

AN ACT

*Codification
District of
Columbia
Official Code*

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 18 of Title 47 of the District of Columbia Official Code to create a job growth tax credit, to establish how businesses qualify for the job growth tax credit, to establish the method for determining the value of the job growth tax credit, and to establish the procedure for granting and administering the job growth tax credit.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Job Growth Incentive Act of 2010”.

Sec. 2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended as follows:

(1) A new section designation is added to read as follows: “47-1807.09. Job growth tax credit.”.

(2) A new subchapter VII-A is added to read as follows:

“Subchapter VII-A. Job Growth Tax Credit.

“47-1807.51. Definitions.

“47-1807.52. Job growth tax credit.

“47-1807.53. Job growth tax credit eligibility.

“47-1807.54. Job growth tax credit application, approval, and calculation.

“47-1807.55. Job growth tax credit administration.

“47-1807.56. Rules.”.

(3) A new section designation is added to read as follows: “47-1808.09. Job growth tax credit.”.

(b) A new section 47-1807.09 is added to read as follows:

“47-1807.09. Job growth tax credit.

“A job growth tax credit shall be allowed as provided in subchapter VII-A of this chapter.”.

(c) A new subchapter VII-A is added to read as follows:

“Subchapter VII-A. Job Growth Tax Credit.

“§ 47-1807.51. Definitions.

New
§ 47-1807.09

New
§ 47-1807.51

“For the purposes of this subchapter, the term:

“(1) "Credit certificate" means a statement issued by the Mayor, issued under § 47-1807.55, certifying that a project qualifies for the job growth tax credit and specifying the amount of the job growth tax credit allowed.

“(2) "Credit period" means a period of up to 60 consecutive months for which a taxpayer may claim the job growth tax credit that is calculated annually by the Mayor. The credit period shall not extend past December 31, 2020.

“(3) "Chief Financial Officer" means the Office of the Chief Financial Officer created by § 1-204.24a.

“(4) "FICA taxes" means the taxes imposed by section 3111(a) and (b) of the Internal Revenue Code of 1986.

“(5) "Job growth tax credit" means the credit against the franchise taxes imposed by subchapters VII and VIII of this chapter allowed pursuant to this subchapter.

“(6) "Mayor" means the Mayor of the District of Columbia

“(7) "Net job growth" means the difference between the total number of full-time equivalent employees, who are residents of the District of Columbia, employed by the taxpayer in the District of Columbia for the project at the end of each calendar year of the project and the total number of full-time equivalent employees, who are residents of the District of Columbia, employed by the taxpayer in the District of Columbia for the project at the commencement of the project.

“(8) "Project" means any business project that encourages, promotes, and stimulates economic development in key economic sectors and that is approved by the Mayor as specified in § 47-1807.54.

“(9) "Taxpayer" means a taxpayer engaged in trade or business.

“§ 47-1807.52. Job growth tax credit.

New
§ 47-1807.52

“For tax years beginning on or after January 1, 2010, but prior to January 1, 2015, upon application by a taxpayer, in the order of priority received and not to exceed the annual amount allocated therefor in the budget and financial plan, the Mayor, in accordance with this subchapter, shall approve, and there may be allowed, to any taxpayer an annual job growth tax credit with respect to the franchise taxes imposed by subchapters VII and VIII of this chapter, for a credit period in an amount determined by the Mayor pursuant to § 47-1807.54.

“§ 47-1807.53. Job growth tax credit eligibility.

New
§ 47-1807.53

“The Mayor shall approve any job growth tax credits allowed by § 47-1807.52 if, during a credit period, a project shall:

“(1) Bring a net job growth of at least 10 new jobs to the District of Columbia with an average yearly wage of at least 120% of the average yearly wage of residents of the District of Columbia;

“(2) Increase income tax and payroll revenue for the District of Columbia;

“(3) Result in the retention of any new positions proposed by the project for at least one year; and

“(4) Be approved by the Mayor only if the project would not occur but for the job growth tax credit.

“§ 47-1807.54. Job growth tax credit application, approval, and calculation.

New
§ 47-1807.54

“(a) A taxpayer shall apply for, and the Mayor shall approve, the job growth tax credit as follows:

“(1) A taxpayer shall submit a complete written application for a job growth tax credit to the Mayor before the project commences in the District of Columbia. The application shall include:

“(A) A detailed description of the project;

“(B) An identification of the specific jobs that will be created and the anticipated salary range for each job; and

“(C) Documentation to demonstrate that, without the job growth tax credit, the project would not occur in the District of Columbia, which documentation shall include information that indicates:

“(i) Receipt of the job growth tax credit is a major factor in the taxpayer's decision; and

“(ii) Without the job growth tax credit, the taxpayer is not likely to commence the project in the District of Columbia.

