plans that provide both local and long distance service for either a flat monthly fee or a charge that varies with the elapsed transmission time for which the service is used. Telecommunications companies provide bundled service for both landline and wireless (cellular) service.

(b) *Reason for clarification.* The example in the second sentence of the definition of bundled service incorrectly assumes that all Voice over Internet Protocol (VoIP) service would provide both local and long distance service and that the charges for the two services would not be separately stated. As noted in section 4(a) of this notice, the method of transmitting a call is not a factor in determining whether a service is local-only or bundled. Accordingly, a VoIP service that provides local-only service is treated as local-only service.

(c) *Revised definition.* Accordingly, the definition of bundled service is clarified to read as follows:

Bundled service is local and long distance service provided under a plan that does not separately state the charge for the local telephone service. Bundled service includes plans that provide both local and long distance service for either a flat monthly fee or a charge that varies with the elapsed transmission time for which the service is used. Telecommunications companies provide bundled service for both landline and wireless (cellular) service. If Voice over Internet Protocol service provides both local and long distance service and the charges are not separately stated, such service is bundled service.

SECTION 6. PREPAID TELEPHONE CARDS (PTC)

(a) *In general—(1) Prepaid telephone cards.* Section 4251(d) and § 49.4251-4 of the Facilities and Services Excise Taxes Regulations provide rules for prepaid telephone cards (PTC). Section 49.4251-4(b) defines PTC as a card or similar arrangement that permits its holder to obtain a fixed amount of communications services by means of a code (such as a personal identification number (PIN)) or other access device provided by the carrier and to pay for those services in advance. The amount paid for PTCs is determined under the rules of §§ 4251(d)(1) and (2) and § 49.4251-4(c). Under this notice, the PTC will be treated as nontaxable service unless a PTC expressly states it is for local-only service.

(2) *Other cards.* This section does not address cards that permit the holder to purchase various services in addition to telecommunications services. Such services include, but are not limited to, ring tone downloads, music downloads, text messaging, picture messaging, web browsing, game downloads, or screen saver downloads.

(b) *Application of the tax—(1) Definitions.* Section 49.4251-4(b) provides that—

(i) *Carrier* means a telecommunications carrier as defined in 47 U.S.C. 153.

(ii) *Holder* means a person that purchases other than for resale.

(iii) *Transferee* means the first person that is not a carrier to whom a PTC is transferred by a carrier.

(2) *Imposition, liability, and collection.* Section 4251(d) provides that the § 4251 tax is imposed on the transfer of a PTC to a transferee; § 49.4251-4(d)(1) provides that the person liable for the tax is the transferee and that the person responsible for collecting the tax generally is the carrier transferring the PTC to the transferee. Section 49.4251-4(d)(1) further provides that if a holder purchases a PTC from a transferee reseller, the amount the holder pays for the PTC is not treated as an amount paid for communications services and thus tax is not imposed on that payment.

(c) *Person eligible to request credit or refund.* The transferee is the person liable for the tax paid on a PTC and thus generally is the person eligible to request a credit or refund of the tax it paid. The carrier is eligible to request a credit or refund only if it meets the conditions of section 5(d)(4) of Notice 2006-50. The holder is not liable for the tax and thus cannot request a credit or refund.

SECTION 7. PREPAID CELLULAR TELEPHONES

(a) *In general—(1) Prepaid cellular telephones.* Certain telecommunications providers offer wireless (cellular) telecommunications service on a prepaid service basis (prepaid telephones) whereby a customer purchases the cellular telephone with a set number of minutes available for telecommunications. When the customer exhausts the number of minutes on the prepaid telephone, the customer may purchase additional minutes. The customer does not enter into a contract with the telecommunications provider; there are no service charges after the additional purchase and no monthly bills. Under this notice, the prepaid telephone will be treated as nontaxable service unless the terms of the prepaid telephone service expressly state it is for local-only service.

(2) *Other prepaid cellular telephones.* This section does not address arrangements that permit the holder to purchase various services in addition to telecommunications services. Such services include, but are not limited to, ring tone downloads, music downloads, text messaging, picture messaging, web browsing, game downloads, or screen saver downloads.

