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COUNCIL OF THE CITY OF PHILADELPHIA

3

PUBLIC MEETING

4

BEFORE THE COMMITTEE OF THE WHOLE

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Room 400, City Hall
Philadelphia, Pennsylvania
Thursday, December 4, 1997
9:45 a.m.

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9 BILL 970666 - An Ordinance repealing or eliminating
10 the City's tax on intangible personal property
11 with respect to certain years or certain
valuation dates, and amending certain terms and
conditions.

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13 PRESENT:

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COUNCILMAN JOHN F. STREET, Chair
COUNCILWOMAN ANNA C. VERNA, Vice-Chair

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COUNCILWOMAN HAPPY FERNANDEZ
COUNCILMAN JAMES F. KENNEY
COUNCILMAN W. THACHER LONGSTRETH
COUNCILMAN FRANK RIZZO
COUNCILMAN ANGEL ORTIZ
COUNCILMAN FRANK DiCICCO
COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN MICHAEL A. NUTTER
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN MARIAN B. TASCO

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2 PRESIDENT STREET: Good morning,
3 ladies and gentlemen. This is a duly advertised
4 meeting of the Council Committee of the Whole.

5 Today we will take testimony,
6 hopefully have a Public Meeting, on Bill No.
7 970666. Let's not everybody run to the lottery
8 machine.

9 This is a bill repealing or
10 eliminating the city's tax on intangible personal
11 property with respect to certain years or certain
12 valuation dates, and amending certain terms and
13 conditions.

14 We have in the room today at this
15 time less than a quorum. I understand that
16 Councilman Longstreth is on his way.

17 And, unfortunately, we don't have the
18 power under the Charter to deputize any member of
19 our staff or member of the general public to help us
20 with a quorum.

21 So, therefore, we will be
22 preliminarily delayed until we can get one
23 additional member.

24 Councilman Longstreth.

25 (Applause.)

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2 COUNCILMAN LONGSTRETH: You were
3 obviously expecting me.

4 PRESIDENT STREET: We were obviously
5 expecting you and needing you for a quorum.

6 At this time my first witness will be
7 the Finance Director of the City of Philadelphia,
8 Mr. Ben Hayllar.

9 Mr. Hayllar, thank you for being with
10 us. Would you please identify yourself for the
11 record and proceed with your statement.

12 Does everyone have a copy of
13 Mr. Hayllar's statement? I believe it was
14 circulated to all members of Council.

15 Is there anyone who does not have a
16 copy of Mr. Hayllar's statement? I think they all
17 have it. Thank you.

18 MR. BEN HAYLLAR: Thank you. My name
19 is Ben Hayllar, Director of Finance.

20 With me are Dean Kaplan, the Budget
21 Director; Nancy Kammerdeiner, the Revenue
22 Commissioner; Divisional Deputy City Solicitors
23 Frank Paiva and Richard Feder.

24 We are here to testify in favor of
25 Bill 970666, which repeals sections of Chapter

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2 19-1100 pertaining to the city's tax on intangible
3 personal property.

4 Unless the President objects, I will
5 try to summarize my testimony, which you have
6 otherwise in writing.

7 PRESIDENT STREET: A summary will be
8 appreciated.

9 MR. HAYLLAR: I thought it might be.

10 If you recall, last March we appeared
11 before City Council in support of a bill that was
12 designed to protect the city's Personal Property
13 Tax, which had been instituted under a state law
14 that is currently under attack by residents of
15 Montgomery County, and is now before the State
16 Supreme Court.

17 We recommended, and Council approved,
18 a Personal Property Tax under the provisions of the
19 Sterling Act that was designed to take effect only
20 if the Pennsylvania Supreme Court would rule that
21 the Personal Property Tax as authorized by the 1913
22 state legislation was unconstitutional.

23 The ordinance that you approved last
24 spring included a provision that would impose a
25 one-time, 5 mill tax on all intangible personal

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2 property, without exemption, for state securities
3 held on January 1, 1996.

4 This provision was designed to
5 protect the city from having to pay as much as \$58
6 million in refunds, should they be ordered by the
7 Court.

8 Now, the Pennsylvania Supreme Court
9 has not ruled on the Annenberg case, the appeal of
10 the Personal Property Tax.

11 The Court, in fact, could rule that
12 the entire Personal Property Tax is constitutional
13 or unconstitutional, or could declare only the
14 exemption provision and not the tax itself
15 unconstitutional.

16 It could order refunds for one or
17 more years, or may rule that refunds are not
18 required.

19 And I would report that in North
20 Carolina, where a similar tax was ruled
21 unconstitutional by the United States Supreme Court,
22 no refunds have been paid to date.

23 Now, since our appearance before
24 Council in March, there have been many meetings
25 between the Mayor, the President of Council, the

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2 legal community, and the banking community.

