



Whistleblower Files Tax Violation Claim Against High-Profile Taxpayer under D.C. False Claims Act

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The District of Columbia’s Attorney General has brought the District’s first suit of its kind under its False Claims Act (FCA)—recently expanded to cover violations of tax law.¹ According to the Office of the Attorney General (OAG), enforcement action under the FCA enables the District: (1) to hold individuals accountable for failing to pay significant amounts of taxes, and (2) permits a whistleblower who reports the tax fraud to collect an attractive percentage of the resulting District’s monetary recovery in cases that the whistleblower originated. This initial lawsuit is undoubtedly a high-profile case brought against Michael Saylor—widely recognized as the largest corporate buyer of Bitcoin—and the company that he co-founded. The OAG is attempting to recover tens of millions of dollars in both unpaid income taxes and penalties: “[w]ith this lawsuit, OAG is seeking to recover unpaid income taxes and penalties from both Saylor and MicroStrategy that could total more than \$100 million.”²

Law

D.C. residents must pay income taxes, and for tax purposes, “residents” include those individuals who have homes located within the District “where they intend to remain or to return to after any absences, and individuals who maintain a residence in the District for at least 183 days during the year.”³

Per the District’s FCA, “it is illegal to knowingly conceal, avoid, or decrease an obligation to pay the District.”⁴ And those who violate the law can face significant costs since the District has the authority to recover three times the amount that is owed.⁵

Moreover, the 2021 FCA expansion incentivizes whistleblowers to come forward and identify tax cheats so

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that they may be held accountable. The updated FCA permits those private citizens to bring lawsuits on behalf of the District, and, if the District wins the case, the whistleblowers may be awarded up to 30% of any collected funds.⁶

Facts

According to the DC Attorney General, the District is suing billionaire Michael Saylor and the company he co-founded, MicroStrategy, for alleged tax fraud—evading approximately \$25 million in District taxes.⁷ More specifically, the complaint alleges that Saylor:

Knowingly avoided income taxes he owed to the District by fraudulently claiming to be the resident of other, lower-tax jurisdictions while maintaining his domicile and place of abode in the District, including living in a luxury penthouse on the Georgetown waterfront and docking multiple yachts on the District's Potomac riverfront from 2005 to present.⁸

As for the company's role, the complaint alleges that MicroStrategy conspired with Saylor to aid him in evasion of taxes. According to the complaint:

MicroStrategy knew that Saylor was in fact a District resident, but instead of accurately reporting his address to local and federal tax authorities and correctly withholding District taxes, the company conspired with Defendant Saylor to facilitate his tax avoidance scheme.⁹

According to the Whistleblower Complaint, the Relator alleges that Saylor “publicly flaunted his billionaire

lifestyle while bragging [...] about how he was evading District taxes.”¹⁰ And while the Relator acknowledges that for some individuals it wouldn't be an easy task to establish their history of whereabouts, the Relator emphasizes that “Saylor, on the other hand, left a trail of information to reconstruct his movements to and from the District.”¹¹ For instance, the Relator provides the following items as a non-exhaustive list of information available for reconstructing Saylor's locations through time:

1. Location-specific social media posts;
2. Local newspaper articles chronicling parties he hosted in the District;
3. Witness accounts from Saylor's inner circle; and
4. Federal Aviation Administration flight information for the company's private jet showing when Saylor left the District and when he returned.¹²

Conclusion

The FCA is one of the government's most powerful enforcement tools, and an increasing number of states are expanding, or proposing to expand, their FCAs to allow tax-based claims. We project that this trend, along with enforcement actions, will only spike in the aftermath of the pandemic and the largest increase in government spending in our history. If you have questions about the FCA in your state contact our team at [\(410\) 862-2834](tel:4108622834) or you can [SCHEDULE A CONFIDENTIAL CONSULTATION](#).

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