

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial officer

November 4, 2020

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

This letter transmits my request for Council enactment of the proposed “Capital Gains Deduction Clarification Emergency Act of 2020” and corresponding “Capital Gains Deduction Clarification Temporary Act of 2020.” The proposed legislation would clarify that the capital gains deduction is available to individuals as well as to corporations, trusts, and estates as provided in Section 2022 of the Fiscal Year 2021 Budget Support Act of 2020, enacted August 21, 2020 (D.C. Act 23-407; D.C. Official Code §§ 47-1801.04 and 47-1803.03(a)).

Copies of the proposed bills and the corresponding “Capital Gains Deduction Clarification Emergency Declaration Resolution of 2020,” are attached. The OCFO’s Office of the General Counsel has indicated in writing that these proposed bills and the emergency declaration are legally sufficient and a Legal Sufficiency Certificate is attached. A fiscal impact statement for the proposed bills is also attached.

I request that the Council consider the attached bills and resolution at the next Legislative Meeting.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey S. DeWitt".

Jeffrey S. DeWitt

Attachments

cc: Nyasha Smith, Secretary to the Council of the District of Columbia



Chairman Mendelson at the
request of the Chief Financial Officer

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, Chapter 18 of Title 47 of the D.C. Official Code to clarify that the capital gains deduction shall apply to an individual, estate, or trust in the same manner as in § 47-1803.03(a)(20).

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the “Capital Gains Deduction Clarification Emergency Act of 2020”.

Sec. 2. Section 47-1803.08 of the District of Columbia Official Code is amended by adding a new paragraph (b-5) as follows:

“(b-5) Capital Gains from a Qualified Opportunity Fund. The capital gains deduction for investing in a qualified opportunity fund shall apply to an individual, estate, or trust in the same manner as in § 47-1803.03(a)(20).”

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Chief Financial Officer 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 § 1-206.02(c)(3)).

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), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 29, 2020

SUBJECT: Fiscal Impact Statement – Capital Gains Deduction Clarification Act of 2020 (Emergency and Temporary versions)

REFERENCE: Draft Introduction as provided to the Office of Revenue Analysis on October 22, 2020

Conclusion

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The Aligning Opportunity Zone Tax Benefits with DC Community Priorities Act of 2020 of the Fiscal Year 2021 Budget Support Act of 2020¹ (BSA) changed allowable capital gains deferrals under the District's income tax provisions. The bill aligns those changes with the estimate of revenue from the BSA provision that was incorporated in the current budget and financial plan.

Background

The Federal 2017 Tax Cuts and Jobs Act established a deferral of capital gains for income tax purposes for taxpayers who invest in a Qualified Opportunity Fund and meet other requirements. Qualified Opportunity Funds make investments across the country in one of over 8,000 Qualified Opportunity Zones (QOZ).

The BSA subtitle intended to decouple the capital gains tax deferral for purposes of District income taxes unless the investment meets certain criteria. Because individuals and trusts (in addition to businesses) make investments in QOZs, the bill corrects an omission by adding the subtitle's QOZ provisions to the section of the D.C. Code pertaining to income taxation of individuals and trusts².

¹ Act 23-407, enacted on August 31, 2020.

² By amending D.C. Official Code § 47-1803.08.

The Honorable Phil Mendelson

FIS: "Capital Gains Deduction Clarification Act of 2020" (Emergency and Temporary versions), Draft Introduction as provided to the Office of Revenue Analysis on October 22, 2020

Financial Plan Impact

Funds are sufficient in the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the bill. The bill aligns changes to the District's income tax treatment of capital gains and QOZ investments to the revenue estimated for the BSA³ and incorporated in the current budget and financial plan.

³ Income tax was estimated to increase by \$2 million in fiscal year 2021 and a total of \$19.9 million over the four-year financial plan. See Subtitle II(C) of the Fiscal Impact Statement at http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/FIS%2023-760%20Fiscal%20Year%202021%20Budget%20Support%20Act%20of%202020.pdf

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER



The Office of the General Counsel

MEMORANDUM

TO: Jeffery S. DeWitt
Chief Financial Officer

THRU: David Tseng
General Counsel

FROM: Alan C. Levine *ACL*
Associate General Counsel, Office of Tax and Revenue

DATE: October 23, 2020

SUBJECT: Certification of Legal Sufficiency
Legislation: Capital Gains Deduction Clarification Temporary Act of 2020; Capital Gains Deduction Clarification Emergency Act of 2020; and Capital Gains Deduction Clarification Emergency Declaration Resolution of 2020.
Purpose: To clarify that the decoupling of capital gains deferral for the purposes of District income taxes shall apply to individuals, estates, and trusts in the same manner as currently applies to corporations, financial institutions, unincorporated businesses, and partnerships, pursuant to the Aligning Opportunity Zone Tax Benefits with DC Community Priorities Act of 2020 set forth in Section 2022 of the Fiscal Year 2021 Budget Support Emergency Act of 2020, effective August 19, 2020 and expiring on November 16, 2020 (D.C. Act 23-0404; D.C. Official Code § 47-1803.03(a)(20)) and Section 2022 of the Fiscal Year 2021 Budget Support Act of 2020, transmitted to Congress on September 3, 2020. (D.C. Act 23-0407; D.C. Official Code § 47-1803.03(a)(20)).

This is to Certify that this Office has reviewed the above-referenced legislation and that we have found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to contact me at 202-870-2277.

Alan C. Levine

Alan C. Levine