3 At the end of these discussions it
4 was concluded that it is in the interest of
5 Philadelphia's economy to eliminate the Personal
6 Property Tax.

7 The counties surrounding Philadelphia
8 have chosen to eliminate the Personal Property Tax,
9 even though the State Supreme Court has not ruled.

10 Our new Personal Property Tax law
11 made any trust held by trustees in the corporate
12 limits of Philadelphia subject to the tax.

13 Therefore, with the surrounding
14 counties giving up the tax, the banks, which
15 represent 60 percent of the revenue that comes from
16 the Personal Property Tax, would be encouraged to
17 relocate their trust departments outside the city.

18 Commerce Department data suggests
19 that there are as many as 1500 employees working in
20 the various bank trust departments, and perhaps
21 another 150 employees working in trust activities in
22 the 11 major law firms. These jobs would be at
23 jeopardy under these conditions.

24 With the loss of \$16,447,000 in the
25 FY '98 budget, and the \$89 million over the term of

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2 the current five-year plan, which would result there
3 from the elimination of this tax, we have a
4 difficult problem. We do, however, have a strategy
5 to deal with the loss of the revenue.

6 For FY '98, we project strong
7 performance in the collection of real estate taxes,
8 the transfer tax, and the sales tax to offset
9 approximately \$5 million of the income that we had
10 originally anticipated from the Personal Property
11 Tax.

12 In addition, while there have been
13 some unexpected contingencies in the FY '98 budget,
14 most departments are projected to remain within
15 their target budgets for the year.

16 By continuing the strict
17 across-the-board controls on spending and hiring to
18 help offset the loss of Personal Property Tax
19 revenue, we have reduced costs while minimizing the
20 effect on any particular department.

21 As you know, the FY '97 year-end fund
22 balance was about \$10 million higher than had
23 originally been projected.

24 For future years, we will have to
25 adjust the five-year plan that will be presented to

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2 City Council in January to account for the loss of
3 Personal Property Tax revenue.

4 We intend to propose a series of
5 expenditure reductions, efficiency measures, and
6 revenue initiatives to make up the remaining
7 shortfall of the plan resulting from abandoning the
8 Personal Property Tax.

9 The remainder of my testimony
10 summarizes the individual provisions of the bill.

11 But let me say that they exempt
12 owner-managed and family-run corporations from the
13 retroactive one-time, 5 mill Personal Property Tax.
14 The provisions eliminate the tax on trust accounts
15 held by trustees located within the corporate limits
16 of the city.

17 One provision eliminates the new
18 prospective tax that was to be imposed on the value
19 of holdings as of July 1 of '97.

20 One of the provisions amends the
21 one-time tax to eliminate credit for Personal
22 Property Tax paid on July '97.

23 A final provision deletes the
24 prospective tax on the value of holdings known as
25 the Personal Property Tax for the Calendar Year 1998

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2 and every year thereafter.

3 Finally, Section 2 of the bill allows
4 Philadelphia to opt out of the state Personal
5 Property Tax, just as the surrounding counties have
6 done, if the state Supreme Court finds against
7 Annenberg.

8 This concludes our testimony. And we
9 would be happy to answer any questions that Council
10 might have.

11 PRESIDENT STREET: Thank you very
12 much.

13 Mr. Hayllar, my discussions with the
14 Mayor and you and representatives of the business
15 community and others about this tax, this tax, to
16 me, is almost like trying to get out of quick sand.
17 The more you wiggle, the deeper you get, and at one
18 point in time our purpose not to know another thing
19 about it.

20 What I would like you to do for the
21 members of City Council is, give us a couple of
22 bottom lines.

23 What we are interested in doing is
24 achieving some objectives. We don't want the banks
25 and the law firms and those businesspeople who do

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2 this kind of business to be at a competitive
3 disadvantage with their competitors in the suburbs
4 and in other states.

5 We understand that right now they are
6 our competitors, they are advertising. I mean, they
7 are using the existence of this tax, even since the
8 time we said we were going to repeal it and the time
9 we have gotten around to actually taking that
10 action, it has been used and has consistently been
11 used against us.

12 Now, what I need to know from you
13 is, because there have been several of these bills,
14 to what extent has the Administration, in its
15 consideration of recommending this final bill to us,
16 had an opportunity to work with representatives of
17 the business opportunity, the banking community?
18 And are these communities on board with this bill?

19 MR. HAYLLAR: Very much so.

20 As you know, at the beginning of this
21 fiscal year several of the banks temporarily moved
22 their trust employees out of the city because their
23 law departments had interpreted -- perhaps
24 incorrectly, but they were erroring on the side of
25 caution -- they had interpreted the then-passed law

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2 to mean that if they had trust activities within the
3 corporate limits of the city at that time, their
4 clients would be subject to the tax.

