

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



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Philip H. Mendelson  
Chairman, Council of the District of Columbia

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

**DATE:** October 1, 2012

**SUBJECT:** Fiscal Impact Statement - "Processing Sales Tax Clarifying Emergency Amendment Act of 2012"

**REFERENCE:** Draft bill shared with the Office of Revenue Analysis on September 28, 2012

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**Conclusion**

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill.

**Background**

In December of 2010, the Council enacted the Processing Sales Tax Clarification Act of 2010,<sup>1</sup> (the "2010 Act") to clarify the application of the sales tax exemption for utilities used for refrigeration in a restaurant or hotel restaurant. Prior to the enactment of the 2010 Act, the only utilities exempt from the sales tax for restaurants, including hotel restaurants, were natural or artificial gas used for manufacturing, assembling, processing, refining, or refrigeration of goods for sale or resale. The bill expanded the exemption for restaurants to include electricity, oil, solid fuel, and steam, with an applicability date of January 1, 2010. The fiscal impact statement issued on November 5, 2010 by the Office of the Chief Financial Officer for the 2010 Act noted an unfunded fiscal impact from this exemption.<sup>2</sup> However, the enrolled version of the 2010 Act made it effective immediately, creating a budget gap.

To remedy this, since then, the Council enacted a number of emergency and temporary laws to amend the applicability provision to read "This act shall apply as of January 1, 2010; provided, that its fiscal effect is included in an approved budget and financial plan." The last of these Acts,

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<sup>1</sup> Effective March 12, 2011 (D.C. Law 18-324; 58 DCR 3.)

<sup>2</sup> For details, please see [http://app.cfo.dc.gov/services/fiscal\\_impact/pdf/spring09/18-707-Processing-Sales-Tax-Clarification-Act-of-2010.pdf](http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/18-707-Processing-Sales-Tax-Clarification-Act-of-2010.pdf)

The Honorable Philip H. Mendelson

FIS: "Processing Sales Tax Clarifying Emergency Amendment Act of 2012" Draft bill shared with the Office of Revenue Analysis on September 28, 2012

Processing Sales Tax Clarification Second Temporary Amendment Act of 2012<sup>3</sup> will expire on October 25, 2012. The proposed bill, and its temporary companion, would extend the amendment to the applicability clause of the 2010 Act for another 90 and 225 days respectively.

### **Financial Plan Impact**

Funds are sufficient in the FY 2013 through FY 2016 budget and financial plan to implement the bill. The bill extends the provision that the 2010 Act would not be effective until it is funded. This provision is required to ensure that budget remains balanced.

The most recent estimate of the fiscal impact of the 2010 Act is from 2010, and it projects that the implementation of the 2010 Act would have cost approximately \$6.5 million for FY 2011 and \$17.3 million for the four-year financial plan period. Since the 2010 Act would be applicable starting 2010, the first year costs of the bill have likely increased since then. If requested, the Office of Revenue Analysis will provide a new estimate of the projected sales tax revenue loss from the 2010 Act.

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<sup>3</sup> Effective March 14, 2012 (D.C. Law 19-98; 59 DMR 421).