

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 47.
TAXATION, LICENSING, PERMITS,
ASSESSMENTS, AND FEES.

CHAPTER 38.
SUPERMARKET TAX INCENTIVES.

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DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 38. SUPERMARKET TAX INCENTIVES.

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CHAPTER 38. SUPERMARKET TAX INCENTIVES.

§ 47-3801. DEFINITIONS.

For the purposes of this chapter, the term:

(1)(A) "Development" means the new construction or substantial rehabilitation of a qualified supermarket for which building permits are issued on or after [October 4, 2000]. For the purposes of this paragraph, "substantial rehabilitation" means a capital investment within any 24-month period in a qualified supermarket that exceeds 50% of the adjusted basis of the building as calculated for District income tax purposes.

(B) "Development" also means the new construction or substantial rehabilitation of a qualified restaurant or retail store for which building permits are issued on or after October 4, 2000. For the purposes of this sub-subparagraph, "substantial rehabilitation" means a capital investment within any 24-month period in a qualified restaurant or retail store that exceeds 50% of the adjusted basis of the building as calculated for District income tax purposes.

(1A) "Priority development area" means:

(A) The Downtown East Area which shall consist of land within the boundary descriptions beginning at the intersection of Pennsylvania Avenue, N.W., and New Jersey Avenue, N.W., to Massachusetts Avenue, N.W.; west on Massachusetts Avenue, N.W., to 15th Street, N.W.; south on 15th Street, N.W., to Pennsylvania Avenue, N.W.; and east on Pennsylvania Avenue, N.W., to New Jersey Avenue N.W.;

(B) The Capital City Business and Industrial Area which shall consist of land within the boundary descriptions beginning at the intersection of New York Avenue, N.E., and 9th Street, N.E., to Montana Avenue, N.E.; north on Montana Avenue, N.E., to W Street, N.E.; west on W Street, N.E., to 13th Street, N.E.; northwest on 13th Street, N.E., to Brentwood Road, N.E.; southwest on Brentwood Road, N.E., to 9th Street, N.E.; and south on 9th Street, N.E., to New York Avenue, N.E.;

(C) The Capital City Market Area which shall consist of land within the boundary descriptions beginning at the intersection of Florida Avenue, N. E., and North Capitol Street; southeast on Florida Avenue, N.E., to 12th Street, N.E.; south on 12th Street, N.E., to H Street, N.E., west on H street, N.E., to 9th Street, N.E., and north on 9th Street, N.E., to Florida Avenue, N.E.;

(D) The Georgia Avenue Area which shall consist of any square located on or abutting Georgia Avenue, N.W., beginning at the intersection of Florida Avenue, N. W., and north on Georgia Avenue, N.W., to Eastern Avenue, N.W.;

(E) All land within the District that is located east of the Anacostia River or east of the Potomac River that is not within the Anacostia Waterfront;

(F) Any District-designated Foreign Trade Zone or Free Trade Zone pursuant to 19 U.S.C.S. § 81a et seq.;

(G) Any federally-approved enterprise zone or empowerment zone;

(H) Any federally-approved enterprise community, including Target Area 1: New York Avenue/Northwest; Target Area 2: Marshall Heights; and Target Area 3: Buzzard Point/Anacostia/Congress Heights;

(I) Any area designated as Development Zone Areas pursuant to [Chapter 15 of Title 6], including Alabama Avenue, D.C. Village, and Anacostia;

(J) Any housing opportunity area, development opportunity area, or new or upgraded commercial center designated on the District of Columbia Generalized Land Use Policies Map that is part of the Comprehensive Plan;

(K) The Transit Impact Area which shall consist of any area located within 1500 feet of a Metrorail station in any of the areas set forth in this paragraph, or within 1500 feet of a Metrorail station at a

designated Metrorail Station Development Opportunity Area, as defined in the District Elements of the Comprehensive Plan of the District of Columbia;

