

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2017**

No. 256

Introduced by Council Members Garodnick and Kallos.

A LOCAL LAW

To amend the administrative code for the city of New York, in relation to amending a definition related to a credit against the commercial rent tax

Be it enacted by the Council as follows:

Section 1. Section 11-704.4 of the administrative code of the city of New York, as added by a local law for the year 2017 amending the administrative code of the city of New York relating to the commercial rent tax, as proposed in introduction number 799-B, is amended to read as follows:

11-704.4. Small business tax credit. a. Definitions. As used in this section, the following terms have the following meanings:

[Base rent. The term “small business tax credit base rent” shall mean the base rent calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of section 11-704.]

Income factor. The term “income factor” shall mean:

1. for a tenant with total income of not more than five million dollars, one;
2. for a tenant with total income of more than five million dollars but not more than ten million dollars, a fraction the numerator of which is ten million dollars minus the amount of total income and the denominator of which is five million dollars; and
3. for a tenant with total income of more than ten million dollars, zero.

Rent factor. The term “rent factor” shall mean:

1. for a tenant whose *small business tax credit* base rent is less than five hundred thousand dollars, one; and

2. for a tenant whose *small business tax credit* base rent is at least five hundred thousand dollars but not more than five hundred and fifty thousand dollars, a fraction the numerator of which is five hundred and fifty thousand dollars minus the amount of *small business tax credit* base rent and the denominator of which is fifty thousand dollars.

Small business tax credit base rent. The term “small business tax credit base rent” shall mean the base rent calculated without regard to any reduction in base rent allowed by paragraph two of subdivision h of section 11-704.

Total income. The term “total income” shall mean the amount reported by a person, as defined by section 7701 of the internal revenue code, to the internal revenue service for the purpose of the federal income tax in the tax year immediately preceding the period for which the tenant is applying for the credit set forth in subdivision b that is equal to the gross receipts or sales of the person minus any returns and allowances, minus the cost of goods *sold* plus the amount of any dividends, interest, gross rents, gross royalties, capital gain net income, net gain or loss from the sale of business property, net farm profit or loss, ordinary income or loss from other partnerships, estates or trusts or other income or loss[.]; *except that, if the tenant is a limited liability company or other business entity that is not separate from its owner for federal income tax purposes under section 301.7701-2(c)(2) of title 26 of the code of federal regulations, total income as defined in this section shall mean the total income of the person that reports the activities of the tenant as its sole owner for federal income tax purposes.*

b. Beginning on July 1, 2018 and for each tax year beginning thereafter, a credit shall be allowed against the tax imposed by this chapter as follows: a tenant whose *small business tax credit* base rent is at least two hundred and fifty thousand dollars but not more than five hundred and fifty thousand dollars shall be allowed a credit in the amount determined by multiplying the tax imposed on the tenant pursuant to section 11-702 minus any allowable credits or exemptions set forth outside this section by the income factor and by the rent factor. If the tenant's *small business tax credit* base rent is over five hundred and fifty thousand dollars, no credit shall be allowed under this section.

c. The department of finance may promulgate any rules necessary to implement the provisions of this section, including, but not limited to, rules that prevent abuse of this section by related parties.

§ 2. This local law takes effect on the same date as a local law for the year 2017 amending the administrative code of the city of New York relating to the commercial rent tax, as proposed in introduction number 799-B, takes effect.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on December 11, 2017 and approved by the Mayor on December 22, 2017.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 256 of 2017, Council Int. No. 1783 of 2017) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.