



Publication 420

Guide to the Metropolitan Commuter Transportation Mobility Tax

Note: A Publication is an informational document that addresses a particular topic of interest to taxpayers. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information contained in a publication. Publications are updated regularly and are accurate on the date issued. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

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I. Introduction

This publication provides guidance, with regard to computing, reporting, and paying the metropolitan commuter transportation mobility tax (MCTMT) for tax years beginning on or after January 1, 2015.

For tax years beginning before January 1, 2015, see:

- [TSB-M-09\(1\)MCTMT](#), *Metropolitan Commuter Transportation Mobility Tax*, and
- [TSB-M-12\(1\)MCTMT](#), *Legislative Amendments to the Metropolitan Commuter Transportation Mobility Tax*.

To receive e-mail notifications containing links to newly posted MCTMT information, visit the Tax Department Web site (www.tax.ny.gov) and [Subscribe](#) to our e-mail service.

See *Need help?* on the back cover for information on obtaining forms, instructions, and publications from the Tax Department.

General

The MCTMT is administered by the New York State Tax Department. However, the proceeds from this tax are distributed to the Metropolitan Transportation Authority.

The MCTMT is imposed on certain employers and individuals engaging in business within the metropolitan commuter transportation district (MCTD).

The *MCTD* includes New York City (the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island)), and the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

Note: Except for certain START-UP NY tax benefits, any exemption from tax allowed in any other New York State law does not apply to this tax. For example, if another law states that a certain New York public authority is exempt from any tax imposed by New York State or any political subdivision of the state, that exemption does not apply to the MCTMT. Additionally, no tax credit(s) may be used to reduce the amount of the MCTMT due.

SUNY Tax-Free Areas to Revitalize and Transform Upstate New York (START-UP NY) program

Chapter 68 of the Laws of 2013 established the START-UP NY program. **Approved businesses** in the START-UP NY program that are located in a tax-free NY area within the MCTD are eligible for an exemption from the MCTMT.

- **Employers.** The MCTMT exemption eliminates the MCTMT on the payroll expense attributable to an approved business location within the MCTD for 40 consecutive calendar quarters, beginning with the calendar quarter the business locates in a tax-free NY area.

- **Self-employed individuals.** The MCTMT exemption eliminates the MCTMT on net earnings from self-employment attributable to an approved business location within the MCTD for 10 consecutive years, beginning with the tax year the business locates in a tax-free NY area.

Employers and self-employed individuals who meet the MCTMT filing requirements discussed in this publication must report MCTMT information and file MCTMT returns with the department even if no tax is due.

For more information, including specific MCTMT reporting and filing requirements for approved businesses in a tax-free NY area, visit the [START-UP NY](#) program page on the Tax Department Web site.

II. Employers

General

Employers are liable for the MCTMT for a calendar quarter if they are required to withhold New York State income tax from wages paid to employees and their payroll expense for all covered employees exceeds \$312,500 for that calendar quarter.

An employer whose payroll expense for a quarter does not exceed \$312,500 is not subject to the MCTMT for that quarter. This is true even though the employer's payroll expense may have been more than \$312,500 in a previous quarter.

Definitions

The following definitions apply to the MCTMT for employers:

- *Employer* means any employer required by section 671 of the Tax Law to deduct and withhold tax from wages that has a payroll expense of more than \$312,500 in any calendar quarter. However, agencies and instrumentalities of the United States; the United Nations; interstate agencies and public corporations created pursuant to an agreement or compact with another state or Canada; and *eligible educational institutions* are not subject to the MCTMT.

Note: For an employer to be considered an agency or instrumentality of the United States, a federal law must specifically state that the employer is an agency or instrumentality of the United States, or a decision in a federal court case must specifically state that the employer is an agency or instrumentality of the United States. (If there is a question on whether an employer is subject to the MCTMT under this definition, a request for an advisory opinion from the department may be made by filing [Form AD-1.8](#), *Petition for Advisory Opinion*.)

- An *eligible educational institution* means any public school district; a board of cooperative educational services (BOCES); a public elementary or secondary school; a school approved pursuant to Article 85 or 89 of the Education Law to serve students with disabilities of school age; or a nonpublic elementary or secondary school that provides instruction in grade one or above.

- *Payroll expense* for covered employees subject to federal social security taxes means wages and compensation as defined in section 3121 of the Internal Revenue Code (IRC), without regard to section 3121(a)(1).

