



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. IF
COUNCIL MEETING 05/19/2011

May 19, 2011

APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER Mark Scott

FROM: JOE GRAY, City Controller
KAREN M. BRADLEY, Assistant City Controller
Finance Department

SUBJECT: BILL FOR INTRODUCTION AND ADOPTION OF ANNUAL AMENDMENT TO SUBSECTION (a) of SECTIONS 7-504 AND 7-505 OF THE FRESNO MUNICIPAL CODE RELATING TO LOCAL SALES AND USE TAXES, PURSUANT TO THE MEMORANDUM OF UNDERSTANDING WITH FRESNO COUNTY (MOU)

RECOMMENDATION

Staff recommends that Council give consideration to adopting the attached amendment to the Sales and Use Tax Ordinance, implementing an already agreed upon provision of a Memorandum of Understanding between the City of Fresno and the County of Fresno (the "2003 MOU"). Approval of the amendment will decrease the City's allocation of the existing Sales and Use Tax revenues generated within the City limits by 0.0002 percent of gross receipts. The Ordinance is being introduced May 19, 2011 and will return on May 26, 2011 for Council adoption as mandated in the City Charter.

EXECUTIVE SUMMARY

State law allocates one percent of Sales and Use tax revenues to local governments. The 2003 MOU requires the City to annually adjust its proportional share of the one percent allocation pursuant to an agreed upon formula. For fiscal year 2012, the City's share of Sales and Use Tax revenue generated within the City limits will decrease from 0.9465 percent to 0.9463 percent of gross receipts, effective July 1, 2011. The amount of sales tax that is charged to consumers remains unchanged. This is accomplished by decreasing the City's share, and increasing the County's share of the statutory one percent designated to local governments.

BACKGROUND

On January 6, 2003, the City Council approved a 2003 MOU, which, among other things, provides an allocation formula for Sales and Use Tax rates by the two agencies over the life of the agreement, which expires December 31, 2017. Currently, Sales and Use Tax revenue generated within the City limits is allocated by providing 0.9465 percent of gross receipts to the City and 0.0535 percent of gross receipts to the County. The 2003 MOU requires the City to decrease its share by 0.0002 percent for fiscal year 2012.

Only the distribution of the existing Sales and Use Tax rate has changed. There is no change in the overall tax rate paid by the consumer. Attached for Council Action is an amendment to the Sales and Use Tax Ordinance, Fresno Municipal Code Chapter 7, Article 5, which changes the City's rate to 0.9463 percent of gross receipts, effective July 1, 2011.

FISCAL IMPACT

This amendment will result in a decrease in the General Fund revenues of approximately \$12,045 in fiscal year 2012.

Attachment: Resolution



County of Fresno
COUNTY ADMINISTRATIVE OFFICE
JOHN NAVARRETTE
COUNTY ADMINISTRATIVE OFFICER

May 4, 2011

Mark Scott, City Manager
City of Fresno
City Hall
2600 Fresno Street
Fresno, CA 93721

RE: ALLOWABLE INCREASE IN SALES TAX ORDINANCE

Dear Mr. Scott:

As you know, the City of Fresno and its Redevelopment Agency have entered into a Memorandum of Understanding (MOU) with the County of Fresno. Under Article V of the MOU, each year, the City of Fresno, the County and other affected cities are to make certain annual adjustments to their respective sales tax ordinance to reflect the terms and conditions delineated in the City/County MOU for the continued distribution of sales tax revenues.

This letter serves as the notification of the adjustments to the tax sharing rates proposed to be effective July 1, 2011. The County will be taking action on May 17, 2011 and May 24, 2011 to amend its sales tax ordinance in accordance with the MOU. A copy of the draft Agenda Item regarding our action is enclosed.

