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NEW YORK CITY DEPARTMENT OF FINANCE

BEFORE THE NEW YORK CITY COUNCIL FINANCE COMMITTEE

ON THE MAYOR'S PRELIMINARY BUDGET FOR FY2011

MARCH 4, 2010

Good afternoon Chairman Recchia and members of the Finance Committee. I am David M. Frankel, and am honored to appear before you as the Finance Commissioner for this hearing on the preliminary budget for fiscal year 2011. As we are all aware, we face significant fiscal challenges. However, I am very encouraged by the conversations I have had with Chairman Recchia and other Council Members, and I truly look forward to the spirit of public service and dedication that we all bring to the search for fair and equitable responses to these difficult issues.

Before taking questions from the Committee, I will briefly cover a number of topics. First, I will discuss the reshaping of our core mission and the new organizational structure we are implementing to push that mission forward. Second, I will address how Finance plans to deal with our immediate budget issues while preserving our core operations. Third, I will update you on the processing of applications for the Senior Citizen Rent Increase Exemption, or SCRIE, which was transferred to Finance last fall under a local law approved unanimously by the Council. Next, I will provide updates on the tentative assessment roll, the lien sale and the successful completion of the NYC Penalty Relief Program championed by Speaker Quinn and the Council. Finally, I will discuss some of the long-term issues that we hope to address in order to improve tax administration.

I. New Focus, New Structure

I arrived at the Agency late last summer, returning to government after eighteen years in the private sector. It is truly an honor to serve in this position. I work with many extraordinary and dedicated professionals on a mission that we believe in deeply. We are constantly mindful that our work affects every New Yorker – and we are passionate about our results. When I arrived, our mission seemed to be defined primarily by the Agency's motto, "We Help People Pay the Right Amount On Time." In particular, this speaks to the Agency's dedication to extraordinary public service – a goal I thoroughly approve of and endorse. However, it seems to me that our mission goes well beyond that. In particular, the wonderfully dedicated staff of the Department of Finance should be considered the champions – the heroes – of all the individuals and businesses who pay their taxes on time and accurately. Those who don't pay create an unfair playing field and make victims of the rest of us. We are refocusing our resources to identify and collect from the non-payers and under-payers in any way we can.

On the business side, I worry most about a level playing field in terms of competition. Imagine two dry cleaning businesses on the same block where one business pays its taxes and the other does not. Assuming all else is equal, the one that does not pay will be able to charge lower prices and eventually drive the one that does pay out of business. That's simply wrong, and hurts not just the affected businesses but also the entire economy in many ways. The same holds true for the underground economy that is dramatically hurting legitimate businesses. We are going to do whatever we can to find the "avoiders" and collect their share of the City's tax levy.

It is the same for individuals. People who don't pay their taxes increase the burden on the overwhelming majority who do, and decrease the level of services that City government can provide. We will "level the playing field" here as well. I appreciate that many people think taxes are too high. I am not here to debate that issue. My point is that the Department of Finance is charged with the collection of more than $25 billion in tax and other revenue in order to fund the services we all look for from government.

Those businesses and people who do not pay their "fair share" are cheating the vast majority who do. We are coming after them.

As a first step, we are hiring 29 additional auditors and employing new and more sophisticated data mining techniques to more efficiently and effectively identify tax returns where some problem may exist. We will also look to better coordinate and utilize our auditors, tax enforcement staff and Sheriff's deputies to find non- and fraudulent payers. We are also grateful to the district attorneys who work closely with us to bring criminal tax cases where appropriate.

Our job is not just to collect, but also to make certain our system of taxation is transparent and equitable. Our tax laws are anything but transparent now. For example, you have to be a combination accountant, lawyer, assessor and tax administrator to understand how your property tax bill is calculated. Once the calculation is done, few people appreciate the numerous inequities that exist in the system. We intend to talk with the Council to see if we can simplify and improve the system.

