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191486

Ordinance

Amend Business License Law Code to provide clarity for businesses required to pay the Clean Energy Surcharge (amend Code Sections 7.02.100 and 7.02.500)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. In 2018, the Portland Clean Energy Community Benefits Initiative was approved by residents of the City of Portland. The summary of the measure states it will require Portland retailers with total annual revenue over \$1 billion and Portland annual revenue over \$500,000 to pay a 1% surcharge on gross revenue from retail sales.
2. In 2019, The Council adopted Ordinance 189389 establishing the Clean Energy Surcharge that voters approved. In place of “revenues” as stated in the initiative, the code used “gross income, as required under PCC 7.02.610”. This change was made because the Business License Tax used that term in its apportionment formula which is information readily available to both taxpayers and the Revenue Division and provides a breakdown of revenues between everywhere and the City of Portland.
3. In 2022, The Council adopted Ordinance 191010 changing the Business License Tax apportionment formula from using gross income to using sales as provided in the Oregon Revised Statutes, Chapter 314. This change adopted Oregon’s market-based sourcing and is effective for tax years beginning on or after January 1, 2023.
4. As the use of gross income for apportionment was sunset for tax years beginning prior to January 1, 2023, it is no longer available to measure annual revenue per the initiative. Therefore, it is necessary to update the Clean Energy Surcharge to the current apportionment formula, for tax years beginning on or after January 1, 2023, as a measure of annual revenue found in PCC 7.02.611.

Introduced by

[Mayor Ted Wheeler](#)

Bureau

[Management and Finance;](#)
[Revenue Division](#)

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Monday through Thursday,
7:30 to 4:30

Requested Agenda Type

Consent

Date and Time Information

Requested Council Date

October 18, 2023


Changes City Code

5. Adopting the housekeeping changes provide clarity around which businesses are required to file and pay the Clean Energy Surcharge.

NOW, THEREFORE, the Council directs:

- A. City Code Sections 7.02.100 and 7.02.500 are amended as set forth in the attached Exhibit A.

Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2023/ces-housekeeping-exhibit-a.docx\)](https://www.portland.gov/sites/default/files/council-documents/2023/ces-housekeeping-exhibit-a.docx) 21.24 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
October 18, 2023

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

At the November 6, 2018 general election, Portland voters approved Ballot Measure 26-201, the Portland Clean Energy Community Benefits Initiative (hereafter Clean Energy Surcharge or CES), which imposes a 1% surcharge on the retail sales within Portland of certain large retailers. The CES amended City Code to require Portland retailers with total annual retail revenue over \$1 billion and Portland annual retail revenue over \$500,000 to pay a 1% surcharge on gross revenue from retail sales within Portland. The CES is effective for tax years beginning on or after January 1, 2019.

Currently, annual retail revenue relies on the Business License Tax apportionment formula using gross income as a substitute for total annual retail sales and Portland annual retail sales for determining that a taxpayer is subject to the CES. The Council replaced the use of the gross income apportionment formula with the State of Oregon's sales factor apportionment formula to adopt market-based sourcing in 2022 with Ordinance 191010. This change is effective for tax years beginning on or after January 1, 2023.

The Revenue Division is responsible for collecting the CES and has determined that technical revisions are necessary to PCC 7.02, Business License Law, to adopt the current apportionment formula as a measure of total annual retail sales and Portland annual retail sales for the CES for tax years beginning on or after January 1, 2023. This will provide clarity and

administrability of the tax provisions of the CES by using information that taxpayers will have readily available from their Combined Tax Returns.

Financial and Budgetary Impacts

The proposed code changes would not have a material impact on City revenue or expenses.

Community Impacts and Community Involvement

The Revenue Division has not sought community comment on the proposed changes since this change only updates the measure of annual retail sales with no material impact on taxpayers, the Revenue Division, or the City of Portland. Not updating the measure of annual retail sales will require taxpayers to separately calculate annual retail sales instead of relying on readily available apportionment information in the Combined Tax Return.

100% Renewable Goal

The legislation has no direct impacts on this goal.

Agenda Items

851 Consent Agenda in [October 11, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/10/11)
(<https://www.portland.gov/council/agenda/2023/10/11>)

Passed to second reading

Passed to second reading October 18, 2023 at 9:30 a.m.

877 Consent Agenda in [October 18, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/10/18)
(<https://www.portland.gov/council/agenda/2023/10/18>)

Passed

Commissioner Mingus Mapps Yea

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Mayor Ted Wheeler Yea