



New York City Comptroller
John C. Liu

NEWS RELEASE

PR13-11-213
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December 4, 2013
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COMPTROLLER SEEKS COURT ORDER FOR ACCESS TO DEPARTMENT OF FINANCE TAX RECORDS

NEW YORK, N.Y. – The Office of the City Comptroller has filed a lawsuit, asking the New York State Supreme Court to issue an order enforcing the Comptroller’s rights under the City Charter to access the Department of Finance tax records necessary to audit Finance’s collection of the General Corporation Tax (GCT).

The purpose of this audit is to determine the security and reliability, including the accuracy and completeness, of the assessment and collection of the GCT by Finance. Like all audits, the GCT audit is being done to safeguard the interests of New York City and its taxpayers.

GCT is a tax paid by domestic and foreign corporations that conduct business activities, utilize capital, own or lease property, or maintain an office in New York City. In addition, the GCT makes available many exemptions, deductions, and credits. It is estimated that the GCT for this year could be as high as \$3 billion.

“It is our duty as the City’s fiscal watchdog to monitor this enormous tax collection enterprise and verify that it is fair to all and that the interests of all City taxpayers are being protected,” said City Comptroller John Liu. “Finance is asking us to take its word that the collection of these funds is being properly handled. We don’t do that for any other agency and we will not do it for the Department of Finance.

“For decades Finance has been hiding behind an inaccurate interpretation of law to deny the City Comptroller’s Office the information it needs to ensure that corporations doing business within the five boroughs of New York City are paying their fair share.”

Our office has asked the Court for an order granting it access to records from Finance’s “FAIRTAX” computer system, which contains business tax return information and other vital data relating to how Finance processed the GCT returns. Finance has denied us those records, citing tax-secrecy provisions, even though the City Charter states that the Comptroller is “entitled to obtain access to agency records required by law to be kept confidential.” Finance relied on a 1991 Opinion of the Corporation Counsel, which the Corporation Counsel reaffirmed in response to our October 2013 subpoena for the GCT records.

The Comptroller's Office routinely receives confidential information from City agencies when performing audits. The court order we are seeking would enable us to audit the collection of the GCT and other City taxes that account for close to seven billion dollars.

"After more than 20 years, we are asking the court to resolve this issue once and for all," said Comptroller Liu.

Background:

"Section 93(c) of the NYC Charter provides, in relevant part (highlighting added):

The comptroller shall have power to audit all agencies, as defined in subdivision two of section eleven hundred fifty, and all agencies, the majority of whose members are appointed by city officials. *The comptroller shall be entitled to obtain access to agency records required by law to be kept confidential*, other than records which are protected by the privileges for attorney-client communications, attorney work products, or material prepared for litigation, upon a representation by the comptroller that necessary and appropriate steps will be taken to protect the confidentiality of such records.

In addition to the power to audit agencies under § 93(c), the Comptroller has:

the power to audit and investigate all matters relating to or affecting the finances of the city . . . and take the testimony under oath of such persons as the comptroller may deem necessary."

N.Y.C. Charter § 93(b). The power to take testimony under § 93(b) includes the power to subpoena documents.

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