

COUNCIL OF THE DISTRICT OF COLUMBIA

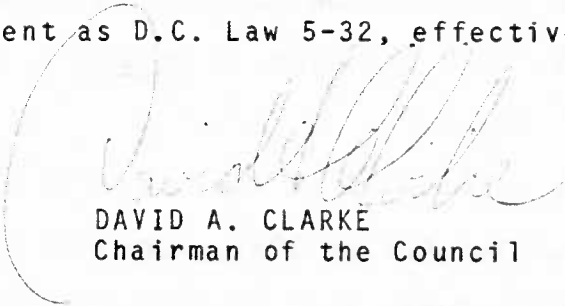
NOTICE

D.C. LAW 5-32

"District of Columbia Income and Franchise Tax
Conformity Act of 1983".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-103 on first and second readings, June 28, 1983 and July 12, 1983, respectively. Following the signature of the Mayor on July 21, 1983, this legislation was assigned Act No. 5-54, published in the August 12, 1983 edition of the D.C. Register, (Vol. 30 page 4013) and transmitted to Congress July 22, 1983 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-32, effective October 8, 1983.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

July	22,25,26,27,28,29-
August	1,2,3,4
September	12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
October	3,4,5,6,7

D.C. LAW 5 - 3 2

AN ACT

EFFECTIVE
DATE OCT - 8 1983D.C. ACT 5 - 5 4

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUL 21 1983

To amend the definition of "internal revenue code" in the District of Columbia Income and Franchise Tax Act of 1947, to provide greater conformity with the federal income tax, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "District of Columbia Income and Franchise Tax Conformity Act of 1983".

Sec. 2. Section 4(bb) of Title I of the District of Columbia Income and Franchise Tax Act of 1947, effective June 11, 1982 (D.C. Law 4-118; D.C. Code, sec. 47-1801.4(bb)), is amended to read as follows:

CODIFICATION
D.C. Code,
sec. 47-1801.4
(1981 ed.)

"(bb) The term 'Internal Revenue Code of 1954' means the Internal Revenue Code of 1954, approved August 6, 1954 (68A Stat. 3; 26 U.S.C. sec. 1 et seq.), as amended through January 14, 1983."

Sec. 3. Title III of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 335; D.C. Code, sec. 47-1803.1 et seq.), is amended as follows:

D.C. Code,
sec. 47-1803.2
(1981 ed.)

(a) Section 2(a)1. (D.C. Code, sec. 47-1803.2(a)(1)) is amended to read as follows:

"1. Interest upon the obligations of a state, territory of the United States, or any political subdivision

thereof, but not including the District of Columbia, shall be included in the computation of District gross income: EXCEPT, That individuals, estates and trusts shall include interest on such obligations only if such obligations are purchased after December 31, 1991."

(b) Section 2(a)2. (D.C. Code, sec. 47-1803.2(a)(2)) is amended by adding at the end thereof the following new subparagraphs to read as follows:

D.C.Code,
sec. 47-1803.2
(1981 ed.)

"(I) Income derived from the sale of tangible personal property to the United States by corporations and unincorporated businesses having their principal places of business located outside the District, which property is delivered from places outside the District for use outside the District: PROVIDED, HOWEVER, That the taxpayer shall furnish to the Mayor a statement in writing of the amount of gross sales so made and, if required by the Mayor, a list of the names of the agencies of the United States through which such property was sold.

"(J) Dues and initiation fees in the case of any club organized and operated exclusively for pleasure and recreation, no part of the net earnings of which inures to the benefit of any private individual or shareholder. As used in this paragraph, the word 'dues' means only sums paid or incurred by members on a monthly, quarterly, annual, or other periodic basis for the privilege of being members of such club and any pro rata assessment made against the members as such. The word 'dues' does not include any sums paid or incurred by members or their guests for food,

beverages, or other tangible personal property purchased or for the use of the club's social, athletic, sporting, and other facilities. The term 'initiation fees' includes any payment, contribution, or loan, required as a condition precedent to membership, whether or not any such payment, contribution, or loan is evidenced by a certificate of interest or indebtedness."

