

# Utility Users Tax

A tax of 7.5% is imposed on customers receiving services within the City for following utilities (see ordinance for definitions):

UTILITIES SUBJECT TO TAX	
Telephone	7.50%
Intrastate	7.50%
Interstate	7.50%
International	7.50%
Wireless & Paging	7.50%
Electricity	7.50%
Gas	7.50%
CATV	7.50%

The service provider is required to collect the tax together with the charges for services. The tax must be remitted within forty five (45) days of collection. Late remittances will be charged a penalty of 25%, interest calculated at 1% per month as well as any collection fees assessed. If the service provider does not collect the tax, it is the responsibility of utility user to remit the tax to the city within the deadline listed above.

**Below are the links:**

[UUT ORDINANCE \(4.28\)](#)  
[REMITTANCE FORM](#)  
[UUT IMPOSED ON VOIP NOTIFICATION LETTER](#)

## **UUT REMITTANCE INFORMATION:**

Make Check payable to:  
CITY OF OAKLAND

Mail to:  
City of Oakland  
Attn: Revenue Mgt  
150 Frank H. Ogawa Plaza , Ste 5342  
Oakland, CA 94612-2093

If you have any questions regarding the City's utility users tax [CLICK HERE](#)

## Chapter 4.28 - UTILITY USERS TAX

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### **4.28.010 - Title.**

This chapter shall be known as the utility users tax ordinance of the city.

(Prior code § 5-23.01)

### **4.28.020 - Definitions.**

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter.

"City" means the city of Oakland.

"Commercial or industrial plant location" means one or more contiguous sites for which the service user receives one or more utility billings.

"Month" means a calendar month.

"Person" means any domestic or foreign corporation, firm, association, syndicate, joint-stock company, partnership of any kind, joint venture, club, Massachusetts business or common-law trust, society, or individual, whether engaged in First Amendment or non-First Amendment enterprises.

"Primary place of use" of a telephone communications service shall be the address to which the service supplier sends invoices for that service unless the service user provides evidence to the reasonable

satisfaction of the Tax Administrator that the billing address is not the primary place of use.

"Service address" means the address or location where the user has its equipment (e.g., cellular phone, telephone, pager, facsimile machine) receiving utility services.

"Service supplier" means a person required to collect and remit a tax imposed by this chapter.

"Service user" means a person required to pay a tax imposed by this chapter.

"Tax Administrator" means the Director of Finance and Management Agency of the city of Oakland or his or her designee.

"Telephone corporation," "electrical corporation," "gas corporation," and "cable corporation" shall have the same meanings as defined in Section 234, 218 222, and 215.5, respectively, of the Public Utilities Code of the state of California, as said sections existed on January 1, 1975. "Electrical corporation" shall also be construed to include any municipality, district or franchised agency engaged in selling or supplying electrical power.

"Telephone communication services" includes any telephonic quality communication for the purpose of transmitting messages or information (including but not limited to voice, telegraph, teletypewriter, data, facsimile, video, or text) by electronic, radio or similar means through "interconnected service" with the "public switched network" (as these terms are commonly used in the Federal Communications Act and the regulations of the Federal Communications Commission — see 47 USCA Section 332(d)), whether such transmission occurs by wire, cable, fiber-optic, light wave, laser, microwave, broadband, computer processing applications such as voice over internet protocol service and services classified by the Federal Communications Commission as "enhanced" or "value added," radio wave (including, but not limited to, cellular service, wireless broadband, commercial mobile service, personal communications service (PCS), specialized mobile radio (SMR), and other types of personal wireless service — see 47 USCA Section 332(c)(7)(C)(i) — regardless of radio spectrum used), switching facilities, satellite, any other similar facilities, or any other technology now existing or developed after the adoption of this ordinance. Telephone communication services does not include charges for internet access or digital downloads, such as downloads of books, music, ringtones, games and similar digital products.

