

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 47.
TAXATION, LICENSING, PERMITS,
ASSESSMENTS, AND FEES.

CHAPTER 43.
ADMINISTRATION.

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DISTRICT OF COLUMBIA OFFICIAL CODE

CHAPTER 43. ADMINISTRATION.

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CHAPTER 43. ADMINISTRATION.

SUBCHAPTER I. LIMITATIONS.

§ 47-4301. PERIODS OF LIMITATION.

(a) Unless otherwise provided in subsection (d) of this section, the amount of a tax imposed under this title shall be assessed within 3 years after the return was filed (whether or not the return was filed after the date due) or, if the tax is payable by stamp, at any time after the tax became due and before the expiration of 3 years after the date on which a part of the tax was paid. A proceeding in court without assessment for the collection of the tax shall not commence after the expiration of such period. For purposes of this chapter, the term "return" means the return of tax required to be filed by the taxpayer (and does not include a return of tax of a person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

(b) For purposes of this section, a return filed before the last day prescribed by this title, or by regulations promulgated under this title for filing, shall be considered as filed on the last day.

(c) The execution of a return by the Mayor shall not start the running of the period of limitations on assessment and collection.

(d)(1) In the case of a (A) false or fraudulent return with the intent to evade tax, (B) willful attempt in any manner to defeat or evade tax imposed by this title, (C) failure to file a return, or (D) filing a real property tax exemption application, the tax may be assessed, or a proceeding in court for the collection of the tax may begin without assessment, at any time.

(2) In the case of a tax imposed by Chapter 18 of this title, if the taxpayer omits an amount properly includible in gross income which is in excess of 25% of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed. In the case of a trade or business, the term "gross income" means the amount received or accrued from the sale of goods or services (if the amounts are required to be shown on the return) before diminution by the cost of the sales or services.

(3) In the case of a return not under Chapter 18 of this title, if the taxpayer omits from the return an amount of tax properly includible on the return which exceeds 25% of the amount of the tax reported on the return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return is filed.

(e) If, before the expiration of the time prescribed in this section for the assessment of a tax imposed by this title, both the Mayor and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time before the expiration of the extended period. The period may be extended further by subsequent agreement in writing made before the expiration of an extended period.

(f) If the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer, or his duly authorized agent, to the United States Department of Treasury for federal income tax purposes is changed or corrected by the Commissioner of Internal Revenue, by a court of the United States, or by a court of the District of Columbia, or if the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer or his duly authorized agent, to the District of Columbia for District of Columbia income or franchise tax purposes is changed or corrected by a court of the United States or the District of Columbia, the taxpayer, or his duly authorized agent, shall, within 90 days after the change or correction is finally determined, report in writing the changed or corrected taxable income to the District of Columbia. The Mayor may, within 180 days from the date of the receipt of written notice from the taxpayer of the changed or corrected taxable income as finally determined, assess or reassess the amount of a tax imposed by this title; provided, that if the date of receipt by the District of Columbia of a notice from the taxpayer is more than 180 days before the expiration of the applicable period of limitation, the Mayor shall have until the expiration of the applicable period of limitation to assess or reassess the amount of the tax. Failure to report the changed or corrected taxable income as finally determined within the 90-day period shall suspend the running of the period of limitation for a period of 180 days after the date that the report from the taxpayer, or his duly authorized agent, is received by the District of Columbia.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(bbb), 50 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 14-282, in subsec. (d)(1), substituted "(C) failure to file a return; or (D) filing a real property tax exemption application" for "or (C) failure to file a return".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see 12(kkk) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(kkk) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 12(jjj) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(kkk) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(kkk) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

Legislative History of Laws

Law 13-305, the "Tax Clarity Act of 2000," was introduced in Council and assigned Bill No. 13-586, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 2, 2000, and November 8, 2000, respectively. Signed by the Mayor on December 13, 2000, it was assigned Act No. 13-501 and transmitted to both Houses of Congress for its review. D.C. Law 13-305 became effective on June 9, 2001.

For Law 14-282, see notes following § 47-902.

