

DISTRICT OF COLUMBIA TAX REVISION COMMISSION



Date: May 2, 2014

To: Jeffrey DeWitt, Chief Financial Officer *AAW*

From: Anthony A. Williams, Chairman, D.C. Tax Revision Commission

CC: Mayor Vincent Gray
D.C. Council Chair Phil Mendelson
D.C. Councilmembers
Deputy CFO Stephen Cordi, Office of Tax and Revenue
Deputy CFO Fitzroy Lee, Office of Tax and Revenue
D.C. Tax Revision Commission

Re: D.C. Tax Revision Commission Comments on D.C. Tax Administration

Attached is a list of suggestions to improve the District's tax administration. We received these suggestions from our tax administration consultant, Linda Tanton, the former Maryland Deputy Comptroller; Steve Cordi, Deputy CFO/Office of Tax and Revenue (OTR); Greg Syphax, Chairman of the Real Property Tax Appeals Commission; members of the D.C. Tax Revision Commission, DC Councilmembers, and members of the public.

We defer to your upcoming strategic plan for the Office of the Chief Financial Officer (OCFO) to address the challenges of the District's tax administration, and hope our list might help you. This follows up on our conversation on this topic in early December 2013, and the draft memo discussed at the Commission's last public meeting on December 18, 2013.

The Commission has asked me to highlight in this memo specific policy options from the attached list that they feel merit your greatest attention. This memo and attached list have been reviewed with Deputy CFO's Cordi and Lee.

1. The Commission believes the District should purchase and implement a new tax computer system, as soon as practicable. As outlined by Linda Tanton, we hope the new computer system offers more "self-help" options so that D.C. taxpayers are enabled, among other steps, to research the status of their taxes, their expected refunds and payment due dates, and to set up their own payment plans. Providing self-help tools to taxpayers also would reduce customer-support requests, which would allow customer-support staff to devote more time and effort to more complicated requests. In addition, it should assist the OTR Collection Administration to plan and implement new collection programs.

2. The Commission also believes the District should purchase and implement a new phone system. As outlined by Linda Tanton, a new phone system would improve incoming call service in many areas, and allow for improved outgoing calls from the OTR Collection Administration.
3. The District must improve overall customer service. OTR could benefit from an ombudsman, strong taxpayer outreach, and/or citizen taxpayer committees to review and propose revisions to forms.
4. The information technology team of Office of the Chief Technology Officer's information technology team needs more personnel and hardware. Presently, it cannot handle OTR or ORA requests on a timely basis.
5. The Commission believes that OTR, not the OCFO's Human Resources (HR), should set job qualifications for open positions. For example, a junior revenue officer does not need to be a CPA to work for the Collections Administration in OTR, but is required to be a CPA by HR. Unnecessary restrictions increase costs, limit staffing (particularly, because at the present time a qualified CPA can obtain employment in the private sector at an income significantly higher than in public service), and, ultimately, impede OTR's effectiveness.
6. Hire seasonal employees during the individual income tax filing season to improve customer service.
7. Hire additional collection personnel. The Commission believes improved tax payment compliance could generate substantial revenue.
8. Explore opportunities for additional training for commercial real property appraisers in OTR's Real Property Tax Administration, including the implementation of an appraiser apprentice program, so OTR can "grow its own" appraiser staff.
9. Explore a new third level of appeal for real property assessments to replace the existing third level of appeal--the DC Superior Court. Currently, there are several hundred cases appealed to the DC Superior Court awaiting a trial date. But the DC Superior Court only decides one or two cases a year. As a result, these cases settle or fail to receive adjudication. This arrangement often helps real property owners with weak cases, who may receive overly generous settlements. One model to examine closely is using two or three specialized administrative law judges. For example, Maryland has such a system. Lastly, real property owners should retain the right to appeal to D.C. Superior Court, but only on matters of procedure, not valuation.
10. Review and analyze all tax incentives (i) prior to legislative approval, (ii) while in effect and (iii) after a tax incentive has expired (or 10 years after enactment) to study if the tax incentive accomplished its stated goals and/or should be continued. While DC law currently requires (i) and (ii), the last step is missing (and Councilmember Mary Cheh has introduced legislation to require it). Representatives of the Pew Charitable Trusts Economic Development Tax Incentives Project testified on the importance of public analysis of tax incentives as outlined above. This will require legislation.
11. Review penalties for minor misfilings, particularly for low-income individual taxpayers and small businesses. They are currently disproportionately severe, and, the Commission believes, cause unnecessary angst. This will require legislation.