Section 3121 defines wages and compensation subject to federal social security taxes. However, in computing payroll expense, the cap on the amount of wages subject to social security taxes contained in section 3121(a)(1) of the IRC does not apply. Accordingly, for most employers, payroll expense is the amount of the employee wages or other compensation that is subject to the Medicare portion of the social security taxes.

- *Payroll expense* for covered employees subject to the railroad retirement tax means the total wages and compensation as defined in section 3231 of the IRC, without regard to section 3231(e)(2)(A)(i).

Section 3231 defines wages and compensation subject to federal railroad retirement tax. However, in computing payroll expense, the cap on the amount of wages subject to the railroad retirement tax contained in section 3231(e)(2)(A)(i) of the IRC does not apply.

- *Covered employee* means an employee (including a [statutory employee](#)) whose services are allocated to the MCTD (see *Determining if an employee is a covered employee* below).

Employers of household help

Employers of household help are not **required** to deduct and withhold income tax from wages paid to household employees. Withholding income tax (federal or New York State) from wages paid to household employees is **voluntary** on the employer's and the employee's part. Therefore, employers of household help **are not** subject to the MCTMT on the payroll expense attributable to household employees.

Leased employees

The determination of who is liable for the MCTMT for the payroll expense related to the wages or other compensation paid to a leased employee is based on who is liable for the filing and payment of the social security tax. Accordingly, the employer who is liable for the filing and payment of social security tax is the employer liable for the MCTMT on the payroll expense for the leased employee.

Third-party sick pay

The determination of who is liable for the MCTMT for the payroll expense related to the payment of third-party sick pay to an employee is based on who is liable for the filing and payment of the social security tax. Accordingly, the employer who is liable for the filing and payment of social security tax is the employer liable for the MCTMT on the payroll expense for the employee.

Determining if an employee is a covered employee

An employee, including a statutory employee, is considered to be a *covered employee* if the employee's services are allocated to the MCTD. To determine if an employee's services are allocated to the MCTD, apply the following tests in the order presented below. If any test results in the allocation of the employee's services to the MCTD, the employee is a

covered employee and no further test need be applied. Otherwise, proceed to the next succeeding test.

- 1) **Localization** – An employee's services are allocated to the MCTD if those services are (1) performed entirely within the MCTD or (2) performed both in and outside of the MCTD, but the services performed outside the MCTD are incidental to the employee's services performed within the MCTD (for example, are temporary or transitory in nature or consist of isolated transactions).
- 2) **Base of operations** – An employee's services are allocated to the MCTD if the employee's base of operations is in the MCTD. However, this test cannot be applied if the employee has no base of operations, or has more than one base of operations.

Base of operations means the place where the employee is not continuously located, but from which the employee customarily starts out to perform his or her functions within or outside the MCTD. The *base of operations* is where the employee customarily returns in order to receive instructions from his or her employer, communications from other persons, or to replenish stock and materials, repair equipment used, or to perform any other function necessary in the exercise of his or her trade or profession.

- 3) **Place of direction and control** – An employee's services are allocated to the MCTD if the employee's direction and control emanates only from within the MCTD, and the employee performs some services within the MCTD.

Direction and control means the place from which the employer directs and controls the activities of the employees. It is not necessarily the location of the principal office, but rather the point from which basic authority over the supervision of services emanates (for example, the place from which job assignments are made and/or instructions are issued, or the place at which personnel and payroll records are maintained).

- 4) **Residence** – If none of the preceding tests results in a clear allocation of services, all of the employee's services are allocated to the MCTD if the employee resides in the MCTD and performs some services in the MCTD. If the employee either does not reside in the MCTD, or resides there but performs no services in the MCTD, the employee is not a covered employee.

Example 1: *Company A is an employer with two offices in New York State, one in Ulster County and one in Dutchess County. Company A's headquarters are located outside of New York State.*

On December 1, Company A transferred two of its employees who are regularly assigned to the Ulster County office to work temporarily (until December 31) in the Dutchess County office. Effective January 1, the two employees returned to work in the Ulster County office.

