

DC Council Introduces False Claims Expansion – Taxpayers Beware!

Article By:

Stephen P. Kranz

Diann Smith

Eric Carstens

Last month, a bill ([The False Claims Amendment Act of 2017, B22-0166](#)) was introduced by District of Columbia Councilmember Mary Cheh that would allow tax-related false claims against large taxpayers. Co-sponsors of the bill include Chairman Jack Evans and Councilmember Anita Bonds.

Specifically, the bill would amend the existing false claims statute to expressly authorize tax-related false claims actions against persons that reported net income, sales, or revenue totaling \$1 million or more in the tax filing to which the claim pertained, and the damages pleaded in the action total \$350,000 or more.

The bill was referred to the Committee of the Whole upon introduction, but has not advanced or been taken up since then. Nearly identical bills were introduced by Councilmember Cheh in 2013 and 2016.

Practice Note:

Because the current false claims statute includes an express tax bar, this bill would represent a major policy departure in the District. [See D.C. Code § 2-381.02\(d\)](#) (stating that “[t]his section shall not apply to claims, records, or statements made pursuant to those portions of Title 47 that refer or relate to taxation”). As we have seen in jurisdictions like New York and Illinois, opening the door to tax-related false claims can lead to significant headaches for taxpayers and usurp the authority of the state tax agency by involving the state Attorney General in tax enforcement decisions.

Because the statute of limitations for false claims is 10 years after the date on which the violation occurs, the typical tax statute of limitations for audit and enforcement would not protect taxpayers from false claims actions. [See D.C. Code § 2-381.05\(a\)](#). Treble damages would also be permitted against taxpayers for violations, meaning District taxpayers would be liable for three times the amount of any damages sustained by the District. [See D.C. Code § 2-381.02\(a\)](#). A whistleblower who files a successful claim may receive between 15-25 percent of any recovery to the District if the

District's Attorney General intervenes in the matter. If the whistleblower successfully prosecutes the case on their own, they may receive between 25-30 percent of the amount recovered. This financial incentive encourages whistleblowers to come forward and their increased willingness to do so is backed by provisions allowing substantial relief for retaliatory actions taken against an employee, contractor or agent. [See D.C. Code § 2-381.04](#). But allowing private parties to intervene in the administration, interpretation or enforcement of the tax law commandeers the authority of the tax agency, creates uncertainty and results in inequitable tax treatment. Taxpayers beware!

The District of Columbia is not the only jurisdiction considering opening the door to tax false claims actions. Earlier this year, [a bill \(SB 65\) was introduced in Michigan](#) by Senator Steven Bieda (D) that would enact a new false claims act expressly applicable to tax. The dollar thresholds required in the Michigan bill for tax claims to be permitted are identical to those in the DC bill (*i.e.*, net income or sales greater than or equal to \$1 million for the taxpayer year and damages pleaded in excess of \$350,000). Upon introduction, SB 65 was referred to the Senate Judiciary Committee, where Senator Bieda sits as Minority Chair, and has not advanced out of the committee at this time.

© 2025 McDermott Will & Emery

National Law Review, Volume VII, Number 115

Source URL: <https://natlawreview.com/article/dc-council-introduces-false-claims-expansion-taxpayers-beware>