Miscellaneous Notes

Section 410(b) of D.C. Law 13-305, as amended by section 36(b) of D.C. Law 14- 213, provides:

"Except as otherwise provided therein, sections 403 and 404 shall apply to taxes other than the real property tax imposed under Chapter 8 of Title 47, for all tax years or taxable periods beginning after December 31, 2000."

§ 47-4302. LIMITATION ON COLLECTION.

(a) If the assessment of a tax imposed by this title has been made within the applicable period of limitation, the tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun within 10 years after the assessment of the tax.

(b) If, before the expiration of the time prescribed in this section for the collection of a tax imposed by this title, both the Mayor and the taxpayer have consented in writing to its collection after such time, the tax may be collected at any time before the expiration of the extended period. The period may be extended further by subsequent agreement in writing made before the expiration of an extended period.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334.)

HISTORICAL AND STATUTORY NOTES

Legislative History of Laws

For Law 13-305, see notes under § 47-4301.

§ 47-4303. SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.

The running of the period of limitation provided in §§ 47-4301 and 47- 4302 on the making of assessments or collection shall be suspended for the period during which the Mayor is prohibited from making the assessment or from collecting due to a proceeding in court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings, plus:

(1) For assessment, 60 days thereafter; and

(2) For collection, 6 months thereafter.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(k), 51 DCR 9126.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 15-217 substituted "court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings," for "court,".

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(k) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(k) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

Legislative History of Laws

For Law 13-305, see notes under § 47-4301.

For Law 15-217, see notes following § 47-1528.

§ 47-4304. LIMITATIONS ON CREDIT OR REFUND.

(a) A credit or refund of an overpayment of a tax imposed by this title shall not be allowed unless the taxpayer files a claim within the later of 3 years from the due date of the return or 3 years from the date that the tax was paid.

(b) If, before the expiration of the period of limitation prescribed in subsection (a) of this section, both the Mayor and the taxpayer have consented in writing, the period of limitation may be extended. The period may be extended further by subsequent agreement in writing made before the expiration of the extended period.

(c) If the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer, or his duly authorized agent, to the United States Department of the Treasury for federal income tax purposes is changed or corrected by the Commissioner of Internal Revenue, by a court of the United States, or by a court of the District of Columbia, or if the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer, or his duly authorized agent, to the District of Columbia for District of Columbia income or franchise tax purposes is changed or corrected by a court of the United States or the District of Columbia, a claim for credit or refund shall not be allowed unless the taxpayer files a claim for refund or credit with respect to the correction or change in the amount of taxable income within 180 days after the date that the change or correction is made or ordered.

(d)(1) In the case of an individual, the running of the period of limitation specified in subsection (a) of this section shall be suspended during any period that the individual is financially disabled.

(2) For purposes of paragraph (1) of this subsection, an individual is "financially disabled" if the individual's ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that he or she lacks the capacity to manage some or all of his or her financial resources. An individual shall not be treated as financially disabled during any period that the individual's spouse, domestic partner, or another person may act on behalf of the individual in financial matters.

(e) Notwithstanding subsection (a) of this section, there shall be no period of limitations if the taxpayer filed an application for a real property tax exemption on or before the date of recordation of the deed and paid the recordation tax.

(f) For the purposes of this section, the term "domestic partner" shall have the same meaning as provided in § 32-701(3).

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(ccc), 50 DCR 896; Sept. 12, 2008, D.C. Law 17-231, § 41(p), 55 DCR 6758.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 14-282 added subsec. (e).

D.C. Law 17-231, in subsec. (d)(2), substituted "spouse, domestic partner," for "spouse"; and added subsec.

(f).

Temporary Amendments of Section

For temporary (225 day) amendment of section, see 12(III) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(III) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 12(kkk) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(III) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(III) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

Legislative History of Laws

For Law 13-305, see notes under § 47-4301.

For Law 14-282, see notes following § 47-902.

For Law 17-231, see notes following § 47-802.

SUBCHAPTER II. SUMMONS AUTHORITY; RECORDS; PROTESTS.

§ 47-4310. SUMMONS AUTHORITY.