"Utility" means any person, whether or not regulated by the Public Utilities Commission that distributes or provides services regarding tangibles or intangibles via the public rights-of-way including but not limited to furnishing services such as telephone, gas, alternate fuels, electrical, cable television, pay television, satellite dish reception, teletype writer, facsimile exchange and other electronic and telecommunication transmissions. (Res. 81107 § 2, 2008; Ord. 12844 § 3, 2008; prior code § 5-23.02)

#### **4.28.030 - Telephone users tax imposed.**

A. There is imposed a tax upon every person, other than a telephone corporation, using telephone communication services including, but not limited to, cellular telephones and facsimile transmissions, whose place of primary use is within the city of Oakland. The tax imposed by this section shall be at the rate of seven and one-half (7.5%) percent of all charges made for such services and shall be paid by the person using such services, and collected by the provider of such services.

B. The following shall be exempt from the tax imposed by this section:

1. Charges paid for by inserting coins in coin-operated telephones available to the public with respect to local telephone service, or with respect to long distance telephone service if the charge

for such long distance telephone service is less than twenty-five (25) cents; except that where such coin-operated telephone service is furnished for a guaranteed amount, the amounts paid under such guarantee plus any fixed monthly or other periodic charge shall be subject to the tax.

2. Except with respect to local telephone service, any charges 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 such service is billed in writing to a person engaged in such activity.

3. Charges for services furnished to an international organization or to the American National Red Cross.

4. Charges for any long distance telephone service which originates within a combat zone, as defined in section 112 of the Internal Revenue Code, from a member of the Armed Forces of the United States performing service in such combat zone, as determined under such section, provided a certificate setting forth such facts as the Secretary of the U.S. Treasury may by regulations prescribe is furnished to the person receiving such payment.

5. Charges for any long distance telephone service 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 as such.

6. Amounts paid by a nonprofit hospital for services furnished to such organization. For purposes of this subsection, the term "nonprofit hospital" means a hospital referred to in Internal Revenue Code section 170(b)(1)(A)(iii) which is exempt from income tax under Internal Revenue Code section 501 (a).

7. Charges for services or facilities furnished to the government of any State, or any political subdivision thereof, or the District of Columbia.

8. Charges paid by a nonprofit educational organization for services or facilities furnished to such organization. For purposes of this subsection, the term "nonprofit educational organization" means an educational organization described in Internal Revenue Code section 170(b)(1)(A)(ii) which is exempt from income tax under Internal Revenue Code section 501 (a). The term also includes a school operated as an activity of an organization described in Internal Revenue Code section 501(c)(3) which is exempt from income tax under Internal Revenue Code section 501(a), if such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. (Res. 81107 § 3, 2008; Ord. 12844 § 2, 2008; amended by: Stats. March 2004; prior code § 5-23.03)

#### **4.28.040 - Electricity users tax imposed.**

There is imposed a tax upon every person, other than an electrical corporation (as defined by and licensed by the California Public Utilities Commission), who receives electrical energy within the limits of the city from an electrical corporation. The tax imposed by this Section shall be at the rate of seven and one-half (7.50) percent of all charges made for such energy, including minimum charges for service but excluding charges for energy supplied to streetlights, and shall be paid by the person paying for such energy. Excepted from this tax increase are persons qualifying for the low-income rate assistance

program (LIRA) offered by the Pacific Gas & Electric Corporation ("PG&E").

(Prior code § 5-23.04)

**4.28.050 - Gas users tax imposed.**

A. There is imposed a tax upon every person, other than a gas corporation (as defined by and licensed by California Public Utilities Commission) who receives gas (including but not limited to propane, butane, and any other gas used for fuel) within the limits of the city which is delivered through mains or pipes by a gas corporation or delivered by any means of transportation. The tax imposed by this section shall be at the rate of seven and one-half (7.50) percent of all charges made for such gas, including but not limited to minimum charges for service, or pipeline usage and shall be paid either by the persons paying for such gas, or collected by the service supplier. Excepted from this tax increase are persons qualifying for the low income rate assistance program (LIRA) offered by the Pacific Gas & Electric Corporation ("PG&E").

