

ENROLLMENT(S)

(5)



COUNCIL OF THE DISTRICT OF COLUMBIA

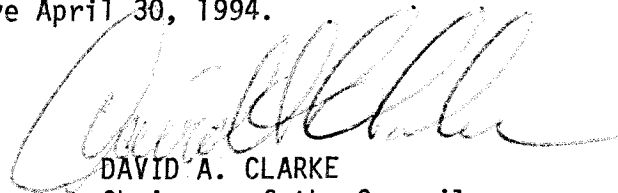
NOTICE

D.C. LAW 10-115

"Financial Administration Revision and Clarification
Act of 1994".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198 "the Act", the Council of the District of Columbia adopted Bill No. 10-439 on first and second readings, January 4, 1994, and February 1, 1994, respectively. Following the signature of the Mayor on February 25, 1994, this legislation was assigned Act No. 10-205, and published the March 11, 1994, edition of the D.C. Register (Vol. 41 page 1216) and transmitted to Congress on March 3, 1994 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 10-115, effective April 30, 1994.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

March	3,4,7,8,9,10,11,14,15,16,17,18,21,22,23,24
April	12,13,14,15,18,19,20,21,22,25,26,27,28,29

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

FEBRUARY 25, 1994

NEW CHAPTER 1A
OF TITLE 47

To establish penalties to be assessed against a tax return preparer for failing to sign a taxpayer's return or understating a taxpayer's liability, and against an individual for aiding or assisting in understating a taxpayer's liability or for filing a frivolous tax return; to amend the District of Columbia Real Property Tax Revision Act of 1974 to require the Mayor to calculate hypothetical real property rates based on a split-rate approach and submit the rates to the Council; to amend An Act In relation to taxes and tax sales in the District of Columbia to authorize the Mayor to sell at private sale certain real property that has been bid off in the name of the District; to amend the District of Columbia Sales Tax Act and the District of Columbia Use Tax Act to clarify that certain charges associated with the distribution of free newspapers in the District are exempt from District sales and use taxes, and to add the corresponding use tax provisions for the 6% sales tax on dry cleaning, laundering, and pressing services and the 8% sales tax on charges for spirituous or malt liquors, beers, and wines sold for off premises consumption.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Financial Administration Revision and Clarification Act of 1994".

TITLE I. TAX RETURN PREPARER PENALTY

Sec. 101. Definitions.

For the purposes of this title the term:

(1) "Tax return preparer" means any person who prepares for compensation, or who employs 1 or more persons to prepare for compensation, any return of tax imposed by the Mayor or any claim for refund of tax imposed by the Mayor. The preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of the entire return or claim for refund. "Tax return preparer" shall not mean a person who only:

(A) Furnishes typing, reproducing, or other mechanical assistance;

(B) Prepares a return or claim for refund of the employer (or an officer or employee of the employer) by whom the person is regularly and continuously employed; or

New
Section
47-161

(C) Prepares as a fiduciary a return or claim for refund for any person.

(2) "Understatement of liability" means any understatement of the net amount payable with respect to any tax imposed by the Mayor or any overstatement of the net amount creditable or refundable with respect to the tax. Except as provided in section 110, the determination of whether or not there is an understatement of liability shall be made without regard to any administrative or judicial action involving the taxpayer.

Sec. 102. Penalty imposed on a tax return preparer for failure to sign a return. New
Section
47-162

Any person who is a tax return preparer with respect to any tax return or claim for refund shall sign the return or claim for refund as a tax return preparer. A tax return preparer who fails to sign a return or claim for refund shall pay a penalty of \$50 per unsigned return or claim for refund unless it is shown that the failure is due to reasonable cause.

Sec. 103. Understatement of taxpayer's liability by tax return preparer. New
Section
47-163

(a) A tax return preparer shall pay a penalty of \$250 per return or claim for refund prepared by the tax preparer which understates a taxpayer's liability if:

(1) Any part of any understatement of liability with respect to any return or claim for refund was due to a position for which there was not a realistic possibility of being sustained on the position's merits;

(2) Any person who is a tax return preparer with respect to the return or claim for refund knew or reasonably should have known of the position; and

(3) The relevant facts affecting the tax treatment of the item were not adequately disclosed in the return or claim for refund or in a statement attached to the return or claim for refund (or in a federal return or a statement attached thereto, a copy of which was filed with the return or claim for refund, if applicable) or the position was frivolous.

(b) The Mayor shall not impose the penalty in subsection (a) of this section if it is shown that there is reasonable cause for the understatement and that the tax return preparer acted in good faith.

(c) A tax return preparer shall pay a penalty of \$1,000 per return or claim for refund prepared by the tax return preparer that understates a taxpayer's liability if any part of any understatement of liability with respect to any return or claim for refund was due to:

(1) A willful attempt in any manner to understate the liability for tax by a person who is a tax return preparer with respect to the return or claim for refund; or

(2) Any reckless or intentional disregard of rules or regulations by a tax return preparer.

(d) The amount of the penalty payable by any person by reason of subsection (c) of this section shall be reduced by the amount of the penalty paid by the person by reason of subsection (a) of this section.

Sec. 104. Penalty for aiding and abetting understatement of a taxpayer's tax liability.

New
Section
47-164

(a) Except as provided by subsection (b) of this section, a person is subject to a penalty of \$1,000 if the person:

(1) Aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim for refund, or other document. The term "procures" includes ordering (or otherwise causing) a subordinate to perform an act and knowing of, and not attempting to prevent, participation in the act by any other person (whether or not the person is a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

(2) Knows or has reason to believe that the portion will be used in connection with any material matter arising under any tax imposed by the Mayor; and

(3) Knows that the portion would result in an understatement of the liability for tax of another person.

(b) If the return, affidavit, claim for refund, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) of this section shall be \$10,000.

(c) If any person is subject to a penalty under subsection (a) of this section with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), the person shall not be subject to a penalty under subsection (a) of this section with respect to any other document relating to the taxpayer for such taxable period (or event).

(d) Subsection (a) of this section shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim for refund, or other document.

(e) For purposes of subsection (a)(1) of this section, a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of the document by reason of the assistance.

(f) The penalty imposed by this section shall be in addition to any penalty assessed under section 102.

(g) No penalty on any person shall be assessed under section 103 with respect to a return for which a penalty is imposed on the person under this section.

Sec. 105. Frivolous tax return.

New
Section
47-165

(a) An individual shall pay a penalty of \$500 if:

(1) The individual files what purports to be a tax return but that:

(A) Does not contain information on which the substantial correctness of the self-assessment may be judged; or

(B) Contains information that on its face indicated that the self-assessment is substantially incorrect; and

(2) The conduct referred to in paragraph (1) of this subsection is due to:

(A) A position which is frivolous; or

(B) A desire (which appears on the purported return) to delay or impede the administration of the District's tax laws.

(b) The penalty imposed by subsection (a) of this section shall be in addition to any other penalty provided by law.

Sec. 106. Statute of limitations on assessment of penalties and claims for refund.

New
Section
47-166

(a) The amount of any penalty under section 102 or 103(a) shall be assessed within 3 years after the return or claim for refund, with respect to which the penalty is assessed, is filed. In the case of any penalty under sections 103(c), 104, or 105 the penalty may be assessed at any time.

(b) Any claim for refund for overpayment of a penalty assessed under this section shall be filed within 3 years from the time the penalty is paid.

Sec. 107. Determination of penalty; notice to tax return preparer; protest of determination.

New
Section
47-167

(a) Except as provided by subsection (c) of this section, prior to a final assessment of a penalty or penalties against a person under this title, the Mayor shall send the person a proposed assessment and provide the person, not less than 30 days after the proposed assessment is sent, with an opportunity to file a protest that explains why the penalty should not be assessed. If a protest is filed in a timely manner, the Mayor shall grant the person a hearing.

(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, or the Mayor determines after a hearing under subsection (a) of this section that the person is subject to a penalty or penalties under this title, the Mayor shall send the person a final assessment of the penalty or penalties.

(c) If the period of limitations is about to expire without adequate opportunity for assessment, the Mayor may issue a final assessment of a penalty or penalties against a person under this title without first issuing a proposed assessment.

(d) Within 30 days after the final assessment pursuant to subsection (b) or (c) of this section is sent to the person, the person shall pay the full amount of the penalty assessed.

Sec. 108. Claim for refund.

New
Section
47-168

A claim for refund of penalties paid under this title may be filed with the Mayor by the person against whom the penalty is assessed. Every claim for refund shall be in writing, under oath, on a form prescribed by the Mayor and shall state the specific grounds upon which the claim for refund is based.

Sec. 109. Right to judicial appeal.

New
Section
47-169

If the Mayor denies a person's claim for refund, the person may within 6 months from the date of the denial, appeal to the Superior Court of the District of Columbia, in the same manner and to the same extent as set forth in sections 3, 4, 7, 10, and 11 of title IX of the District of Columbia Revenue Act of 1937, approved May 16, 1938 (84 Stat. 579; D.C. Code § 47-3303, 3304, and 3306 through 3308).

Sec. 110. Abatement of penalty. New
Section
47-170
 If at any time there is a final administrative determination or a final judicial decision that there was no understatement of liability in the case of any return or claim for refund with respect to which a penalty was assessed pursuant to sections 103 or 104, the assessment shall be abated, and if any portion of the penalty has been paid, the amount of the penalty paid shall be refunded without regard to any period of limitations.

Sec. 111. Rules. Note
New
Section
47-161
 Pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code § 1-1501 *et seq.*), the Mayor shall issue rules to implement the provisions of this section.

TITLE II. ADDITIONAL TAX AMENDMENTS

Sec. 201. Section 413 of the District of Columbia Real Property Tax Revision Act of 1974, approved September 3, 1974 (88 Stat. 1052; D.C. Code § 47-815), is amended by adding two new subsections (a-1) and (a-2) to read as follows: Section
47-815

"(a-1) At the same time the Mayor makes a submission pursuant to subsection (a) of this section, the Mayor shall calculate and submit to the Council hypothetical real property tax rates under a split-rate approach to be applied during the tax year, to the classes of real property set forth in section 412a. For each class of property as set forth in section 412a, the hypothetical rate applied to building values shall be less than the hypothetical rate applied to land values. These rates shall be calculated to raise the same total revenue, for the District as a whole, as would be raised by the rates proposed under subsection (a) of this section.

"(a-2) The rates calculated and submitted pursuant to subsections (a) and (a-1) of this section shall be accompanied by statistical tables and maps comparing, by neighborhood and property class, the differences in tax burdens imposed by the tax rates produced by the different methods. Homestead and other deductions or exemptions applicable to the conventional property tax shall also be applicable to the split-rate property tax."

Sec. 202. An Act In relation to taxes and tax sales in the District of Columbia, approved February 28, 1898 (30 Stat. 250; D.C. Code § 47-1303), is amended as follows: Section
47-1303

(a) A new section 2a is added to read as follows:

"Sec. 2a. Definitions.

"For the purpose of this act, the term:

"(1) "Adjoining property" means real property that has, in whole or in part, a common boundary with the bid off property.

"(2) "Bid off property" means real property that has been bid off in the name of the District at public auction to enforce the District's lien for unpaid taxes or assessments pursuant to section 2 and for which the statutory redemption period has expired."

(b) A new section 2b is added to read as follows:

"Sec. 2b. Private sale of unimproved residential real property bid off in the name of the District.

"(a) Notwithstanding any other provision of law, the Mayor may sell at private sale real property that has been bid off in the name of the District at public tax sale for 2 consecutive years and that has not been redeemed by the owner within the redemption period provided by law.

"(b) Before accepting offers on the bid off property for private sale, the Mayor shall:

"(1) Send a final notice to the owner of the bid off property stating that the bid off property will be offered for private sale unless the bid off property is redeemed within 30 days after the date of the final notice by paying all taxes and assessments, including penalties, interest, costs and charges against the bid off property; and

"(2) Notify all recorded lienholders that the bid off property shall be offered for private sale unless the bid off property is redeemed by the owner of the bid off property within the 30-day period specified in paragraph (1) of this subsection.

"(c) Owners of adjoining property shall have the first opportunity to purchase bid off property at private sale. The Mayor shall notify the owners of adjoining property that:

"(1) They may make offers to the Mayor to purchase the bid off property within a period of time set by the Mayor. The minimum offer acceptable shall be an amount equal to all current year's taxes and assessments, including penalties and interest, and costs charged against the property; and

"(2) If they purchase the bid off property, they shall agree to the combining of the bid off property and the purchaser's adjoining property into a single tax lot that shall be reflected in the real property tax records of the District.

"(d) If only 1 adjoining property owner offers to purchase the bid off property and meets the requirements of subsection (c) of this section, the Mayor shall accept the offer.

"(e) If more than 1 adjoining property owner offers to purchase the bid off property and meets the requirements of subsection (c) of this section, the Mayor shall accept the highest offer.

"(f) If no acceptable offer is made by an adjoining property owner within the time period determined by the Mayor, the Mayor shall sell the bid off property to any interested purchaser in accordance with procedures established by the Mayor. The minimum sale price acceptable shall be an amount equal to all current year's taxes and assessments, including penalties and interest, and costs charged against the property. Unsold bid off property shall not be returned to the public tax sale, but shall be retained by the Mayor until sold at private sale.

"(g) An offer to purchase bid off property at private sale shall be made in writing on a form and under such conditions as the Mayor shall by regulation prescribe."

(c) A new section 2c is added to read as follows:

"Sec. 2c. Tax Deed.

"(a) The Mayor shall issue a deed for the bid off property sold pursuant to section 2b to the person whose offer the Mayor accepts.

"(b) The deed shall be prima facie evidence of a good and perfect title in fee simple to the bid off property."

Enrolled Original

Sec. 203. The District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 112; D.C. Code § 47-2001 *et seq.*), is amended as follows:

(a) Section 114(a)(15) (D.C. Code § 47-2001(n)(1)(O)), is amended to read as follows: Section 47-2001

"(15) The sale of or charge for any newspaper or publication;"

(b) Section 128 (D.C. Code § 47-2005) is amended as follows: Section 47-2005

(1) Subsection (z) is amended by striking the word "or".

(2) Subsection (aa) is amended by striking the period and inserting the phrase "; or" in its place.

(3) A new subsection (bb) is added to read as follows:

"(bb) Sales of the following:

"(1) Printing services, if purchased by a publisher to print a newspaper that is to be distributed free of charge in the District;

"(2) Tangible personal property purchased by a publisher that prints its own newspaper, if the property is incorporated by the publisher as a material or part of a newspaper that is distributed free of charge in the District; and

"(3) Wrapping, packing and packaging supplies, if purchased by a publisher to further the distribution of a newspaper that is distributed free of charge in the District."

Sec. 204. The District of Columbia Use Tax Act, approved May 27, 1949 (63 Stat. 124; D.C. Code § 47-2201 *et seq.*), is amended as follows:

(a) Section 201(a) (D.C. Code § 47-2201(a)(1)) is amended as follows: Section 47-2201

(1) Paragraph (12) is amended to read as follows:

"(12) The sale or charge for any newspaper or publication;"

(2) Paragraph (13)(D) is amended by striking the period and inserting the phrase "; or" in its place.

(3) A new paragraph (14) is added to read as follows:

"(14) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when the service is performed by means of self-service, coin-operated equipment, and the rental of textiles to commercial users when the essential part of the rental includes the recurring service of laundering or cleaning thereof."

(b) Section 212 (D.C. Code § 47-2202) is amended as follows: Section 47-2202

(1) Paragraph (3)(C) is amended by deleting the word "and".

(2) Paragraph (4) is amended by deleting the period and inserting "; and" in its place.

(3) A new paragraph (5) is added to read as follows:

"(5) The rate of tax shall be 8% of the gross receipts of the sales of or charges for spirituous or malt liquors, beers, and wine sold for consumption off the premises where sold."

Sec. 205. Applicability dates.

(a) Title I shall apply for all returns filed after December 31, 1993. Note, New Sec. 47-161

(b) Sections 203 and 204(a)(1) shall apply as of July 1, 1993. Note, Secs 47-2001,

(c) Sections 204(a)(2), (a)(3), and (b) shall apply as of July 1, 1992. 47-2005

Note, Secs.

47-2001,

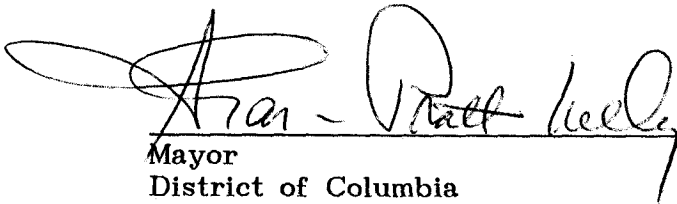
47-2202

Sec. 206. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: February 25, 1994



COUNCIL OF THE DISTRICT OF COLUMBIA

Council Period Ten

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: Bill 10-439

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 1-4-94

VOICE VOTE: Approved

Recorded vote on request

Absent: Evans

ROLL CALL VOTE -- RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					EVANS					RAY				
BARRY					JARVIS					SMITH, JR.				
BRAZIL					LIGHTFOOT					THOMAS, SR.				
CHAVOUS					MASON									
CROPP					NATHANSON									

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Debra J. ...
Secretary to the Council

February 9, 1994
Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 2-1-94

VOICE VOTE: Approved

Recorded vote on request

Absent: Barry, Lightfoot, Smith and Thomas

ROLL CALL VOTE -- RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					EVANS					RAY				
BARRY					JARVIS					SMITH, JR.				
BRAZIL					LIGHTFOOT					THOMAS, SR.				
CHAVOUS					MASON									
CROPP					NATHANSON									

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Debra J. ...
Secretary to the Council

February 9, 1994
Date

Item on Consent Calendar

ACTION & DATE:

VOICE VOTE:

Recorded vote on request

Absent:

ROLL CALL VOTE -- RESULT

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					EVANS					RAY				
BARRY					JARVIS					SMITH, JR.				
BRAZIL					LIGHTFOOT					THOMAS, SR.				
CHAVOUS					MASON									
CROPP					NATHANSON									

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date