

COUNCIL OF THE DISTRICT OF COLUMBIA

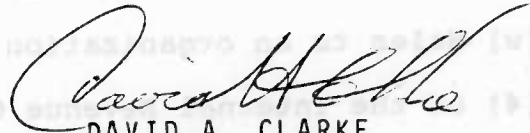
NOTICE

D.C. LAW 6-207

"D.C. Income and Franchise, and Sales Taxes  
Amendment Act of 1986".

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. 6-95 on first and second readings, November 25, 1986 and December 16, 1986, respectively. Following the signature of the Mayor on January 8, 1987, this legislation was assigned Act No. 6-267, published in the January 30, 1987, edition of the D.C. Register, (Vol. 34 page 677) and transmitted to Congress on January 13, 1987 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 6-207, effective February 28, 1987.

  
DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 13,14,15,16,20,21,22,23,26,27,28,29,30

February 2,3,4,5,6,9,10,11,17,18,19,20,23,24,25,26,27

AN ACT

D.C. ACT 6 - 267

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JAN 08 1987

To amend the District of Columbia Income and Franchise Tax Act of 1947 as it relates to the allocation of District and non-District business income, and to amend the District of Columbia Sales Tax Act to expand exemptions from the sales tax.

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, and Sales Taxes Amendment Act of 1986".

Sec. 2. Section 128 of the District of Columbia Sales Tax Act, approved May 27, 1949 (63 Stat. 115; D.C. Code, sec. 47-2005), is amended by adding at the end a new subsection (w) to read as follows:

D.C. Code, sec. 47-2005 (1987 supp.)

"(w) Sales to an organization exempt under section 501(c)(4) of the Internal Revenue Code of 1954, approved August 6, 1954 (68A Stat. 163; 26 U.S.C. 501(c)(4)) when the organization's membership is limited to a state, territory, or possession of the United States or any political subdivision of a state, territory, or possession".

Sec. 3. Section 2 of title 10 of the District of Columbia Income and Franchise Tax Act of 1947, approved July (1987 supp.)

D.C. Code, sec. 47-1810.2

16, 1947 (61 Stat. 349; D.C. Code, sec. 47-1810.2), is amended to read as follows:

"(a) ALLOCATION AND APPORTIONMENT. - The entire net income of any corporation, financial institution, or unincorporated business derived from any trade or business carried on or engaged in wholly within the District shall, for the purposes of this article, be deemed to be from sources within the District and shall, along with other income from sources within the District, be allocated to the District. When the net income of a corporation, financial institution, or unincorporated business is derived from sources within and without the District, the taxpayer shall apportion business income and allocate non-business income as provided in this section.

"(b) TAXATION BY ANOTHER STATE. - For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

"(1) In that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

"(2) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

"(c) ALLOCATION OF NON-BUSINESS INCOME. - (1) Rents

and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute non-business income, shall be allocated as provided in paragraphs (2), (3), (4), and (5) of this subsection.

"(2)(A) Net rents and royalties from real property located in the District are allocable to the District.

"(B) Net rents and royalties from tangible personal property are allocable to the District:

"(i) If and to the extent that the property is utilized in the District; or

"(ii) In their entirety if the taxpayer's commercial domicile is in the District and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

"(iii) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property

during the rental or royalty period is unknown or unascertainable by the taxpayer, the tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

"(3)(A) Capital gains and losses from sales of real property located in the District are allocable to the District.

"(B) Capital gains and losses from sales of tangible personal property are allocable to the District if:

"(i) The property had a situs in the District at the time of the sale; or

"(ii) The taxpayer's commercial domicile is in the District and the taxpayer is not taxable in the state in which the property had a situs.

"(C) Capital gains and losses from sales of intangible personal property are allocable to the District if the taxpayer's commercial domicile is in the District.

"(4) Interest and dividends from District sources are allocable to the District unless the interest and dividends are excluded under section 1 of title 10.

"(5)(A) Patent and copyright royalties are allocable to the District:

"(i) If and to the extent that the patent or copyright is utilized by the payer in the

District, or

"(ii) If and to the extent that the patent or copyright is utilized by the taxpayer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in the District.

"(B) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

"(C) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

"(d) APPORTIONMENT OF BUSINESS INCOME. - All business income shall be apportioned to the District by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales

factor, and the denominator of which is 3.

"(e) PROPERTY FACTOR. - (1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the District during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

"(2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from sub-rentals.