B. Charges made for gas to be used in the generation of electrical energy by an electrical corporation shall be excluded from the charges on which the tax imposed by this section is computed.

(Prior code § 5-23.05)

**4.28.060 - Cable television users tax imposed.**

There is imposed a tax upon every person, other than a cable television corporation, who receives cable television services whether paid periodically or charged per program, event or specific transmission whether delivered by cable, microwave, or any other method within the city. The tax imposed by this section shall be at the rate of seven and one-half (7.50) percent of all charges made for such services and shall be collected by the service supplier.

(Prior code 5-23.051)

**4.28.070 - Alternate fuel users tax imposed.**

There is imposed a tax upon every person who receives alternate sources of fuel energy including but not limited to coal, charcoal or any other combustible material within the limits of the city which is delivered by any means of transportation. The tax imposed by this section shall be at the rate of seven and one-half (7.50) percent of all charges made for such fuel, and shall be paid either by the persons receiving such fuel, or collected by the service supplier.

(Prior code § 5-23.052)

**4.28.080 - Exemptions.**

Nothing in this chapter shall be construed as imposing a tax upon any person if imposition of such tax upon that person would be in violation of the Constitution of the United States or the Constitution of the state of California.

(Prior code § 5-23.06)

**4.28.090 - Collection of tax.**

A. Every person receiving payment of charges from a service user shall collect the amount of tax

imposed by this chapter from the service user.

B. The tax shall be collected insofar as practicable at the same time as and along with the collection of charges made in accordance with the regular billing practice of the service supplier. If the amount paid by a service user is less than the full amount of the charge and tax which has accrued for the billing period, a proportionate share of both the charge and the tax shall be deemed to have been paid.

C. 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 chapter. 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.

(Prior code § 5-23.07)

#### **4.28.100 - Apportionment and tax credit.**

In the event a service user subject to the tax under this chapter is properly taxed by another state or local government for a utility users tax substantially similar to Oakland's utility users tax, the service user may request and receive a tax credit.

The tax credit must be requested in writing within one year of payment of the tax period. Such request must be accompanied by written proof acceptable to the Office of Finance that the other jurisdiction's utility users tax: (A) was substantially similar to Oakland's utility users tax; (B) was properly and legally levied by that jurisdiction; and (C) was actually paid to and not refunded by that jurisdiction.

No credit for penalties or interest associated with the tax for such other jurisdiction will be given by the city. The credit herein may be requested only by the service user unless specifically agreed to in writing by the Office of Finance.

(Prior code § 5-23.071)

#### **4.28.110 - Maximum tax for commercial or industrial plants.**

A. The total utility users tax imposed by this chapter for gas, alternate fuels, and electricity services upon any service user for any one commercial or industrial plant location shall not exceed the amount of three hundred fifty thousand dollars (\$350,000.00) for a calendar year.

B. Commencing on January 1, 1993, and annually thereafter, said taxes payable pursuant hereto shall be adjusted in relation to the Consumer Price Index issued by the Bureau of Labor Statistics of the United States Department of Labor for All Urban Consumers of the Greater San Francisco, Oakland, San Jose (Standard Metropolitan Statistical Area) as follows:

1. For said taxes set forth in subsection A of this section; and
2. For the most recent month for which such price index figure is available on the date such taxes are due and annually thereafter.

The adjustment in said taxes for any such one-year period shall be determined as follows:

The price index figure for subsection (B)(1), the price index figure for subsection (B)(2) and the annual maximum tax set forth in said subsection A of this section shall be the basis upon which such adjustment shall be computed. The difference, if any, between the price index

figure for subsection (B)(1) and the price index for subsection (B)(2) shall be ascertained by subtracting the lesser from the greater of such figures. Thereafter, such differences shall be divided by the price index figure for subsection (B)(1) which will provide the percentages of changes, if any, in the price index figure. If such percentage of change represents an increase, then the taxes shall be the said taxes as set forth in subsection A of this section plus the sum derived by multiplying said taxes by such percentage of change. In no event, however, shall any taxes be less than those amounts set forth in said subsection A of this section.