(a) For the purpose of ascertaining the correctness of a return; making a return where none has been made; determining the liability of a person or real property for a tax imposed under this title; determining the liability at law or in equity of a transferee or fiduciary of a person for a tax under this title; collecting tax; or inquiring into an offense connected with the administration or enforcement of a law, the Mayor may:

- (1) Summon any person to appear and produce all books, records, or other data which may be relevant or material to the inquiry;
- (2) Summon any person to give testimony under oath as may be relevant or material to the inquiry;
- (3) Summon any person to answer interrogatories under oath as may be relevant or material to the inquiry; and
- (4) Administer oaths to a person summoned.

(b) A summons under this section shall be served by the Mayor or by a member of the Metropolitan Police Department in the same manner as a subpoena issued by the Superior Court of the District of Columbia.

(c) The Mayor may report to the Superior Court of the District of Columbia the failure of a person to obey a summons.

(d) The Superior Court of the District of Columbia may compel obedience of a summons under this section to the same extent as witnesses may be compelled to obey the subpoenas of the Court.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(ddd), 50 DCR 896.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 14-282, in subsec. (a), substituted "liability of a person or real property" for "liability of a person".

Temporary Amendments of Section

For temporary (225 day) amendment of section, see 12(mmm) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(mmm) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 12(III) of Tax Clarity and Recorder of Deeds Emergency

Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(mmm) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(mmm) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

Legislative History of Laws

For Law 13-305, see notes under § 47-4301.

For Law 14-282, see notes following § 47-902.

Delegation of Authority

Delegation of Authority Pursuant to D.C. Code, 2001 Ed. § 47-4310 to the Director of the Office of Tax and Revenue, see Mayor's Order 2001-162, November 2, 2001 (48 DCR 10785).

§ 47-4311. REQUIREMENT TO MAINTAIN BOOKS AND RECORDS.

Every person who is liable for a tax imposed by this title and every owner of real property that is liable for a tax imposed by this title shall maintain sufficient books and records to determine liability for the tax.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Mar. 2, 2007, D.C. Law 16-192, § 1062(b), 53 DCR 6899.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 16-192 rewrote the section which had read as follows:

"Every person who is liable for a tax imposed by this title shall maintain sufficient books and records to determine liability for the tax."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 1062(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 1062(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 1062(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative History of Laws

For Law 13-305, see notes under § 47-4301.

For Law 16-192, see notes following § 47-2608.

Miscellaneous Notes

Short title: Section 1061 of D.C. Law 16-192 provided that subtitle F of title I of the act may be cited as the "Clarification of Authority to Examine Books and Records Act of 2006".

§ 47-4312. PROTEST OF ASSESSMENT.

(a) Unless otherwise provided in this title, before a final assessment of a deficiency, interest, or penalties against a person, the Mayor shall send the person a proposed assessment. No later than 30 days after the proposed assessment is sent, the person may file a protest with the Office of Administrative Hearings, and shall serve a copy on the Mayor. The protest shall explain why the deficiency, interest, and penalties should not be assessed.

(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, the Mayor shall send the person a final assessment of the deficiency, interest, or penalties.

(c) If a protest is filed in a timely manner under subsection (a) of this section, the Mayor may not issue a final assessment of the deficiency, interest, or penalties, and the Office of Administrative Hearings shall decide, after providing an opportunity for a hearing, whether the deficiency, interest, or penalties are proper. Filing a protest shall be deemed to be an election that the Office of Administrative Hearings shall be the exclusive forum to adjudicate all challenges to the proposed assessment, and shall be deemed to be an irrevocable waiver of any right to adjudication of all such challenges in any other forum. Nothing in this subsection limits the right of any person to judicial review pursuant to § 2-1831.16.

(d) Nothing in this section or in § 2-1831.03(b)(4) shall limit or preclude any person from appealing any assessment to the Superior Court of the District of Columbia pursuant to § 47-3303, or other applicable law, as an alternative to filing a protest with the Office of Administrative Hearings.