"(3) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the Mayor may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

"(f) PAYROLL FACTOR. - (1) The payroll factor is a fraction, the numerator of which is the total amount paid in the District during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

"(2) Compensation is paid in the District if:

"(A) The individual's service is performed entirely within the District;

"(B) The individual's service is performed both within and without the District, but the service performed without the District is incidental to the individual's service within the District; or

"(C) Some of the service is performed in the District and:

"(i) The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the District; or

"(ii) The base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in the District.

"(g) SALES FACTOR. - (1) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the District during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

"(2) Sales of tangible personal property are in the District if:

"(A) The property is delivered or shipped to



a purchaser within the District regardless of the f.o.b. point or other conditions of the sale; or

"(B) The property is shipped from an office, store, warehouse, factory, or other place of storage in the District and (i) the purchaser is the United States government; or (ii) the taxpayer is not taxable in the state of the purchaser.

"(3) Sales, other than sales of tangible personal property, are in the District if:

"(A) The income-producing activity is performed in the District; or

"(B) The income-producing activity is performed both in and outside the District and a greater proportion of the income-producing activity is performed in the District than in any other state, based on costs of performance.

"(h) ALTERNATIVE METHODS. - If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in the District, the taxpayer may petition for or the Mayor may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

"(1) Separate accounting;

"(2) The exclusion of any 1 or more of the factors;

"(3) The inclusion of 1 or more additional factors that will fairly represent the taxpayer's business activity in the District; or

"(4) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

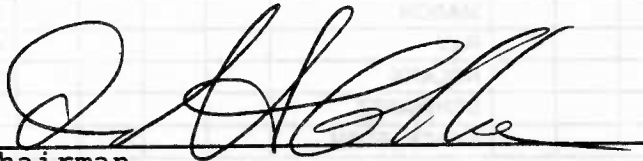
"(i) DEFINITION. - For purposes of this section, the term "state" shall include the District of Columbia.

"(j) CONSTRUCTION. - This section shall be so construed as to effectuate its general purpose to make uniform the law of those states that enact it."

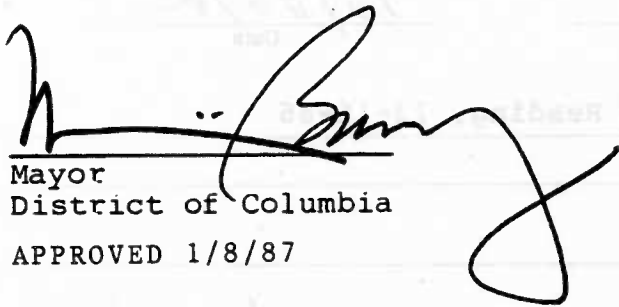
Sec. 4. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act,

approved December 24, 1973 (87 Stat. 813; D.C. Code, sec.

1-233(c)(1)).



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia

APPROVED 1/8/87

NAME	Y	N	ABSENT	EXCUSED	OTHER
CHAMBERLAIN					
SMITH III					
CHAWORTH					
WILSON					
YANEZ					

NAME	Y	N	ABSENT	EXCUSED	OTHER
CHAMBERLAIN					
SMITH III					
CHAWORTH					
WILSON					
WINTER					



**COUNCIL OF THE DISTRICT OF COLUMBIA**  
**Council Period Six — Second Session**

**RECORD OF OFFICIAL COUNCIL VOTE**

DOCKET NO: B6-95

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 11-25-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Schwartz

ROLL CALL VOTE: — RESULT \_\_\_\_\_ ( / / )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

*Russell Suter*  
 Secretary to the Council

10/22/86  
 Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 12-16-86

VOICE VOTE: Unanimous

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT \_\_\_\_\_ ( / / )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

*Russell Suter*  
 Secretary to the Council

12/22/86  
 Date

Item on Consent Calendar

ACTION & DATE: \_\_\_\_\_

VOICE VOTE: \_\_\_\_\_

Recorded vote on request

Absent: \_\_\_\_\_

ROLL CALL VOTE: — RESULT \_\_\_\_\_ ( / / )

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MASON					SPAULDING				
SMITH, JR.					RAY					WILSON				
CRAWFORD					ROLARK					WINTER				
JARVIS					SCHWARTZ									
KANE					SHACKLETON									

X — Indicates Vote      A.B. — Absent      N.V. — Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date