(b) *Application of the tax.* Rules similar to the rules for PTCs, as described in section 6 of this notice, apply to prepaid telephones. Thus, the person liable for tax is the person (transferee) that buys the prepaid telephone from the telecommunications provider (carrier) and the carrier is responsible for collecting the tax. Any holder of a prepaid telephone (that is, a person that buys the prepaid telephone other than for resale) is not liable for tax.

(c) *Person eligible to request credit or refund.* The transferee is the person liable for the tax paid on a prepaid telephone and thus generally is the person eligible to request a credit or refund of the tax it paid. The carrier is eligible to request a credit or refund only if it meets the conditions of section 5(d)(4) of Notice 2006-50. The holder is not liable for the tax and thus cannot request a credit or refund.

SECTION 8. CHARGES IN CONNECTION WITH LOCAL-ONLY SERVICE

(a) *Background.* Section 3(b) of Notice 2006-50 defines local-only service as including certain services and facilities provided in connection with local telephone service, even though these services may also be used in connection with long distance service. As examples, the notice cites to Rev. Rul. 72-537, 1972-2 C.B. 574 (telephone amplifier), Rev. Rul. 73-171, 1973-1 C.B. 445 (automatic call distributing equipment), and Rev. Rul. 73-269, 1973-1 C.B. 444 (special telephone).

(b) *Subscriber line charges.* In addition to the examples in paragraph (a) of this section, amounts paid for subscriber line charges, which are described in Rev. Rul. 87-108, 1987-2 C.B. 260, are also amounts paid for local telephone service. This charge may appear on a bill as "Federal Access Charge," "Customer or Subscriber Line Charge," or "Interstate Access Charge."

(c) *Universal service fees—(1) Background.* All telecommunications companies that provide interstate and international telecommunications service contribute to the federal Universal Service Fund (USF). Their contributions support four Universal Service programs established and overseen by the Federal Communications Commission (FCC). Some telecommunications companies recover their contribution to the USF directly from their customers by billing them for this charge. The FCC does not require companies to pass on these costs to their customers. Each company makes a business decision about whether and how to

recover USF costs. A company that separately states this charge on a bill may call it a "Federal Universal Service Fee" or "Universal Connectivity Fee."

(2) *Application.* Because telecommunications providers charge the USF to their customers in connection with their customers' long distance service, amounts paid for separately stated USF amounts are not amounts paid for local-only service.

SECTION 9. PERSON TO MAKE REQUEST IF TAXPAYER IS NO LONGER IN BUSINESS OR DECEASED

Neither Notice 2006-50 nor this notice create any special rules regarding the person to request a credit or refund of tax for a taxpayer that no longer exists or is deceased. The same rules that apply to requests for credits or refunds of other federal taxes also apply to similar requests of the tax imposed under § 4251. These rules depend upon the facts and circumstances relating to the reasons that the taxpayer no longer exists. The Form 8913 Instructions and Publication 559, *Survivors, Executors, and Administrators*, provide general guidance for taxpayers regarding deceased taxpayers.

SECTION 10. EFFECT OF NOTICE 2006-50 ON STATE AND LOCAL TELECOMMUNICATIONS TAXES

Neither Notice 2006-50 nor this notice affect the ability of state or local governments to impose or collect telecommunication taxes under the respective statutes of those governments.

SECTION 11. NO OBLIGATION OF TELECOMMUNICATIONS PROVIDERS TO SUPPLY RECORDS TO CUSTOMERS

The IRS has been asked to require telecommunications providers to supply their customers with those customers' telecommunications bills for periods after February 28, 2003, and before August 1, 2006. Neither Notice 2006-50 nor this notice requires telecommunications providers to supply billing records to their customers.

SECTION 12. BUSINESS AND NONPROFIT ESTIMATION METHOD

(a) *In general.* This section provides rules for the Business and Nonprofit Estimation Method (EM) that eligible entities may use to determine the amount of their credit or refund for nontaxable service. Eligible entities may, but are not required to, use the EM instead of the actual amount of federal communications excise tax they paid on nontaxable service to calculate the amount of their credit or refund.

(b) *Definitions.* The following definitions apply to this section.