The City may also take action to amend its sales tax ordinance to match the County's. The current sales tax rate is 0.9465%. The maximum allowable sales tax rate for the fiscal year beginning July 1, 2011 will be 0.9463%. Under the MOU, the City may take the following steps:

1. Amend the City's sales tax ordinance (2 meetings required) to reflect the new rate.
2. Send two certified copies of the ordinance to the State Board of Equalization by certified mail, return receipt requested, as follows:

State Board of Equalization
Attn: Sonia Calistro
MIC: 27
P.O. Box 942879
Sacramento, CA 94279-0027

Please send a copy of your draft ordinance and notification of the dates when the ordinance will be on the City council agenda to Jeanette Ishii, Economic Development Coordinator in the County Administrative Office, Economic Development Unit. You may call her at 600-4168 if you have any questions about this letter.

Sincerely,

John Navarrette
County Administrative Officer

Enclosure

cc: Kevin Briggs, County Counsel
Jeanette Ishii, Economic Development Coordinator



Agenda Item

DATE: May 17, 2011
 TO: Board of Supervisors
 FROM: John Navarrette, County Administrative Officer
 SUBJECT: Amendment to County Sales and Use Tax Ordinance

DRAFT

RECOMMENDED ACTIONS:

Hold first hearing on ordinance to amend Fresno County Ordinance Code Section 4.16.090 concerning the allocation of sales and use tax revenues, amending it as to the City of Fresno and the City of Mendota as to their respective tax rates, and amending the dates subsequent to which all cities within the County must adhere to the stated rates, changing them to June 30, 2011 (formerly June 30, 2010), waive the reading of the ordinance in its entirety, and set second hearing for May 24, 2011.

Established Memoranda of Understanding between the County and both the City of Fresno and the City of Mendota (the Cities) provides for an annual adjustment to the sales and use tax sharing ratio between the County and the Cities. The proposed ordinance would reduce the City of Fresno's share of local sales and use tax distributions from 94.65% to 94.63% and the City of Mendota from 98.50% to 98.00% effective July 1, 2011. The proposed ordinance would also change the dates subsequent to which all cities within the County must adhere to the stated rates from June 30, 2010 to June 30, 2011. The recommended action would result in the first hearing on the ordinance and set a second hearing for May 24, 2011.

FISCAL IMPACT:

The proposed adjustment to the City of Fresno's sales tax sharing rate is intended to reflect the continued contribution of a substantial sales tax generator for fiscal year 2011-2012 based on actual receipts for sales tax revenues in fiscal year 2009-2010. The proposed adjustment to the City of Mendota's sales tax sharing rate reflects a certain increase in sales tax in the prior fiscal year and per capita sales tax collections greater than 50% of the average among all cities in the County.

ADMINISTRATIVE OFFICE REVIEW _____ Page _____ of _____
 BOARD ACTION: DATE _____ APPROVED AS RECOMMENDED _____ OTHER _____

UNANIMOUS _____ ANDERSON _____ CASE _____ LARSON _____ PEREA _____ POOCHIGIAN _____

 DRAFT

IMPACTS ON JOB CREATION:

The recommended action will have a positive impact on job creation. For the purpose of promoting economic development and job creation, the Memoranda of Understanding (MOU) between the Cities and the County of Fresno and the other cities include a provision that adds more flexibility to the process of annexation of areas proposed for industrial and regional commercial uses. The application of this provision and the continued availability of an MOU that functions as a Master Tax-Sharing Agreement facilitate the annexation of projects that promote job creation and economic activity in the Fresno region.

DISCUSSION:

Fresno County has entered into MOU's with cities in the County which address land use and property and sales tax allocations. As provided in the existing MOU's, based on information provided by the State Board of Equalization ("SBOE") and the State Department of Finance, adjustments in the percentage share of sales and use tax between the County and the various cities may be required effective July 1st of each year.

