Statute of Limitations Clarifying Amendment Act of 2016

Before the Committee on Finance and Revenue

The Honorable Jack Evans, Chairman

September 28, 2016, 10:00 AM
Room 500, John A. Wilson Building

Testimony of
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Good morning Chairman Evans and members of the Committee on Finance and Revenue. I am Bazil Facchina, Assistant General Counsel, for the Office of Tax and Revenue. I am pleased to present testimony on Bill 21-763, the "Statute of Limitations Clarifying Amendment Act of 2016."

In general, the Bill would amend the law governing the circumstances under which the Office of Tax and Revenue (OTR) is allowed 6 years from the filing of a return to assess additional income tax resulting from the omission of a substantial amount of gross income from the return. As a general matter, The Bill provides that an understatement of gross income caused by an overstatement of basis is an omission from gross income for purposes of the 6-year period of limitations on assessment. "Basis" is an income tax term that generally refers to a taxpayer's cost of acquisition or investment in property, which is deducted from the amount realized on sale or disposition of the property to determine gain or loss. Since basis is deducted from sale proceeds to determine the amount of any taxable gain, an overstatement of basis can result in an understatement of gross income.

This provision allowing additional time to assess tax when a substantial amount of income is omitted from the return is modelled on a similar provision of the Federal income tax law. Recently, Congress has amended the Federal law to provide that the 6-year period of limitations applies when basis is overstated, reversing a Supreme Court decision finding that the 6-year statute did not apply in such a case.

The Bill would make this same amendment to the District's tax law, allowing OTR additional time to assess tax when an overstatement of basis results in a substantial omission from gross income reported in the taxpayer's income tax return.

In addition, following the Federal statute, the Bill provides that this amendment to the 6-year assessment period will be applicable to returns filed after the effective date of the law and to those tax returns filed on or before the effective date of the law if the period of limitations on assessment (determined without regard to the amendment made by the Bill) is still open on the effective date of the law.

Thank you, Chairman Evans, for the opportunity to comment on this Bill. I would be happy to answer any questions at this time.