(1) *Eligible entity* means—

(i) *Any*—

(A) Business entity (including a corporation or partnership);

(B) Trust or estate;

(C) Tax-exempt organization; and

(D) Individual owner of rental property and any self-employed individual (including an independent contractor, sole proprietor, or farmer) but only if the individual (including a married couple filing a joint return) reports gross rental and business income totaling more than \$25,000 on his or her 2006 federal income tax return;

(ii) That was in operation during any time from March 1, 2003 through July 31, 2006; and

(iii) That received and paid for telecommunications service that was reflected on bills dated in April 2006 and September 2006.

(2) *Total telephone expenses* means all amounts paid to every telecommunications provider used by the eligible entity for telephone service that were billed after February 28, 2003, and before August 1, 2006. These amounts include, but are not limited to, amounts paid for long distance service, local-only service, bundled service, 900 number service, universal service fees, federal, state, and local taxes. If an eligible entity is billed for telephone and non-telephone services on one bill each month and does not separately track non-telephone services in its books and records, the entire amount of that bill is included in total telephone expenses. An eligible entity may determine the amount of its total telephone expenses by examining its books and records, including, for example, its general ledger, check register, and canceled checks.

(3) *Employee* means any person working for the taxpayer full or part time as reported on the eligible entity's Form 941, *Employer's Quarterly Federal Tax Return*, for the 2nd quarter of 2006, other than any person employed as a household employee, in a non-pay status, on a pension, or an active member of the Armed Forces.

(c) *Using the EM to determine the amount of the credit or refund*—(1) *Determining the federal excise tax as a percentage of the telephone bill*—(i) First, determine the amount of federal communications excise tax on all telephone bills dated in April 2006 and all telephone bills dated in September 2006. The amount is generally separately stated on the bill as "FET" or "federal tax".

(ii) Next, for all the April telephone bills and all the September telephone bills, divide the amount of federal communications excise tax included on the bills by the total telephone expenses on the bills. The resulting amounts are the April and September percentages, respectively.

(iii) Next, subtract the September percentage from the April percentage. For purposes of this notice, this amount is the federal excise tax percentage (FETP).

(2) *Capping the FETP*—(i) Determine the number of employees.

(ii) For taxpayers with 250 or fewer employees, the FETP is capped at 2 percent.

(iii) For taxpayers with more than 250 employees, the FETP is capped at 1 percent.

(d) *Calculating the amount of the credit or refund*—(1) *Records kept on a monthly basis*. If the entity has maintained its telephone expense records on a monthly basis, multiply the FETP amount by the taxpayer's monthly total telephone expenses for each month of the 41 month period from March 2003 through July 2006. The product of this calculation is the taxpayer's credit or refund amount.

(2) *Records kept on an annual basis*. If the entity has maintained its telephone expense records on an annual basis rather than a monthly basis, prorate its annual amount equally to each month of that year. Thus, for example, a taxpayer maintaining annual telephone expense records for 2003 would divide its total telephone expenses by 12. Next, the taxpayer would use that monthly amount to complete the calculations for the credit or refund amount for 2003.

(e) *Actual Amounts*. Use of the EM is optional. Taxpayers may use the actual amounts paid for federal communications excise tax for nontaxable service to determine the amount of their credit or refund.

(f) *Examples*. The following examples illustrate the application of this section.

Example 1—(i) *Facts*. Business A has 250 employees. A's April 2006 telephone bill is \$1,700, including federal communications excise tax of \$47.60. A's September 2006 telephone bill is \$1,600, including federal communications excise tax of \$24.00. A's total telephone expenses, for which it does not have monthly records, are as follows:

2003 — \$10,800.00

2004 — \$16,000.00

2005 — \$20,000.00

2006 — \$20,571.37.

(ii) *Determining the April and September percentages*. A's April percentage is 2.8 percent ($47.60 \div 1,700$). A's September percentage is 1.5 percent ($24 \div 1,600$).

(iii) *Determining the FETP*. The difference between A's April percentage and September percentage is 1.3 percent ($2.8 - 1.5$). Thus, the FETP is 1.3 percent.

(iv) *Capping the FETP*. Because A's number of employees does not exceed 250, A's FETP is not capped at 1 percent.