(e) Except with respect to the election of remedy and the waiver of rights required by subsection (c) of this section and by § 2-1831.03(j), a final order of the Office of Administrative Hearings in any matter in which a protest has been filed shall have the same effect as a final assessment of a deficiency, interest, or penalties, and the Mayor may undertake any lawful collection efforts for any amount that such final order determines is due from any person.

(f) By October 7, 2004, the Office of Tax and Revenue shall notify in writing any person who filed a timely protest of a proposed assessment with the Office of Tax and Revenue on or before September 30, 2004, of his or her right to file a request for a hearing with the Office of Administrative Hearings on or before November 1, 2004. If any such person does not file a timely request for a hearing pursuant to this subsection, the Mayor shall send the person a final assessment of any deficiency, interest, or penalties.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(l), 51 DCR 9126.)

HISTORICAL AND STATUTORY NOTES

Effect of Amendments

D.C. Law 15-217 rewrote the section which had read as follows:

"(a) Unless otherwise provided in this title, before a final assessment of a deficiency, interest, and penalties against a person, the Mayor shall send the person a proposed assessment and provide the person, not less than 30 days after the proposed assessment is sent, with an opportunity to file a protest that explains why the deficiency, interest, and penalties should not be assessed. If a protest is filed in a timely manner, the Mayor shall grant the person a hearing if requested.

"(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, or the Mayor determines after review of the protest or after a hearing granted under subsection (a) of this section, that the person is liable for a deficiency, interest, or penalties, the Mayor shall send the person a final assessment of the deficiency, interest, or penalties.

"(c) If the period of limitations will expire without adequate opportunity for assessment, the Mayor may issue a final assessment of a deficiency, interest, or penalties against a person under this title without first issuing a proposed assessment."

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 3(l) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(l) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

Legislative History of Laws

For Law 13-305, see notes under § 47-4301.

For Law 15-217, see notes following § 47-1528.

Miscellaneous Notes

Section 5 of D.C. Law 15-217 provided that section 4 shall apply as of October 1, 2004.

§ 47-4313. EXAMINATIONS OF BOOKS AND RECORDS.

For the purpose of ascertaining the correctness of any return required to be made by this title, making a return where none has been made, determining the liability of any person or real property for any District of Columbia tax (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or equity of any transferee or fiduciary of any person in respect of any District of Columbia revenue tax, collecting any such liability, or inquiring into any offense connected with the administration or endorsement of the District of Columbia revenue law, the Mayor or any authorized officer or employee of the Office of Tax and Revenue may:

- (1) Examine any books, papers, records, or other data which may be relevant or material to such inquiry; or
- (2) Take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

(Mar. 2, 2007, D.C. Law 16-192, § 1062(c), 53 DCR 6899.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative History of Laws

For Law 16-192, see notes following § 47-2608.

§ 47-4314. TIME AND PLACE OF EXAMINATION.

(a) The time and place of examination pursuant to § 47-4313 shall be fixed by the Mayor, or any authorized officer or employee of the Office of Tax and Revenue, and shall be reasonable under the circumstances. The time and place for an examination shall be presumed to be reasonable if it is scheduled:

(1) During a normally scheduled work day and normal business hours of the Office of Tax and Revenue; or

(2) Without regard to seasonal fluctuations in the businesses of particular taxpayers or their representatives.

(b)(1) The Mayor, or an authorized officer or employee of the Office of Tax and Revenue, shall determine whether an examination will be an office examination or a field examination.

(2)(A) An office examination of an individual shall take place at the Office of Tax and Revenue.

(B) A field examination shall take place at the location where the taxpayer's original books, records, and source documents pertinent to the examination are maintained, which determination shall be made by the Mayor or an authorized officer or employee of the Office of Tax and Revenue. In the case of a sole proprietorship or taxpayer entity, this will usually be the taxpayer's principal place of business.

(C) A taxpayer shall not be subjected to unnecessary examinations or investigations.

(Mar. 2, 2007, D.C. Law 16-192, § 1062(c), 53 DCR 6899.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

Legislative History of Laws

For Law 16-192, see notes following § 47-2608.