

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2023**

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**No. 166**

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Introduced by Council Members Gutiérrez and Gennaro.

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to a biotechnology credit against the general corporation tax, the unincorporated business tax, and the corporate tax of 2015.**

*Be it enacted by the Council as follows:*

Section 1. Subparagraphs (1), (7) and (8) of paragraph (a) of subdivision (o) of section 11-503 of the administrative code of the city of New York, subparagraphs (1) and (7) as added by local law number 67 for the year 2009, subparagraph (8) as amended by local law number 111 for the year 2015, are amended to read as follows:

(1) A taxpayer that is a qualified emerging technology company, engages in biotechnologies, and meets the eligibility requirements of this subdivision, shall be allowed a credit against the tax imposed by this subchapter. The amount of credit shall be equal to the sum of the amounts specified in subparagraphs (3), (4), (5) of this paragraph, subject to the limitations in [subparagraph] *subparagraphs (6) and (7)* of this paragraph [and], paragraph (b) of this subdivision, *and paragraph 3 of subdivision (d) of section 1201-a of the tax law*. For the purposes of this subdivision, “qualified emerging technology company” shall mean a company located in city: (A) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (B) a company that has research and

development activities in city and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the National Science Foundation in the most recent published results from its Survey of Industry Research and Development, or any comparable successor survey as determined by the department, and whose total annual product sales are ten million dollars or less. For the purposes of this subdivision, the definition of research and development funds shall be the same as that used by the National Science Foundation in the aforementioned survey. For the purposes of this subdivision, “biotechnologies” shall mean the technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.

(7) [The credit allowed under this subdivision for any taxable year shall not reduce the tax due for such year to less than the amount computed in subdivision (a) of this section. Provided, however, if] If the amount of credit allowed under this subdivision for any taxable year [reduces the tax to such amount] *exceeds the amount of tax due for such year pursuant to this chapter*, any amount of credit not deductible in such taxable year shall be treated as an overpayment of tax to be

credited or refunded in accordance with the provisions of section 11-526 of this chapter; provided, however, that notwithstanding the provisions of section 11-528 of this chapter, no interest shall be paid thereon.

(8) The credit allowed under this subdivision shall only be allowed for taxable years beginning on or after January first, two thousand ten and before January first, two thousand nineteen, *and beginning on or after January first, two thousand twenty-three and before January first, two thousand twenty-six.*

§ 2. Subparagraphs (1) and (8) of paragraph (a) of subdivision 21 of section 11-604 of the administrative code of the city of New York, subparagraph (1) as added by local law number 67 for the year 2009, subparagraph (8) as amended by local law number 111 for the year 2015, are amended to read as follows:

(1) A taxpayer that is a qualified emerging technology company, engages in biotechnologies, and meets the eligibility requirements of this subdivision, shall be allowed a credit against the tax imposed by this subchapter. The amount of credit shall be equal to the sum of the amounts specified in subparagraphs (3), (4), and (5) of this paragraph, subject to the limitations in [subparagraph] *subparagraphs (6) and (7)* of this paragraph [and], paragraph (b) of this subdivision, *and paragraph 3 of subdivision (d) of section 1201-a of the tax law.* For the purposes of this subdivision, “qualified emerging technology company” shall mean a company located in city: (A) whose primary products or services are classified as emerging technologies and whose total annual product sales are ten million dollars or less; or (B) a company that has research and development activities in city and whose ratio of research and development funds to net sales equals or exceeds the average ratio for all surveyed companies classified as determined by the

National Science Foundation in the most recent published results from its Survey of Industry Research and Development, or any comparable successor survey as determined by the department, and whose total annual product sales are ten million dollars or less. For the purposes of this subdivision, the definition of research and development funds shall be the same as that used by the National Science Foundation in the aforementioned survey. For the purposes of this subdivision, “biotechnologies” shall mean the technologies involving the scientific manipulation of living organisms, especially at the molecular and/or the sub-molecular genetic level, to produce products conducive to improving the lives and health of plants, animals, and humans; and the associated scientific research, pharmacological, mechanical, and computational applications and services connected with these improvements. Activities included with such applications and services shall include, but not be limited to, alternative mRNA splicing, DNA sequence amplification, antigenetic switching bioaugmentation, bioenrichment, bioremediation, chromosome walking, cytogenetic engineering, DNA diagnosis, fingerprinting, and sequencing, electroporation, gene translocation, genetic mapping, site-directed mutagenesis, bio-transduction, bio-mechanical and bio-electrical engineering, and bio-informatics.

(8) The credit allowed under this subdivision shall only be allowed for taxable years beginning on or after January first, two thousand ten and before January first, two thousand nineteen, *and beginning on or after January first, two thousand twenty-three and before January first, two thousand twenty-six.*

§ 3. Subparagraph (8) of paragraph (a) of subdivision 21 of section 11-654 of the administrative code of the city of New York, as amended by section 14 of part P of chapter 60 of the laws of 2016, is amended to read as follows:

(8) The credit allowed under this subdivision shall only be allowed for taxable years beginning before January first, two thousand nineteen, *and beginning on or after January first, two thousand twenty-three and before January first, two thousand twenty-six.*

§ 4. This local law takes effect immediately, and shall apply to tax years beginning on or after January 1, 2023.

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 November 15, 2023 and approved by the Mayor on December 4, 2023.

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. 166 of 2023, Council Int. No. 1070-A of 2023) 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.

SPENCER FISHER, Acting Corporation Counsel.