(v) *Prorating*. Because A did not maintain its total telephone expense records by month, it prorates those amounts equally to each month within the March 2003 — July 2006 period for each particular year. For 2003, A divides its total telephone expense of \$10,800 by 12 and multiplies that result by 10 (the number of months between March and December). ($[\$10,800 \div 12] \times 10 = 9,000$.) For 2006, A divides its total telephone expense of \$20,571.37 by 12 and multiplies that result by 7 (the number of months between January and July). ($[\$20,571.37 \div 12] \times 7 = 12,000$.)

(vi) *Calculating the amount of the credit or refund.* Using the EM, the amount of A's credit or refund is calculated as follows:

2003: $\$9,000 \times .013 = \117 ($117+10 = 11.7$) Monthly amount $\$11.70$

2004: $\$16,000 \times .013 = \208 ($208+12 = 17.33$) Monthly amount $\$17.33$

2005: $\$20,000 \times .013 = \260 ($260+12 = 21.67$) Monthly amount $\$21.67$

2006: $\$12,000 \times .013 = \156 ($156+7 = 22.29$) Monthly amount $\$22.29$

(vii) *Reporting the credit or refund amounts on Form 8913—(A)* Because the credit or refund period does not align with the calendar quarters, Form 8913 requires taxpayers to report the credit or refund amounts in 13 three-month intervals and one two-month interval. Thus, A would report credit or refund amounts on Form 8913 as follows:

March, April, May 2003 — $\$35.10$ ($11.70 \times 3 = 35.10$)

June, July, August 2003 — $\$35.10$ ($11.70 \times 3 = 35.10$)

September, October, November 2003 — $\$35.10$ ($11.70 \times 3 = 35.10$)

December 2003, January, February 2004 — $\$46.36$ ($11.70 + [17.33 \times 2] = 46.36$)

March, April, May 2004 — $\$51.99$ ($17.33 \times 3 = 51.99$)

June, July, August 2004 — $\$51.99$ ($17.33 \times 3 = 51.99$)

September, October, November 2004 — $\$51.99$ ($17.33 \times 3 = 51.99$)

December 2004, January, February 2005 — $\$60.67$ ($17.33 + [21.67 \times 2] = 60.67$)

March, April, May 2005 — $\$65.01$ ($21.67 \times 3 = 65.01$)

June, July, August 2005 — $\$65.01$ ($21.67 \times 3 = 65.01$)

September, October, November 2005 — $\$65.01$ ($21.67 \times 3 = 65.01$)

December 2005, January, February 2006 — $\$66.25$ ($21.67 + [22.29 \times 2] = 66.25$)

March, April, May 2006 — $\$66.87$ ($22.29 \times 3 = 66.87$)

June, July 2006 — $\$44.58$ ($22.29 \times 2 = 44.58$)

(B) After determining the amount of credit or refund using the EM, A reports the amounts on Form 8913, and attaches the Form 8913 to A's 2006 federal income tax return.

Example 2. The same facts as *Example 1* except that A has 500 employees. A's FETP is capped at 1 percent. Thus, A must make the same calculation as in *Example 1* to determine the proper amount of A's credit or refund of federal communications excise tax using the FETP of 1 percent, rather than 1.3 percent.

SECTION 13. FORM 1040EZ-T, REQUEST FOR REFUND OF FEDERAL TELEPHONE EXCISE TAX

Individuals who do not have to file a federal income tax return and who meet the conditions for requesting a refund of the federal communications excise tax may file Form 1040EZ-T to request the refund. Individuals requesting a refund of actual amounts of federal communications excise tax paid must complete Form 8913 and attach that form to the Form 1040EZ-T.

SECTION 14. MODIFICATION OF PROVISION REGARDING REQUESTS FOR CREDIT OR REFUND

(a) *Present requirement.* Section 5(g) of Notice 2006-50 provides as follows:

Requests that do not follow the provisions of this notice. Requests that do not follow the provisions of this notice (whether filed before or after its publication)—

(1) Will not be processed to the extent they relate to the tax paid on nontaxable service that was billed after February 28, 2003; and

(2) Will be processed normally to the extent they relate to the tax paid on nontaxable service that was billed before March 1, 2003.

