

ANDERSON KILL Co-Op, Condo & Real Estate Advisor

Commercial Rent Tax Relief Arrives for Small Businesses in Manhattan

By Andrew B. Freedland



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New York City's commercial rent tax has been a burden to small businesses for many years. With vacancies on the rise, small-business owners needed some relief to help them succeed — and to stave off further vacancies in an already weak leasing market. Such relief has come in the form of changes to the commercial rent tax law.

On December 22, 2017, Mayor Bill de Blasio signed two new laws that effectively reduce or eliminate commercial rent tax for many small businesses. These revisions will have the greatest impact on businesses that have income of less than \$10 million per year and pay less than \$550,000 in annual base rent. Of course businesses that rent space north of 96th Street in Manhattan and in Brooklyn, Queens, Staten Island and the Bronx are already exempt from the tax.

Under the prior law, the tax was imposed on commercial tenants who rented space south of 96th Street in Manhattan. Commercial tenants paid an effective rate of 3.9% on base rent in excess of \$250,000 per year.

Effective July 1, 2018, commercial tenants with base rent that does not exceed \$500,000

and annual income that does not exceed \$5 million will no longer be subject to the tax. In addition, there will be a phase-in of the tax for those businesses with income of \$5 million to \$10 million or paying base rent of \$500,000 to \$550,000. According to the city of New York¹ this will reduce or eliminate the commercial rent tax for 2,700 small businesses, including 1,800 that will no longer pay any tax. The average business owner will receive between \$11,300 and \$13,000 in annual tax relief.

These tax reductions should stimulate a somewhat soft retail real estate market. According to a report² published by Alicia Dauro of Cushman & Wakefield, brick-and-mortar leasing activity remains moderate and the current outlook for the Manhattan retail leasing market continues to be cautiously optimistic. *The New York Post*, citing a New York City Council report, reported that commercial vacancy rates doubled between 2012 and 2017 from 2.1% to 4.2%.

Hopefully, this commercial rent tax relief provided by the City Council and the mayor will help keep businesses in their current spaces and bring other tenants into the market, eliminating many of those unwelcome “for rent” signs throughout the city. ▲

Andrew B. Freedland is a shareholder in Anderson Kill's New York office. Mr. Freedland concentrates his practice in real estate and cooperative and condominium law. Mr. Freedland's practice focuses on the representation and counseling of purchasers and sellers of commercial and residential real estate, lenders, condominiums, cooperatives and sponsors/developers as well as negotiation of commercial leases for landlords and tenants. Mr. Freedland is also counsel to numerous cooperative and condominium buildings throughout New York City.

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ENDNOTES

¹ <http://www1.nyc.gov/office-of-the-mayor/news/743-17/mayor-de-blasio-speaker-mark-viverito-council-member-garodnick-changes-commercial#/0>

² http://www.cushmanwakefield.com/~media/marketbeat/2018/06/Manhattan_Americas_MarketBeat_Retail_Q12018.pdf

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