5 They did not want to be uncompetitive
6 with trust operations outside the city, so they
7 actually moved their employees out.

8 This eliminates them having to do
9 that again or, worst-case scenario, move their
10 employees out permanently.

11 The banks, to the best of our
12 knowledge, believe that this will allow them to stay
13 within the city and keep these jobs within
14 Philadelphia.

15 PRESIDENT STREET: Now, assuming this
16 bill is approved, is it correct that we still have,
17 what will remain, will still be that part of the tax
18 that we approved in the spring, which provides a
19 possible shield against retroactive liability
20 against the city?

21 MR. HAYLLAR: That is correct. And
22 that is the last fall-back position.

23 We believe that there is a strong
24 likelihood that once the ruling comes, that the
25 exemption may well be found to be the

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2 unconstitutional party. So, therefore, you wouldn't
3 necessarily have to pay the refund.

4 We also -- the Court may very well
5 rule that refunds are not necessary. And, as I say,
6 we look at North Carolina. No refunds have been
7 paid.

8 In the event, however, that refunds
9 are required, this provision would protect the city
10 against a potential \$58 million refund penalty.

11 PRESIDENT STREET: So that we are not
12 talking about collecting any more money; we are
13 talking about not having to make any refunds?

14 MR. HAYLLAR: We are talking about
15 protecting ourselves, you are correct.

16 PRESIDENT STREET: Right.

17 And this provision, the provision in
18 this bill that narrows that provision, that part of
19 what will remain that will protect us against the
20 possibility of having to give refunds, simply makes
21 sure that we don't retroactively tax anybody that
22 wasn't taxed at the time we were taxing?

23 MR. HAYLLAR: That is also correct.
24 That correction has been made in the legislation.

25 So if you weren't paying the tax in

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2 the past, you wouldn't have it imposed on you
3 today.

4 PRESIDENT STREET: All right. And
5 another way of putting that is, retroactive
6 provision is revenue neutral?

7 MR. HAYLLAR: That is correct.

8 PRESIDENT STREET: All right.

9 The Chair recognizes Councilman
10 Nutter.

11 COUNCILMAN NUTTER: Thank you,
12 Mr. President.

13 Mr. Hayllar, in the same line of
14 questioning, you and the President were talking
15 about a particular provision.

16 And I just wanted to make sure I was
17 clear that I was reading the particular provision
18 that was under question.

19 Can you tell me exactly what
20 provision in the bill you were discussing?

21 MR. HAYLLAR: I believe it is not in
22 this bill; it just retains the provision from the
23 last bill.

24 But since you have now gotten to the
25 hard questions, I am going to call in a lawyer to

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2 give you the answer, Richard Feder from the Law
3 Department.

4 MR. RICHARD FEDER, ESQ.: Councilman
5 Nutter, I am Richie Feder from the Law Department.

6 Are you asking which provision in the
7 bill retains the one-time, 5 mill tax? Do I
8 understand your question correctly?

9 COUNCILMAN NUTTER: No. I believe
10 the President was asking Mr. Hayllar about
11 protection against the possible \$58 million refund
12 question.

13 That was the one provision. I would
14 like to find out exactly where it is and what is it
15 about that provision that creates that protection.

16 MR. FEDER: In the spring, Council
17 passed a separate bill. It was Bill No. 970154,
18 which enacted a one-time, 5 mill tax on holdings as
19 of January 1, 1996.

20 COUNCILMAN NUTTER: Right.

21 MR. FEDER: The revenue from that tax
22 we calculate to be roughly equal to the amount of
23 any potential refunds, and should offset any refund
24 liability.

25 COUNCILMAN NUTTER: And are you

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2 saying that those dollars were collected?

3 MR. FEDER: Those dollars will only
4 be collected if and when the existing tax is
5 declared unconstitutional.

6 And this one-time, 5 mill tax does
7 not go into effect until the Annenberg case is over,
8 and only if the Annenbergs win the case.

9 COUNCILMAN NUTTER: I understood that
10 at the time of the passing.

11 MR. FEDER: And that remains the
12 case.

13 MR. HAYLLAR: And it goes into effect
14 only if we are required to give refunds. If there
15 are no refunds required, we would never consider
16 enacting it.

17 COUNCILMAN NUTTER: Okay.

18 And then in the testimony, starting
19 on Page 4, I assume that after the sentence that
20 reads, "Let me summarize the provisions of Bill
21 970666," that these numbers, the first number in
22 parenthesis, is actually a listing of six different
23 provisions?

24 MR. HAYLLAR: In the bill, yes.

25 COUNCILMAN NUTTER: In the bill.

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2 Now, where did this 19-1102 (1)(c)
3 come from? Did that come as a result of the bill
4 passing in the spring? Is that an anomaly of the
5 tax that existed before, or is that something you
6 found in the course of trying to figure out what to
7 do?

