# 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:** **June 2, 2009**

**SUBJECT:** **Revised Fiscal Impact Statement – "Processing Sales Tax Clarification Act of 2009"**

**REFERENCE:** **Bill Number 18-21 – Committee Print dated May 14, 2009**

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## Conclusion

Funds are sufficient in the FY 2009 budget and the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation as written.

## Background

The proposed bill clarifies the domain of the sales tax exemption on utilities directly used in manufacturing, assembling, processing or refining tangible personal property for sale and resale by repealing the two specific exemptions under District Code subsections §47-2001(n)(1)(D) and §47-2201(a)(1)(B), adding a new exemption clause under subsection §47-2005(11) to include sales of natural or artificial gas or electricity directly used in a hotel or restaurant. The proposed legislation defines hotels as establishments with at least 30 guest rooms and a dining room in the same or a connected building, regularly providing food and lodging to transients, and restaurants as licensed retail establishments principally preparing and serving food to the public, including pizzerias, delicatessens, ice cream parlors, cafeterias, take-out counters, caterers, and separately-metered hotel and motel food service facilities, and excluding beverage counters, coffee shops and juice bars.

The committee print of the proposed bill clarifies that the proposed exemption would apply to restaurants and restaurant operations of a hotel, and any other operations of hotels.

**Financial Plan Impact**

Funds are sufficient in the FY 2009 budget and the proposed FY 2010 through FY 2013 budget and financial plan to implement the proposed legislation.

Current law already exempts sales of utilities used in processing intermediate goods for final sale. Exempt firms submit an exemption certificate they obtain from the Office of Tax and Revenue ("OTR") to their utility companies to receive a bill adjusted for the exemption. At present, restaurants, including those on a hotel or motel property with separate metering, are exempt from all sales tax on natural gas charges and almost all sales tax on their electricity charges. This legislation would expand the exemption to include all electricity charges. The potential negative fiscal impact from this expansion is likely to be offset by the elimination of an exemption for utilities used to process intermediate goods not for *final sale*. Given these two countering effects of the proposed legislation, OTR expects the net fiscal impact related to the utility sales to restaurants to be negligible.[1]

[1] Additionally OTR expects longer term cost savings from the proposed legislation, which would eliminate the certification process and allow utilities to directly administer the program. The savings are likely to be small during the financial plan period since much of the administrative cost is tied to auditing of refund claims, which is likely to continue until the statue of limitations on these audits expires at the end of three years.