PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	November 1, 2011	 Coʻnsent Workshop	 Regular Public Hearing

Department: Office of Financial Management and Budget

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve on preliminary reading and advertise for public hearing on November 15, 2011: An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, amending Palm Beach County code, Section 17-227(a), the Palm Beach County Public Service Tax Ordinance to provide for verification by sellers of the location of purchasers or consumers of goods subject to the public service tax; providing for severability; providing for inclusion in the Code of Laws and Ordinances and providing for an effective date.

Summary: In July, 2011 the Internal Auditor conducted an audit of a propane gas vendor to determine if that vendor was collecting and remitting public service taxes to Palm Beach County in accordance with the County's public service tax ordinance. The Auditor was unable to make a determination due to significant errors found in the database being utilized by the vendor. This resulted in an audit finding and recommendation that the OFMB Director modify the existing ordinance to specify acceptable databases for vendors to use to be in compliance. <u>Countywide</u> (PFK)

Background and Policy Issues: In 1989 the Board of County Commissioners adopted an ordinance to levy a public service tax on the purchase of metered and bottled gas within the unincorporated area of Palm Beach County. This tax, which is generally 10% of the purchase price, is collected by the vendor and remitted to the County. The revenue generated, which is approximately \$1 million annually, is accounted for in the General Fund. The County maintains the right to audit the vendors' books to determine the accuracy of the remittances.

In February, 2011 OFMB suggested the names of several propane vendors to the Internal Auditor, requesting they be considered for an audit of public service tax remittances. In July, 2011 the Internal Auditor conducted an audit of one of the vendors, but was unable to make a determination as to the accuracy of the amounts paid to the County due to significant errors found in the database being utilized by the vendor. The vendor has been notified and has been requested to use a database that would provide a more accurate listing of the jurisdictions subject to the tax.

The Internal Auditor recommended that the OFMB Director modify the existing ordinance to specify acceptable databases for vendors to use to comply with the ordinance. The three databases considered acceptable are (1) the Property Appraiser's PAPA system, (2) the addressing module of ePZB which is maintained by the County's Planning, Zoning & Building Department and (3) the State of Florida, Department of Revenue Address Database.

Attachment: Public Service Tax Ordinance

Recommended by:

Approved By:

County Administrator

Date

II. FISCAL IMPACT ANALYSIS

					2016,
Fiscal Years:	2012	2013	2014	2015	2016
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income (County)					
In-Kind Match (County)				NI	None
NET FISCAL IMPACT	None	None	None	None	

A. Five Year Summary of Fiscal Impact:

B. Recommended Sources of Funds/Summary of Fiscal Impact: N/A

III. <u>REVIEW COMMENTS</u>

A. OFMB Fiscal and/or Contract Dev. and Control Comments: There is no fiscal impact related to this ordinance amendment.

N/A

Contract Dev. and Control

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

1 2 3	ORDINANCE NO. 2011
3 4 5 6 7 8 9 10 11 12 13 14	AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE, SECTION 17-227(a), THE PALM BEACH COUNTY PUBLIC SERVICE TAX ORDINANCE TO PROVIDE FOR VERIFICATION BY SELLERS OF THE LOCATION OF PURCHASERS OR CONSUMERS OF GOODS SUBJECT TO THE PUBLIC SERVICE TAX; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES AND PROVIDING FOR AN EFFECTIVE DATE.
15	WHEREAS, pursuant to Sections 166.231-166.235, Florida Statutes, the Palm Beach
16	County Board of County Commissioners (the "Board") has enacted the Palm Beach County
17	Public Service Tax Ordinance, Sections 17-221 17-230 of the County Code (the "Public
18	Service Tax Ordinance"); and
19	WHEREAS, some sellers of goods subject to the Public Service Tax Ordinance have
20	not verified the location of the purchaser or consumer of such goods, leading to incorrect
21	amounts due under the Public Service Tax Ordinance being collected and paid to the County;
22	and
23	WHEREAS, the Public Service Tax Ordinance should be amended to require that
24	sellers of goods subject to the Public Service Tax must verify, using one of three stated
25	methods, the location of purchasers or consumers of such goods; and
26	WHEREAS, Section 17-227(a) of the County Code should be amended to list the three
27	databases that a seller of goods subject to the Public Service Tax should use to verify the
28	location of purchasers or consumers of such goods.
29	NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
30	COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:
31	Section 1.
32	Section 17-227(a) of the county Code is amended as follows:
33	(a) The sellers of electricity or metered or bottled gas (natural, liquefied petroleum gas
34	or manufactured) within the unincorporated area of the county shall act as the
35	collection medium and collecting agency for the collection from the purchaser of the
36	tax levied in this article for the use of the county. Sellers in doubt as to whether a
37	purchaser or consumer is located within the unincorporated area of the county must
38	consult the county Property Appraiser's Public Access System (PAPA), the county
39	Planning, Zoning and Building Addressing Module of the e-PZB or the State of 1

Florida Department of Revenue Address Database to verify where that purchaser or
 <u>consumer is located</u>. The county may bring any legal action in its discretion against
 the seller that may appear advisable under the terms of this section.

4 Section 2. SEVERABILITY:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any
reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void,
such holding shall not affect the remainder of this Ordinance.

8

9 Section 3. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

10 The provisions of this Ordinance shall become and be made a part of the Palm Beach 11 County Code. The sections of this Ordinance may be renumbered or relettered to accomplish 12 such, and the word "ordinance" may be changed to "section," "article," or other appropriate 13 word.

14 Section 4. EFFECTIVE DATE:

15 The provisions of this Ordinance shall become effective upon filing with the16 Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of ______, 2011.

SHARON R. BOCK, CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

By:_

Deputy Clerk

By:_____, Chair

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:__

County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of

_____, 2011.

G:Eng/Pkf/Finance/Ordinance. Section 17.227 County Code 9.19.11