8 Where does this come from?

9 MR. HAYLLAR: We understand that in
10 the passage of the bill that was presented to you in
11 the spring, that inadvertently there was -- first,
12 there was some confusion. That bill may have
13 inadvertently taxed owner-managed and family-run
14 corporations. And we don't want that to happen.

15 So to be doubly sure, even though we
16 are eliminating the tax, we are specifically
17 eliminating that provision.

18 Because they weren't taxed before.
19 And we wouldn't want anyone to think they were going
20 to be taxed in the future.

21 COUNCILMAN NUTTER: And then No. 2,
22 amending 19-1102 (2), I am intrigued by this
23 sentence. I mean, this seems to be at least part of
24 the heart of what we are trying to get at today,
25 which is the elimination of the tax.

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2 But it says, "This eliminates the
3 uncompetitive nature of the retrospective tax if it
4 is to be imposed."

5 What is a retrospective?

6 MR. HAYLLAR: Yes. If the
7 retrospective tax, the one-time, 5 mill tax, is
8 imposed, as the legislation could be interpreted,
9 one of the criteria for imposing the tax was that
10 the trustee was within the corporate limits of the
11 City of Philadelphia.

12 COUNCILMAN NUTTER: Which is what
13 caused the move.

14 MR. HAYLLAR: That would have caused
15 them to move.

16 COUNCILMAN NUTTER: Right.

17 MR. HAYLLAR: Just because you are a
18 trustee within the city, you would not
19 necessarily -- you would not have to pay the tax
20 under those conditions.

21 PRESIDENT STREET: The basic issue
22 was whether or not the fact that the trustee is in
23 the city is enough of an incidence --

24 COUNCILMAN NUTTER: To cause them --

25 PRESIDENT STREET: -- to cause the

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2 corpus, the whole corpus, of the trust to be taxed.

3 What we have always understood to be
4 true is that one of the trustees had to live in the
5 city. Right? Or the recipients of some part of the
6 trust?

7 MR. HAYLLAR: The grantor or the
8 beneficiary.

9 PRESIDENT STREET: Beneficiary. Then
10 only that part of the trust income was taxed;
11 right?

12 Isn't that what that is designed to
13 clean up?

14 MR. HAYLLAR: Yes.

15 COUNCILMAN NUTTER: Okay.

16 PRESIDENT STREET: That's my
17 understanding.

18 See, I hate this. Excuse me. This
19 is a wonderful exercise considering the Personal
20 Property Tax.

21 MR. HAYLLAR: We are trying to make
22 it go away.

23 COUNCILMAN NUTTER: Right. I
24 understand. No matter how difficult we might make
25 it. Okay.

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2 Thank you.

3 PRESIDENT STREET: The Chair
4 recognizes Councilwoman Fernandez.

5 COUNCILWOMAN FERNANDEZ: Good
6 morning. I just have two brief questions.

7 One, I have gotten a number of
8 inquiries from people saying, "Do we need to pay our
9 taxes this year?"

10 Is it correct, reading this bill, no
11 one has to pay them for '97?

12 MR. HAYLLAR: That is correct,
13 pertaining to the Personal Property Tax only.

14 COUNCILWOMAN FERNANDEZ: That's
15 right, Personal Property Tax.

16 MR. HAYLLAR: I want to be perfectly
17 clear.

18 The real estate bills will be going
19 out in a couple of weeks, and we would like those
20 paid.

21 COUNCILWOMAN FERNANDEZ: And wage
22 tax, and all that?

23 MR. HAYLLAR: Yes.

24 COUNCILWOMAN FERNANDEZ: And then my
25 other question was, do we know or does the city have

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2 clear evidence of whether the banks who reportedly
3 moved some of their business out of the city over
4 the summer, have they moved their employees back
5 into the city?

6 MR. HAYLLAR: Yes.

7 COUNCILWOMAN FERNANDEZ: Thank you.

8 PRESIDENT STREET: Thank you very
9 much.

10 The Chair recognizes the following
11 Council members in this order: Councilwoman
12 Miller.

13 COUNCILWOMAN MILLER: Good morning.

14 Mr. Hayllar, I have a question
15 concerning the information you provided about North
16 Carolina.

17 MR. HAYLLAR: Yes.

18 COUNCILWOMAN MILLER: I am not really
19 clear. Was the refund required to be paid or did
20 North Carolina just decide to hold off paying? How
21 did the Courts rule?

22 MR. HAYLLAR: To the best of my
23 knowledge, there was no refund required and,
24 therefore, they have not paid.

25 COUNCILWOMAN MILLER: All right.

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2 Thank you.

3 MR. HAYLLAR: Incidentally, if we are
4 required to pay a refund, there is a strong argument
5 to be made that since this is a state tax, the state
6 would be responsible for the refund.

