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# Taxpayer Appeal Rights

Presenter:  
Alan C. Levine, Chief Counsel



# OTR Tax Notice 2008-02

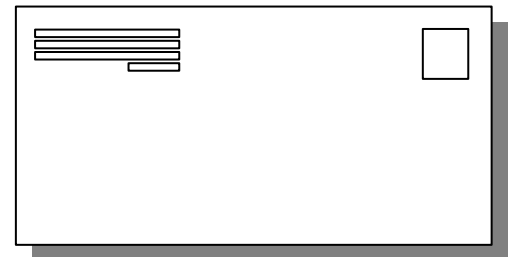
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- Taxpayer has certain appeal rights within OTR.
- The appeal rights to be discussed do not apply to real estate and possessory interest taxes.

# Notice of Proposed Assessment of Tax Deficiency

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- What is a deficiency and to what kind of taxes does it apply?
- Deficiency may relate to following taxpayers but not limited to:
  - Individuals
  - Corporations
  - Estates and trusts
  - Partnerships
  - Other unincorporated businesses



# Taxes, Fees Related to Deficiency (cont'd)

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- Alcohol beverage tax
- Ballpark fee
- Income tax
- Estate tax
- Franchise tax
- Cigarette tax
- Motor fuel tax

# Taxes, Fees Related to Deficiency (cont'd)

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- Personal property tax
- Public utility tax
- Recordation and transfer tax
- Rolling stock tax
- Sales and use tax
- Telecommunications tax

# How to Contest Proposed Audit Changes:

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- Notice of Proposed Audit Changes.
- Opportunity for taxpayer to contest changes within 30 days of date of notice by requesting an informal conference with a conferee in Review and Conference Section of Audit Division.
- Additional information to be submitted at informal conference.
- If settlement not reached at informal conference, a "Notice of Proposed Assessment of Tax Deficiency" is mailed.

# Two Courts

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- Taxpayer can choose one of two courts but not both:
  - Appeal to OAH (no payment of tax, penalty, or interest); or
  - Superior Court of the District of Columbia (full pay tax, penalty, and interest) within 6 months of assessment notice.



# Informal Conference Not Required

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- Taxpayer is not required to attend “informal conference” as a pre-condition to appealing to either OAH or D.C. Superior Court.



# Appeals to OAH

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- If appeal is to OAH, taxpayer has 30 calendar days to protest to OAH from date of Notice of Proposed Assessment of Tax Deficiency.



# Appeal to Office of Administrative Hearings

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- If taxpayer does not appeal to OAH within 30 calendar days from date of Notice of Proposed Assessment of Tax Deficiency”, OTR will issue a final assessment of tax, penalty, and interest.

# D.C. Code § 47-3303

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- If taxpayer wishes to appeal to D.C. Superior Court, taxpayer must first pay the assessed amounts of tax or fee, penalty, and interest, in full, and then file a complaint with Superior Court seeking a refund of paid amounts. D.C. Code § 47-3303.

# Interest and Penalties

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# Interest and Penalties (cont'd)

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- OAH has jurisdiction for interest and penalties related to such deficiencies (with certain exceptions).
- By contrast, interest and penalties related to “balance due” returns can be appealed to D.C. Superior Court.



# DC Court of Appeals

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- Appeal from OAH or Superior Court is to the DC Court of Appeals.

# TP may appeal certain matters to OAH involving final assessments in tax or certain non-deficiency matters

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- Refund offsets—internal and external, appeal.
- Internal: applying overpayment of District tax against taxpayer's liability for another District tax, U.S. tax, or other state tax.
  - (1) If refund offset concerns division of joint refund, taxpayers may appeal to OAH under § 47-4433: proposed referral of offset of tax refund or apportionment of refund.

# Non-Deficiency Appeal (Cont'd)

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- External: matters outside OTR: notice of refund offset re: court-ordered child support, default under federal student loan program, or overpayment of unemployment compensation benefits.
- Alternatively, taxpayer may appeal to Superior Court from final determination of refund offset within 6 months of determination under § 47-4437.

# Reconsideration of OTR's Decision in Non-Deficiency Cases

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- TP has 30 calendar days from date of notice to request reconsideration with Compliance Administration Reconsideration Office (CARO) of:
  - Denial of exemption from sales tax in certain instances, denial of applications to qualify as exempt organization for franchise tax purposes, assessments of interest and penalties not related to a deficiency in tax.
- Determination is made by Deputy Director, Compliance Administration.
- If disallowed, taxpayer may file a complaint with Superior Court within 6 months of date of determination.

# Collection Division Appealable to CARO

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- Requests for waiver of penalty and/or interest.
- Offers in compromise.
- Determinations of personal liability for failure to collect or pay “trust fund” taxes such as sales tax or D.C. income tax withholding.



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# Electronic Filing Requirement

Presenter:  
William Bowie, Assistant General Counsel



# Electronic Filing Legislation

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- Currently, under D.C. Official Code § 47-4402 (c), non-individual income taxpayers (i.e., business tax) must make payments electronically if the amount of payment due for a period exceeds \$25,000.
- Under proposed legislation, the threshold for non-individual taxpayers to file electronically will be lowered to \$10,000.
- Legislation introduced at the first Council session on January 6, 2009.



# Power of Attorney Form

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- Under the previous requirement (OTR Notice 2005-03), in order for a taxpayer's representative to discuss tax matters with OTR personnel, the OTR Power of Attorney Form, Form D-2848, needed to be completed; the Federal Power of Attorney Form would not be accepted.
- OTR has now determined that this requirement is more restrictive than necessary to preserve the confidentiality of District tax information; thus OTR Notice 2005-03 was rescinded effective November 18, 2008.
- OTR will now honor the Federal Power of Attorney executed on or after November 18, 2008 as long as it references the federal tax forms/return comparable to the DC form/return.
- Where there is no comparable federal form, Ex. sales tax return, the OTR Power of Attorney Form D-2848, must be executed.



# Inaugural Housing-Tax Implications

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- Tax guidelines for individuals and businesses who will be renting properties to out-of-town visitors for the events surrounding Inauguration Day, January 20, 2009. These Sales and Use Tax and Unincorporated Franchise Tax guidelines apply to the rental of houses, English Basements, condominiums, apartments and like dwellings.
- Sales and Use Taxes:  
District Sales Tax, at the rate of 14.5% applies to charges for lodging regularly furnished to transients. The tax is not applicable to charges for lodging if provided on a one-time basis for the Inauguration.

# I-H Tax Implications (Cont'd)

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## Unincorporated Franchise Tax:

- Individuals and unincorporated businesses operating in the District with gross income from business activities in excess of \$12,00 per year, including receipts for transient accommodations, are required to file for D-30, the Unincorporated Franchise Tax return by April 15th each year
- District residents renting transient accommodations for the Inauguration who are not required to file the D-30 are also not required to report their receipts as gross income for District income tax purposes if they are not required to report such income for federal income tax purposes



# Federal 990 Reporting Requirement

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- Formerly organizations granted exempt status with the District were required to file the Federal Form 990 with OTR, pursuant to Title 9, District of Columbia Municipal Regulations (DCMR), Chapter 1, Subsection 103.4
- Effective December 12, 2008 9 DCMR § 103.4 was repealed
- Exempt organizations are no longer required to submit Federal Form 990 to OTR



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# OTR Notices

Presenter:  
Ed Blick, Assistant General Counsel



# OTR Notices

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1. Domicile & Statutory Residency  
McNulty & Jeffrey Case  
(OTR Notice 2007-01)
2. Claim for Refund, Statute of Limitations & Protective  
Claim (OTR Revenue Rulings 2008-01 & 2008-02)



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# Real Property Tax Credits

Presenter:  
Robert McKeon, Deputy Chief Counsel

# Real Property Tax Credits

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- - 1. Homestead Deduction
    - Domicile and Principal Place of Residence Requirements (OTR Notice 2007-01)
- - 2. Senior/Disabled Tax Relief
    - Domicile and Principal Place of Residence Requirements
- - 3. Tax Cap
    - Homestead Requirement
- - 4. Audit and Appeal
- - 5. Change of Address
    - Must Update Mailing Address Information



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# A Selection of Recent Tax Acts

Presenter:  
Aaishah Hashmi, Assistant General Counsel

# Standard Deduction Increase Act of 2007

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- D.C. Official Code § 47-1801.04(26) is amended as follows:
  - Beginning for the TY 2008, the standard deduction of \$1,250 in the case of a married person filing separately has been increased to \$2,500.
  - The standard deduction for all other taxpayers (single, joint, head of household) has been increased from \$2,500 to \$4,000.



# Cost-of-Living Adjustment

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- Applicable as of January, 1, 2009.
- The standard deduction will be increased annually by a cost-of-living adjustment.
- D.C. Official Code § 47-1801.04(37) defines “cost-of living adjustment” and provides the method of calculation.

# Personal Exemption Increase Act of 2007

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- D.C. Official Code § 47-1806.02(f)(1) provides a dependent exemption deduction of \$1,500.00 for District individual income tax purposes.
- D.C. Official Code § 47-1806.02(i) provides a personal exemption of \$1,500.00 for District individual income tax purposes.
- The new legislation amends D.C. Official Code §§ 47-1806.02(f)(1) and (i) by increasing the exemption from \$1,500.00 to \$1,675.00 for TY 2008.



# Cost-of-Living Adjustment

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- Applicable as of January, 1, 2009.
- The dependent and personal exemption will be increased annually by a cost-of-living adjustment.
- D.C. Official Code § 47-1801.04(37) defines “cost-of living adjustment” and provides the method of calculation.

# Homestead Deduction Increase Act of 2007

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- The real property tax homestead deduction is fixed at \$60,000 of assessed value.
- The new legislation amends D.C. Official Code §§ 47-802, 47-850(a) and 47-850.01 to provide that the homestead deduction shall increase to \$64,000 for TY 2008.
- The homestead deduction increase applies to houses, condominium units and housing cooperatives.

