

COUNCIL MEETING  
April 3, 2007

Honorable Mayor and Members  
Of the Torrance City Council  
City Hall  
Torrance, California

Members of the Council:

**SUBJECT: Adopt an ORDINANCE amending Section 225.1.15 of the Torrance Municipal Code relating to the refund policy for overpaid taxes**

### **RECOMMENDATION**

The Finance Director recommends that Your Honorable Body adopt an ordinance, amending Section 225.1.15 of the Torrance Municipal Code to reduce the refund period for overpaid taxes from three years to one year.

### **BACKGROUND/ANALYSIS**

Currently, Section 225.1.15 of the Torrance Municipal Code authorizes the Finance Director, upon written request of a taxpayer, to refund the amount of any tax that has been overpaid, paid more than once, or that has been erroneously or illegally collected or received. The refund request must be made within three years of the date of the original payment.

As amended, Section 225.1.15 would reduce the time within which a refund claim must be made from three years to one. In changing the refund period from three years to one year the City's municipal code would be updated and comparative to such other local municipalities as the City of San Bernardino, Santa Ana, Santa Monica, Culver City, Huntington Beach, Redondo Beach, Burbank, Pasadena, Glendale and Los Angeles. Currently, staff does not have any pending refund request that would be impacted by the proposed change in the ordinance.

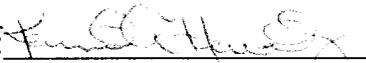
It is the intent of the City that the one year written claim requirement of Section 225.1.15 be given retroactive effect; provided, however, that any claims which arose prior to the enactment of the one year claims period of this Section, and which are not otherwise barred by a then-

applicable statute of limitations or claims procedure, must be filed with the Director as provided in this Section within 90 days following the effective date of this Ordinance.

If the ordinance is adopted, it is recommended that the summary be approved for publication by Your Honorable Body.

Respectfully submitted,

ERIC E. TSAO  
FINANCE DIRECTOR

By:   
Kenneth A. Flewellyn  
Assistant Finance Director

CONCUR:

  
JOHN L. FELLOWS III  
City Attorney

  
ERIC E. TSAO  
Finance Director

  
LeRoy J. Jackson  
City Manager

Attachments: A: Ordinance  
B: Ordinance Summary

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF TORRANCE AMENDING SECTIONS OF THE  
TORRANCE MUNICIPAL CODE RELATING TO UTILITY  
USERS' TAX REFUNDS**

The City Council of the City of Torrance does ordain as follows:

**SECTION 1**

Section 225.1.15 of the Torrance Municipal code is amended, to read in its entirety as follows:

**“SECTION 225.1.15. REFUNDS.**

(a) Whenever the amount of any tax has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the Finance Director under this Chapter, it may be refunded as provided in this section.

(b) The Finance Director may refund any tax that has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the Finance Director under this Chapter, provided that no refund shall be paid under the provisions of this section unless the claimant or his or her guardian, conservator, executor or administrator has submitted a written claim, under penalty of perjury, to the Finance Director within one year of the overpayment or erroneous or illegal collection of said tax. The claim must clearly establish the claimant's right to the refund by written records demonstrating the claimant's entitlement to a refund.. Filing of a refund claim on behalf of a class or group of taxpayers is prohibited, unless each member of the class has submitted a written claim under penalty of perjury as provided by this subsection.

(c) It is the intent of the City that the one year written claim requirement of this section be given retroactive effect; provided, however, that any claims which arose prior to the enactment of the one year claims period of this section, and which are not otherwise barred by a then-applicable statute of limitations or claims procedure, must be filed with the Finance Director as provided in this subsection within 90 days following the effective date of this ordinance.

(d) The Finance Director or his or her designee must act upon the refund claim within 45 days of its receipt. The decision of the Finance Director is final. The Finance Director will give notice of the action in a form which substantially complies with that set forth in Government Code Section 913.

If the Finance Director fails or refuses to act on a refund claim within the 45 day period, the claim will be deemed to have been rejected on the 45th day. An appeal may be taken from the decision of the Finance Director, in accordance with the provisions of Article 11.5 of the Torrance Municipal Code.

(e) The filing of a written claim pursuant to Government Code Section 935 is a prerequisite to any suit for refund. Any action brought against the City pursuant to this section is subject to the provisions of Government Code Sections 945.6 and 946.

(f) Notwithstanding the notice provisions of subsection (a) of this section, in the event that a service supplier, or a person required to self-impose a tax imposed by this Chapter, remits a tax to City in excess of the amount of tax imposed by this Chapter, the service supplier, or a person required to self-impose a tax imposed by this Chapter, may claim credit for such overpayment against the amount of tax which is due upon any other monthly returns to the Finance Director, provided the credit is claimed in a return dated no later than one year from the date of overpayment of tax. The Finance Director must first determine the validity of the service supplier's claim of credit, and the underlying basis for the claim.

(g) Notwithstanding the notice provisions of subsection (a) of this section, a service supplier that has collected any amount of tax in excess of the amount of tax imposed by this Chapter and actually due from a service user (whether due to overpayment or erroneous or illegal collection of said tax), may refund the amount to the service user, or credit to charges subsequently payable by the service user to the service supplier, and claim credit for the overpayment against the amount of tax which is due upon any other monthly returns to the Finance Director, provided the credit is claimed in a return dated no later than one year from the date of overpayment or erroneous or illegal collection of the tax. The Finance Director must first determine the validity of the service supplier's claim of credit, and the underlying basis for the claim.”

## **SECTION 2**

It is the intent of the City that the one year written claim requirement of this Section be given retroactive effect; provided, however, that any claims which arose prior to the enactment of the one year claims period of this Section, and which are not otherwise barred by a then-applicable statute of limitations or claims procedure, must be filed with the Director as provided in this Section within 90 days following the effective date of this Ordinance.

## **SECTION 3**

Any inconsistent provisions of the Torrance Municipal Code, or any other inconsistent ordinances of the City, are repealed, to the extent of the inconsistencies.

**SECTION 4**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portion of this Ordinance. The City Council of the City of Torrance hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or other portions might subsequently be declared invalid or unconstitutional.

**SECTION 5**

This ordinance will take effect thirty days after the date of its adoption. Within fifteen days following adoption, this ordinance or a summary of this ordinance, if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

INTRODUCED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2007.

ADOPTED and PASSED this \_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Mayor of the City of Torrance

**ATTEST:**

\_\_\_\_\_  
Sue Herbers, City Clerk

**APPROVED AS TO FORM:**

John L. Fellows III  
City Attorney

By: \_\_\_\_\_  
Ronald T. Pohl  
Assistant City Attorney



**ORDINANCE NO. \_\_\_\_\_**

**SUMMARY**

On \_\_\_\_\_, the City Council of the City of Torrance adopted an ordinance to reduce the time within which a refund for overpayment or erroneous payment of utility user taxes may be made. The period for filing a refund claim is reduced from three years to one year. The ordinance is given retroactive effect, except that any person with a claim existing under the prior three-year refund filing period but outside the new one-year refund filing period may file a claim within 90 days of the effective date of the new ordinance.