In order to put the Agency in the best possible position to achieve our goals, I have reorganized our structure around our core functions, with each of these functions reporting to a Deputy Commissioner. I'd like to introduce them to you now. First, most of you know Michael Hyman, who served the Agency so well as Acting Commissioner and has been invaluable to me since I arrived. Michael is the Deputy Commissioner for Tax Policy and Planning, which includes Audit, Enforcement and Property Valuation. There are two more familiar faces: Deputy Commissioner and Sheriff Lindsay Eason, whose office is charged with protecting the public by enforcing Kendra's Law and detaining juveniles charged with offenses, as well as enforcing civil judgments; and Deputy Commissioner Jane Landon, who oversees our IT team and faces the daunting task of helping to update the legacy software used by this Agency.

I am also pleased to introduce three new members of the senior team. Andrew Salkin, formerly the 1st Deputy Commissioner of the Taxi and Limousine Commission, is our new Deputy Commissioner for Operations, overseeing Payment Operations, Collections, Adjudication, Treasury and Land Records, which includes the City Register functions. Beth Goldman, who most recently was Deputy Chief of the Civil Division of the U.S. Attorney's Office for the Southern District of New York, is our new Deputy Commissioner and General Counsel, overseeing Legal Affairs. Finally, our new Deputy Commissioner for Administration and Planning is Elizabeth Dvorkin Botwin, who most recently served as Chief Deputy Comptroller for Nassau County. Prior to her service in Nassau County, Liz spent more than 17 years in the City's Law Department and headed the Tax Division. She oversees Employee Services, Communications & Government Affairs, Budget, Internal Audit, and our Department Advocate.

I have given this talented team a very broad charge: to level the playing field by targeting businesses and individuals who don't pay or under pay. We must seek to simplify our tax laws and administration to make the system more equitable; and we want to make it easier for people to pay and file taxes and help people who qualify for benefits get them. We also want to make sure that the Deputy Sheriffs have the tools to do their work fairly and efficiently; that our assessors have the support they need to value 1 million properties accurately; and that the people who record deeds, collect overdue bills, produce tax maps, manage the treasury and adjudicate parking tickets have the ability to do their jobs well. To do all of this we must leverage technology, with more online services and more sophisticated data-mining techniques, to make sure we are leveling the playing field for taxpayers and providing the best possible service for New Yorkers.

II. Budget PEGs

Let me turn to the current budget. The budget crisis leaves us no choice but to re-examine how we do things so that we can do more with less. But to be clear, even if there were a budget *surplu*s, we would still take steps to make our Agency more efficient. To produce the best results, we have to run our Agency more like a successful business. If we do that, we will be in a better position to preserve services if the budget situation worsens, which is a very real possibility given the State's budget issues.

We have been asked to come up with an 8 percent PEG, or Program to Eliminate the Gap, for FY2011 amounting to $20.4 million from our current budget of $220 million plus fringe benefits. We plan to meet that target by increasing collections and reducing expenses.

We expect to increase audit collection by at least $16 million by hiring 29 new auditors and improving our ability to identify good audit cases. The new auditors will cost $2.9 million. Recent data-mining efforts have produced more cases related to under-reporting of income by cash businesses and high-income entrepreneurs, as well as inappropriate deductions by corporations. We will build on these efforts and also create a tax shelter unit to identify income earned in the City but shifted to other states in an effort to avoid paying taxes to the City. As an example of the kind of work that this unit will do, we have asked the IRS to provide us with a list of the UBS clients in New York City who have allegedly hidden assets in offshore bank accounts, so that we can make sure they pay their fair share to the City. In addition, we will identify more cases of income tax underwithholding by employers, and sales and use tax under-reporting by businesses and individuals.

Our Collections division will also increase its revenue target by $1.5 million through the use of a data-matching program that will allow us to better locate assets.

On the expense side, we will save $5.9 million by replacing 29 technical consultants with full-time staff. We will also eliminate 63 positions and downgrade two other positions, for a savings of $3.2 million. Thirty-three of these positions will come as a result of consolidating functions across several divisions, for a savings of $1.7 million. By streamlining our Hearings by Mail Unit, we will eliminate 25 positions throughout the Agency for a savings of $1.1 million. The remaining 7 positions will be eliminated by reducing clerical staff at our borough business centers, for a savings of $400,000.