# Cost-of-Living Adjustment

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- Applicable as of January, 1, 2009.
- For TY 2009 and thereafter, the homestead deduction shall increase by a multiple of \$50 (rounded down) based on a cost of living adjustment ("COLA") calculation.
- The COLA calculation must be determined by the Office of Research and Analysis ("ORA"). ORA will have to certify to OTR the increases each year, beginning with TY 2009.
- D.C. Official Code § 47-1801.04(37) defines "cost-of living adjustment" and provides the method of calculation.

# Targeted Historic Tax Repeal Act of 2007

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- The Act repeals D.C. Official Code §§ 47-18.06.08 and 47-1806.08 (a) through (g) which provided an income tax credit for qualified historic homeowners.
- The program has now been converted into a grant program which is codified in D.C. Official Code § 6-1110.02.



# Grant Requirements

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- The grant program provides assistance (up to \$25,000, and \$35,000 if in the Anacostia Historic District) to qualified homeowners in order to rehabilitate their historic homes and lists various qualified historic districts.
- Under the program, the homeowner must enter into a covenant with the Historic Preservation Office agreeing to maintain the repairs for 5 years following the improvement.



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# Tax Credits

Presenter:  
Sonia Mittal, Assistant General Counsel

# College Saving Program Increased Tax Benefit Act Of 2008 (B17-235, L17-153)

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- Current law D.C. Code § 47-4509, provides deduction to account owners who file D.C. individual income tax returns in an annual amount not to exceed \$3,000 for contributions made to all accounts under the District of Columbia College Savings Program.
- D.C. Code § 47-4509(a) and D.C. Code § 47-4509(b) are amended by increasing deduction to a maximum of \$4,000.
- The effective date of new law was May 13, 2008 and is applicable as of January 1, 2008.



# Earned Income Tax Credit Act Of 2008 (B17-678, L17-219)


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- Current law under D.C. Code § 47-1806.04(f) provides individuals with a credit against tax imposed by Chapter 47 up to 35% of the allowable amount under I.R.C. 32
- Allowable credit is now increased from 35% to 40% of the credit allowed under I.R.C. 32.
- New law became effective August 16, 2008 and the increase in allowable credit applies for taxable years beginning after December 31, 2008.

# Economic Interests Tax Amendment Act Of 2008 (B17-678, L17-219)

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- Code § 42-1103(a)(2) imposes recordation tax on deeds which evidence transfers of economic interests (as defined under § 42-1102.02) in real property at the rate of 2.2% of the consideration allocable to the real property.
- Economic Interests Tax Amendment Act of 2008 amends § 42-1103(a)(2) by *increasing* the tax rate on a deed that evidences a transfer of an economic interest from 2.2% to 2.9%.
- New law became effective August 16, 2008 and was applicable as of October 1, 2008.



# Employment Of Returning Veteran's Tax Credit Emergency Act Of 2008 (B17-0781)

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- To encourage employers to hire returning veterans, new sections D.C. Official Code § 47-1806.12, § 47-1807.09 and § 47-1808.09 have been added.
- Employers receive annual credit in an amount equal to a maximum of 10% of annual wages paid to qualified veterans or \$2,500 per year.
- Aggregate credit, which is applicable for no more than 24 calendar months, shall not exceed \$5,000.
- New law became effective December 2008 and is applicable for taxable years beginning January 1, 2009 but subject to funding.



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# Tax Relief for Hurricane Ike or Gustav Victims

Presenter:  
Bazil Facchina, Assistant General Counsel



# Who is entitled to relief?

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- Residents of government-designated disaster areas.
- For Hurricane Ike, designated Texas Counties and Louisiana Parishes
- For Hurricane Gustav, designated Louisiana Parishes only



# What Relief is Available?

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- Ike victims – Returns, payments and other acts originally due between September 7, 2008 and January 4, 2009 are not due until January 5, 2009
- Gustav victims - Returns, payments and other acts originally due between September 1, 2008 and January 4, 2009 are not due until January 5, 2009



# What is not covered?

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- No filing extension is available for District sales and use tax returns
- No filing extension for District withholding tax payments



# How to Claim the Relief

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- Write “HURRICANE IKE OR GUSTAV RELIEF” at the top of the first page of the return.



# Supermarket Tax Exemptions

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- Real Property Tax Exemption
- Personal Property Tax Exemption
- Sales Tax Exemption



# What Supermarkets Qualify?

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- New construction or substantial rehabilitation
- Located in priority development area
- Licensed as a grocery store
- Offers full line of foods and household products
- C of O for grocery store



# Real and Personal Property Taxes

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- 10 year exemption from tax
- Property must be used as a supermarket
- If leased premises are used, tax benefit must be passed through to the supermarket
- Supermarket must comply with First Source employment rules



# Sales Tax Exemption

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- Sales and use tax exemption on purchase of all building materials related to the development of the qualified supermarket