C. Those service users whose total amount of utility users taxes imposed by this chapter for gas services, alternate fuels, and electricity services for any one commercial or industrial plant location during a calendar year exceeds three hundred fifty thousand dollars (\$350,000.00) may pay such annual maximum amount directly to the Director of Finance in twelve (12) equal installments of twenty-nine thousand one hundred sixty seven dollars (\$29,167.00) each. Each such installment shall be due and payable to the city on or before the fifth day of each month. Upon receipt of the first installment in January of each year, the Director of Finance shall notify each service supplier not to impose the utility users tax required by this chapter for the ensuing calendar year.

(Prior code § 5-23.072)

**4.28.120 - Reporting and remitting—Examination of books, records, witnesses.**

A. On or before the forty-fifth day after close of the billing cycle that ends on the last business day of any given month, every service supplier must make a return to the Tax Administrator, on forms provided by him or her, stating the amount of taxes collected by service supplier during the preceding month billing cycle and setting forth the applicable factor or factors that constitute the service supplier's measure of the tax, together with such other information as shall be required by the Tax Administrator to enable it to administer the provisions of this chapter and shall pay at such time the amount of the tax computed thereon. At the time the return is filed, the service supplier must remit the full amount of the tax collected to the Tax Administrator. The Tax Administrator may establish shorter reporting periods for any service supplier if he or she deems it necessary in order to insure collection of the tax and he or she may require further information in the return. Returns and remittances are due immediately upon cessation of business for any reason.

B. The Tax Administrator, or any duly authorized employee, is authorized to examine the books, papers, tax returns and records of any service supplier or service user subject to this chapter for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the tax due or collected under this chapter. Every person subject to the provisions of this chapter is directed and required to furnish to the Tax Administrator or duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations. The Tax Administrator is authorized to examine a person under oath, for the purpose of verifying the accuracy of any declaration made, or if no declaration was made, to ascertain the tax due under this chapter. In order to ascertain the tax due under this chapter, the Tax Administrator may compel, by administrative subpoena, the production of relevant books, papers and records and the attendance of all persons as parties or witnesses. The refusal to submit to such examination or production by any employer or person subject to the provisions of this chapter shall be deemed a violation of this chapter, and administrative subpoenas shall be enforced pursuant to applicable state law.

(Ord. 12805 § 4, 2007: prior code § 5-23.08)

**4.28.130 - Penalties and interest, failure to collect and report tax—Determination of tax by tax administrator, appeal, records, refunds, actions to collect, violations, infraction.**

A. Any service supplier or service user who fails to remit any tax imposed by this chapter within the time required shall pay a penalty of twenty-five (25) percent of the amount of the tax in addition to the amount of the tax. In addition to the penalties imposed, any service supplier or service user who fails to remit the tax imposed by this chapter shall pay interest at the rate of twelve (12) percent per annum compounded daily on the amount of the tax and penalties, from the date on which the remittance first became delinquent until paid.

B. Whenever any service user is entitled to receive from the service supplier any credit or refund based upon the supplier's erroneous billing or the supplier's overcharge for services, or upon any reduction in the service charge, the supplier may include in its credit or refund to the user the amount of the service tax erroneously or illegally collected. The service supplier may be permitted by the Tax Administrator to credit such refunds or credits of the service tax made to the service supplier and owing to the city. The service supplier shall provide the Tax Administrator with such documentation of the refunds or credits as the Tax Administrator shall require.

C. The tax to be paid by a service user under the provisions of this chapter shall be deemed a debt owed by the service user to the city. Any such tax collected from the service user that has not been remitted to the city shall be deemed a debt owed to the city by the person required to collect and remit it. Any person owing moneys hereunder shall be liable in an action brought in the name of the city for recovery of such tax, penalty, interest and administrative fees associated therewith.