The MOU with the City of Fresno has a formula that requires an annual adjustment based on revenue growth documented by the California Consumer Price Index. This adjustment is necessary to reflect continued share of a substantial sales tax generator. The City of Fresno has been notified of the proposed adjustment that reduces the City's rate from 0.9465% to 0.9463%. The MOU with the City of Mendota states that the City will decrease its sales and use tax rate by 0.0050% for each year the City has per capita collections greater than 50% of the average among all cities in the County and has a positive change in sales and use taxes such that the reduced share would still have resulted in a net increase in revenue for the City in the prior fiscal year. The City of Mendota has been notified of the proposed adjustment that reduces the City's rate from 0.9850% to 0.9800%. The proposed ordinance would also change the dates subsequent to which all cities within the County must adhere to the stated rates from June 30, 2010 to June 30, 2011.

The County's Ordinance automatically levies the full amount of sales and use tax but gives credit to each city within the County up to the negotiated amount of that sales and use tax. Today's action would conform the County Ordinance to the amounts negotiated in each of the MOU's for FY 2011-2012. The SBOE requests that Ordinance amendments be adopted as soon as possible to assure that the correct apportionments can be made beginning July 1, 2011. County staff will advance this information to the SBOE to make sure this change is implemented effective July 1, 2011.

OTHER REVIEWING AGENICES:

A copy of this Agenda item has been sent to the City of Fresno and the City of Mendota.

REFERENCE MATERIAL:

- BAI #2, January 6, 2003 – MOU 03-001
- BAI #7, February 7, 2006 – MOU 06-029
- BAI #55, July 8, 2008 – Amendment to MOU 08-345
- BAI #45, May 25, 2010 – Ordinance 10-011

1 **BEFORE THE BOARD OF SUPERVISORS**
2 **OF THE COUNTY OF FRESNO**
3 **STATE OF CALIFORNIA**
4 **Ordinance No. _____**

 **DRAFT**

5
6 AN ORDINANCE AMENDING THE ORDINANCE CODE OF THE COUNTY OF FRESNO BY
7 AMENDING SECTION 4.16.090 OF CHAPTER 4.16 OF TITLE 4 THEREOF. THIS ORDINANCE
8 ESTABLISHES THE PERCENTAGE SHARE OF SALES AND USE TAX BETWEEN THE
9 COUNTY AND THE VARIOUS CITIES WITHIN THE COUNTY.

10 The Board of Supervisors of the County of Fresno ordains as follows:

11 **Section 1:** The Ordinance Code of the County of Fresno is hereby amended by amending
12 section 4.16.090 of Chapter 4.16 of Title 4 thereof, to read in its entirety as follows:

13 **4.16.090 – Inoperative Date.**

14 This chapter shall become inoperative at the beginning of the first calendar quarter which
15 commences at least sixty (60) days following the date upon which any of the following conditions
16 exist.

17 A. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
18 City of Huron, the City of Orange Cove, the City of Parlier, or the City of San Joaquin
19 provides that the sales and use tax of said city shall exceed 1.0000 percent of the sales
20 and uses subject to such tax.

21 B. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
22 City of Mendota provides that the sales and use tax of said city shall exceed 0.9800
23 percent of the sales and uses subject to such tax.

24 C. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
25 City of Clovis, the City of Coalinga, the City of Firebaugh, the City of Fowler, the City of
26 Kerman, the City of Kingsburg, the City of Reedley, the City of Sanger, or the City of Selma
27 provides that the sales and use tax of said city shall exceed 0.9500 percent of the sales
28 and uses subject to such tax.

1 D. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
2 City of Fresno provides that the sales and use tax of such city shall exceed 0.9463 percent
3 of the sales and uses subject to such tax.

4 **Section 2:** This Ordinance shall take effect and shall be in force and effect thirty (30)
5 days from and after its passage.

6 THE FOREGOING was passed and adopted by the following vote of the Board of
7 Supervisors of the County of Fresno this _____ day of _____, 2011, to wit:

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ORDINANCE OF THE COUNCIL OF THE CITY OF FRESNO
PROPOSED AND INITIATED BY _____
MOVED BY _____ SECONDED BY _____

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SUBSECTION (a) OF SECTION 7-504, AND
SUBSECTION (a) OF SECTION 7-505 OF THE FRESNO
MUNICIPAL CODE, RELATING TO LOCAL SALES AND USE
TAXES.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Subsection (a) of Section 7-504 of the Fresno Municipal Code is amended to read:

SECTION 7-504. SALES TAX.

