

**PUBLIC HEARING ON  
BILL 16-139, “COMMERCIAL UTILITY TAX  
AMENDMENT ACT OF 2005”**

**Before the  
Committee on Finance and Revenue  
Council of the District of Columbia**

**The Honorable Jack Evans, Chairman**

**March 14, 2005, 10:30 a.m.  
Council Chambers, John A. Wilson Building**



**Testimony of  
Daniel L. Black, Jr.  
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Office of Tax and Revenue**

**Natwar M. Gandhi  
Chief Financial Officer  
Government of the District of Columbia**

Good morning, Chairman Evans, and members of the Committee on Finance and Revenue. I am Daniel L. Black, Jr., Deputy Chief Financial Officer for the Office of Tax and Revenue. I am pleased to present testimony today on Bill 16-139, the “Commercial Utility Tax Amendment Act of 2005.”

The purpose of this bill is to eliminate the sales tax for commercial utility providers and impose a higher gross receipts tax on commercial users of utilities. The Office of Tax and Revenue (OTR) has closely reviewed Bill 16-139, as well as the underlying activities to which it relates. Furthermore, OTR is currently working on the implementation of the tax provisions of the Omnibus Ballpark Financing and Revenue Act of 2004, including those provisions that created new tax rates for utility companies. Consequently, we are both familiar with and interested in the implications of Bill 16-139 for tax administration and policy in the District.

We have two specific comments on Bill 16-139. First, we note that the bill distinguishes between “residential” and “commercial” customers in establishing different tax rates for services provided to these two classes of District customers under sections 2501 and 3902 of title 47 of the District Code. In contrast, the permanent baseball legislation imposes different rates for utility services in the District to “residential” and “non-residential” customers.

We believe that Council’s earlier distinction between “residential” and “non-residential customers” will apply to services sold to more customers and therefore increase the amount of tax payments due to the District. The term, “commercial”

certainly implies “non-residential,” but may fail to include nonprofit or other exempt or semipublic institutions such as charities, academic institutions and national trade associations, all of which consume utilities in the District and should bear their proportional share of the tax burden when utility companies pass along these taxes to their customers. We believe that the Council endorsed this interpretation in its passage of the permanent baseball legislation, which provided one tax rate for certain utility services provided to “residential” customers and another tax rate for “non-residential” customers.

Second, we note that there are miscellaneous technical corrections needed to carry out the intent of Bill 16-139. I have included in the appendix these technical changes to the bill for your review as well.

### **Fiscal Impact of Bill 16-139**

This proposed elimination of sales tax paid by businesses on utilities is estimated to decrease collections by approximately \$12 million annually. The proposed increase in the gross receipts tax would increase collections by approximately \$12 million annually.

Thank you, Chairman Evans, for the opportunity to comment on this bill. I would be happy to answer any questions you or other councilmembers might have at this time.

## Appendix

### Proposed Technical Corrections to Bill 16-139

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The Office of Tax and Revenue has reviewed Bill 16-139 and recommends the following technical corrections:

In Section 2 of the bill:

1. In subsection (b), in proposed new subparagraph (C) of subsection (24) of D.C. Office Code § 47-2005, after the phrase, “telephone company,” delete the phrase “sales of residential heating oil,” and replace it with “sales of non-residential heating oil.”
2. In subsection (c), in proposed amended paragraph (1) of subsection (a) of D.C. Official Code § 47-2501, after the phrase, “the delivery of heating oil,” delete the phrase “to a residential and commercial end-users,” and replace it with “to residential and commercial end-users.”