(b) *Reason for modification.* Many of the pending refund claims that were filed on or before May 25, 2006, include refund claims for nontaxable service that was billed before March 1, 2003, and after February 28, 2003. In the interest of sound tax administration and efficiency, the IRS will process all claims for credit or refund that were filed on or before May 25, 2006.

(c) *Revised requirement.* Accordingly, section 5(g) of Notice 2006-50 is modified to read as follows:

(1) Requests that do not follow the provisions of Notice 2006-50 and that were filed on or before May 25, 2006, will be processed normally.

(2) Requests that were filed on or after May 26, 2006, and do not follow the provisions of Notice 2006-50, will not be processed to the extent they relate to the tax paid on nontaxable service that was billed after February 28, 2003.

SECTION 15. EFFECT ON OTHER DOCUMENTS

Notice 2006-50 is amplified, clarified, and modified.

SECTION 16. DRAFTING INFORMATION

The principal author of this notice is Barbara B. Franklin of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact 202-622-3130 (not a toll-free number).

Kim Nielsen

From: TrackingUpdates@fedex.com
Sent: Wednesday, April 30, 2008 2:05 PM
To: Kim Nielsen
Subject: FedEx Shipment 792047454628 Delivered

This tracking update has been requested by:

Company Name: COLANTUONO, LEVIN & ROZELL
Name: KIM NIELSEN
E-mail: knielsen@cllaw.us

Our records indicate that the following shipment has been delivered:

Reference: 42007-0005
Ship (P/U) date: Apr 29, 2008
Delivery date: Apr 30, 2008 2:00 PM
Sign for by: M.LONGDO
Delivered to: Receptionist/Front Desk
Service type: FedEx Standard Overnight
Packaging type: FedEx Envelope
Number of pieces: 1
Weight: 0.50 lb.
Special handling/Services: Deliver Weekday

Tracking number: 792047454628

Shipper Information	Recipient Information
KIM NIELSEN	Francis M. Gregorek
COLANTUONO, LEVIN & ROZELL	WOLF HALDENSTEIN ADLER FREEMAN
555 W. 5TH ST, FL 30	750 B ST STE 2770
LOS ANGELES	SAN DIEGO
CA	CA.
US	US
90013	921018113

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4/30/2008

CERTIFICATE OF SERVICE

I, Kimberly Nielsen, hereby certify that I am a citizen of the United States and a resident of the State of California, over the age of eighteen, and not a part to the within action.

On this 28th day of April, 2008, I filed the original and 5 copies of the foregoing **Notice of Motion and Motion for Judicial Notice** in *Ardon v. City of Los Angeles*, No. B 201035 (the "Brief"), with the Clerk of the Court of Appeals via Federal Express Overnight Delivery, served a copy of the Brief via electronic delivery to the California Supreme Court, served one copy to the Honorable Anthony J. Mohr, the trial court judge in the Los Angeles Superior Court via Federal Express Overnight Delivery, and served on copy of the Brief via Federal Express Overnight Delivery on all parties on the attached service list.

Dated: April 28, 2008

COLANTUONO & LEVIN, P.C.

By: 

Kimberly Nielsen

Ardon v. City of Los Angeles, et al.
Case No. B201035
Service List

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ACTION AND THE RELATED ACTIONS
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COURTESY COPIES TO:

Honorable Anthony J. Mohr
Superior Court of California
County of Los Angeles
600 S. Commonwealth Ave.
Los Angeles, CA 90005

Supreme Court of California
Ronald Reagan Building
300 S. Spring St., 2nd Floor
Los Angeles, CA 90013-1233

Kim Nielsen

From: TrackingUpdates@fedex.com
Sent: Wednesday, April 30, 2008 3:26 PM
To: Kim Nielsen
Subject: FedEx Shipment 792690885841 Delivered

This tracking update has been requested by:

Company Name: COLANTUONO & LEVIN, PC
Name: Kim Nielsen
E-mail: knielsen@cllaw.us

Our records indicate that the following shipment has been delivered:

Reference: 42007-5
Ship (P/U) date: Apr 29, 2008
Delivery date: Apr 30, 2008 3:20 PM
Sign for by: .TANAYA
Delivered to: Receptionist/Front Desk
Service type: FedEx Standard Overnight
Packaging type: FedEx Pak
Number of pieces: 1
Weight: 1.00 lb.
Special handling/Services: Deliver Weekday