(L) The Minnesota Avenue area which shall consist of land within the boundary descriptions beginning from East Capitol Street, N.E., to Nannie Helen Burroughs Avenue, N.E.; the Dix Street area which shall consist of land within the boundary descriptions beginning from 58th Street, N.E., to Eastern Avenue, N.E.; the Nannie Helen Burroughs area which shall consist of land within the boundary descriptions beginning from Eastern Avenue, N.E., to 49th Street, N.E.; the Pennsylvania Avenue area which shall consist of land within the boundary descriptions beginning from Branch Avenue, S.E., to Carpenter Street, S.E.; the Benning Road area which shall consist of land within the boundary descriptions beginning from East Capitol Street, S.E., to 44th Street, N.E., from Hanna Place, S.E., to Hillside Road, S.E., and from 39th Street, S.E., to 36th Street, S.E.; and the Division Avenue area from Eads Street, N.E., to Hayes Street, N.E.; and

(M) Any property abandoned or underutilized because of perceived or actual contamination by hazardous substances or any property in which the expansion or redevelopment of the property is complicated by perceived or actual contamination by hazardous substances.

(1B) "Qualified restaurant or retail store" means a restaurant or retail store located in an eligible area.

(1C) "Building materials" means all materials necessary for the construction and build-out of real property, including furniture, fixtures, and other equipment installed in the property.

(1D) "Eligible area" means:

(A) A historically underutilized business zone, as defined by section 3(p)(1) of the Small Business Act, approved July 18, 1958 (72 Stat. 384; 15 U.S.C. § 632(p)(1)); or

(B) Census tracts 18.01, 33.01, 95.05, 95.07, or 95.08.

(2) "Qualified supermarket" means a supermarket located in an eligible area.

(3)(A) "Supermarket" means a self-service retail establishment, independently owned or part of a corporation operating a chain of retail establishments under the same trade name, that:

(i) Is licensed as a grocery store under § 47-2827;

(ii) Offers for sale a full line of meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and sundries; and

(iii) Occupies the address under a certificate of occupancy with the use declared as a grocery store.

(B) The term "supermarket" shall include related service departments, such as a kitchen, bakery, pharmacy, or flower shop, of a retail establishment that meets the criteria set forth in subparagraph (A) of this paragraph.

(Sept. 29, 1988, D.C. Law 7-173, § 2, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; October 4, 2000, D.C. Law 13-166, 2(a), 47 DCR 5821; Mar. 26, 2008, D.C. Law 17-138, § 703(a)(1), 55 DCR 1689; Apr. 8, 2011, D.C. Law 18-353, § 205(a), 58 DCR 746; Sept. 26, 2012, D.C. Law 19-171, § 114(o), 59 DCR 6190.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 47-3801.

Effect of Amendments

D.C. Law 13-166 rewrote this section, which previously read:

"For the purposes of this chapter, the term:

"(1) 'Fair market rent' means an amount as determined by the Mayor with reference to the average rent charged to tenants for occupancy of comparable space in other buildings in the underserved area.

"(2)(A) 'Supermarket' means a self-service retail establishment, independently owned or part of a corporation operating a chain of supermarkets under the same name, that:

"(i) Is licensed as a grocery store pursuant to § 47-2827;

"(ii) Offers for sale a full line of meat, seafood, fruits, vegetables, dairy products, and dry groceries, household products, and sundries; and

"(iii) Occupies at least 6,000 square feet of space.

"(B) The term 'supermarket' shall include related service departments, such as kitchens, bakeries, pharmacies, or flower shops of a retail establishment that meet the criteria set by subparagraph (A) of this paragraph.

"(3) 'Supermarket development' means a new supermarket for which construction begins on or after

September 29, 1988, or an expansion or modernization of an existing supermarket if the expansion or modernization begins on or after September 29, 1988.

"(4) 'Underserved area' means an area of no more than one square mile within the District having a ratio of less than 2 supermarkets per 10,000 residents or having less than 1 supermarket."

D.C. Law 17-138 designated the existing text of par. (1) as subpar. (A); added pars. (1)(B), (1A), (1B); and, in par. (2), deleted "as defined in § 2- 1219.20" following "area".

D.C. Law 18-353, in pars. (1B) and (2), substituted "eligible area" for "priority development area"; and added pars. (1C) and (1D).

D.C. Law 19-171, in pars. (1B) and (2), substituted "an eligible" for "a eligible" .