7 But, again, we want to hold this last
8 safety position of the 5 mill, one-time tax in case
9 it is necessary. But there is also the argument to
10 be made that the state would be responsible for a
11 refund.

12 COUNCILWOMAN MILLER: Thank you.

13 I have no more questions.

14 PRESIDENT STREET: Is there anyone
15 else that has any questions?

16 If not, gentlemen, thank you very
17 much.

18 At this time the Chair recognizes
19 Ashley Andrus and Roy Hock of the Greater
20 Philadelphia Chamber of Commerce.

21 I would ask if representatives from
22 the Administration would not go far. We may need
23 you.

24 MS. ASHLEY ANDRUS: Good morning,
25 Mr. President.

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2 PRESIDENT STREET: Good morning.

3 Please identify yourself for the record.

4 MS. ANDRUS: My name is Ashley
5 Andrus. I am Manager of Public Policy for the
6 Greater Philadelphia Chamber of Commerce.

7 And with me today is Roy Hock, he is
8 a former Board member of the Chamber and is a
9 long-standing active members in terms of initiatives
10 designed to make Philadelphia a better place to live
11 and to work.

12 Thanks again for this opportunity
13 this morning to speak in support of Bill 970666. I
14 will summarize the main points of my testimony.

15 Basically, the Chamber's position is
16 that this tax, as it is currently written, is an
17 obstacle to our future growth and expansion,
18 especially, as Mr. Hayllar pointed out, if the State
19 Constitution -- or if the state tax is held
20 unconstitutional, then Philadelphia would be the
21 only municipality to impose such a tax.

22 And, really, we cannot afford to, in
23 this competitive marketplace, impose such a tax,
24 main points being lost jobs and lost residents.

25 As Mr. Hayllar pointed out, with the

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2 trust impacts of this tax, the banking industry, the
3 legal industry could be seeing thousands of jobs
4 move out to the suburbs.

5 There was a period of intermediate
6 job loss because of this. Again, those jobs are
7 back in the city, with the commitment of the city to
8 repeal the tax. We are pleased about that.

9 But recent statistics and newspaper
10 articles have highlighted our job loss over the last
11 decade. And though the city, I think, in the last
12 12 months did gain some jobs, its growth versus that
13 in the suburbs was much less.

14 The same holds true for residents. I
15 think you saw the piece in the Inquirer last week
16 indicating that Philadelphia, of all major cities,
17 was the biggest loser in terms of population.

18 And Roy, I think, will speak a little
19 bit more on that in terms of the residential
20 impact.

21 And as we are making great strides to
22 attract residents -- and Council has played a large
23 role; for example, with tax abatement issues and
24 things like that -- I think this tax neutralizes
25 those incentives.

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2 And, finally, we question what the
3 revenue impact would be. With the eroding tax base,
4 how much revenue would actually be collected from
5 this because of the job and the residential flight.

6 So, again, I would just like to thank
7 the members that worked with us over the summer,
8 especially, Mr. President, your efforts and the
9 efforts of the Administration. Those that testified
10 before us, for their efforts as well, and would just
11 reiterate a lot of what Mr. Hayllar said.

12 And we would urge you to support this
13 bill for repeal.

14 PRESIDENT STREET: Thank you very
15 much.

16 MR. ROY HOCK: My name is Roy Hock.
17 I a resident of the city, have been a resident here
18 some 40 years, formerly CEO, President, and Chairman
19 of a company called Technitrol, a manufacturing firm
20 who has had a plant in this city, up until just
21 recently, since its inception some 50 years ago.

22 I speak as an individual more than
23 anything because, now being retired, I own stock in
24 the company that I worked for for almost 40 years.
25 And that's a good chunk of my retirement income.

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2 It pays a dividend of approximately
3 .7 percent. Which isn't high, but I have enough
4 stock that it gives me a relatively good revenue.

5 And when I looked at that original
6 bill -- and I don't understand all of what went on
7 with this new bill that you are talking about -- but
8 it sounds like it still has the potential to have a
9 comeback in order to pay refunds of that half
10 percent.

11 But if it did come to a half percent,
12 it turns out, then, that on the basis of the stock
13 values over the period that I understand it would be
14 paid on, starting in January 1 of '96, for a year
15 and a half, it would roughly take some 47 percent of
16 my dividends, as a catch-up, along with a school tax
17 of 4-point-plus percent, plus a state tax of 2.8
18 percent. So overall it is about a 55 percent tax on
19 dividends on my particular situation.

20 Now, let me bring to your mind that
21 the average dividend in the market is about 2
22 percent on the value of the stock, or less than 2
23 percent now.

24 So that anyone having dividends being
25 paid on stock, suddenly having to pay a half

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2 percent, it would consume some 25 percent of their
3 dividends for that catch-up.