Tracking number: 792690885841

Shipper Information
Kim Nielsen
COLANTUONO & LEVIN, PC
555 W. 5th St.;31st Floor
Los Angeles
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900131018

Recipient Information
Honorable Anthony J. Mohr
Superior Court of California
600 S COMMONWEALTH AVE
LOS ANGELES
CA
US
900054001

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Kim Nielsen

From: TrackingUpdates@fedex.com
Sent: Wednesday, April 30, 2008 10:02 AM
To: Kim Nielsen
Subject: FedEx Shipment 792047461413 Delivered

This tracking update has been requested by:

Company Name: Colantuono & Levin, PC
Name: Janis Ruzgerian
E-mail: knielsen@cllaw.us

Our records indicate that the following shipment has been delivered:

Reference: 42007-0005
Ship (P/U) date: Apr 29, 2008
Delivery date: Apr 30, 2008 10:00 AM
Sign for by: P.PINKARD
Delivered to: Receptionist/Front Desk
Service type: FedEx Standard Overnight
Packaging type: FedEx Envelope
Number of pieces: 1
Weight: 0.50 lb.
Special handling/Services: Deliver Weekday

Tracking number: 792047461413

Shipper Information
Janis Ruzgerian
Colantuono & Levin, PC
555 W. 5th St., 31st Floor
Los Angeles
CA
US
90013

Recipient Information
JON TOSTRUD
CUNEO GILBERT & LADUCA
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2400;EAST
LOS ANGELES
CA
US
900672326

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Kim Nielsen

From: TrackingUpdates@fedex.com
Sent: Wednesday, April 30, 2008 8:25 AM
To: Kim Nielsen
Subject: FedEx Shipment 799845000296 Delivered

This tracking update has been requested by:

Company Name: COLANTUONO & LEVIN, PC
 Name: Linda Bryan
 E-mail: knielsen@cllaw.us

Our records indicate that the following shipment has been delivered:

Reference: 42007-0005
 Ship (P/U) date: Apr 29, 2008
 Delivery date: Apr 30, 2008 11:21 AM
 Sign for by: Signature Release on file
 Service type: FedEx Standard Overnight
 Packaging type: FedEx Pak
 Number of pieces: 1
 Weight: 2.00 lb.
 Special handling/Services: Deliver Weekday

Tracking number: 799845000296

Shipper Information

Linda Bryan
 COLANTUONO & LEVIN, PC
 555 W. 5TH ST, 31st FLOOR
 LOS ANGELES
 CA
 US
 90013

Recipient Information

Nicholas E. Chimicles
 CHIMICLES & TIKELLIS
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 HAVERFORD
 PA
 US
 190411554

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LOS ANGELES MUNICIPAL CODE

SEC. 21.1.12. SENIOR CITIZEN EXEMPTION – 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 telephone, electric, or gas services in or upon any premises occupied by such 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 such individual resided was less than Ten Thousand Nine Hundred and Fifty Dollars (\$10,950) for the calendar year prior to the fiscal year (July 1 through June 30) for which the exemption provided in this Article is applied for. (Amended by Ord. No. 157,563, Eff. 5/2/83, Oper. 6/1/83.)

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 such exempt individuals or the duty of such exempt individuals from paying such taxes to the service supplier unless an exemption is applied for by the service user and granted in accordance with the provisions of Subsection (b) hereof.

For each fiscal year commencing with the 1984-85 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. (Added by Ord. No. 157,563, Eff. 5/2/83, Oper. 6/1/83.)

(b) (Amended by Ord. No. 146,936, ff. 3/7/75.) Any service user exempt from the taxes imposed by this Article because of the provisions of Subsection (a) above, may file an application with the Director of Finance for an exemption. Such 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 such applications and certify as exempt those applicants determined to qualify therefor and shall notify all service suppliers affected 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 user from its 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 article from such exempt service user until further notice by the Director of Finance is given. The service supplier shall eliminate such exempt service user from its tax billing procedure no later than 60 days after the receipt of such 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 such 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 10 days of any change of fact or circumstance which might disqualify such individual from receiving such 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 such exemption does not exist or ceases to exist. (Amended by Ord. No. 164, 486, Eff. 4/2/89.)

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, such service supplier shall immediately notify the Director of Finance of such 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 such application is filed not later than the sixtieth 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 above set forth.

(c) (Amended by Ord. No. 153,323, Eff. 2/22/80, Oper. 4/1/80.) Commencing August 1, 1975 for individuals 62 years of age or older, and May 1, 1980 for disabled individuals, any individual entitled to be exempt from the taxes imposed by this article who used telephone, electric or gas services and paid more than \$3.00 in such taxes may, within twelve months of the date of payment, apply for a refund thereof on forms provided by the Director of Finance. Such refund application shall contain a declaration of those facts, under oath, which qualify the applicant for a refund, and shall also be accompanied by the customer's original bills showing the amount of such 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 such taxes in conjunction with the occupation of any premises without receiving a specific billing therefor 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 eighteen dollars (\$18.00), or one dollar and fifty cents (\$1.50) for each full month of service received by the applicant, whichever is less.

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.

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.

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 such facts, he may deny such application by giving written notice thereof and by stating therein the grounds for such denial and mailing such notice in a sealed envelope, postage prepaid, addressed to such applicant at the address shown upon such 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 of Finance.

(d) 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 such tax. (Added by Ord. No. 146,936, Eff. 3/7/75.)

(e) 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 thereof as may be necessary to satisfy the delinquency. (Added by Ord. No. 146,936, Eff. 3/7/75.)

(f) The tax imposed by this article shall not apply to telephone, 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. (Added by Ord. No. 164,373, Eff. 3/6/89.)

LOS ANGELES MUNICIPAL CODE

SEC. 21.07. REFUNDS OF OVERPAYMENTS.

No refund of an overpayment of taxes imposed by Article 1 and 1.5 of Chapter 2 of this Code shall be made except under the following procedure:

(a) (Amended by Ord. No. 174,085, Eff. 8/19/01.) No claim for refund shall be allowed in whole or in part unless filed by the person claiming the overpayment, or his authorized agent on his behalf, with the City Clerk within a period of one year from the date of the claimed overpayment, and all such claims for refund of overpayment must be filed with the City Clerk on forms furnished by the City and in the manner prescribed by the City.

(b) Nothing in this section shall be deemed to bring into being or validate any claim for refund arising from a cause heretofore existent if such claim, whether filed or not, was or would have been invalid because of the then existing statutory term, and nothing in this section shall be deemed to validate, revive, restore or continue any claim for refund heretofore filed and denied.

(c) Insofar as the provisions of this section are in conflict with the provisions of Sections 22.12, 22.13 of this Code, the language of this section shall be construed to control and supersede the language of said sections as to any such conflict.

(d) (Added by Ord. No. 174,085, Eff. 8/19/01, Oper. 1/1/02.) The City shall pay interest on the amount of each allowed claim for refund of overpayment of tax, from the date of filing the claim for refund or, in the case of a payment under protest or pursuant to a billing from the Office of Finance, from the date of overpayment, until the date the refund is paid, during each calendar year at the annual rate determined by multiplying by 12 the monthly interest rate applicable to delinquent taxes under Subsection (e) of Section 21.05 of this article.

DECLARATION OF SERVICE

I, Kimberly Nielsen, the undersigned, declare:

1. That declarant is and was, at all times herein mentioned, a citizen of the United States and a resident of the County of Los Angeles, over the age of 18 years, and not a part to or interested in the within action; that declarant's business address is 300 South Grand Ave, 27th Floor, Los Angeles, CA 90071.

2. That on December 23, 2009, declarant served the **NOTICE OF MOTION AND MOTION FOR JUDICIAL NOTICE** via U.S. Mail in a sealed envelope with postage thereon fully paid and addressed to the parties listed on the attached Service List.

3. That there is regular communication between the parties.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 23rd day of December, 2009, at Los Angeles, California.

A handwritten signature in black ink, appearing to read 'Kimberly Nielsen', written over a horizontal line.

Kimberly Nielsen

**Estuardo Ardon v. City of Los Angeles, et al.
Supreme Court Case No. S174507**

SERVICE LIST

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