(c) Section 3(a)(11) (D.C. Code, sec. 47-1803.3(b)(11) is amended to read as follows:

"(11) Reasonable Allowance for Salaries. -- A reasonable allowance for salaries or other compensation for personal services actually rendered: EXCEPT, That in the case of an unincorporated business subject to the tax imposed by Title VIII of this Act, the aggregate deduction for services rendered by individual owners or members actively engaged in the conduct of the unincorporated business shall in no event exceed 30 per centum of the net income of such business computed without benefit of this deduction."

D.C.Code,
sec. 47-1803.3
(1981 ed.)

Sec. 4. Section 1 of Title V of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 340; D.C. Code, sec. 47-1805.1), is amended by adding at the end thereof a new subsection to read as follows:

D.C.Code,
sec. 47-1805.1
(1981 ed.)

"(e) Requirement to File Joint Federal Returns. -- Whenever a taxpayer is required by the Internal Revenue Code of 1954 to file a joint income tax return with his or her spouse in order to qualify for a tax benefit under the

Internal Revenue Code of 1954, the taxpayer and spouse shall file either a joint return or separate returns on a combined individual form prescribed by the Mayor in order to qualify for a similar benefit afforded under this Act."

Sec. 5. Section 3(a) of Title V of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 342; D.C. Code, sec. 47-1805.3(a)), is amended to read as follows:

D.C.Code,
sec. 47-1805.3
(1981 ed.)

"(a) All returns of income for the preceding taxable year required to be filed under the provisions of section 1 of this title shall be filed with the Mayor on or before the 15th day of April of each year, except that such returns, if made on the basis of a fiscal year, shall be filed on or before the fifteenth day of the fourth month following the close of such fiscal year: PROVIDED, HOWEVER, That any return required to be filed, for the preceding year under the provisions of Title VII shall be filed on or before the fifteenth day of March in each year, except that such returns, if made on the basis of a fiscal year, shall be filed on or before the fifteenth day of the third month following the close of such fiscal year."

Note,
D.C.Code,
sec. 47-1807.1
(1981 ed.)

Sec. 6. Title VIII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 345; D.C. Code, sec. 47-1808.1 et seq.), is amended as follows:

(a) Section 1 (D.C. Code, sec. 47-1808.1) is amended to read as follows:

D.C.Code,
sec. 47-1808.1
(1981 ed.)

"Sec. 1. Definition of Unincorporated Business. --

Note,
D.C.Code,
secs. 29-601 &
47-1803.3
(1981 ed.)

For the purposes of this article (not alone of this title) and unless otherwise required by the context, the words 'unincorporated business' mean any trade or business, conducted or engaged in by any individual, whether resident or nonresident, statutory or common-law trust, estate, partnership, or limited or special partnership, society, association, executor, administrator, receiver, trustee, liquidator, conservator, committee assignee, or by any other entity or fiduciary, other than a trade or business conducted or engaged in by any corporation (other than a Small Business Corporation as defined in section 1371 of the Internal Revenue Code of 1954, approved September 2, 1958 (72 Stat. 1650; 26 U.S.C. sec. 1371), making an election under section 1372(a) of the Internal Revenue Code of 1954, approved September 2, 1958 (72 Stat. 1650; 26 U.S.C. sec. 1372(a)), in effect as of October 18, 1982, or an S Corporation as defined in section 1361(a) of the Internal Revenue Code of 1954), approved October 19, 1982 (96 Stat. 1669; 26 U.S.C. sec. 1361(a)), and include any trade or business which if conducted or engaged in by a corporation would be taxable under title VII of this article. The words 'unincorporated business' do not include (1) any trade or business which by law, customs, or ethics cannot be incorporated, (2) any trade, business or profession which can be incorporated only under the District of Columbia Professional Corporation Act, approved December 10, 1971 (85 Stat. 576; D.C. Code, sec. 29-601 et seq.), or (3) any trade or business in which more than 80 per centum of the gross

income is derived from the personal services actually rendered by the individuals or members of the partnership or other entity in the conducting or carrying on of any trade or business and in which capital is not a material income-producing factor."