(Prior code § 5-23.09)

**4.28.140 - Failure to pay tax—Administrative remedy.**

A. Whenever the Tax Administrator determines that a service user has failed to pay the amount of the tax owed by him or her from the amounts remitted to a service supplier for a period of two or more billing periods, or whenever the Tax Administrator deems it in the best interest of the city, he or she may relieve the service supplier of the objection to collect taxes, penalties and interest due under this chapter from certain named service users for specified billing periods. The Tax Administrator shall notify the service user that he or she has assumed responsibility to collect the taxes due for the stated periods and demand payment of such taxes. The notice shall be served on the service user by handing it to him or her personally or by deposit of the notice in the United States mail, postage prepaid thereon, addressed to the service user at the address to which billing was made by the service supplier, or, should the service user have changed his or her address, to his or her last known address. If a service user fails to remit the tax to the Tax Administrator within fifteen (15) days from the date of the service of the notice upon him or her, which shall be the date of mailing if service is not accomplished in person, a penalty of twenty-five (25) percent of the amount of the tax set forth in the notice shall be imposed, but not less than five dollars (\$5.00). The penalty shall become part of the tax herein required to be paid.

B. Appeals. Any person whose rights or interests have been directly and adversely affected by a ruling or finding of fact made by the Tax Administrator under the authority of this chapter may appeal therefrom in writing to the Board of Review (Board) within twenty (20) days from the date of notification of such ruling or finding in the manner provided in subsection D of this section. The Board, in individual cases and, in its exercise of reasonable discretion in administering the provisions of this chapter, may extend the twenty (20) day period in which to file an appeal. The Board shall make findings of fact in support of its decision. The Board shall exercise its reasonable discretion in administering the

provisions of this chapter in rendering a decision on appealed rulings or findings. The Board's decision becomes final upon giving notice thereof to the appellant in the manner provided in subsection D of this section.

Any tax, penalty, or interest found to be owing is due and payable at the time the Board's decision thereon becomes final.

C. Exhaustion of Remedies. Any person with a dispute pertaining to this chapter must exhaust the administrative remedies provided herein before filing suit for refund, rebate, exemption, cancellation, amendment, adjustment, or modification of tax, penalty or interest.

D. Written Notice. Whenever a person appeals a ruling or finding of fact by the Tax Administrator or whenever the Board of Review notifies a person regarding its findings (including liability for tax, penalty, and interest due), a written notice shall be served personally or mailed; if mailed, such notice shall be by United States mail, postage prepaid therein, to the last known address of the person appealing.

(Prior code § 5-23.10)

#### **4.28.150 - Rules and regulations.**

The Tax Administrator shall have power to adopt rules and regulations not inconsistent with the provisions of this chapter for the purpose of carrying out and enforcing the payment, collection and remittance of the tax herein imposed; and a copy of such rules and regulations shall be on file and available for public examination in the Tax Administrator's Office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this chapter.

(Prior code § 5-23.11)

#### **4.28.160 - Conflicts.**

Nothing contained in this chapter is intended to conflict with applicable rules, regulations and tariffs of any service supplier subject to the jurisdiction of the California Public Utilities Commission. In the event of a conflict, the provisions of said rules, regulations and tariffs shall control.

(Prior code § 5-23.13)

#### **4.28.170 - Bad debts.**

When a person advances taxes to the city based on services supplied but not paid for and such amount prove uncollectible in a subsequent year, the tax applicable to those charges may be excluded from the total tax remitted to the city; or a credit towards future tax collections may be requested by the service supplier provided however, if the whole or a portion of such amounts excluded is subsequently collected, such amount shall be included in the total tax remitted for the period in which they are received.

