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**Testimony of Jen Jenkins, Policy Counsel  
Legal Aid DC**

**Before the Tax Revision Commission of the District of Columbia  
April 18, 2023**

Legal Aid DC<sup>1</sup> appreciates the opportunity to share its perspective on the DC tax code with the Tax Revision Commission. The DC tax code directly impacts our client community, which consists primarily of District residents living at or under 200% of the federal poverty level. Our client community faces significant systemic barriers and often lacks access to resources, which has only been exacerbated by the economic impact of COVID-19.

**DC Earned Income Tax Credit Eligibility Should be Expanded**

The benefits of the Federal and DC Earned Income Tax Credit (EITC) cannot be overstated. The federal EITC has helped low- to moderate-income workers receive considerable tax breaks.<sup>2</sup> The DC EITC has taken the benefits of federal EITC a step further, becoming one of the nation's most generous.<sup>3</sup> While both the federal and DC EITCs

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<sup>1</sup> Legal Aid is the oldest and largest general civil legal services program in the District of Columbia. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. More information about Legal Aid can be obtained from our website, [www.LegalAidDC.org](http://www.LegalAidDC.org).

<sup>2</sup> National Conference of State Legislatures, Earned Income Tax Credit Overview (Jan. 27, 2023), <https://www.ncsl.org/human-services/earned-income-tax-credit-overview#fed> (“More than 25 million eligible tax filers received almost \$60 billion in federal EITC during the 2020 tax year.”).

<sup>3</sup> See Tazra Mitchell, DC Fiscal Policy Institute, New Local and Federal Revenue Help Advance Tax and Racial Justice and Helps Residents Thrive (Nov. 18, 2021), <https://www.dcfpi.org/all/new-local-and-federal-revenue-help-advance-tax-and-racial-justice-and-helps-residents-thrive/>.

are effective in addressing poverty, they are not far-reaching enough to help some of DC's most marginalized workers and residents. The Tax Revision Commission should consider our recommendations in order to ensure the DC tax code includes more of DC's most marginalized residents.

### DC EITC Should Support Families with a Member Returning From Incarceration

Legal Aid DC's Reentry Justice Project has been dedicated to assisting clients facing barriers in accessing housing, employment, and other civil rights and opportunities due to having a criminal record. One of the major barriers following incarceration is obtaining employment and earning a steady income. The DC EITC, with modifications, could support eligible formerly incarcerated people, improving their ability to secure long-term employment and reducing the risk of recidivism.<sup>4</sup>

Specifically, the Commission should consider three policy proposals: First, returning community members could claim the EITC using pre-incarceration income, or family members could claim the reentering family member as a dependent. These EITC expansions would allow taxpayers to choose which claim option would provide the greatest tax benefit according to the structure of and roles within a family.<sup>5</sup> Second, the DC EITC definition of earned income could be adjusted in two ways: (1) making pre-incarceration work income eligible for the EITC, or (2) allowing unpaid labor performed after incarceration to qualify.<sup>6</sup> Work occurring outside the formal labor market and income support for workers who make economic and social contributions through such work would be recognized through these two measures.<sup>7</sup> Third, for the support of people returning home from various institutions, including prisons, DC could also create a fully

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<sup>4</sup> Individuals Released from Prison, <https://www.taxoutreach.org/outreach-strategies/reentry/>.

<sup>5</sup> Natalie Smith, How Tax Credits Can Support Formerly Incarcerated Individuals and Their Families, American Academy of Political and Social Science, <https://journals.sagepub.com/doi/pdf/10.1177/00027162221114232>.

<sup>6</sup> Natalie Smith, How Tax Credits Can Support Formerly Incarcerated Individuals and Their Families, American Academy of Political and Social Science, <https://journals.sagepub.com/doi/pdf/10.1177/00027162221114232>.

<sup>7</sup> See Renee Henson, Picking Cotton for Pennies: An Exploration in the Law's modern Endorsement of a Free-prison Workforce. *Business Entrepreneurship & Tax Law Review* 2 (1): 193–207 (2018).

refundable "Returning Community Members Tax Credit."<sup>8</sup> The Credit for the Elderly or the Disabled is one example of a federal tax credit that supports members of a particular group (e.g., those over 65 years of age or those retired on permanent and total disability) who fall below a certain income level.<sup>9</sup>

### **DC Should Enact a Child Tax Credit**

While the Earned Income Tax Credit ("EITC") is a credit for low-income workers regardless of whether they have children, a child tax credit ("CTC") is available to parents who have dependent children under 17 years of age. A local refundable CTC would build on DC's efforts with the EITC and Keep Child Care Affordable Tax Credit<sup>10</sup> and increase incomes for low to moderate income District residents.<sup>11</sup> As suggested by the DC Fiscal Policy Institute, a District level CTC targeted to families up to 300 percent of the federal poverty line (FPL is about \$90,000 for a two-parent family of four) would reach nearly 80,000 children, including tens of thousands no longer eligible for the federal CTC.<sup>12</sup> Similarly to DC EITC, DC CTC eligibility needs to be expansive.

Refundability is a key feature of these credits and a large part of the reason they boost incomes, reduce poverty, and help families.<sup>13</sup> Refundability means that if the credit exceeds

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<sup>8</sup> Natalie Smith, How Tax Credits Can Support Formerly Incarcerated Individuals and Their Families, American Academy of Political and Social Science, <https://journals.sagepub.com/doi/pdf/10.1177/00027162221114232>.

<sup>9</sup> See 26 U.S.C. § 22.

<sup>10</sup> D.C. Code § 47-1806.15.

<sup>11</sup> Erica Williams, DC Fiscal Policy Institute, A Child Tax Credit Would Reduce Child Poverty, Strengthen Basic Income, and Advance Racial Justice in DC (Mar. 6, 2023), <https://www.dcfpi.org/all/a-child-tax-credit-would-reduce-child-poverty-strengthen-basic-income-and-advance-racial-justice-in-dc/>.

<sup>12</sup> Erica Williams, DC Fiscal Policy Institute, A Child Tax Credit Would Reduce Child Poverty, Strengthen Basic Income, and Advance Racial Justice in DC (Mar. 6, 2023), <https://www.dcfpi.org/all/a-child-tax-credit-would-reduce-child-poverty-strengthen-basic-income-and-advance-racial-justice-in-dc/>.

<sup>13</sup> Center on Budget and Policy Priorities, States Can Enact or Expand Child Tax Credits and Earned Income Tax Credits to Build Equitable, Inclusive Communities and Economies (Mar. 3, 2023), <https://www.cbpp.org/research/state-budget-and-tax/states-can-enact-or-expand-child-tax-credits-and-earned-income-tax>.

a filer's tax liability, some or all of the credit is refunded.<sup>14</sup> A refundable CTC can offset other state taxes paid by low-income working families, such as general sales taxes. In contrast, a nonrefundable CTC can only offset state income tax liability, meaning few dollars in residents' pockets. With a refundable and equitable child tax credit, DC would bring many residents closer to being out of poverty.

### **DC Should Automate Local Tax Filings**

DC should relieve its residents of the burden of filing their local taxes.<sup>15</sup> The Internal Revenue Service ("IRS") estimates that the average time burden for all taxpayers filing a Form 1040 or 1040-SR (the most common tax forms) is 13 hours, with an average cost of \$250 per return.<sup>16</sup> To address this issue in DC, the Office of Tax Revenue (OTR) should take the information from an individual's employer and bank and pre-fill a tax return. If everything looks correct, an individual would electronically sign and submit it. This would potentially save DC residents time and money on their taxes. While it would be ideal for the IRS to automate all tax filings, DC should take the lead on this proven approach.<sup>17</sup>

### **Conclusion**

Thank you for this opportunity to testify about how the DC Tax Revision Commission can implement progressive tax policies as the District emerges from the COVID-19 crisis. We look forward to working with the Commission, advocates, and impacted residents on the path forward.

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<sup>14</sup> Center on Budget and Policy Priorities, States Can Enact or Expand Child Tax Credits and Earned Income Tax Credits to Build Equitable, Inclusive Communities and Economies (Mar. 3, 2023), <https://www.cbpp.org/research/state-budget-and-tax/states-can-enact-or-expand-child-tax-credits-and-earned-income-tax>.

<sup>15</sup> See Matthew Iglesias, The IRS Should File Your Taxes for You, <https://slate.com/business/2013/04/automatic-tax-filing-readyreturn-systems-work-fine-but-intuit-and-grover-norquist-are-blocking-their-use.html>

<sup>16</sup> Internal Revenue Service 1040 (and 1040-SR), Tax Year 2022, <https://www.irs.gov/pub/irs-pdf/i1040gi.pdf> at 106.

<sup>17</sup> See Matthew Iglesias, Vox, Over 60 million Americans have taxes so simple the IRS could do them automatically (May 5, 2022) <https://www.vox.com/23055489/irs-automatic-filing-prepopulated-returns> ("Countries like Denmark, Belgium, Estonia, Chile, and Spain already offer such pre-populated returns to their citizens.").