Emergency Act Amendments

For temporary (90 day) amendment of section, see § 2 of Supermarket Tax Incentives Clarification Emergency Act of 2008 (D.C. Act 17-268, January 23, 2008, 55 DCR 1499).

Legislative History of Laws

Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-124, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-229 and transmitted to both Houses of Congress for its review.

Law 13-166, the "Supermarket Tax Exemption Act of 2000," was introduced in Council and assigned Bill No. 13-88, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 3, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-365 and transmitted to both Houses of Congress for its review. D.C. Law 13-166 became effective on October 4, 2000.

Law 17-138, the "National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008", was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

Law 18-353, the "Food, Environmental, and Economic Development in the District of Columbia Act of 2010", was introduced in Council and assigned Bill No. 18- 967, which was referred to the Committee on Economic Development and the Committee on Government Operations and the Environment. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-703 and transmitted to both Houses of Congress for its review. D.C. Law 18- 353 became effective on April 8, 2011.

For history of Law 19-171, see notes under § 47-369.01.

§ 47-3802. TAX EXEMPTION.

(a) The development of a qualified supermarket, qualified restaurant, or retail store shall be eligible for:

- (1) A 10-year real property tax exemption under § 47-1002(23);
- (2) A 10-year exemption from the license fee under § 47-2827(b);
- (3) A 10-year personal property tax exemption as provided under § 47- 1508(a)(9); and
- (4) A sales and use tax exemption on the purchase of all building materials related to the development of a qualified supermarket, qualified restaurant, or retail store as provided under §§ 47-2005(28) and 47-2206.

(b) Notwithstanding the provisions of subsection (a) of this section, a qualified supermarket, qualified restaurant, or retail store shall not be eligible for an exemption beginning on or after October 1, 2010 until the fiscal effect of any such new exemptions is included in an approved budget and financial plan.

(c)(1) Effective for applications filed on or after January 1, 2011, to be eligible for any exemption provided under subsection (a) of this section, an applicant shall file with the Mayor, in such manner and form as the Mayor may prescribe, an application requesting certification of eligibility for the exemption.

(2) The Mayor shall, as nearly as practicable, complete review of requests for certification within 45 days after receipt.

(3) The Mayor shall certify to the Office of Tax and Revenue each taxpayer and property eligible for an exemption. The certification shall identify:

- (A) The tax to which the certification applies;

- (B) The specific taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number) eligible;
- (C) The type or portion of the property that is eligible;
- (D) The effective date of eligibility;
- (E) The date on which eligibility is to terminate; and
- (F) Such other information as the Office of Tax and Revenue shall require to administer the exemption.

(4) The Office of Tax and Revenue shall, as nearly as practicable, review and process certifications by the Mayor for real property tax exemptions under subsection (a)(1) of this section within 10 days after receipt.

(5) The Mayor shall notify the Office of Tax and Revenue if any taxpayer or property certified as eligible under paragraph (3) of this subsection becomes ineligible for an exemption under subsection (a) of this section. The notification shall identify:

- (A) The type of tax to which the notice applies;
- (B) The taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number);
- (C) The type or portion of the property ineligible;
- (D) The date on which the taxpayer or property became ineligible; and
- (E) Such other information as the Office of Tax and Revenue shall require to administer the termination of the exemption.

(6) This subsection applies to the application requirements otherwise applicable to requests for exemption from the taxes listed in subsection (a) of this section, but shall not affect any other provision governing administration of the taxes.

(Sept. 29, 1988, D.C. Law 7-173, § 3, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; October 4, 2000, D.C. Law 13-166, 2(b), 47 DCR 5821; Mar. 26, 2008, D.C. Law 17-138, § 703(a)(2), 55 DCR 1689; Sept. 24, 2010, D.C. Law 18-223, § 7006, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-353, § 205(b), 58 DCR 746.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 47-3802.

Effect of Amendments

D.C. Law 13-166 rewrote this section, which previously read:

"The Mayor shall, within 180 days of September 29, 1988, submit to the Council for its approval, by resolution, a listing of all underserved areas ranked in order ranging from the most underserved to the least underserved. The Mayor may, from time to time, submit to the Council for its approval, by resolution, a listing of additional underserved areas ranked in order ranging from the most underserved to the least underserved."

D.C. Law 17-138 inserted ", qualified restaurant, or retail store" following "qualified supermarket" in two places.

D.C. Law 18-223 designated the existing text as subsec. (a); and added subsec. (b).

D.C. Law 18-353 added subsec. (c).

Temporary Amendments of Section

Sections 2 and 3 of D.C. Law 18-261, in subsec. (b), substituted "a qualified restaurant or retail store" for "a qualified supermarket, qualified restaurant, or retail store".

Section 5(b) of D.C. Law 18-261 provides that the act shall expire after 225 days of its having taken effect.

Section 12 of D.C. Law 19-53, in subsec. (b), substituted "a qualified restaurant or retail store" for "a qualified supermarket, qualified restaurant, or retail store".

Section 15(b) of D.C. Law 19-53 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) amendment of section, see §§ 2 and 3 of Supermarket Tax Exemption Clarification Emergency Amendment Act of 2010 (D.C. Act 18-517, August 3, 2010, 57 DCR 7981).

For temporary (90 day) amendment of section, see § 7006 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2 of Supermarket Tax Exemption Clarification

Congressional Review Emergency Act of 2010 (D.C. Act 18-572, October 20, 2010, 57 DCR 10088).

For temporary (90 day) amendment of section, see § 12 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

For temporary (90 day) amendment of section, see § 107 of Fiscal Year 2013 Budget Support Technical Clarification Emergency Amendment Act of 2012 (D.C. Act 19-482, October 10, 2012, 59 DCR 12478).

Legislative History of Laws

For legislative history of D.C. Law 7-173, see Historical and Statutory Notes following § 47-3801.

For Law 13-166, see notes following § 47-3801.

For Law 17-138, see notes following § 47-3801.

For Law 18-223, see notes following § 47-355.05.

For history of Law 18-353, see notes under § 47-3801.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988", see Mayor's Order 89-84, April 24, 1989.

§ 47-3803. TAX AND LICENSE FEE INCENTIVES.[REPEALED]

(Sept. 29, 1988, D.C. Law 7-173, § 4, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; October 4, 2000, D.C. Law 13-166, 2(c), 47 DCR 5821.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 47-3803.

Legislative History of Laws

For legislative history of D.C. Law 7-173, see Historical and Statutory Notes following § 47-3801.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988", see Mayor's Order 89-84, April 24, 1989.

§ 47-3804. RULES.

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

(Sept. 29, 1988, D.C. Law 7-173, § 7, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 47-3804.

Legislative History of Laws

For legislative history of D.C. Law 7-173, see Historical and Statutory Notes following § 47-3801.

Delegation of Authority

Delegation of authority pursuant to D.C. Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988", see Mayor's Order 89-84, April 24, 1989.

§ 47-3805. SUPERMARKET REAL PROPERTY TAX REBATE.

(a) For the purposes of this section, the term "qualified supermarket" means a qualified supermarket, as defined in § 47-3801(2), for which all of the requirements for the real property tax exemption provided by § 47-1002(23), other than § 47-1002(23)(B)(iii), are satisfied.

(b) Beginning October 1, 2007, if a qualified supermarket leases real property (or a portion thereof) that is subject to tax under Chapter 8 of this title, the qualified supermarket shall receive a rebate of the tax that

represents the qualified supermarket's pro rata share of the tax levied for the tax year on the real property (or portion thereof) that the qualified supermarket leases if:

- (1) The qualified supermarket is liable under the lease for its pro rata share of the tax;
 - (2) An application for the rebate of the tax is made on or before December 31 of the succeeding tax year; and
 - (3) The lessor paid the tax.
- (c) The rebate shall be the amount of the pro rata share of the tax paid by the qualified supermarket as required by the lease.
- (d) The application shall include:
- (1) A copy of the lease; and
 - (2) Documentation that the tax has been paid, as required by the Mayor.
- (e) If a proper application has been made, the Mayor shall rebate the tax to the qualified supermarket on or before March 1 of the succeeding tax year.
- (f) Any rebates authorized under this section shall be paid from the General Fund of the District of Columbia.

(July 1, 2010, D.C. Law 18-186, § 2(b), 57 DCR 4351.)