“(2) The Mayor shall review each application submitted for a job growth tax credit. Based on the application submitted, the Mayor shall approve the job growth tax credit as provided by § 47-1807.52. The approval shall include the maximum amount of the credit available to the taxpayer for the entire credit period calculated pursuant to subsection (b) of this section and the specific terms that shall be met to qualify for the job growth tax credit.

“(b) The job growth tax credit allowed shall be calculated by the Mayor as follows:

“(1) For the maximum amount of the job growth tax credit available to the taxpayer for the credit period, the Mayor shall multiply the estimated net job growth for each of the years in the credit period by 50% of the taxpayer's total estimated FICA taxes each year for all new employees of the project who are residents of the District of Columbia.

“(2) For the annual amount of the job growth tax credit allowed, the Mayor shall multiply the actual net job growth for that year by 50% of the taxpayer's FICA taxes for the new employees of the project who are residents of the District of Columbia; provided, that a job growth tax credit shall not be allowed, and a credit certificate shall be not be issued, in an amount that exceeds the maximum amount of the approved job growth tax credits as calculated pursuant to paragraph (1) of this subsection.

“(3) If the amount of the credit allowed under paragraph (2) of this subsection exceeds the amount of franchise taxes otherwise due on the taxpayer's income in the tax year for which the job growth tax credit is being claimed, the unused amount of the job growth tax credit may be carried forward and used as a credit against subsequent years' franchise tax liability for a period not to exceed 10 years and shall be applied first to the earliest tax years possible. Any credit remaining after this period shall not be refunded or credited to the

taxpayer.

“(4) A taxpayer who uses a job growth tax credit that is subsequently disallowed shall be liable for the resulting tax deficiency, interest, and penalties as otherwise provided by law.

“§ 47-1807.55. Job growth tax credit administration.

New
§ 47-1807.55

“(a) A taxpayer that receives approval for a job growth tax credit shall notify the Mayor promptly if the project is canceled or otherwise becomes ineligible for the job growth tax credit, in which case the approval may be canceled. The approval shall be void if the taxpayer that receives approval does not commence the project within 1½ years after the receipt of the approval or fails to meet the specific terms established by the Mayor under § 47-1807.54(a)(2).

“(b)(1) On or before March 1 of the calendar year after the commencement of the project, and each March 1 of any calendar year following a year of the credit period, a taxpayer that received approval under § 47-1808.54(a)(2) shall submit an annual request for a credit certificate to the Mayor. The request shall include documents that detail the number of employees hired for the project, the net job growth for the project, all documentation necessary to calculate the job growth tax credit, and any other information requested by the Mayor.

“(2) If the project has commenced and the project meets or exceeds the conditions of a project as specified in § 47-1807.53 and the specific terms established by the Mayor under § 47-1807.54(a)(2), the Mayor shall, on an annual basis, certify the project's compliance with § 47-1807.53 and § 47-1807.54(a)(2), calculate the annual amount of the credit allowed as specified in § 47-1807.54(b)(2), and issue a credit certificate for that calendar year in that amount to the taxpayer. The credit certificate shall be submitted by the taxpayer to the Chief Financial Officer with the taxpayer's income tax return for the tax year that includes December 31 of the calendar year for which the credit certificate is issued.

“(c) The Chief Financial Officer may audit the accounts of a taxpayer receiving a job growth tax credit up to 12 months following the issuance of any credit certificate.

“(d) The Mayor shall transmit an annual report to the Council, including information regarding all approvals granted and credit certificates issued in reference to the job growth tax credit, including the names of the recipients of the credits, the credit amounts claimed, and the total net job growth for each recipient.

“§ 47-1807.56. Rules.

New
§ 47-1807.56

The Mayor, pursuant to Chapter 5 of Title 2, shall issue rules necessary to implement the provisions of this subchapter.”.

(d) A new section 47-1808.09 is added to read as follows:

“47-1808.09. Job growth tax credit.

New
§ 47-1808.09

“A job growth tax credit shall be allowed as provided in subchapter VII-A of this chapter.”.

Sec. 3. Sunset.

This act shall expire on January 1, 2030.

Sec. 4. Applicability.

This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia