Litigation Update
District False Claims Act

The False Claims Amendment Act of 2019

1) Increased the monetary award cap for OTR informants from 10% to 30% of the tax proceeds collected; and

2) Allows certain actions brought in DC Superior Court by the OAG or *qui tam* plaintiffs under the DC False Claims Act that relate to taxation.
§ 2–381.02 was amended as follows:

[The DC False Claim Act] shall not apply to claims, records, or statements made pursuant to those portions of Title 47 that refer or relate to taxation, unless:

(1)(A) The claim, record, or statement was made on or after January 1, 2015; and

(B) The District taxable income, District sales, or District revenue of the person against whom the action is being brought equals $1 million for any taxable year subject to any action brought pursuant to this subchapter, and the damages pleaded in the action total $350,000 or more; or

(2) The claim, record, or statement was made on or after January 1, 2015, and relates to the classification of real property as vacant or blighted pursuant to Chapter 31A of Title 42.
§ 2–381.03 was amended to add the following provisions:

• (a-1) When a *qui tam* plaintiff brings an action pursuant to subsection (b) of this section and the matter relates to taxation, the Attorney General for the District of Columbia shall consult with [OTR] about the complaint.

• *(c)(3) No person may bring an action pursuant to subsection (b) of this section that is based upon allegations or transactions that relate to taxation and are the subject of an existing investigation, audit, examination, ruling, agreement, or administrative or enforcement activity by [OTR].*

• (h) In any proceeding under this subchapter, [OTR] shall not be required to produce tax information, or other information from which tax information can be inferred, if the production thereof would be a violation of federal law.
Income and Franchise Tax Update
Beginning tax year **2020**

- The taxable income of an unincorporated business includes the gain from a sale of any assets *even when such sale results in the termination of an unincorporated business*.

- The taxable income of an unincorporated business is taxed at the entity level and reported on Form D-30.

- OTR recently updated the regulations to clarify the legislative change.
Income/Franchise Tax
Legislative Updates

• Exclusions from District gross income:

  * **Beginning tax year 2020**
    * Grants made by the District to various businesses in response to COVID-19 (See form instructions for a list of specific grants)
    * Grants made by the Washington Convention Center to workers excluded from workers compensation (undocumented immigrants)
    * Delayed unemployment compensation payments

  * **Beginning tax year 2021**
    * Unemployment insurance benefits (100%)
Beginning tax year 2022, the District’s marginal tax rates are:

<table>
<thead>
<tr>
<th>District Taxable Income</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over $10,000</td>
<td>4% of the taxable income</td>
</tr>
<tr>
<td>Over $10,000 but not over $40,000</td>
<td>$400, plus 6% of the excess over $10,000</td>
</tr>
<tr>
<td>Over $40,000 but not over $60,000</td>
<td>$2,200, plus 6.5% of the excess over $40,000</td>
</tr>
<tr>
<td>Over $60,000 but not over $250,000</td>
<td>$3,500, plus 8.5% of the excess over $60,000</td>
</tr>
<tr>
<td>Over $250,000 but not over $500,000</td>
<td>$19,650, plus 9.25% of the excess over $250,000</td>
</tr>
<tr>
<td>Over $500,000 but not over $1,000,000</td>
<td>$42,775, plus 9.75% of the excess over $500,000</td>
</tr>
<tr>
<td>Over $1,000,000</td>
<td>$91,525, plus 10.75% of the excess over $1,000,000</td>
</tr>
</tbody>
</table>
District Earned Income Tax Credit Updates

**Tax Year 2022**

**Amount:** 70% of federal EITC  
(with qualifying children)

**Payout:**

- Greater than $600:
  1) **1 lump sum payment** equal to **40%** of federal EITC; and
  2) **11 equal monthly payments** of remaining DC EITC%.

- $600 or less: **1 lump sum payment**.
**District Earned Income Tax Credit Updates**

*Tax Year 2023 and 2024*

**Amount:** 70% of federal EITC (with qualifying children)

**Payout:**
- Greater than $1,200: **12 monthly payments**.
- $1,200 or less: **1 payment**.
District Earned Income Tax Credit Updates

**Tax year 2025**

**Amount:** 85% of federal EITC (with qualifying children)

**Payout:**

- Greater than $1,200: 12 monthly payments.
- $1,200 or less: 1 payment.
District Earned Income Tax Credit Updates

**Tax year 2026**

**Amount:** 100% of federal EITC (with qualifying children)

**Payout:**

- Greater than $1,200: 12 monthly payments.
- $1,200 or less: 1 payment.
Sales and Use Tax Update
9 DCMR § 402, CASUAL AND ISOLATED SALES, was amended, in part, as follows:

- Casual and isolated sales within the exemption provided by D.C. Code 47-2005(7) are limited to sales of a non-recurring nature that are made by a vendor who is not regularly engaged in the business of making sales at retail.

- The casual and isolated sale exemption does not apply to any of the following sales:
  (a) Sales by a vendor who is registered with OTR for a sales and use tax account;
  (b) Sales by a vendor who is regularly engaged in the business of making sales at retail regardless of whether the property being disposed was originally acquired for use or consumption by that vendor;
  (c) Sales made on a marketplace as defined in 47-2002(g-4); or
  (d) A sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business where the sale is by a vendor who is regularly engaged in the business of making sales at retail.
Collections Update
§ 47–2862. Prohibition against issuance of license or permit.

(a) Notwithstanding any other provision of law, the District government shall not issue or reissue a license or permit to any applicant for a license or permit if the applicant:

(1) [Various fines, penalties and interest owed to various District agencies];

* * *

(2) Owes the District more than $100 in past due taxes; or

* * *

(8) Has failed to file required District tax returns;
“Clean Hands” Certificate

Q: How does a taxpayer which is a disregarded entity demonstrate it has not failed to file a DC franchise tax return?

A: Beginning with tax year 2020, OTR created Schedule K-Disregarded Entities to the D-20 and D-30 for a taxpayer to disclose its disregarded entities whose income is included on the taxpayer’s return.
Real Property Tax Update
Mandatory E-Filing & Overpayments

- 9 DCMR § 370 mandates e-filing of forms via MyTax.Dc.gov
  - Includes: homestead deduction; senior citizen and disabled tax relief; claims for refund; requests for certificates of taxes; penalty and interest waiver requests; exemption applications; exempt property use reports; and division of lot requests.
  - Taxpayer may seek a waiver of the e-filing requirement, at discretion of OTR.

- Taxpayers must claim refunds of overpayments within 3 years from the date that the tax was paid.
Tax Sale

- Annual Sale to be held **July 19 & July 20, 2022**
- Location TBD
- No discount on lien amount
- Registration typically opens 2 weeks prior to the sale and continues until the last day of the sale
- Tax Sale Seminars (date TBD) - attendance is highly encouraged
- DC Tax Sale operates on theory of *Caveat Emptor*
- Tax Sale FAQ's  [https://otr.cfo.dc.gov/page/real-property-tax-sale](https://otr.cfo.dc.gov/page/real-property-tax-sale)
FAQ’s and Hot Topics
FAQ’s and Hot Topics (Domicile & Residency)

- Types of Residents
  - Definition of Domiciliary
  - Definition of Statutory Resident
    - Maintaining Place of Abode
    - Temporary Absences
- Change of Domicile
  - International Relocations
- Out of State Credits
- Definition of Part-Year Resident
- Reciprocal Agreements
FAQ’s and Hot Topics

Personal Property vs. Leasehold Improvements
FAQ’s and Hot Topics

- Homestead Deduction, Senior Citizen and Disabled Property Tax Relief Application
OGC Contact Information

Alan C. Levine
Chief Counsel
202-442-6510 (office)
alan.levine@dc.gov

Robert McKeon
Deputy Chief Counsel
202-442-6513 (office)
robert.mckeon@dc.gov

Elissa Borges
Assistant General Counsel
202-442-6680 (office)
elissa.borges@dc.gov

William Bowie
Senior Counsel
202-442-6512 (office)
william.bowie@dc.gov

Nirmail Dhaliwal
Senior Tax Advisor
202-442-6632 (office)
nirmail.dhaliwal@dc.gov

Aaishah Hashmi
Corporate Tax Counsel
202-442-6508 (office)
aaishah.hashmi@dc.gov

Bazil Facchina
Assistant General Counsel
202-442-6371 (office)
bazil.facchina@dc.gov

Andrew Reiter
Assistant General Counsel
202-727-7696 (office)
andrew.reiter@dc.gov

Sonia Kamboh
Assistant General Counsel
202-442-4063 (office)
sonia.kamboh@dc.gov