(Prior code § 5-23.14)

#### **4.28.180 - Refund to the service user of taxes, penalties and/or interest erroneously or illegally collected.**

Whenever the city or utility service supplier erroneously or illegally collected or received an overpayment of tax, penalties or interest under this chapter, the city may refund to the service user the

Title 4 - REVENUE AND FINANCE  
Chapter 4.28 - UTILITY USERS TAX

amount of the tax that was overpaid if the service user or his or her guardian, conservator, executor or administrator files a written claim with the Tax Administrator within one year from the date the tax was paid. All claims must specify the specific grounds for the claim, and shall be made and verified by the service user. No other agent, including the taxpayer's attorney, may sign a refund claim. No claim may be filed on behalf of a class of persons unless each class member verifies the claim in accordance with the requirements of this section.

(Ord. 12805 § 3, 2007)

CITY OF OAKLAND



UTILITY USERS TAX RETURN

SERVICE SUPPLIER: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 CONTACT PERSON \_\_\_\_\_  
 E-MAIL: \_\_\_\_\_  
 PHONE NUMBER: \_\_\_\_\_

FOR THE PERIOD \_\_\_\_\_  
 FEDERAL TAX ID NUMBER: \_\_\_\_\_  
 ACCOUNT NUMBER: \_\_\_\_\_

	<u>TELECOMM</u>	<u>ENERGY</u>	<u>OTHER</u>
1: GROSS COLLECTIONS-Round to nearest dollar (no pennies)	\$	\$	\$
2: LESS EXEMPTIONS * * Attach report of direct costs of phone calls	\$	\$	\$
3: TAXABLE COLLECTIONS	\$	\$	\$
4: TAX @ 7.5% OF LINE 3. (Line 3 x .075)	\$	\$	\$
5: ADJUSTMENTS (Please attach report or statement itemizing and explaining adjustments taken)	\$	\$	\$
6: ADJUSTED TAX DUE (combine lines 4 & 5)	\$	\$	\$
7: PENALTY (For delinquent returns enter 25% of line 6)	\$	\$	\$
8: SUBTOTAL (Sum of lines 6 & 7)	\$	\$	\$
9: INTEREST (For delinquent returns add interest @ 12% per year compounded)	\$	\$	\$
10: TOTAL REMITTANCE (Sum of lines 8 & 9)	\$	\$	\$

Signed: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

I declare under penalty of perjury that, to the best of my knowledge and belief, the statements herein and on attachments are true, correct and complete.

Pursuant to Title 4, Chapter 4.28, Section 4.28.120 of the Oakland Municipal Code, every service supplier shall on or before the 45th day after the close of the billing cycle that ends on the last business day of any given month file return and remit the full amount of the taxes collected to the City of Oakland. Please make check payable to City of Oakland Utility Users Tax and remit with return to:

City of Oakland Utility Users Tax, Dept #34385, PO Box 39000, San Francisco, CA 94139

CITY OF OAKLAND



150 FRANK H. OGAWA PLAZA, SUITE 5342 • OAKLAND, CALIFORNIA  
94612

Finance & Management Agency  
Revenue Division

(510) 238-7472  
TDD (510) 238-3254

August 1, 2011

To: All Utility Service Providers

Re: City of Oakland Utility Users Tax Ordinance Application  
Official Notification

Dear Tax Manager:

The City of Oakland Utility Users Tax ordinance provides for application of said tax to all intrastate and interstate telecommunications services. This letter will serve as official notification as to the requirement for your company to begin applying tax to specific services provided within the City of Oakland. Included in those services are those applications that are not pure VOIP service. Since pure VOIP service is exempt under Federal Statute any service that is only VOIP point to point is exempted under the City's ordinance. However, any services that are bundled with access to the Public Switched Network are considered taxable under the City's Utility Users Tax Ordinance.

Section 799 of the Public Utilities Code provides for an implementation of a tax within sixty (60) days of notice to the provider from the taxing authority with this letter serving as that notice.

After sixty (60) days from the date of this letter your company may be liable to the City for all tax due from the end users of your services subject to the tax if there is a delay of tax application, collection and/or remittance. Please contact me at (510) 238-7472 at your earliest opportunity with any questions or additional information required for compliance.

Sincerely,

Charles Maurer  
Tax Auditor II  
City of Oakland