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My name is Robert Bookman, and I am a partner in the Manhattan law firm of Pesetsky and Bookman. For about 25 years now, our practice has been concentrated in representing thousands of hospitality industry businesses, from the smallest mom and pop startup, to the largest hotel, and every sized restaurant, bar, lounge and nightclub in between. I am also Counsel to the NYC Hospitality Alliance. Thank you for this opportunity and for coming here to NYC, the Hospitality capital of the world.

Let me start by making clear, before your time is wasted today, what this Wage Board hearing is NOT about. It is NOT about the adequacy of the minimum wage. That is a reasonable subject to discuss but the place for that is the State Legislature, not here as the Wage Board cannot raise the minimum wage. I should point out that the Hospitality Alliance supported the last minimum wage increase legislation.

It is also NOT about a so called sub minimum wage. There IS one wage for all workers in New York. It is called the minimum wage. If there are some bad apples that are violating the law by not making sure tipped workers are earning at least the minimum wage, as they are required to do, then there should be enforcement against those employers. Raising the tipped wage is NOT a logical argument to help these few workers, who you will undoubtedly hear from today. Enforcement of the law is their answer, both the minimum wage law AND the tax laws that require all employees, including delivery workers, to report to their employers every dollar received in cash as a tip when making deliveries. Not doing so is also a form of theft.

So, what this hearing IS about is a possible unprecedented change to the way the hospitality industry works, how it employs people, how many it employs, and how much they earn. Because lets be honest, an across the board elimination or drastic increase of the tipped wage, at least here in NYC, will have dramatic but yet unknown consequences. We are not talking about here a marginal increase in the minimum wage, which even then economists are split on the ramifications. We are talking about a possible 75% increase come Dec 31st and if the legislature passes another minimum wage increase next year to lets say \$10/hr, with NYC being able to have a \$13/hr min wage, as is advocated by the very same people here today arguing for an elimination of the tipped wage, that would be a 160% increase in labor cost. There are no studies ever conducted to determine what such a huge increase would mean to this industry because there has never been such a huge increase to this industry before. EVER.

We have obviously looked closely at what this could mean to our industry which has been one of the only bright spots for employment and tax growth the past few years in NY. And the options are limited and not encouraging.

First, absorb the increase. As Andrew Rigie pointed out, the profit margins are too low at most locations and the amounts too steep to do so.

Second, raise prices to consumers. Again, not a realistic option in this tight economy. This would also have the opposite desired impact by driving consumers to non sit down, take out food options where employees do not make tips at all and generally earn less than our tipped employees at the 11,000 sit down locations in NYC that have an on premises State liquor license.

Third, lay off tipped employees altogether, reduce their hours to have fewer people working on slower shifts, or for marginal restaurants, go out of business. You will hear from business owners in person today and by written testimony, that, unfortunately, this is the most likely option. Let me cut you in on a not so secret industry reality, we can afford to have high employment with tipped employees because they do NOT cost us full minimum wage, even though they earn with tips well in excess of the minimum wage. Eliminate the tip credit and there will be no choice but to have fewer employees. It is that simple. And what is just crazy about all of this is that the people we would have to let go or reduce their hours, are NOT minimum wage employees. As the Alliance survey demonstrated, they are earning good middle class wages and now with paid sick leave here in NYC and soon with health insurance at most locations. So you would be hurting a large class of tipped workers by eliminating the tipped credit.

Fourth, as you have no doubt been reading about lately, many are considering eliminating tipping completely, but this option unfortunately results in workers earning much less than most are now making with tips. There is a reason that for generations, tipped jobs in our industry here in NYC have been highly sought after. That is because you can make a good living at it, either as you move up in the industry or seek that part on Broadway, write the next great American novel or simply get a start on your particular American dream. That quintessential part of NYC can be damaged in unforeseen ways if this irresponsible proposal is adopted.

That leaves us with only one other option. The Hospitality Alliance's progressive tipped wage option. While we firmly believe that given the data of actual wages earned by tipped employees, given that NYS already has one of the highest tipped wages in the nation, no increase is warranted at this time. Everyone is getting a wage increase on Dec 31st and another one next year. Tipped employees as well. But if you must do more on top of that, then the two tier proposal should be adopted as it will give more to those on the bottom while not killing the golden goose that is the overwhelming majority of our hospitality industry here in NYC.