(b) Section 4 (D.C. Code, sec. 47-1808.4) is amended to read as follows:

D.C.Code,
sec. 47-1808.4
(1981 ed.)

"Sec. 4. Exemption. -- Before computing the tax upon the taxable income of an unincorporated business, there shall be deducted therefrom an exemption of \$5,000:

EXCEPT, That where the period covered by a return is less than a year, or where a return shows that an unincorporated business has been carried on for less than 12 months, such exemption shall be prorated on a daily basis: PROVIDED, HOWEVER, That any amount exempt under this section from the tax imposed by section 3 of this title shall be reported and included in the gross income of that person or those persons entitled to a share therein in proportion to the share to which each person is entitled, and shall be reported in the return of each such person for his or her taxable year in which is ended the taxable year of the unincorporated business."

Sec. 7. The last sentence of section 1 of Title X of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 349; D.C. Code, sec. 47-1810.1), is amended to read as follows:

D.C.Code,
sec. 47-1810.1
(1981 ed.)

"Notwithstanding the provisions of this section, all interest received and all dividends (except dividends of

corporations subject to the District of Columbia franchise tax or interest and dividends attributable to any IBF time deposit or IBF loan) received by financial institutions shall be deemed to be business income."

Sec. 8. Within 90 days after any amendment, repeal, or replacement of the Internal Revenue Code of 1954, as that term is defined in section 4(bb) of Title I of the District of Columbia Income and Franchise Tax Act of 1947, effective June 11, 1982 (D.C. Law 4-118; D.C. Code, sec, 47-1801.4(bb)), as amended by section 2 of the District of Columbia Income and Franchise Tax Conformity Act of 1983, the Mayor shall report to the Council of the District of Columbia concerning the amendment, repeal, or replacement. The reports shall include, but not be limited to, an analysis of the impact of conformity to the amendment, repeal, or replacement on District of Columbia taxpayers, and on District of Columbia government revenues for 5 years thereafter, and a recommendation as to whether any change in District of Columbia law should be made as a result of the amendment, repeal, or replacement.

New
D.C.Code,
sec. 47-1816.3
(1981 ed.)

Note,
D.C.Code,
sec. 47-1801.4
(1981 ed.)

Sec. 9. The Mayor shall issue regulations necessary to carry out the provisions of this act.

Note,
D.C.Code,
sec. 47-1816.1
(1981 ed.)

Sec. 10. If any provision of this act, or the application thereof to any person or circumstances is held to be unconstitutional or beyond the statutory authority of the Council of the District of Columbia, or otherwise invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect

Note,
D.C.Code,
secs. 47-1801.4,
-1803.2, -1803.3,
-1805.1, -1805.3,
-1808.1, -1808.4,
-1810.1, &
-1816.3
(1981 ed.)

without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

Sec. 11. (a) The repeal or amendment of any provision of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 331; D.C. Code, sec. 47-1801.1 et seq.), shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the repeal or amendment, but all rights and liabilities under the Act shall continue, and may be enforced in the same manner and to the same extent, as if the repeal or amendment had not been made.

Note,
D.C. Code,
secs. 47-1801.4,
-1803.2, -1803.3,
-1805.1, -1805.3,
-1808.1, -1808.4,
-1810.1, & -1816.3
(1981 ed.)

(b) All offenses committed, and penalties incurred, under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if the District of Columbia Income and Franchise Tax Conformity Act of 1983 had not been enacted.

Sec. 12. (a) The provisions of this act shall take effect for taxable years beginning after December 31, 1982.

(b) This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec.

Note,
D.C. Code,
secs. 47-1801.4,
-1803.2, -1803.3,
-1805.1, -1805.3,
-1808.1, -1808.4,
-1810.1, & -1816.3
(1981 ed.)