

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend Chapter 18, Subchapter XVII of Title 47 of the District of Columbia Official Code to provide an abatement of real property taxes on certain real property used by qualified high technology social electronic-commerce companies as a primary corporate headquarters by granting employment wage tax credits for achieving certain percentages of newly hired employees as District of Columbia residents during a specified period; to provide an abatement of corporate income taxes to qualified high technology social electronic-commerce companies by granting employment tax credits for maintaining certain proportions of newly hired employees as District of Columbia residents during a specified period; and to require the Office of the Deputy Mayor for Planning and Economic Development to manage business development and partnership activities related to social electronic-commerce companies.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the “Social E-Commerce Job Creation Tax Incentive Act of 2012”.

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

(a) The table of contents is amended by adding a new section designated to read as follows:

“§ 47-1817.09. Tax Credits to Qualified Social E-Commerce Companies.”

(b) A new section 47-1819.09 is added to read as follows:

1 “§ 47-1817.09. Tax Credits to Qualified Social E-Commerce Companies.

2 “(a) For purposes of this section, the term:

3 “(1) “Abatement period” shall mean the effective date of this section through the
4 date when the abatements provided for in this section are exhausted, forfeited or otherwise expire
5 in accordance with this section.

6 “(2) “District of Columbia resident” means an individual whose principal
7 residence is located within the District of Columbia and is subject to the District of Columbia
8 personal income tax, or becomes a resident within 180 days of their new hire start date.

9 “(3) “New hire” or “newly hired” means an individual who was not employed by
10 a Qualified Social E-Commerce Company prior to calendar year 2010 and was, or is:

11 “(A) Hired to fill a position of indefinite duration consisting of a minimum
12 work week of thirty-five (35) hours for not less than fifty (50) weeks per year;

13 “(B) Not:

14 “(i) A member of the board of directors of the Qualified Social E-
15 Commerce Company;

16 “(ii) A direct or indirect owner of more than five percent (5%) of
17 the Qualified Social E-Commerce Company;

18 “(iii) Related to as a spouse or dependent, as such term is defined in
19 section 152 of the Internal Revenue Code of 1986, any individual defined in subsections (i) and
20 (ii) of this section;

21 “(iv) Hired under the conditions set forth in § 47-1817.03(b)(3).

22 “(C) Employed by a Qualified Social E-Commerce Company for at least six
23 (6) months in the District of Columbia.

1 “(4) “New Hire Wage Credit” means a credit equal to 10% of the wages paid
2 during the first 24 calendar months of employment to a newly hired employee hired after
3 December 31, 2009 and prior to January 1, 2016, accrued annually up to \$5,000 per new hire per
4 tax year, up to a maximum amount of the New Hire Wage Credit Cap.

5 “(5) “New Hire Wage Credit Cap” shall be Fifteen Million Dollars (\$15,000,000).

6 “(6) “Qualified Social E-Commerce Company” shall mean a company that:

7 “(A) Is a Qualified High Technology Company;

8 “(B) Is engaged primarily in the business of marketing or promoting of
9 retail or service businesses by delivering or providing members or users with access to discounts
10 or other commerce-based benefits;

11 “(C) Hired at least 850 persons to work in the District of Columbia after
12 December 31, 2009 and prior to January 1, 2012.

13 “(7) “Qualified High Technology Company” shall have the same meaning as in §
14 47-1817.01(5).

15 “(8) “Qualified Real Property” shall mean real property located within the District
16 of Columbia on which a commercial office building totaling no less than 200,000 square feet is
17 constructed, or substantially rehabilitated, and equipped after June 1, 2012 and which is owned
18 or leased by a Qualified Social E-Commerce Company for use as a primary corporate
19 headquarters.

20 “(9) “Real property” shall have the same meaning as in § 47-802.

21 “(10) “Related entity” shall mean with respect to any Qualified Social E-
22 Commerce Company any other person or entity that is a Qualified High Technology Company
23 and is directly or indirectly controlling, controlled by, or under common control with the

1 Qualified Social E-Commerce Company or is a successor to the Qualified Social E-Commerce
2 Company by merger, consolidation or operation of law. As used in this definition, the terms
3 “controlling”, “controlled by”, or “under common control with” shall mean the possession,
4 directly or indirectly, of the power to direct, or cause the direction of, the management and
5 policies of a Qualified Social E-Commerce Company, whether through ownership of voting
6 securities, membership interests or partnership interests, by contract or otherwise, or the power to
7 elect at least fifty percent (50%) of the directors, managers or partners exercising similar
8 authority with respect to the Qualified Social E-Commerce Company. For purposes of this
9 section the term “unrelated entity” shall mean any person or entity that is not a related entity.

