

December 20, 2018

Mr. Phil Mendelson, Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

On behalf of the business stakeholders we represent, we thank you for the opportunity to provide comments on Bill 22-166, the False Claims Amendment Act of 2017 ("Act"). Like you, we strive to make the District of Columbia a better place for all residents and the job creators that are investing in our local economy.

With that said, we strongly urge the DC Council not to move forward with the false claims expansion nor any future iteration of this policy suggestion. As you know, when the District considered this Act and whistleblower laws many years ago, its applicability to tax claims were removed. We encourage the DC Council to maintain the policy of tax claims being exempt from the Act. Maintaining this policy would keep the District of Columbia in harmony with neighboring Maryland, Virginia, and the federal government.

The proposed amendment is problematic for the following reasons:

- 1. The proposal raises privacy concerns.** The District, along with the 50th states and the federal government, have always considered taxpayer information to be private and confidential. Should the proposed bill move forward the District of Columbia will be on an island by itself in allowing access to taxpayer information by third-parties or individual litigants.
- 2. The proposal is unnecessary and would usurp the administrative authority of the DC Chief Financial Officer.** At both the federal and local level, tax compliance and enforcement mechanisms are effectively handled. The Internal Revenue Service (IRS) has a whistle blower program for tax fraud and the DC Office of the Chief Financial Officer uses its auditing and regulatory powers to address any perceived or actual cases of tax evasion. Moreover, expanding the Act in the way B22-166 proposes would not only displace the CFO's authority and transfer it to the courts through individual claimants, but

also increase frivolous claims and burgeoning caseloads that would also overburden the court system. We are extremely concerned that the proposal does not protect against unsubstantiated claims or fishing expeditions. The unintended consequences of this proposal could lead to a manipulation of the court system to harass District taxpayers.

- 3. The proposal makes the District of Columbia's statute and tax practices an outlier.** Currently, the District of Columbia is aligned with the majority of states and the IRS which prohibit tax claims coming under the purview of the Act. Moving forward with extending the Act to tax claims would deviate from best practices and raises serious policy and fairness concerns. Applying the Act to tax matters may lead to complications and unpredictability for the individual or corporate taxpayer. If an individual brought a tax claim to the OCFO and/or the DC Attorney General which was declined for action, the individual could try to have a second bite at the apple with a *qui tam* suit. Further, pursuing these claims causes additional distress, inconsistencies and uncertainties to an issue that is already complicated.

As always, we look forward to working with you to find optimal solutions to the challenges facing our city. However, Bill 22-166 raises many concerns and we encourage the Council to maintain the law as is. Because of these concerns and others, we cannot support Bill 22-166.

We thank you in advance for taking the time to consider and examine the concerns and impact of all affected stakeholders. Should you have any questions, please feel free to contact Erika Wadlington at (202) 624-0613 or by email at ewadlington@dcchamber.org

Signed,

DC Chamber of Commerce

US Chamber of Commerce, Institute for Legal Reform

AT&T Inc.

Verizon

Access Green

Cc: Members of the Committee of the Whole, and Chief Financial Officer, Jeff DeWitt.