

**PUBLIC ROUNDTABLE ON
BILL 16-701, “ORGAN AND BONE MARROW DONOR
ACT OF 2006”**

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

The Honorable Jack Evans, Chairman

**April 10, 2006, 11:15 a.m.
Room 120, John A. Wilson Building**



**Testimony of
Sherryl Hobbs Newman
Deputy Chief Financial Officer
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 Sherryl Hobbs Newman, Deputy Chief Financial Officer for the Office of Tax and Revenue. I am pleased to present testimony today on Bill 16-701, the “Organ and Bone Marrow Donor Act of 2006.”

This bill proposes to establish certain private employer-provided benefits for employees who choose to be organ or bone marrow donors. These employees would be provided with a paid leave of absence of up to thirty days to serve as an organ donor, or up to seven days to serve as a bone marrow donor. During such leave, the private employer would then be allowed a credit against the private employer’s withholding tax liability. During this leave, the employee would incur no loss or reduction in pay, earned vacation leave, or credit for time of service. The amount of pay to which the employee would be entitled during this statutory leave would be equal to 25% of the regular pay or wages paid to the employee. If the employer determined to provide leave greater than the periods provided in this proposal, the credit to the employee would nonetheless be limited to 25% of regular pay or wages.

Bill 16-701 further provides that the credit shall be taken within one year from the date the leave is granted. Employees who are eligible to take leave under the Family Medical Leave Act of 1993 are not eligible to take the credit provided under this proposal. Employers subject to the provisions of Bill 16-701 do not include the District, public institutions of higher education or other public employers.

OTR has reviewed Bill 16-701. While we believe that encouraging donation of organs and bone marrow is a worthy goal, the bill in its present form is seriously flawed. The reason is that the taxes withheld by an employer under DC Code §47-1812.08(b) are being withheld to satisfy the employee's District income tax liability for the year, not the employer's tax liability. Thus, those withheld taxes do not belong to the employer.

By reducing the amount of those withheld taxes that the employer has to pay over to OTR through the credit mechanism, the bill creates a deficit in the amount of income taxes paid by the employer's employees. Do the authors of the bill intend also to give a credit to the employees to cover their income tax liability that will be generated by the credit?

Furthermore, the bill does not indicate whether the credit received by the employer reduces the employer's obligation to pay over just the employee's withheld tax or also reduces the employer's obligation to pay over District unemployment tax under D.C. Code §51-101 et seq. For these reasons this bill needs to be revised after additional discussions and planning.

Also, we are concerned that the administration of this proposal may complicate effective administration of withholding taxes, especially since there is no federal counterpart that would credit the private sector employer for withholding taxes when the employee is on leave. Furthermore, the proposal will add administrative costs to OTR. We will need to add the credit to our return forms and instructions, both in hard copy and online. Since this would affect withholding, it would require calculation fields that do not currently exist for withholdings filings. Computer programs will have to be designed to capture this credit within our electronic filing

system. Customer Service staff will need to be trained on this legislation, and additional brochures will need to be designed, printed and mailed to educate the general public and employers on this credit. Audit Division staff will need to be trained to include this item in our standard audits of taxpayers. We estimate OTR's operational costs for the first year of implementation of Bill 16-701 to be \$47,000 for personnel services, \$15,000 for training, \$150,000 for programming and \$125,000 for other costs, totaling \$337,000.

Fiscal Impact of Bill 16-701

The Office of the Chief Financial Officer is developing complete fiscal impact estimates of this bill and we will provide the numbers to the committee shortly.

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.