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Title: A Local Law to amend the administrative code of the city of New York, in relation to the small business tax credit against the commercial rent tax

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Attachments: 1. Summary of Int. No. 1371, 2. Int. No. 1371, 3. January 24, 2019 - Stated Meeting Agenda with Links to Files, 4. Hearing Transcript - Stated Meeting 1-24-19, 5. Minutes of the Stated Meeting - January 24, 2019

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Int. No. 1371

By Council Members Powers, R. Diaz, Moya, Vallone, Rosenthal, Yeger, Holden, Ampry-Samuel, Rose, Chin, Levine and Rivera

A Local Law to amend the administrative code of the city of New York, in relation to the small business tax credit against the commercial rent tax

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 11-704.4 of the administrative code of the city of New York, as amended by local law number 256 for the year 2017, is amended to read as follows:

a. Definitions. As used in this section, the following terms have the following meanings:

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 the tax year beginning on June 1, 2018 and ending on May 31, 2019:

(a) for a tenant whose small business tax credit base rent is less than five hundred thousand dollars, one;

and

[2.] (b) 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.

2. For the tax year beginning on June 1, 2019 and every tax year thereafter:

(a) for a tenant whose small business tax credit base rent is less than seven hundred and fifty thousand dollars, one; and

(b) for a tenant whose small business tax credit base rent is at least seven hundred and fifty thousand dollars but not more than eight hundred thousand dollars, a fraction the numerator of which is eight hundred 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.

§2. Subdivision b of section 11-704.4 of the administrative code of the city of New York, as amended by local law number 121 for the year 2018, is amended to read as follows:

b. 1. Beginning on June 1, 2018 and [for each tax year beginning thereafter] ending on May 31, 2019, 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.

2. Beginning on June 1, 2019 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 eight hundred 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 eight hundred thousand dollars, no credit shall be allowed under this section.

§ 3. This local law takes effect immediately.

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