4 Going forward, you are talking about
5 a .15 percent tax. Again, that becomes, on
6 dividends of 2 percent, roughly 8 percent tax, along
7 with the city tax -- school tax, rather, and the
8 state tax. It is a disincentive for anyone to stay
9 in the city and pay these taxes.

10 In my case, the going-forward tax,
11 because of the very low dividend paid on the stock I
12 have, comes to about 20 percent.

13 So I take that 20 percent, then the 5
14 percent of school tax and the 2.8 percent of state
15 tax, and I have a dividend tax of 28 percent before
16 my federal tax. That's pretty high. And it can be
17 avoided.

18 I have been in the process of doing
19 some estate planning, retirement planning, and I
20 wanted to set up a trust. I didn't choose to use a
21 trust company --

22 PRESIDENT STREET: Mr. Hock, I am not
23 following you.

24 MR. HOCK: You are not following me?

25 PRESIDENT STREET: I am trying to

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2 follow you, but I am not following you. I want to
3 understand what you are saying.

4 MR. HOCK: All right. Is there a
5 question that I can answer that would help you?

6 PRESIDENT STREET: Are you for the
7 bill?

8 MR. HOCK: No; I am against the
9 bill. I am against any Personal Property Tax.
10 I am for the bill to repeal, as long
11 as it doesn't have a provision that might come to
12 play.

13 I am for having no Personal Property
14 Tax in the city at all, in no way, shape, or form;
15 that's my position.

16 PRESIDENT STREET: Okay. I think I
17 now understand you.

18 Somewhere along the line you lost me
19 a little bit. And I didn't want to allow you to
20 continue, and then I not follow you. I don't know
21 about any other Council members, but I wanted to
22 make sure.

23 So your fundamental problem is with
24 the retroactive provision which might --

25 MR. HOCK: Or going forward. Or

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2 going forward, if there is a tax.

3 PRESIDENT STREET: It is eliminated.

4 There is no tax going forward.

5 MR. HOCK: Good.

6 PRESIDENT STREET: You didn't know
7 that?

8 MR. HOCK: I don't have the
9 provisions. I don't have the access to the bill. I
10 just came here today to speak.

11 PRESIDENT STREET: Oh, okay. All
12 right. So then that's the reason why I was
13 misunderstanding you.

14 Because the bill eliminates the
15 Personal Property Tax going forward, and only in the
16 event that there are refunds ordered is there any
17 provision at all for any collection of a tax.

18 And it is a retroactive provision,
19 and the tax has already been collected.

20 And it is my understanding from
21 Mr. Hayllar that that retroactive tax has been
22 designed in such a way so that it is revenue
23 neutral, and we won't be trying to collect any
24 revenue that we haven't already collected and
25 spent.

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2 MR. HOCK: Well, then, I don't need
3 to speak to the bill.

4 If you are saying I am home free,
5 that's fine.

6 PRESIDENT STREET: Well, it sounds to
7 me like you are home free. Now, I don't want to
8 be --

9 MR. HOCK: I didn't hear that in the
10 questions and the answers. It confused me.

11 PRESIDENT STREET: I think maybe you
12 are probably in pretty good shape.

13 MR. HOCK: Being confused or not
14 being confused?

15 PRESIDENT STREET: No.

16 There is no effort here to collect
17 any additional Personal Property Tax. After this
18 bill passes, it is my understanding that all the
19 Personal Property Tax that the city will ever
20 collect has already been collected.

21 Any Personal Property Tax you paid
22 has already been paid, and nobody is talking about
23 getting any more money from you or anyone else on a
24 Personal Property Tax.

25 But we aren't talking about giving

1 BILL 970666

2 you any back, either.

3 MR. HOCK: That's fine.

4 PRESIDENT STREET: And that's the

5 kicker here.

6 The only kicker here is, we are
7 trying to protect ourselves against having to refund
8 to you and others like you \$58 million.

9 And we are going to be looking to the
10 state to help or to do it. And if not the state,
11 then we have this tax that was retroactive that we
12 think might keep us from having to give you any
13 refunds.

14 We don't want to have to give any
15 money back. We don't want to collect any more
16 money. We are prepared not to collect any more
17 money in the interest of the competitive nature of
18 the city versus the suburbs, and all of those
19 arguments that have been made and reinforced by the
20 testimony of the Chamber and the Finance Director.

21 But we don't want to have to give you
22 anything back. And that's where we are.

23 MR. HOCK: That's fine. And I am not
24 going to have to pay any more?

25 PRESIDENT STREET: You are not going

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2 to have to pay any more.

3 MR. HOCK: That's a good bill.

4 PRESIDENT STREET: I thank you.

5 We have reached a meeting of the
6 minds. This is wonderful.

7 Thank you very much for being with
8 us.

9 MR. HOCK: You are welcome.

10 PRESIDENT STREET: The Chair
11 recognizes Councilman Kenney.

12 COUNCILMAN KENNEY: Thank you very
13 much, Mr. President.

14 I would like to take the opportunity
15 to thank the Chamber of Commerce for all their work
16 and effort in both articulating the views of this
17 particular segment of our economy, and our industry,
18 and keeping government's feet to the fire to make
19 sure that this got done.

20 In addition to the potential loss of
21 trust funds and businesses who hold trust accounts,
22 my major concern -- and one of the reasons why I
23 opposed this, or supported this repeal as early as
24 July of this year -- was the concern over the loss
25 of residents.

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2 Not only the residents who had money
3 in trust accounts, but the residents who work in the
4 trust departments.

5 You have an individual who is working
6 in a trust department, living in Mt. Airy or Mayfair
7 or South Philadelphia, whose business, whose
8 company, moves to Montgomery County, or any other
9 surrounding county, and has an opportunity to
10 consider an almost 5 percent raise by simply moving
11 out of that neighborhood and into that suburb. Not
12 only are we losing all those dollars and all those
13 taxes, but we are losing the contribution of those
14 families to our communities.

15 And I don't believe that this
16 government or any government would move
17 expeditiously unless the business community
18 articulated themselves well and kept our feet to the
19 fire.

20 And I would like you to take back to
21 your Board and to your President our thanks for
22 continuing to expose this issue and to take
23 corrective measures.

24 MS. ANDRUS: Thank you very much,
25 Councilman.

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2 And, again, thanks to all of you,
3 who, without your cooperation, this would not have
4 worked. So thanks to you.

5 PRESIDENT STREET: Thank you very
6 much.

7 The Chair recognizes Councilwoman
8 Fernandez.

9 COUNCILWOMAN FERNANDEZ: Mr.
10 President, in light of the confusion that Mr. Hock
11 seemed to have, I think it would be very important
12 for the Chamber, and hopefully the press covering
13 this event today, and any other ways, to inform
14 citizens about what this bill really means.

15 You know, as you put it succinctly,
16 no more taxes will be collected going forward. And
17 we are also protecting against, hopefully, any
18 retroactive refunds.

19 But the message to taxpayers would
20 be: There will be no more Personal Property Tax
21 collected.

22 But I think for someone to come and
23 testify and not really be able to understand this
24 technical language of the bill, that major message
25 has to get through.

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2 PRESIDENT STREET: Thank you very
3 much.

4 Is there anyone else that has
5 anything to offer?

6 Is there anyone else to testify?
7 Yes, sir. I think we have Allen Black.

8 Are you Mr. Black?

9 MR. BLACK: Yes, Mr. President.

10 PRESIDENT STREET: I am sorry.

11 ALLEN D. BLACK, ESQ.: No problem.

12 My name is Allen Black. I am a
13 lawyer who practices here in the city, and I
14 represent a taxpayer by the name of Allison Moore,
15 who filed a lawsuit back in July of 1997 challenging
16 the validity of the various Personal Property
17 Taxes.

18 I am here to speak in support of this
19 bill, and simply to add to the reasons that have
20 been given.

21 That not only is this the right thing
22 to do with respect to the banks and the business
23 community and the legal community, and with respect
24 to the economics of the city; it is the right thing
25 to do for all the taxpayers of the city, as well,

1 BILL 970666

2 for the hundreds or thousands of people in the city
3 who have been paying this tax for years, and who
4 would be left, as things now stand without this
5 bill, as being the only taxpayers in the
6 Commonwealth of Pennsylvania who were required to
7 pay a tax like this.

8 It just wouldn't be fair to those
9 people, to the taxpayers of Philadelphia, to single
10 them out as the targets of these taxes.

11 PRESIDENT STREET: Mr. Black, I have
12 to tell you, on the basis of that rationale, we
13 would have to immediately repeal the wage tax.

14 MR. BLACK: Well, it is a good reason
15 to get --

16 PRESIDENT STREET: Which I don't
17 think we are getting ready to do right today.

18 MR. BLACK: It would not be relevant
19 for me to comment on that topic. Although I am sure
20 that --

21 PRESIDENT STREET: I feel compelled
22 to mention that.

23 We agree that it is a problem. The
24 big problem is the fact that we recently have become
25 the only county collecting the tax. Other counties

1 BILL 970666

2 have repealed the tax.

3 I would point out to you, however,
4 that in the City of Philadelphia, in our county, we
5 are going to repeal the tax without increasing the
6 rates of any other taxes.

7 Whereas, in some other counties, when
8 the Personal Property Tax was repealed, at least in
9 one county, I think the real estate tax rate was
10 increased by 29 percent. We are not going to do
11 that here.

12 As you heard Mr. Hayllar say, we are
13 going to figure out a way to survive the loss of the
14 revenue, both now and in the future, and still try
15 to provide quality service to our people.

16 But we appreciate your sentiment.

17 MR. BLACK: Well, my client, and I am
18 sure all the other taxpayers, are pleased with
19 that.

20 One last point that I would like to
21 make is that, part of the relief that my client has
22 been seeking in the suit that was filed back in July
23 '97 was the abolition of these taxes on a
24 going-forward basis.

25 So that, I must say, we are delighted

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2 to see this bill doing that. It grants part of the
3 relief that, you know, we have been seeking in the
4 lawsuit, and we are delighted.

5 And, as I say, I am sure that all the
6 other taxpayers in the City of Philadelphia who have
7 been paying this tax over the years are also
8 delighted.

9 I'd like to just put a copy of the
10 Complaint in that lawsuit in the record. If anybody
11 on the Council would like to look at it, as you
12 consider this matter before the bill comes --

13 PRESIDENT STREET: Mr. Black, not
14 only don't we want to look at it, we do not want to
15 look at it, and we don't want it in the record,
16 because all it will end up doing is increasing our
17 costs.

18 Please don't ask us to put it in the
19 record. Because if we have to put it in the record,
20 then, you know, the stenographer will have to put it
21 in the record, then we will have to get copies of it
22 and distribute it to everybody.

23 MR. BLACK: Fair enough. I am sure
24 that Council is aware of it, and certainly the Law
25 Department is. Fair enough.

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2 PRESIDENT STREET: We thank you for
3 your testimony.

4 MR. BLACK: Save the trees.

5 PRESIDENT STREET: Is there anyone
6 else who wishes to testify on Bill No. 970666?

7 Seeing no one, this brings us to the
8 end of our Public Hearing.

9 (Public Hearing adjourned.)

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3 COUNCIL OF THE CITY OF PHILADELPHIA
4 PUBLIC MEETING
5 of the
6 COMMITTEE OF THE WHOLE
7 - - -
8 Thursday, December 4 1997
9 - - -
10 Public Meeting conducted by the Committee
11 of the Whole, held in Room 400, City Hall,
12 Philadelphia, Pennsylvania, on the above date, to
13 consider action on the following:
14 BILL 970666
15 - - -
16 PRESENT:
17 COUNCILMAN JOHN F. STREET, Chair
18 COUNCILWOMAN ANNA C. VERNA, Vice-Chair
19 COUNCILWOMAN HAPPY FERNANDEZ
20 COUNCILMAN JAMES F. KENNEY
21 COUNCILMAN W. THACHER LONGSTRETH
22 COUNCILMAN FRANK RIZZO
23 COUNCILMAN ANGEL ORTIZ
24 COUNCILMAN FRANK DiCICCO
25 COUNCILWOMAN JANNIE L. BLACKWELL
COUNCILMAN MICHAEL A. NUTTER
COUNCILWOMAN JOAN L. KRAJEWSKI
COUNCILMAN RICHARD T. MARIANO
COUNCILWOMAN DONNA REED MILLER
COUNCILWOMAN MARIAN B. TASCO
- - -

1 PUBLIC MEETING

2 PRESIDENT STREET: We will now go
3 into our Public Meeting.

4 The Chair recognizes Councilwoman
5 Verna.

6 COUNCILWOMAN VERNA: Thank you.

7 I move that Bill No. 970666 be
8 reported out of committee with a favorable
9 recommendation, also a recommendation that the Rules
10 of Council be suspended so as to permit first
11 reading at our Council session today.

12 (Duly seconded.)

13 PRESIDENT STREET: All in favor let
14 it be known by saying aye.

15 Those opposed say nay.

16 The ayes have it.

17 Bill No. 970666 will be reported from
18 this committee with a favorable recommendation, and
19 a recommendation that the Rules of Council be
20 suspended so as to permit first reading at our next
21 session of Council.

22 Thank you very much.

23 We appreciate it very much if Council
24 members would go, as quickly as possible, to the
25 Caucus Room so we can have our caucus and reconvene

1 PUBLIC MEETING

2 for our Council session.

3 If there are those of you who are
4 here for the regularly scheduled 10 o'clock a.m.
5 Council session, what you have been observing is a
6 meeting of the Council Committee of the Whole.

7 We will have a caucus, which
8 hopefully will be a brief caucus, and then we will
9 come back and have our Council session.

10 We know that we have some special
11 guests with us who are here from the League of
12 Cities. We appreciate your being here. We would
13 like to more formally recognize you at our regular
14 Council session.

15 So thank you very much for being with
16 us.

17 (Public Meeting adjourned at 10:15
18 a.m.)

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C E R T I F I C A T I O N

I HEREBY CERTIFY that the foregoing
proceedings of the Council of the City of
Philadelphia of Thursday, December 4, 1997, were
reported fully and accurately by me, and that this
is a correct transcript of same.

RE: COMMITTEE OF THE WHOLE

DEBRA A. WHITEHEAD, RPR