(a) (1) Effective July 1, 2010 [2011], for the privilege of selling tangible personal property at retail a tax is hereby imposed on all retailers in the City at the rate of ~~0.9465~~ [0.9463] percent of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City.

(2) For the purposes of this ordinance, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state designation or to a common carrier for delivery to an out-of-state designation. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of

business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the Board of Equalization.

SECTION 2. Subsections (a) of Section 7-505 of the Fresno Municipal Code is amended to read:

SECTION 7-505. USE TAX

(a) An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on or after the operative date of this article for storage, use or other consumption in the City at the rate of ~~0.9465~~ [0.9463] percent of the sales price of the property from and after July 1, ~~2010~~ [2011]. The sales price shall include delivery charges when such charges are subject to State sales or use tax, regardless of the place to which delivery is made.

SECTION 3. This ordinance shall become effective and in full force and effect upon its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, California, at a regular meeting held on the _____ day of _____, 2011.

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Approval: _____, 2011

Mayor Approval/No Return: _____, 2011

Mayor Veto: _____, 2011

Council Override Vote: _____, 2011

REBECCA E. KLISCH
City Clerk

By _____

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

By 
Mark Coleason, Deputy



County of Fresno
COUNTY ADMINISTRATIVE OFFICE
JOHN NAVARRETTE
COUNTY ADMINISTRATIVE OFFICER

May 4, 2011

Mark Scott, City Manager
City of Fresno
City Hall
2600 Fresno Street
Fresno, CA 93721

RE: ALLOWABLE INCREASE IN SALES TAX ORDINANCE

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County Administrative Officer

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cc: Kevin Briggs, County Counsel
Jeanette Ishii, Economic Development Coordinator



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 **DRAFT**

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6 AN ORDINANCE AMENDING THE ORDINANCE CODE OF THE COUNTY OF FRESNO BY
7 AMENDING SECTION 4.16.090 OF CHAPTER 4.16 OF TITLE 4 THEREOF. THIS ORDINANCE
8 ESTABLISHES THE PERCENTAGE SHARE OF SALES AND USE TAX BETWEEN THE
9 COUNTY AND THE VARIOUS CITIES WITHIN THE COUNTY.

10 The Board of Supervisors of the County of Fresno ordains as follows:

11 **Section 1:** The Ordinance Code of the County of Fresno is hereby amended by amending
12 section 4.16.090 of Chapter 4.16 of Title 4 thereof, to read in its entirety as follows:

13 **4.16.090 – Inoperative Date.**

14 This chapter shall become inoperative at the beginning of the first calendar quarter which
15 commences at least sixty (60) days following the date upon which any of the following conditions
16 exist.

17 A. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
18 City of Huron, the City of Orange Cove, the City of Parlier, or the City of San Joaquin
19 provides that the sales and use tax of said city shall exceed 1.0000 percent of the sales
20 and uses subject to such tax.

21 B. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
22 City of Mendota provides that the sales and use tax of said city shall exceed 0.9800
23 percent of the sales and uses subject to such tax.

24 C. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the
25 City of Clovis, the City of Coalinga, the City of Firebaugh, the City of Fowler, the City of
26 Kerman, the City of Kingsburg, the City of Reedley, the City of Sanger, or the City of Selma
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D. At any time subsequent to June 30, 2011, the sales and use tax ordinance of the City of Fresno provides that the sales and use tax of such city shall exceed 0.9463 percent of the sales and uses subject to such tax.

Section 2: This Ordinance shall take effect and shall be in force and effect thirty (30) days from and after its passage.

THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this _____ day of _____, 2011, to wit: