

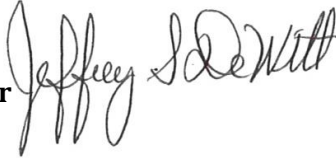
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: January 21, 2020

SUBJECT: Fiscal Impact Statement – False Claims Amendment Act of 2020

REFERENCE: Bill 23-35, Committee print provided to the Office of Revenue Analysis on January 15, 2019

Conclusion

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Background

Under the District's false claims laws¹ a person with knowledge of an action defrauding the District may file a civil action on behalf of the District. This person is known as a qui tam plaintiff. An action by a qui tam plaintiff may be dismissed with the written consent of the Attorney General and the Court. If the action proceeds, the District is responsible for prosecuting the action or settling with the defendant, subject to objections of the qui tam plaintiff. The defrauding person or entity may be liable for treble damages and civil penalties between \$5,500 and \$11,000 for each claim. The qui tam plaintiff is entitled to a reward of between 15 percent and 25 percent² of the proceeds received as a result of the action or settlement, depending on the significance of the information and role of the qui tam plaintiff.

Cases involving tax fraud, however, may not be brought forth under the District's false claims laws. Tax fraud actions are managed under separate statutory authority of the Office of the Chief Financial Officer, and informants are entitled to receive up to 10 percent³ of the collections resulting from the case.

¹ D.C. Official Code § 2-381.01, *et seq.*

² D.C. Official Code § 2-381.03(f)(1)(A).

³ D.C. Official Code § 47-4111(b).

The Honorable Phil Mendelson

FIS: Bill 23-35, "False Claims Amendment Act of 2020," Committee print provided to the Office of Revenue Analysis on January 15, 2019.

The bill makes two changes to this existing system. First, it increases the reward amount informants may receive under the existing OCFO authority from 10 percent of collections received by the action to 30 percent. Second, the bill allows tax fraud actions to be brought under the false claims laws, provided the damages total \$350,000 or more and the defrauding entity or person has annual revenues, net income, sales, or earnings over \$1 million.

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the bill.

Increase in reward for informants will reduce the total amount of revenue recovery the District may receive in future proceedings. However, receipts from informant driven proceedings are sporadic. From 2003 to 2018 there were five informant driven tax fraud cases totaling \$7.4 million in tax recoveries with approximately \$50,000 per year (on average) going toward informant rewards. There were no recoveries in fiscal year 2019. The effect on the current budget and financial plan of the increased reward is *de minimus*.

While it is possible a larger reward to informants will incentivize reporting of fraud in certain cases, there is insufficient information to predict revenue increases as a result of this change. We do not know what types of tax fraud settlements or judgements may occur in future years or whether those cases will come to light through audit processes or informants. Nor do we have a quantitative basis to predict how recovery amounts might increase as a result of a larger reward.

Allowing tax fraud cases to proceed under false claims laws provides an additional avenue for tax fraud proceedings to occur and may potentially increase recoveries. However, there is insufficient information to determine the amount of additional recovery (if any), and whether these recoveries might have happened regardless, under existing audit and compliance procedures.