

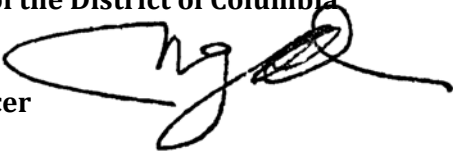
Government of the District of Columbia  
Office of the Chief Financial Officer



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi  
Chief Financial Officer 

**DATE:** November 5, 2010

**SUBJECT:** Revised Fiscal Impact Statement – “Processing Sales Tax Clarification Act of 2010”

**REFERENCE:** Bill Number 18-707, Draft Committee Print Shared with OCFO on November 4, 2010

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**Conclusion**

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. Implementation of the proposed legislation is estimated to cost approximately \$6.5 million in FY 2011 and \$17.3 million over the budget and four-year financial plan.

**Background**

The proposed bill would clarify that sales of natural or artificial gas, oil, solid fuel, steam, or electricity used for manufacturing, assembling, processing, refining, or refrigeration of goods for sale or resale when used in a restaurant, including a hotel restaurant, would be exempt from the gross receipt tax on sales.<sup>1</sup> It also would exclude caterers from the current definition of “restaurant,” define “hotel restaurant,”<sup>2</sup> and describe how exempt use for hotel and motel food services is to be measured. Lastly, it would apply the proposed exemption retroactively starting January 1, 2010.

Under current law, the only utilities exempt from the sales tax for restaurants, including hotel restaurants, are natural or artificial gas used for manufacturing, assembling, processing, refining, or

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<sup>1</sup> The sales tax rate is 6 percent in FY 2010 through FY 2012; thereafter it falls to 5.75 percent.

<sup>2</sup> As a hotel and motel food service facility, including all banquet and food processing areas used for preparing and serving food to the public.

refrigeration of goods for sale or resale.<sup>3</sup> The proposed bill would expand the exemption for restaurants to include electricity, oil, solid fuel, and steam.

**Financial Plan Impact**

Funds are not sufficient in the FY 2011 through FY 2014 budget and financial plan to implement the proposed legislation. Implementation of the proposed legislation is estimated to cost approximately \$6.5 million in FY 2011 and \$17.3 million over the budget and four-year financial plan. This cost would result from exempting electricity used in restaurants for manufacturing, assembling, processing, refining, or refrigeration of goods from the sales tax.

<b>Estimated Fiscal Impact of Bill 18-707</b>					
<b>FY 2011 - FY 2014</b>					
	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>	<b>FY 2014</b>	<b>Four-Year Total</b>
Refunds for sales tax on electricity in restaurants from Jan. 1, 2010 through Sept. 30, 2010	\$2,778,152	\$0	\$0	\$0	\$2,778,152
Exemption for sales tax on electricity in restaurants	\$3,704,202	\$3,704,202	\$3,549,860	\$3,549,860	\$14,508,125
<b>Total</b>	<b>\$6,482,354</b>	<b>\$3,704,202</b>	<b>\$3,549,860</b>	<b>\$3,549,860</b>	<b>\$17,286,276</b>

Assumptions:

- 2,491 total restaurants (based on data from the Department of Regulatory and Consumer Affairs)
- 5 percent currently have an exemption (based on data from the Office of Tax and Revenue)
- 75 percent of the remaining tax base would receive the exemption
- Average monthly sales tax on electricity is \$190 for entities with a restaurant license and \$100 for entities with a delicatessen license for FY 2010 through FY 2012 and drops to \$182 and \$96, respectively thereafter as a result of the decrease in the sales tax rate (based on data from the US Energy Information Association and OTR)
- Number of restaurants receiving the exemption remains constant

<sup>3</sup> This is true for restaurants since September 23, 2009, the effective date of Processing Sales Tax Clarification Act of 2009, D.C. Law 18-48. Prior to that date, restaurants could qualify for the exemption on sales tax for electricity if they could prove predominant use; however, approximately only 10 percent of those restaurants that applied were granted the exemption.