



**Department of Finance**

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**Diana Beinart**  
General Counsel/Deputy  
Commissioner

June 9, 2021

XXXXXXXXXX  
Attn.: XXXXXXXX  
XXXXXXXXXX  
XXXXXXXXXX

**RE: Request for Letter Ruling**  
**Relocation Employment Assistance Program (REAP)**  
**FLR 21-5012**

Dear Taxpayer:

This is in response to your request dated January 28, 2021 for a letter ruling regarding the calculation of employment shares for the Relocation Employment Assistance Program (“REAP”) in light of COVID-19 governmental mandated office closures.

**FACTS**

The pertinent facts presented by the Taxpayer are as follows:

XXXXXXXXXX, (“Taxpayer”) is an unincorporated business tax (“UBT”) filer and receives an annual REAP credit for marketing and branding consulting services performed out of their Brooklyn office. In March of 2020 Governor Andrew Cuomo through executive order closed non-essential businesses due to the emerging COVID-19 emergency. Employees at the Taxpayer’s Brooklyn office began to work remotely and continued to do so through Taxpayer’s taxable year ending August 31, 2020. There were no employment changes after the office closure and all employees used in calculating the Taxpayer’s REAP credit were employed and working at the office location prior to the COVID-19 related closures and continued to work for the Taxpayer after the office closure.

**ISSUE**

Do the employee shares calculated to determine the allowable REAP credit include those employees assigned to a qualifying office location but are forced to telework due to governmental office closure during the COVID-19 emergency?

## **CONCLUSION**

The Taxpayer, operating at an eligible REAP premise may include those employees in the employment share calculation who were working at the location but because of government mandated closures due to the COVID-19 emergency subsequently worked remotely, provided that the Taxpayer treats those employees as working at the eligible premises for all purposes related to taxes imposed by New York City.

## **DISCUSSION**

The New York City Administrative Code (the “Code”) provides a REAP tax credit against UBT liability to eligible businesses that relocate from outside the eligible area<sup>1</sup> to eligible premises located in the eligible area.<sup>2</sup> The credit under the UBT is set out in Code section 11-503(i), while the eligibility for the REAP credit is determined under Code sections 22-621 and 22-622 and Chapter 30 of Title 19 of the Rules of the City of New York (the “RCNY”).

The premises to which a business relocates must meet a variety of requirements.<sup>3</sup> The eligibility of the business and the premises must be certified before the business may claim any REAP benefits.<sup>4</sup> The amount of the credit is based on the number of eligible aggregate employment shares maintained by the eligible business at the eligible premises in a taxable year, as defined under Code section 22-621. Employment shares are based on the number of full time and part time employees at the eligible premises.

The Taxpayer in prior years claimed a REAP credit based on employees working at their Brooklyn office. Due to the COVID-19 emergency employees of the Taxpayer that would work at the eligible premises during the taxable year, and be included in the employment share calculation, were mandated to telework for the remainder of the Taxpayer’s taxable year. These employees who had worked at the eligible premises prior to the closure and were ordered to telework by government order during the pandemic are still eligible to be included in the employment share calculation for purposes of the REAP credit, provided that the taxpayer treats those employees as working at the eligible premises for all purposes related to taxes imposed by New York City.

This letter ruling is effective from the date of the government closure through August 30, 2021.

The Department reserves the right to verify the information submitted. Please advise the Department of any material change in the facts presented.

Sincerely,  
*Diana Beinart*  
Diana Beinart  
General Counsel

CCS:ccs

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<sup>1</sup> The eligible area is New York City with the exception of Manhattan south of 96<sup>th</sup> Street.

<sup>2</sup> Code 11-503(i).

<sup>3</sup> Code 22-621(e).

<sup>4</sup> Code 22-622.