

IN CONSIDERATION OF ORDINANCE NO. 21-1462 FOR THE PURPOSE OF AMENDING METRO CODE CHAPTERS 5.02 AND 7.01 TO CHANGE THE DUE DATES FOR SOLID WASTE EXCISE TAXES AND REGIONAL SYSTEM FEES AND ADD FINANCE CHARGES FOR LATE PAYMENTS OF REGIONAL SYSTEM FEES TO ALIGN WITH SOLID WASTE EXCISE TAXES

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ISSUE STATEMENT

Metro staff seek to amend Metro Code Chapter 5.02 (Regional System Fee) and Chapter 7.01 (Excise Tax) to provide extra time for payment of Metro's solid waste fees and taxes before incurring any penalties or finance charges.

The amendment makes payment of Metro's regional system fee and excise tax due at the end of the month rather than on the 15th of the month. This should benefit small businesses and new entrants into the solid waste system that may have difficulty paying taxes and fees within 15 days because of limited capital flow.

In addition, staff seek to add a finance charge for late payment of regional system fees to align with the excise tax finance charge and to encourage higher paid-on-time rates.

ACTION REQUESTED

Adopt Ordinance No. 21-1462 to amend Metro Code Chapter 5.02 (Regional System Fee) and Chapter 7.01 (Excise Taxes) to change the due dates for solid waste excise taxes and regional system fees and add finance charges for late payments of regional system fees to align with solid waste excise taxes.

IDENTIFIED POLICY OUTCOMES

Staff has identified the following policy outcomes:

- Help provide financial relief for small businesses and new entrants into the solid waste system by allowing them to pay Metro's fees and taxes on the last day of the month rather than the 15th of the month

- Decrease delinquency payments and increase on-time payment compliance by adding a finance charge to late payment of regional system fees (there is already a finance charge authorized for late payment of excise taxes)
- Protect Metro's financial health by authorizing finance charges on late payments, which should discourage late payments and compensate Metro for lost interest when it does not receive timely payments
- Treat late payment of fees and taxes consistently with respect to imposing finance charges
- Better enforcement of the Metro Code by consistently and equally applying code provisions related to late payments

POLICY QUESTION(S)

1. Should the Metro Council provide financial relief to small businesses and new entrants in the solid waste system by extending the due day of fees and taxes from the 15th of the month to the end of the month?
2. Should the Metro Council add a finance charge for late payment of regional system fees to align that with the finance charge on excise taxes, thus creating an incentive to pay timely?

POLICY OPTIONS FOR COUNCIL TO CONSIDER

1. Approve the ordinance as proposed to amend Metro Code Chapters 5.02 (Regional System Fee) and 7.01 (Excise Tax) to extend the payment due date of Metro's solid waste regional system fees and excise taxes. There are minimal financial implications associated with the option.
2. Approve the ordinance as proposed to amend Metro Code Chapter 5.02 (Regional System Fee) to add a finance charge for late payment of fees, thus aligning it with the finance charge for late payment of excise taxes. There are possible negative financial implications associated with not approving the proposed ordinance in that Metro may continue to receive late payments of fees and taxes, which does not allow Metro to invest that money or receive interest on that money.
3. Amend the ordinance to either only adopt the extended due date or the late payment finance charge.
4. Do not approve the ordinance. This option will result in maintaining status quo. There may be negative financial implications associated with the option if Metro continues to receive late payments of fees and taxes.

STAFF RECOMMENDATIONS

Staff recommends approval of Ordinance No. 21-1462 to amend Metro Code Chapters 5.02 (Regional System Fee) and 7.01 (Excise Tax).

KNOWN OPPOSITION

There is no known opposition to the proposed revisions to Metro Code Chapter 5.02 and 7.01. Staff believe that those subject to the fees and taxes will approve of extending the due date for payment of these monies, and this is especially so for small businesses and new entrants to the solid waste system that may have cash flow concerns during their initial years in business.

It is possible that regulated entities would object to the addition of a finance charge on late payments of solid waste fees, but staff notes that a finance charge is already authorized for late payment of excise taxes. Further, the vast majority of those subject to Metro's fees and taxes pay timely and these changes will not negatively affect them.

PUBLIC OUTREACH

Although staff have not conducted any formal public outreach, staff has informally heard from several solid waste facility entities that it is difficult at times for smaller business and newer entrants to pay Metro's fees and taxes on the 15th of the month when the entity may not be receiving those fees and taxes from its customers until later in the month.

LEGAL ANTECEDENTS

Metro Charter, Title V and VII of the Metro Code and ORS Chapters 268 and 459.

ANTICIPATED EFFECTS

Approval of this ordinance would likely encourage regulated entities that are consistently delinquent in paying the required fees and taxes to be timelier in their payments to avoid interest charges. By allowing regulated entities roughly an additional 15 days to pay, staff expects a reduced delinquency rate.

BUDGET IMPACTS

Adoption of this ordinance should have positive budget impacts for Metro. Currently, some entities subject to Metro's solid waste fees and taxes are not paying them timely. In some cases, the delinquent payments are ongoing and amount to hundreds of thousands of dollars in late payments. This ordinance should encourage timely payment, thus allowing Metro to invest those monies and obtain interest. And when payments are late, Metro can assess a finance charge to help offset the cost of lost interest by not having the money on time.

BACKGROUND

Staff has noticed an increase in late payment of Metro's fees and taxes over time. At times this has amounted to several hundred thousand dollars in late fees and taxes. With respect

to transfer stations, many of them have payment terms for their customers that are net 30 or, even, net 60. This means that those transfer stations are required to pay the fees and taxes to Metro before they have received payment from their customers. They are, in effect, “floating” the fees and taxes.

This can be financially difficult for small businesses and new entrants to the system, both of which often lack the capital reserves necessary to pay these fees and taxes before receiving payment from their customers. By extending the payment due date from the 15th to the last day of the month, staff hopes to provide some financial relief to these businesses and create a more realistic payment schedule given industry practices.

At the same time, it is important to encourage timely payments by including a finance charge on late payments and, just as importantly, enforcing that finance charge. Although a finance charge is required on late payment of excise taxes (but not regional system fees), Metro has not historically imposed this finance charge on late payments. Staff believes this has resulted in a growing number of delinquent payments. It is important to remember that those subject to remitting these fees and taxes to Metro are holding these monies in trust on behalf of Metro. They should be paid timely and not used as a loan or capital infusion for those subject to remitting them to Metro.

ATTACHMENTS

None