I want to say a word about Hearings by Mail. Although we are restructuring the unit, we are not eliminating or reducing the services. In fact we are improving them. We anticipate spending $850,000 annually to scan hearing records and evidence mailed in to the Agency. This will let us respond more quickly to hearing requests with fewer resources. By scanning evidence and hearing requests, we will shorten the 2-days' time it now takes us to prepare paper requests before judges review them. In addition, we will be able to reassign all of our Administrative Law Judges to the business centers, where they will be able to render decisions on hearing by mail requests in between live hearings. We think that this will give us the flexibility to reduce wait times in our business centers during peak times, such as Fridays, which is the most popular day to contest tickets in person.

I do not want to minimize the pain that will be felt by the employees who will lose their jobs. I come from a sector of private industry where tens of thousands of people have lost their jobs. Businesses face the brutal necessity to let some employees go when faced with lower revenue, and try to do more with less and make critical choices in cutting back on what they do. The public sector is no different. If we want to create maximum efficiency we must make terribly hard choices that will have very difficult ramifications for some employees.

III. SCRIE Update

Let me turn to SCRIE. I have received letters from Council Member Brewer and others expressing concern about how we have handled the transition of this program from the Department for the Aging. Frankly, we did not handle this transition well. As a result, there is an unacceptable backlog of both new and renewal applications. However, we have taken steps to improve our performance. This month, we temporarily assigned 13 additional staff and a supervisor to our existing 8-person staff. Our goal is to eliminate the backlog this spring and process applications within four weeks of receiving them from applicants. To make the process easier for seniors, we will match data from the applications with personal income tax data we have on record, which in most cases will eliminate the need for applicants to provide income documentation.

We are also exploring ways to make the SCRIE application simpler. On February 19, members of my senior staff had a productive meeting with Council Member Lappin and Council Finance staff to discuss the application, and we will share a new version soon.

IV. Assessment Roll, Lien Sale and NYC Penalty Relief

Let me give you brief updates on three other programs.

As you know, we recently published the tentative assessment roll for the fiscal year that begins on July 1. This is a huge undertaking, and our assessors deserve our thanks. We have a wealth of assessment data on our website, including images of the 1 million notices of value that we mailed to property owners.

Instead of reviewing the statistical highlights, I want to discuss two of the most frequently asked questions we receive after we send owners their notices. They should be familiar to you. The most common question from homeowners is, “How can my assessment go up if the City says the value of my house is lower?” As you know, the assessment is the amount that an owner is actually taxed on, and is a fraction of the market value that we estimate each year. When assessments rise, taxes also rise, assuming the tax rate stays the same.

Assessments are still rising in this market because of the impact of State limits on how much assessments can rise. For 1-3 family homes, assessments can only rise a maximum of 6% in one year and 20% over five years. From 2000 to 2008, the market value of 1-3 family homes rose an average of 15% each year. During the same period, assessments only increased an average of 4% each year. Even if market values decline for the next several years, assessments will continue to rise for most 1-3 family owners as they catch up from prior years.

Another common question is: “Why do I pay more taxes than my neighbor, even though our house, co-op or condo has the same market value?” There may be several reasons. The neighbor could have an exemption, or benefit from a tax abatement that was given when the property was built. However, it could be that the neighbor's home is older, and therefore has benefitted more from the State's limits on assessment growth. Also, the State requires Finance to value and assess homes, co-ops and condos differently. All of these factors explain why, under the existing system, there are inequitable results. I look forward to exploring with you ways that the system could be made more fair.

Owners who believe that the information we have about their property is incorrect can contact Finance to correct our records. Owners can also protest their assessment with the Tax Commission, an independent agency. I encourage you and your constituents to look at our website for more information. March 15 is a critical date. It is the deadline for owners of 1-3 family homes to file a protest of their assessment with the Tax Commission. It is also the deadline for owners to apply for the School Tax Relief, or STAR, property tax exemption, as well as exemptions for seniors, veterans and disabled homeowners. In late May we will publish the final assessment roll after processing those applications and adjusting for corrections and Tax Commission rulings.

On the other end of the property tax spectrum, we are one-third of the way through the process that ends with our annual tax lien sale. I know that many of you assigned staff to attend the official briefing we held with the Department of Environmental Protection on January 29th. On February 2nd, we published the 90-day notice of at-risk properties in the *New York Post* and soon afterward sent notices to almost 25,000 at-risk owners. 60-day notices will be mailed to 21,000 property owners, including more than 12,000 owners of 1-3 family homes.

As always, Finance is working closely with the Department of Environmental Protection and the Department of Housing Preservation and

Development to conduct outreach events that help people come in and arrange payment plans, so that matters can be resolved *before* we sell their debt to a private collector. This year we have expanded our outreach partners to include the Mayor's Community Assistance Unit, DFTA and the Center for New York City Neighborhoods. We will once again make phone calls to at-risk homeowners, perform a match against income tax records and take other steps to identify owners who might qualify for exemptions that allow them to avoid the lien sale.

Most importantly, we will work with members of this committee and your colleagues who have done so much to help us get the word out in your communities. Later this year, we will discuss the reauthorization of the lien sale legislation.

The NYC Penalty Relief Program, which ran from September 21 to December 21, is another example of successful collaboration with the Council. This program allowed businesses and individuals to resolve Environmental Control Board debt by paying only the base fine, without penalties and interest. Working with the Council and other City agencies to spread the word, we collected more than $14 million in fines, far exceeding our target. That's good news for businesses and individuals, and good news for the City, especially in these tough economic times.

V. Long-term Issues

Before I take your questions, I want to mention some of the long-term issues that we think are critical to improving our Agency's performance and making tax administration more fair and transparent.

Last year the Council played a critical role in passing historic changes to business tax law both at the local and State level. But as Speaker Quinn said in her State of the City speech, more needs to be done. The State has put forth a new round of proposals that would further modernize our business taxes. Conforming to State changes is always desirable, but only if the fiscal impact makes sense for the City. We are analyzing the proposals closely to determine how they would affect revenue.

Many of our business tax laws are outdated, remaining largely unchanged for decades. The current business tax system was created in the 1960s, but borrowed elements of State tax law that date to the 1930s and 1940s. Last year's successful effort to conform to State law, including passage of a phased in single sales factor, was the most significant reform since the 1980s. But the system still needs to be modernized. For example, we have four different business income taxes – the General Corporation Tax, the Banking Corporation Tax, the Utility Tax, and the Unincorporated Business Tax. There is room for consolidation and simplification. We also have a tax on the rent that businesses pay – the Commercial Rent Tax – that is unique to New York City and is, as Speaker Quinn said, a form of double taxation. In the last two years, we worked with the Council to reduce the double-tax burden paid by unincorporated businesses. It's now worth exploring changes to the Commercial Rent Tax as well.

As I mentioned earlier, I hope that we can also talk about issues around the property tax. This tax is by far the single biggest source of City tax revenue, generating $15 billion a year. We have an obligation to make all of our tax systems as transparent and fair as possible.

We have other ideas as well. One of them, raised by Council Member Gentile, would allow people to submit evidence for parking hearings online. Currently, we do not have the ability to do this but we are working to make this a reality. We plan to expand our ability to accept tax payments and filings online. We plan to reduce expenses - we have already implemented a plan to save more than $800,000 a year by eliminating paper Statements of Account for owners whose taxes are paid by mortgage service companies. And we are working on a proposal with the Mayor's Office of Operations that would allow New Yorkers to pay any bill, fine or fee owed to any City agency to the Department of Finance. Mayor Bloomberg has given his commissioners a mandate to cut red tape, and this would go a long way toward that goal.

We have an ambitious agenda. But I am convinced that if we work together, we can level the playing field for businesses and individuals who pay their taxes. I'm excited by this challenge, and look forward to working with you in the months and years ahead.

Thank you. I will be happy to answer your questions.