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### Testimony before the DC Council Committee on Finance and Revenue Public Hearing on Bill 23-41, the “Taxpayer Advocate Act of 2019” Presented by Jacqueline Laínez Flanagan March 18, 2019

Jacqueline Lainez

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**Testimony before the DC Council Committee on Finance and Revenue  
Public Hearing on Bill 23-41, the “Taxpayer Advocate Act of 2019”  
Presented by Jacqueline Laínez Flanagan  
March 18, 2019**

Good morning Chairman Evans and members of the Finance and Revenue Committee. Thank you for the opportunity to testify before you today. My name is Jacqueline Laínez Flanagan. I am currently a Visiting Associate Professor in the Janet R. Spragens Federal Tax Clinic at American University Washington College of Law. I deliver my comments today, in support of the establishment of a DC Taxpayer Advocate Office, based on my experience as the Founding Director of the University of the District of Columbia – David A. Clarke School of Law (UDC–DCSL) Low Income Taxpayer Clinic (LITC). In addition to our primary role providing representation, education, and outreach to taxpayers with federal tax controversies pending before the IRS, the UDC–DCSL LITC assisted taxpayers in resolving tax issues pending before the DC Office of Tax and Revenue (OTR).

The UDC–DCSL LITC overwhelmingly assisted individuals residing in Wards 6, 7, and 8, comprised of many of the poorest residents in the District, a population largely consisting of the elderly and other vulnerable residents with severely limited resources. During my time with you today, I would like to provide three recommendations and share three sanitized client matters to illustrate the need for the establishment of a DC Taxpayer Advocate Office.

**Recommendation #1: No Restriction Based on Income** – While the need is absolutely greatest in our low income communities, it is recommended that the proposed DC Taxpayer Advocate Office not limit assistance to taxpayers based on income. Many moderate income workers in the District, a city regularly ranked within the top five in terms of high cost of living, regularly face protracted delays in resolving pending DC OTR matters. Further, this recommendation is based on extensive experience interfacing with DC OTR strictly on behalf of low income residents. The UDC–DCSL LITC, staffed with attorneys and law students, all specifically trained to handle federal and DC tax issues, regularly experienced extended delays resolving pending tax issues before DC OTR. In our experience, assistance navigating DC OTR is needed by taxpayers from all walks of life. Moreover, legal clinics and programs serving low and moderate income DC residents are also limited in terms of capacity and ability to implement change. A DC Taxpayer Advocate Office would fill a great need both assisting residents resolve pending tax issues **and identifying systemic issues across all income levels in need of resolution.**

**Recommendation #2: Establish the DC Taxpayer Advocate Office as an Independent Agency within DC OTR and the Department of Finance**

We recognize the interest of the proposed DC Taxpayer Advocate Office to protect taxpayer confidentiality and privacy, along with the need to function independently. The Taxpayer Advocate Office could be housed within the Department of Finance and still operate independently to focus on taxpayer rights and due process (appropriate notice and hearing), and to identify systemic issues in need of improvement. The DC Taxpayer Advocate Office would not have to reinvent the wheel in order to do so. There are established taxpayer advocate programs that can be used as models, including the New York City Office of the Taxpayer Advocate (NYC OTA).

The NYC OTA was established in 2015 by the Commissioner of the Office of Finance. NYC OTA's helpful operation manual is available [online](#), and would provide a useful template for the DC Tax Advocate Office. For example, the NYC OTA adopted a Taxpayer Bill of Rights, similar to the National Taxpayer Advocate Service [Bill of Rights](#). It would be extremely beneficial for DC to establish a Taxpayer Advocate Office to adopt a Taxpayer Bill of Rights, substantially similar to the rights enumerated below:

**The Right to be Informed**

**The Right to Quality Service**

**The Right to Pay No More than the Correct Amount of Tax**

**The Right to Understand How Your Property Tax is Determined**

**The Right to Challenge the Department of Finance's Position and Be Heard**

**The Right to Finality**

**The Right to Privacy**

**The Right to Confidentiality**

**The Right to Retain Representation**

**The Right to a Fair and Just Tax System**

### **Recommendation #3 – Requirement to Exhaust Normal Administrative Channels or Need Based on Imminent Hardship**

The DC Taxpayer Advocate Office should be implemented to help address the need of DC residents who have failed to resolve their DC tax controversy *after* proceeding through normal administrative channels. In our experience, perennial property tax (including Schedule H property tax credit), immigrant taxpayer withholding credit, and self-employed worker issues continue to exist and require multiple contacts and persistent intervention to resolve. We understand the complexity of DC OTR's work, and propose that referral to the DC Taxpayer Advocate Office should occur only after normal administrative channels have failed to yield an acceptable result, potentially within a delineated period of time depending on the underlying tax issues, or if a taxpayer will suffer imminent hardship without the intervention of the Taxpayer Advocate Office.

### **Three Case Examples, Praise for DC OTR, and Recognition of Need for a DC Taxpayer Advocate**

I would be remiss if I did not include praise for DC OTR in my remarks today supporting the establishment of a DC Taxpayer Advocate Service. Specifically, I extend gratitude for the help provided by DC OTR representatives to ultimately resolve three cases that provide recent examples of matters the UDC–DCSL LITC found nearly impossible to settle through normal administrative channels. First, I would like to offer my sincerest gratitude to Mr. William Bowie, Assistant General Counsel at DC OTR. On multiple occasions, his direct efforts resulted in connecting UDC–DCSL LITC student attorneys to DC OTR representatives whose assistance finally resolved prolonged tax controversies.

Further, Mr. Bowie and Mr. Alan Levine (Chief Counsel) graciously hosted and connected local low income taxpayer clinics with appropriate DC OTR department heads to assist in resolving difficult cases that unduly lingered through normal channels. We appreciate and commend in the highest terms the efforts of Mr. Bowie and Mr. Levine. These efforts solidify the belief that an internal department, specifically a DC Taxpayer Advocate Office, is needed to efficiently streamline cases that remain unresolved despite the best efforts of all involved.

The following three brief, sanitized case examples are all matters that benefitted from connecting taxpayers to legal services and connecting the legal service providers to DC OTR employees who could finally dislodge the cases from their systemic entanglement. These cases include: (1) A blind, elderly couple who were erroneously billed over \$7,000 by DC OTR due to ID theft; (2) An immigrant taxpayer family dependent on their \$400 refund to pay rent; over six months after filing, multiple DC OTR contacts finally resulted in the release of their refund, and (3) A single, working mother who had recently lost her job was facing eviction from an apartment with several habitability issues. The assistance of DC OTR, in tandem with the IRS Taxpayer Advocate Service, resulted in the release of thousands of dollars of previously frozen EITC refunds, allowing the family to relocate to suitable housing.

## **CONCLUSION:**

Passage of Bill 23-41, the “Taxpayer Advocate Act of 2019” and establishment of a DC Taxpayer Advocate Office would fill a crucial need in our community. As two of my three client examples show, our District residents’ housing issues are often intertwined with their tax issues. Many of our immigrant residents want to actively participate in contributing to our tax base, and they should be welcomed, not driven out of the system.

A DC Taxpayer Advocate Office would help ensure that DC OTR and the Office of Finance’s interests as custodians of our city’s revenue is protected and fairly balanced against the rights of our residents and all taxpayers in the District. While free legal services, including academic legal clinics, do help some residents with ongoing tax issues, a DC Taxpayer Advocate Office would reach far more residents than our legal clinics have the capacity to assist. Perhaps most importantly, a DC Taxpayer Advocate Office would be uniquely positioned to identify the most pressing systemic tax issues and assist in developing policies to address these issues.

Thank you for allowing me to share my experiences with you today and to speak on behalf of our city’s vulnerable communities. It is my personal and professional belief that we – all of us – are connected, and we should all be united in ensuring fairness and justice in the administration of our tax system.