HISTORICAL AND STATUTORY NOTES

Temporary Addition of Section

Section 2(b) of D.C. Law 17-298 added a section to read as follows:

"§ 47-3805. Supermarket real property tax rebate.

"(a) For the purposes of this section, the term "qualified supermarket" means a qualified supermarket, as defined in § 47-3801(2), for which all of the requirements for the real property tax exemption provided by § 47-1002(23), other than § 47-1002(23)(B)(iii), are satisfied.

"(b) Beginning October 1, 2007, if a qualified supermarket leases real property (or a portion thereof) that is subject to tax under Chapter 8 of Title 47, the qualified supermarket shall receive a rebate of the tax that represents the qualified supermarket's pro rata share of the tax levied for the tax year on the real property (or portion thereof) that the qualified supermarket leases if:

- "(1) The qualified supermarket is liable under the lease for its pro rata share of the tax;
- "(2) An application for the rebate of the tax is made on or before December 31st of the succeeding tax year; and
- "(3) The lessor paid the tax.

"(c) The rebate shall be the amount of the pro rata share of the tax paid by the qualified supermarket as required by the lease.

"(d) The application shall include:

- "(1) A copy of the lease; and
- "(2) Documentation that the tax has been paid, as required by the Mayor.

"(e) If a proper application has been made, the Mayor shall rebate the tax to the qualified supermarket on or before March 1st of the succeeding tax year.

"(f) Any rebates authorized under this section shall be paid from the General Fund of the District of Columbia."

Section 4(b) of D.C. Law 17-298 provides that the act shall expire after 225 days of its having taken effect.

Section 2(b) of D.C. Law 18-102 added a section to read as follows:

"§ 47-3805. Supermarket real property tax rebate.

"(a) For the purposes of this section, the term "qualified supermarket" means a qualified supermarket, as defined in § 47-3801, for which all of the requirements for the real property tax exemption provided by § 47-1002(23), other than § 47-1002(23)(B)(iii), are satisfied.

"(b) Beginning October 1, 2007, if a qualified supermarket leases real property (or a portion thereof) that is subject to tax under Chapter 8 of Title 47, the qualified supermarket shall receive a rebate of the tax that represents the qualified supermarket's pro rata share of the tax levied for the tax year on the real property (or portion thereof) that the qualified supermarket leases if:

- "(1) The qualified supermarket is liable under the lease for its pro rata share of the tax;
- "(2) An application for the rebate of the tax is made on or before December 31 of the succeeding tax year; and

"(3) The lessor paid the tax.

"(c) The rebate shall be the amount of the pro rata share of the tax paid by the qualified supermarket as required by the lease.

"(d) The application shall include:

"(1) A copy of the lease; and

"(2) Documentation that the tax has been paid, as required by the Mayor.

"(e) If a proper application has been made, the Mayor shall rebate the tax to the qualified supermarket on or before March 1 of the succeeding tax year.

"(f) Any rebates authorized under this section shall be paid from the General Fund of the District of Columbia."

Section 4(b) of D.C. Law 18-102 provides that the act shall expire after 225 days of its having taken effect.

Emergency Act Amendments

For temporary (90 day) addition, see § 2(b) of Neighborhood Supermarket Tax Relief Clarification Emergency Amendment Act of 2008 (D.C. Act 17-560, October 27, 2008, 55 DCR 12013).

For temporary (90 day) addition, see § 2 of Neighborhood Supermarket Tax Relief Clarification Congressional Review Emergency Act of 2009 (D.C. Act 18-1, January 23, 2009, 56 DCR 1620).

For temporary (90 day) addition, see § 2(b) of Neighborhood Supermarket Tax Relief Clarification Emergency Act of 2009 (D.C. Act 18-213, October 21, 2009, 56 DCR 8494).

Legislative History of Laws

Law 18-186, the "Neighborhood Supermarket Tax Relief Clarification Act of 2010", was introduced in Council and assigned Bill No. 18-44, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 2, 2010, and April 20, 2010, respectively. Signed by the Mayor on May 7, 2010, it was assigned Act No. 18-395 and transmitted to both Houses of Congress for its review. D.C. Law 18-186 became effective on July 1, 2010.