

AN ACT

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Title 47 of the District of Columbia Code to provide criminal fines and penalties for various tax violations, including attempt to evade or defeat a tax, failure to collect or pay over a tax, failure to pay tax, make a return, keep records, or supply information, employer's fraudulent statements or failure to make statements to employee, employee's fraudulent withholding information or failure to supply information to employer, fraud or false statements, attempt to interfere with administration of District of Columbia revenue laws, and fraudulent claims; to provide a statute of limitations period, rules of statutory construction, and rulemaking authority; and to repeal sections 47-1534, 47-1813.6, and 47-2028 of the District of Columbia Code.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Criminal Tax Reorganization Act of 2000".

Sec. 2. Title 47 of the District of Columbia Code is amended as follows:

(a) The Table of Contents for the title is amended by adding at the end of the chapter designation:

"41. Criminal Provisions..... §§ 47-4101 to 47-4110."

(b) A new Chapter 41 is added to read as follows:

"CHAPTER 41. CRIMINAL PROVISIONS.

"Sec.

"47-4101. Attempt to evade or defeat tax.

"47-4102. Failure to collect or pay over tax.

"47-4103. Failure to pay tax, make return, keep records, or supply information.

"47-4104. Fraudulent statements or failure to make statements to employee.

"47-4105. Fraudulent withholding information or failure to supply information to employer.

"47-4106. Fraud and false statements.

"47-4107. Attempt to interfere with administration of District of Columbia revenue laws.

"47-4108. Periods of limitation on criminal prosecutions.

"47-4109. Construction.

"47-4110. Mayor's regulatory authority.

"§ 47-4101. Attempt to evade or defeat tax.

"(a) A person who willfully attempts in any manner to evade or defeat a tax, or the payment thereof, imposed by this title shall, in addition to other penalties provided by law, be guilty of a felony if the tax evaded or attempted to be evaded exceeds \$10,000, and, upon conviction thereof, shall be fined not more than \$10,000 or 3 times the amount of the tax evaded or attempted to be evaded, whichever is greater, or imprisoned not more than 10 years, or both, together with the costs of prosecution.

"(b) A person who willfully attempts in any manner to evade or defeat a tax, or the payment thereof, imposed by this title shall, in addition to other penalties provided by law, be guilty of a misdemeanor if the tax evaded or attempted to be evaded is \$10,000 or less, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this subsection shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District. The amount of any taxes that were evaded or attempted to be evaded pursuant to a single scheme or systematic course of conduct in violation of this section may be aggregated to determine the grade of the offense and the sentence for the offense.

"§ 47-4102. Failure to collect or pay over tax.

"(a) A person required under this title to collect, account for, or pay over tax imposed by this title who willfully fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a felony if the amount to be collected or accounted for and paid over exceeds \$10,000, and, upon conviction thereof, shall be fined not more than \$10,000 or 3 times the amount of the tax evaded or attempted to be evaded, whichever is greater, or imprisoned not more than 10 years, or both, together with the costs of prosecution.

"(b) A person required under this title to collect or account for and pay over a tax imposed by this title who fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a misdemeanor if the amount to be collected or accounted for and paid over is \$10,000 or less, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this subsection shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District. The amount of any taxes that were not collected, truthfully accounted for, or paid over under a single scheme or systematic course of conduct in violation of this section may be aggregated in determining the grade of the offense and the sentence for the offense.

"§ 47-4103. Failure to pay tax, make return, keep records, or supply information.

"(a) A person required under this title to pay a tax or estimated tax, or required by this

title, or by regulations made under authority thereof, to make a return, keep any records, or supply any information, who willfully fails to pay the tax, pay the estimated tax, make the return, keep the records, or supply the information, at the time required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(b) A person required under this title to pay a tax or estimated tax, make a return, keep any records, or supply any information, who fails to pay the tax, pay the estimated tax, make the return, keep the records, or supply the information, at the time required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(c) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District.

"§ 47-4104. Fraudulent statements or failure to make statements to employee.

"A person required under this title, or under regulations made under authority thereof, to furnish a statement or supply information to an employee, who willfully furnishes a false or fraudulent statement or false or fraudulent information, or who willfully fails to furnish a statement or supply information to an employee in the manner and at the time prescribed under this title, or under regulations made under authority thereof, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District.

"§ 47-4105. Fraudulent withholding information or failure to supply information to employer.

"A person required under this title, or under regulations made under authority thereof, to furnish withholding information or supply information to an employer, who willfully furnishes false or fraudulent withholding information or other information, or willfully fails to furnish withholding information or other information to an employer in the manner and at the time prescribed under this title, or under regulations made under authority thereof, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District.

"§ 47-4106. Fraud and false statements.

"(a) A person who willfully makes and subscribes, delivers, or discloses a return, statement, list, account, or other document required under this title, or under regulations made

under authority thereof, which he or she does not believe to be true and correct as to every material matter, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(b) A person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation under, or in connection with, a matter arising under this title, or under regulations made under authority thereof, of a return, affidavit, claim, list, account, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, list, account, or document, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(c) A person who willfully makes and subscribes, delivers, or discloses a return, statement, list, account, or other document required under this title, or under regulations made under authority thereof, which he or she does not believe to be true and correct as to every material matter, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(d) A person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this title, or under regulations made under authority thereof, of a return, affidavit, claim, list, account, or other document, which is fraudulent or is false as to any matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, list, account, or document, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(e) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District.

"§ 47-4107. Attempt to interfere with administration of District of Columbia revenue laws.

"(a) A person who attempts to influence, intimidate, or impede an officer or employee of the District of Columbia acting in an official capacity under this title, or under regulations made under authority thereof, or in any other way corruptly or by force or threats of force (including a threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this title, regardless of the existence of an investigation brought under this title, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(b) A person who forcibly rescues or causes to be rescued any property, or attempts to do so, after it has been seized under this title, or under regulations made under authority thereof, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

"(c) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Corporation Counsel in the name of the District.

"§ 47-4108. Periods of limitation on criminal prosecutions.

"Notwithstanding any other period of limitation under law, no person shall be prosecuted, tried, or punished for an offense arising under this chapter unless the indictment is found or the information is instituted within 6 years after the latest of: the commission of the offense, the last action in furtherance of the offense, or the last action to conceal the offense.

"§ 47-4109. Construction.

"(a) For purposes of this chapter, the term "person" includes an officer or employee of a corporation or a member or employee of a partnership or association, who as an officer, employee, or member, is under a duty to perform the act in respect to which the violation occurs.

"(b) The provisions of this chapter may be construed, to the extent applicable, with reference to analogous provisions contained in sections 7201, 7202, 7203, 7204, 7205, 7206, 7212, and 7215 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. §1 *et seq.*).

"§ 47-4110. Mayor's regulatory authority.

"The Mayor may promulgate regulations as may be necessary to carry out the purposes of this chapter."

(c) Sections 47-1534, 47-1813.6, and 47-2028 are repealed.

(d) The table of contents to Chapter 15 is amended by striking the section designation "47-1534. Violations; penalties; prosecution." and inserting the section designation "47-1534. Repealed." in its place.

(e) The table of contents to Chapter 18 is amended by striking the section designation "47-1813.6. Violations." and inserting the section designation "47-1813.6. Repealed." in its place.

(f) The table of contents to Chapter 20 is amended by striking the section designation "47-2028. Additional penalties for failure to comply with chapter." and inserting the section designation "47-2028. Repealed." in its place.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

ENROLLED ORIGINAL

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval of the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia