

**PUBLIC HEARING ON
B16-958, "DOMESTIC PARTNERSHIP JOINT
FILING ACT OF 2006"**

**Before the
Committee on Finance and Revenue
Council of the District of Columbia**

The Honorable Jack Evans, Chairman

**November 2, 2006, 11:00 A.M.
Chamber, John A. Wilson Building**



**Testimony of
Sherryl Hobbs Newman
Deputy Chief Financial Officer
Office of Tax and Revenue**

**Natwar M. Gandhi
Chief Financial Officer
Government of the District of Columbia**

Good afternoon, Chairman Evans, and members of the Committee on Finance and Revenue. I am Matt Braman, Director of Operations for the Office of Tax and Revenue (“OTR”) of the District of Columbia (“District”). I am pleased to present testimony today on Bill 16-958, the “Domestic Partnership Joint Filing Act of 2006.”

Under D.C. law whenever a taxpayer is required by the Internal Revenue Code of 1986 to file a joint income tax return with his or her spouse in order to qualify for a federal tax benefit, the taxpayer and spouse shall file either a joint return or separate returns on a combined individual form in order to claim a similar benefit for D.C. purposes. D.C. Code §47-1805.01(e). The Department of Finance and Revenue, OTR’s predecessor, interpreted the above section to require the filing of a joint Federal return as a pre-condition to filing a joint return or a combined-separate return for District income tax purposes. Because domestic partners cannot file a joint return for Federal income tax purposes, OTR ruled that domestic partners cannot file a joint tax or a combined separate return for D.C. income tax purposes. See OTR Tax Ruling 2005-01. That ruling conditioned the filing of a joint or combined-separate income tax return for District purposes on a couple (a) being eligible to file a joint Federal return, and (b) actually filing such a return for the year.

The bill here proposes to amend D.C. Code § 47-1805.01 by adding a new subsection (f). It grants domestic partners who have registered their relationship with the District the right to file as Married Filing Jointly or Combined-Separate for District income tax purposes as if they were eligible to file a joint Federal return.

However, the bill as presently drafted would not allow domestic partners to get the full benefit of filing combined-separate. The reason is that to get the full benefit, the domestic partner that earned the greatest amount of income (“partner 1”) has to be able to deduct in his column on a combined-separate return the itemized expenses claimed by the other domestic partner (“partner 2”) on the latter’s Federal income tax return. D.C. Code §47-1803.03(b), as currently written, does not permit partner 1 to do this because the expenses of partner 2 did not appear on partner 1’s individual Federal income tax return. Other changes may also be necessary.

It is our policy to evaluate carefully any proposed or requested bills that will impact the District’s tax revenue to ensure OTR is not unreasonably burdened administratively.

OTR has one major concern about this bill. If enacted, the bill could become effective before District income tax returns for the calendar year 2006 are due on April 15, 2007 or due later as a result of a taxpayer filing for extension. If so, a reasonable argument could be made that domestic partners are entitled to file combined-separate returns for the 2006 calendar year. Any effective date that would require OTR to accept and administer combined-separate filings for domestic partners for any calendar year before 2007 would be unadministrable. OTR has already programmed its computers, prepared instructions, and ordered forms based on existing law.

For these reasons OTR strongly urges that if enacted, the bill be made applicable for taxable years beginning on or after January 1, 2007, in order

that OTR can make the relevant changes to its forms, instructions and computer programming in an orderly manner.

Fiscal Impact of Bill 16-958

Assuming that the effective date for this bill is made for taxable years beginning on or after January 1, 2007, OTR would have a one-time FY 2007 cost of \$25,000 for forms and programming changes to implement the legislation.

Thank you, Chairman Evans, for the opportunity to comment on this bill. I would be happy to answer any questions you or other Councilmembers might have at this time.