

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



**Fitzroy Lee**  
Acting Chief Financial Officer

November 17, 2021

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 Act of 2021,” “Capital Gains Deduction Clarification Temporary Act of 2021,” and “Capital Gains Deduction Clarification Emergency Act of 2021.” 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 2021” 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 temporary and emergency bills and resolution at the next Legislative Meeting.

Sincerely,

A handwritten signature in black ink that reads "Fitzroy Lee".

Fitzroy Lee  
Acting Chief Financial Officer

Attachments

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



Councilmember Mendelson at the request of  
the Acting Chief Financial Officer

A BILL

IN THE COUNCIL OF DISTRICT OF COLUMBIA

To amend 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 Act of 2021”.

Sec. 2. Section 47-1803.03 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. Applicability.

This act shall apply as of October 1, 2020.

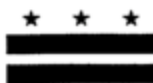
Sec. 4. Fiscal impact statement.

32           The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal  
33 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
34 approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-206.02(c)(3)).

35           Sec. 5. Effective date.

36           This act shall take effect following approval by the Mayor (or in the event of veto by the  
37 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
38 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
39 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
40 Columbia Register.


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



Fitzroy Lee  
Acting Chief Financial Officer

**MEMORANDUM**

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

**FROM:** Fitzroy Lee  
Acting Chief Financial Officer 

**DATE:** November 10, 2021

**SUBJECT:** Fiscal Impact Statement – Capital Gains Deduction Clarification Act of 2021 (including accompanying emergency and temporary versions)

**REFERENCE:** Draft Introduction as provided to the Office of Revenue Analysis on November 8, 2021

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**Conclusion**

Funds are sufficient in the fiscal year 2022 through fiscal year 2025 budget and financial plan to implement the bill. The Fiscal Year 2021 Budget Support Act of 2020<sup>1</sup> (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

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<sup>1</sup> D.C. Law 23-149, effective December 3, 2020..

The Honorable Phil Mendelson

FIS: "Capital Gains Deduction Clarification Act of 2021" (Emergency and Temporary versions), Draft Introduction as provided to the Office of Revenue Analysis on November 8, 2021

provisions to the section of the D.C. Official Code pertaining to income taxation of individuals and trusts<sup>2</sup>.

### **Financial Plan Impact**

Funds are sufficient in the fiscal year 2022 through fiscal year 2025 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 BSA<sup>3</sup> and incorporated in the current budget and financial plan.

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<sup>2</sup> By amending D.C. Official Code § 47-1803.08.

<sup>3</sup> Income tax was estimated to increase by \$2 million in fiscal year 2021 and a total of \$19.9 million through 2024. 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](http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/FIS%2023-760%20Fiscal%20Year%202021%20Budget%20Support%20Act%20of%202020.pdf)