10 “(11) “Resident Hiring Factor” means the applicable percentage contained in this
11 subsection if a Qualified Social E-Commerce Company achieves, or has achieved, the following
12 annual District of Columbia resident new hire proportion goals during calendar years 2010
13 through 2015;

14 “(A) One hundred percent (100%) if at least fifty percent (50%) of new hires
15 are District of Columbia residents in a calendar year;

16 “(B) Seventy-five percent (75%) if at least forty percent (40%) but less than
17 fifty percent (50%) of new hires are District of Columbia residents in a calendar year;

18 “(C) Fifty percent (50%) if less than forty percent (40%) of new hires are
19 District of Columbia residents in a calendar year.

20 “(12) “Resident Employment Credit” means:

21 “(A) Seventeen Million Five Hundred Thousand Dollars (\$17,500,000) if a
22 Qualified Social E-Commerce Company maintains the proportion of newly hired employees as
23 District of Columbia residents at or above fifty percent (50%) during each one-year period,

beginning October 1, 2014 through September 30, 2015 and continuing each year through the end of the abatement period;

“(B) Thirteen Million One Hundred Twenty-Five Thousand Dollars (\$13,125,000) if a Qualified Social E-Commerce Company maintains the proportion of newly hired employees as District of Columbia residents at or above forty percent (40%) during each one-year period, beginning October 1, 2014 through September 30, 2015 and continuing each year through the end of the abatement period;

“(C) Nine Million Dollars (\$9,000,000) if a Qualified Social E-Commerce Company maintains the proportion of newly hired employees as District of Columbia residents at less than forty percent (40%) during any one-year period, beginning October 1, 2014 through September 30, 2015 and continuing through the end of the abatement period.

“(b) Subject to subsection (d) and (e) of this section, the real property taxes imposed by Chapter 8 of this title with respect to Qualified Real Property shall be abated up to the amount of the New Hire Wage Credit, beginning in fiscal year 2016 and continuing until the New Hire Wage Credit is exhausted or forfeited, or through fiscal year 2025, whichever occurs earlier; provided, that:

“(1) The annual New Hire Wage Credit amount accrued shall be determined as of the end of each calendar year from 2010 through 2015 by multiplying the total New Hire Wage Credit earned by a Qualified Social E-Commerce Company in each calendar year by the annual Resident Hiring Factor in the same calendar year. The total New Hire Wage Credit amount shall be the aggregate of the New Hire Wage Credit amounts earned in each calendar year, subject to the New Hire Wage Credit Cap. The amount of any New Hire Wage Credit earned in a calendar year shall be based on new hire information reported by a Qualified Social E-Commerce

1 Company to the District of Columbia Office of Tax and Revenue in its corporate tax filing for
2 each calendar year.

3 “(2) Notwithstanding any other provision of this section (b), no person shall claim
4 an abatement pursuant to this section prior to October 1, 2015 and unless that person occupies
5 Qualified Real Property prior to April 1, 2017.

6 “(3) In the event that a Qualified Social E-Commerce Company leases or
7 subleases any portion of the Qualified Real Property, the New Hire Wage Credit shall be applied
8 only to a pro rata portion of the assessment on the Qualified Real Property, which shall equal the
9 ratio of the square footage of building area at the Qualified Real Property that the Qualified
10 Social E-Commerce Company occupies to the total occupiable square footage of building area.

11 “(c) Subject to subsections (d) and (e) of this section, the corporate income tax imposed
12 on a Qualified High Technology Company by § 47-1817.06 with respect to taxable income
13 earned by a Qualified Social E-Commerce Company shall be abated up to the amount of the
14 Resident Employment Credit for 5 years commencing on the date that Qualified Social E-
15 Commerce Company occupies Qualified Real Property (though in no instance, shall such 5-year
16 period begin prior to October 1, 2015) or until the Resident Employment Credit is exhausted or
17 forfeited as provided herein, whichever occurs earlier. The Resident Employment Credit amount
18 available to be applied against the tax imposed by § 47-1817.06 shall be determined each tax
19 year by applying the District of Columbia resident new hire proportions during the timeframes
20 set forth in subsection (a)(12).

21 “(d) Notwithstanding any other provision contained in this section, any abatement
22 provided for in this section shall only be granted if:

1 “(1) The Qualified Social E-Commerce Company continues for the duration of
2 the abatement period to:

3 “(A) Be a Qualified Social E-Commerce Company;

4 “(B) Make at least fifty (50) new hires annually within the District of
5 Columbia during each year of the abatement period;

6 “(2) The Qualified Social E-Commerce Company employs at least one thousand
7 (1,000) persons within the District of Columbia during the period commencing on October 1,
8 2015 through the end of the abatement period.

9 “(3) Within 180 days of the effective date of this section, the Mayor certifies that
10 the Qualified Social E-Commerce Company has developed a joint business activity strategy with
11 the Office of the Deputy Mayor for Planning and Economic Development in accordance with
12 section (3) of the Social E-Commerce Job Creation Tax Incentive Act of 2012.