12. Equalize the interest charged on under payments and over payments. If the District wants to penalize under payment, it should do so through a penalty and not an interest rate. For example, a Commissioner stated in a public hearing that the District pays 6% cumulative interest on an estate tax overpayment. On an estate tax underpayment, however, the District charges a 10% compounded daily and cumulative interest rate. This will require legislation.
13. Several public witnesses and letters requested that the ORA or OTR provide economic information on a neighborhood and/or industry basis. For example, calculating the level of restaurant or retail sales tax revenue from a group of restaurants or stores, so that an estimate of sales per SF can be calculated. Collecting for a group of businesses will protect the confidential nature of each store's tax revenues.
14. Carefully examine the impact of the lockbox requirements on the District's tax administration. The Commission supports examining the impact of lockbox requirements for future bond transactions assuming the full support of the city's Treasurer and Deputy CFO for Finance and Treasury, the city's bond attorneys, the city's bond underwriters and the city's bond buyers. It is recognized that examining this issue for outstanding bond issues is likely to be a much more difficult task as it would require amending an existing bond indenture that would require the approval of existing bond owners.
15. Require lockbox contractors to report the receipt of payments, while maintaining the integrity of the lockbox for bondholders, in their lockbox contracts.
16. Bankruptcy attorneys told one Commission member that the District is often the "lender of first choice" for retailers and restaurants because the District does not collect from delinquent sales tax payers in a timely manner. OTR has responded to Commission staff that delinquent sales tax collection is already being done. Because the D.C. sales tax is "trust fund" revenue, the Commission believes that the District should enact legislation imposing the "trust fund" liability on the "responsible person."
17. Do not allow the "responsible persons" to open another retail establishment or restaurant until they have paid their prior trust fund liability. Again, this will likely require legislation, or, perhaps, better implementation of the current "clean hands" legal requirements.
18. The Commission believes that there needs to be improved auditing of residents claiming the homestead deduction, as well as an improved methodology for determining whether the owner of homes (including condominium and cooperative units), even if they do not claim the homestead deduction, should be taxable as residents.

I would be happy to make the Commission's staff and the experts who testified before the Commission available to you.

Tax Administration Policy Options Transmitted to CFO Designate Jeffrey DeWitt by the D.C. Tax Revision Commission

(May 2, 2014)

Policy Options

Notes

I. Public Testimony Policy Options Provided to the Tax Revision Commission and Commissioner Options

- 1 Establish system for evaluating tax incentives for jobs and growth
D.C. is now evaluating tax incentives prior to approval, evaluating tax incentives on a biannual basis, and Councilmember Cheh has introduced legislation to evaluate a tax incentive after it has expired to see whether the incentive accomplished what it was intended to accomplish.
- 2 Collect/compile tax data at neighborhood level
Intended to assist in economic development attraction and analysis. In particular, aggregate restaurant and retail sales information would be very useful in marketing all DC neighborhoods.
- 3 Increase tax admin resources for enforcement
Intended to increase revenue collections for D.C.
- 4 Adopt a Taxpayer Bill of Rights
Many states and cities have Tax Payer Bills of Rights
- 5 Replace the Real Property Tax Appeals Commission (RPTAC) with the previous Board of Real Property Appeals (BRPA)
The stated reason for this is that RPTAC commissioners are city employees and, thus, are not impartial but concerned about revenue growth. BRPA had volunteers.
- 6 Return to triennial assessments
Would ease the burden of D.C. government property assessors
- 7 Hire more OTR employees
1. To provide better customer service and improve collections
2. More revenue officers (collection employees)
The current penalties and interest charged for minor mis-filings are proportionately very large and costly.
- 8 Reduce penalty and interest on minor mis-filings, particularly for low-income tax filers and small businesses.
The District currently charges 10% compounded daily and cumulative on under payments and pays 6% cumulative interest on over payments.
- 9 Equalize the interest rate charged on under payments and the interest rate paid on over payments.
DC taxpayers often face delays in learning about the status of their tax payments and refunds, particularly during the individual income tax filing season.
- 10 Improve customer service in general, but particularly during individual income tax filing season (Jan 15th -- April 30th)
- 11 Explore opportunities for additional training for commercial and multi-family appraisers, including an appraiser apprentice program, so Office of Tax and Revenue (OTR) can "grow its own" appraisers
Training of OTR's Real Property Tax Administration's appraisers was mentioned by several members of the public and at least one Commissioner. An apprentice program would be an efficient way to teach and evaluate potential appraisers.
- 12 Be more aggressive in collecting delinquent sales taxes, and not allow the owners of bankrupt retail or restaurant establishments to open new ones without paying owed sales taxes.
Though difficult to take immediate enforcement action on delinquent sales taxes, the city is encouraged to pursue these collections more aggressively, and to be very strict about allowing individuals who have a sales tax liability from a bankrupt entity to open a new retail or restaurant establishment, particularly because these are "trust funds".
- 13 Improve auditing of residents claiming the homestead deduction
Not clear to the Commission nor the public how this is done.

II. Tax Revision Commission Consultant Linda Tanton, former Deputy Comptroller for Maryland

- 14 Continue to work to obtain a new Integrated Tax System (ITS)
 1. OTR should proceed with project and the Mayor and City Council should provide funding to Office of the Chief Financial Officer (OCFO) to fully implement.
 2. Resources should be provided to OCFO to supplement existing staff to enable the core mission of agency to continue while subject matter experts are engaged in implementation.
- 15 Continue to work to obtain and implement a new phone system

Work to obtain and implement the new phone system and install features that will enhance both the taxpayer and employee experience.
- 16 Re-Evaluate Adjustment/Refund Review Process

While these reviews will be more automated with an new ITS, current controls should be reviewed to determine if the multiple levels of review can be reduced for a significant portion of the refund population before ITS is implemented.
- 17 Separation of Duties for Adjustments

Urge OTR to review current organization of this function to determine if more efficient to create one unit to perform adjustments requested throughout the agency and implement controls within that unit.
- 18 Enhance Support Functions (Information Technology, Personnel, Training and Procurement)

OCFO look for ways to enhance the ability of the support services to serve OTR. IT appears resource constrained and cannot service OTR in a timely manner. Several OTR positions appear to have too high job requirements--for example, a junior collections officer does not need to be a CPA to perform the job.
- 19 Employee Morale

Create a Leadership Development Program to identify future leaders of OTR and provide them with training.
- 20 Enhance Taxpayer Information on Website and Outreach to Public
 1. OTR needs additional resources, both personnel and technical, to enhance website material with goal of increasing voluntary compliance.
 2. Review existing outreach programs to constituent groups to determine if there are additional resources that would enhance educational opportunities to taxpayers.
- 21 Review the statutory and regulatory requirements for the lockbox for each tax type with the goal of having the lockbox serve the needs of the District without creating undue administrative burdens and delays in processing for the taxpayers.
- 22 Explore Establishing a New level of Appeal for Real Property Assessments

OTR cannot process any returns or payments for some of the lockbox taxes, even if taxpayers send them directly to OTR through the mail or a personal visit to OTR. This creates delays in processing these documents and payments for taxpayers and creates the potential for misapplication of payments that taxpayers have made.

Explore the feasibility of establishing a new appeal level with administrative judges who have real property assessment background with the goal of expediting the resolution of these matters. Maryland has such a system.

III. Other Experts

- 23 Allow Schedule H homeowner filers to take their credit on their property tax bills rather than their income tax returns.
- This will improve the cash flow for Schedule H homeowner filers.

IV. Deputy CFO Stephen Cordi, Office of Tax and Revenue

24 Click-Through Nexus Do not recommend. Recent experience in other states has shown this to be unlawful and unproductive.

25 Add Use Tax Line to Personal Income Tax Return Do not recommend. Compliance is extremely low.

26 Replace Business Franchise and Unincorporated Business Franchise Tax with an Expanded Gross Receipts Tax Do not recommend. OTR has just finished the significant undertaking of implementing combined reporting for D.C.'s business taxpayers. OTR would like to avoid another significant change in business taxation, in the absence of a pressing reason for change.

27 Split Property Tax -- Land and Building Separately Do not recommend. There are not enough land transactions with which to value land for most D.C. properties. Thus, OTR projects this would cause a "sharp jump" in property assessment appeals.

V. Chairman of the Real Property Tax Appeals Commission (RPTAC) Gregory Syphax

28 Split Property Tax -- Land and Building Separately Do not recommend. Too hard to value land and improvements separately. Would lead to many more appeals.

29 OTR reorganize its assessors into specialty groups OTR is implementing this change.

30 More Training for OTR Assessors OTR is implementing this change.

VI. Inspector General Report of November 16, 2012

31 The Inspector General contracted with Almy, Gloudermans, Jacobs and Denne to review the District's Management and Valuation of Commercial Real Property Assessments. The Almy Report made 28 recommendations, many were complete as of December 1, 2013 and all but one of the remaining recommendations were in various phases of implementation.