13 “(4) If the Qualified Real Property is leased to a Qualified Social E-Commerce
14 Company, the lease for the real property is for a period of at least 10 years and the owner of the
15 real property passes through the abatement to the Qualified Social E-Commerce Company;

16 “(5) The Qualified Social E-Commerce Company continues to occupy a Qualified
17 Real Property from its initial occupancy of the Qualified Real Property through the duration of
18 the abatement period;

19 “(6) If the Qualified Social E-Commerce Company owns the Qualified Real
20 Property, such real property is not during the abatement period:

21 “(A) Sold, transferred, exchanged or otherwise conveyed;

1 “(B) Leased to an unrelated entity in excess of 50% of the gross floor area,
2 unless the Qualified Social E-Commerce Company maintains occupancy of at least 200,000
3 square feet of gross floor area.

4 “(7) If the Qualified Social E-Commerce Company leases the Qualified Real
5 Property, such lease is not during the abatement period:

6 “(A) Assigned to a third party, other than to a related entity;

7 “(B) Subleased to an unrelated entity in excess of 50% of the gross floor
8 area, unless the Qualified Social E-Commerce Company maintains occupancy of at least 200,000
9 square feet of gross floor area.

10 “(8) The Qualified Social E-Commerce Company has not filed a petition in
11 bankruptcy in connection with the Qualified Social E-Commerce Company’s business.

12 “(9)(A) In the event that a Qualified Social E-Commerce Company ceases to
13 comply with or achieve the provisions of sections (d)(1) through (3), any abatement provided for
14 in this section shall not apply during the period of non-compliance.

15 “(B) In the event that a Qualified Social E-Commerce Company ceases to
16 comply with or achieve the provisions of sections (d)(4) through (8), any abatement provided for
17 in this section shall immediately terminate and cease to be granted.

18 “(e) The Mayor shall be responsible for certifying to the Office of Tax and Revenue the
19 identity of each Qualified Social E-Commerce Company for which eligibility and compliance
20 under this section has been verified by the Mayor, a description of any Qualified Real Property
21 that is the subject of an abatement provided by this section and the date(s) on which any
22 abatement provided by this section shall commence. The Mayor may delegate the authority for

1 compliance, monitoring and certification under this section to an appropriate executive office,
2 agency or department.

3 “(f) Any Qualified Social E-Commerce company that utilizes or is the beneficiary of any
4 of the following tax abatements, exemptions or waivers during the abatement period shall not be
5 eligible for the abatements contained in this section, and further, utilization of or benefit from the
6 abatements provided for in this section shall disqualify a Qualified Social E-Commerce
7 Company from eligibility for the following tax abatements, exemptions or waivers:

8 “(1) The real property tax abatement for certain commercial properties provided
9 in § 47-811.03;

10 “(2) Earning and allowance of wage tax credits against the tax imposed by § 47-
11 1817.06, as provided in § 47-1817.03, during calendar years 2010 through 2015, unless the
12 amount of such credits earned exceeds Fifteen Million Dollars (\$15,000,000), in which case the
13 credit amount in excess of Fifteen Million Dollars (\$15,000,000) may be allowed as a credit
14 against the tax imposed by § 47-1817.06, as provided in § 47-1817.03;

15 “(3) The waiver of corporate income tax on Qualified High Technology
16 Companies for 5 years from the date of commencing business provided in § 47-1817.06.

17 “(g) Notwithstanding any other provision of law, the requirements of Subchapter X of
18 Chapter 2 of Title 2 pertaining to government-assisted non-construction projects shall not apply
19 to a Qualified Social E-Commerce Company receiving a benefit under this section. Specifically,
20 the provisions of § 2-219.03(e)(1) pertaining to government-assisted non-construction projects
21 and the provisions of § 2-219(e)(1C) shall not apply to a Qualified Social E-Commerce
22 Company receiving a benefit under this section.”

23 Sec. 3. Business Development and Partnership Activities

1 Upon the effective date of this legislation, the Office of the Deputy Mayor for Planning
2 and Economic Development shall develop, implement and manage partnership activities with
3 social electronic commerce companies within the District of Columbia in accordance with a
4 partnership activity strategy developed pursuant to this Act, including but not limited to:

5 (a) Leveraging social electronic commerce companies' core business activities to
6 assist District of Columbia retail businesses along disrupted corridors;

7 (b) Coordinating social electronic commerce companies' offering of technology,
8 marketing, social media and other training opportunities for District of Columbia small
9 businesses;

10 (c) Developing engineering-related programs to recruit, train and retain software
11 developers in the District of Columbia;

12 (d) Coordinating social electronic commerce companies' participation in the hiring of
13 District of Columbia "STEM" (Science, Technology, Engineering and Math) students as part of
14 the District's Summer Youth Employment Program.

15 Sec. 4. The Chief Financial Officer shall reduce the operating margin of the Fiscal Year
16 2016 financial plan by \$2,950,000 in revenue to fund the fiscal effect of this act.

17 Sec. 5. Fiscal impact statement.

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

21 Sec. 6. Effective date.

22 This act shall take effect following approval of the Mayor (or, in the event of a veto by
23 the Mayor, action by the Council to override the veto), a 30-day period of Congressional review

1 as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
2 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(1)), and publication in the District of
3 Columbia Register.

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