*The base of operations for both employees is considered to be the Ulster County office, and both employees are under the direction and control of Company A's headquarters. Neither employee resides in the MCTD. Therefore, the two transferred employees are not covered employees for purposes of the MCTMT. Accordingly, when Company A computes the payroll expense for its covered employees it will **not** include the payroll expense for the two employees who were temporarily assigned to the Dutchess County office.*

Example 2: *Company B is an employer with retail store locations in the counties of Columbia, Ulster, Orange, Dutchess, Sullivan, and Rockland. The main office of the company is located in Dutchess County.*

A district manager for Company B is assigned duties that include working in store locations in the counties of Columbia, Ulster (both outside the MCTD), and Dutchess (within the MCTD) on a regular basis.

The district manager's work office is located in the main office of Company B (in Dutchess County). This work office is where the district manager customarily starts out to perform his job functions and where the district manager receives store reports and agendas. The Dutchess County office is considered the district manager's base of operations. Therefore, the district manager is considered a covered employee for purposes of the MCTMT. When Company B computes the payroll expense for its covered employees, it will include the payroll expense for the district manager.

Example 3: *Company C is an employer with its business office located in Albany County.*

Company C employs Driver X, who lives in Manhattan, to maintain a regular pickup and delivery route. Driver X works in and out of the MCTD. Driver X works two days a week in New Jersey and three days a week in Manhattan. Driver X travels to the Albany County office only on an occasional basis. The Albany County office is where all job assignments are made and where personnel and payroll records are maintained.

Driver X is considered a covered employee because Driver X resides in the MCTD and performs some services in the MCTD. Therefore, when Company C computes the payroll expense for its covered employees, it will include the payroll expense for Driver X.

Computing the amount of payroll expense

An employer cannot allocate the payroll expense for a covered employee who works both in and outside of the MCTD for the purpose of computing the MCTMT. If an employee is considered a covered employee, then all of the payroll expense for that employee (for the time that employee is or was considered a covered employee) is included in the payroll expense for purposes of the MCTMT.

An employer must include in its quarterly payroll expense computation all wages or compensation (as defined under sections 3121 or 3231 of the IRC) paid in that quarter (including back pay, sick pay, deferred compensation, and bonuses that are wages or compensation under

sections 3121 or 3231 of the IRC) if the payment is attributable to services performed while the employee is or was a covered employee. Therefore, if any payment is made in a current quarter that is attributable to services performed in a prior quarter or quarters (including services performed before the MCTMT took effect), an employer must determine if the employee was a covered employee at the time the services were performed.

Example 4: *Company D is an employer with its main business office located in the MCTD. Employee Z resides outside of the MCTD and works in a company office outside of the MCTD. Employee Z is due a performance bonus for services performed in the first quarter of the tax year. This bonus will be paid by Company D in the second quarter.*

Midway through the second quarter of the tax year, Employee Z is permanently transferred to the main office in the MCTD. Employee Z is now considered a covered employee for purposes of the MCTMT.

When Company D computes the payroll expense for the second quarter of the tax year, it must include the payroll expense for Employee Z for services performed as of the date Employee Z started working in the MCTD. However, Company D will not include the payroll expense for Employee Z's first quarter performance bonus because the bonus is compensation earned by Employee Z for a period when Employee Z was not a covered employee.

Example 5: *Company E is an employer with business offices in several states including an office in New York City (Manhattan). Company E is subject to the MCTMT based on the payroll expense of its employees working in its Manhattan office.*

A sales manager has worked in the Manhattan office for the entire calendar year and is a covered employee for purposes of the MCTMT. Effective January 1 of the next tax year, the sales manager will be permanently transferred to one of Company E's offices in another state.

The sales manager is entitled to receive a bonus based on his last six months of service in the Manhattan office. Company E will not pay that bonus until the third quarter of the next calendar year.

When Company E computes the payroll expense for the third quarter of the year following the sales manager's transfer, it must include the payroll expense for the bonus paid to him, because the sales manager was a covered employee for the period the bonus is based on.

**Payments not
considered wages
for purposes of the
MCTMT**

As previously stated, *payroll expense* includes wages or compensation as defined under sections 3121 and 3231 of the IRC (see page 7). The following are some common examples of services where remuneration (payment) for employment is **not** considered wages or compensation under section 3121 or 3231 of the IRC, and should **not** be included in the employer's payroll expense for purposes of computing the MCTMT, even if the employee is considered a covered employee.

- Services performed by a student enrolled and regularly attending classes for a school, college, or university (including a student nurse performing part-time services for nominal earnings at a hospital as an incidental part of his or her training).
- Services performed by an individual who is subject to foreign social security tax under an international social security agreement (totalization agreement).
- Services performed by a nonresident alien individual, temporarily in the United States as a non-immigrant under subparagraph F, J, M, or Q of section 101(a)(15) of the Immigration and Nationality Act, if the service is performed to carry out the purpose for which the individual was admitted to the United States.
- Services performed by a student, scholar, trainee, teacher, etc., as a nonresident alien holding an F-1, J-1, M-1, or Q-1 visa.
- Services performed by an individual on or in connection with a foreign vessel or aircraft (not an American vessel or aircraft), if (1) the individual is employed on or in connection with such vessel or aircraft when outside the United States, and (2) the individual is not a citizen of the United States or the employer is not an American employer.

In addition, under section 1402 of the IRC, income from certain employment is treated as income from a trade or business and is reported by an individual on federal [Schedule SE](#), *Self Employment Tax*. Accordingly, the income is included in the individual's computation of net earnings from self-employment and therefore, is not included in the employer's payroll expense for purposes of computing the MCTMT. (These individuals may be subject to the MCTMT based on net earnings from self-employment; see page 16.)

Types of employment treated as a trade or business under section 1402 of the IRC include but are not limited to:

- Qualified services performed by a minister, a member of a religious order who has not taken a vow of poverty, or a Christian Science practitioner or reader.
- Services performed by an employee for a church or church-controlled organization that has filed federal [Form 8274](#), *Certification by Churches and Qualified Church-Controlled Organizations Electing Exemption From Employer Social Security and Medicare Taxes*.
- Services performed by a United States citizen employed by a foreign government, the United Nations, or other international organization.

MCTMT rates

The MCTMT is imposed on the total payroll expense for all covered employees for each calendar quarter at the following rates:

If the payroll expense for the calendar quarter is: The MCTMT rate is:

Over \$312,500, but not over \$375,000	.11%
Over \$375,000, but not over \$437,500	.23%
Over \$437,500	.34%

Computation of the MCTMT for professional employer organizations

A professional employer organization (PEO), as defined in section 916 of the Labor Law, is considered the employer of record with respect to the employees of its clients and of its own organization. Therefore, the [PEO is liable for the MCTMT due](#), if any, for each of its clients and for itself.

For each calendar quarter, a PEO will determine its MCTMT liability, if any, using the following method:

1. Determine a separate quarterly payroll expense for each client and for itself.
2. Multiply each payroll expense determined in step 1 by the applicable MCTMT rate for that expense amount.
3. Add together the MCTMT amounts computed in step 2 to determine the total MCTMT liability for the calendar quarter.

For more information, see [TSB-M-12\(2\)MCTMT](#), *Computation of the Metropolitan Commuter Transportation Mobility Tax for Professional Employer Organizations*.

Prohibition from deducting MCTMT from employees' wages or compensation

An employer is prohibited from deducting from the wages or compensation of an employee any amount that represents all or any portion of MCTMT that the employer is required to pay.

Quarterly filing requirements and payment of the MCTMT

An employer must file a quarterly return and pay any MCTMT due for a calendar quarter in which the employer:

- has a payroll expense for all covered employees that exceeds \$312,500 for the calendar quarter;
- has made any MCTMT payments during the calendar quarter; or
- has an MCTMT overpayment that is carried over from a previous quarter.

Note: An employer must file a quarterly MCTMT return to request a refund of an overpayment. However, an employer may request the overpayment be credited to the next quarter if an MCTMT liability is anticipated in the next quarter.

An employer who does not meet any of the above conditions for a calendar quarter is not required to file an MCTMT return for that calendar quarter.

Quarterly MCTMT returns must be filed and any MCTMT due must be paid for each calendar quarter by the last day of the month following the end of the quarter as follows:

Quarter	Due Date
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

When a due date falls on a Saturday, Sunday, or legal holiday, an employer is permitted to file and pay on the next business day. No extensions of time to file or pay the MCTMT are allowed for employers.

MCTMT payments – The method and due dates for remitting MCTMT payments depend on whether or not the employer is required to or elects to participate in the PromptTax program for New York State withholding tax purposes (see *Employers not required or electing to participate in the PromptTax program* and *PromptTax filers* below).

MCTMT payments cannot be combined with payments of New York State withholding tax or unemployment insurance contributions.

Employers not required or electing to participate in the PromptTax program

An employer that is **not** required and does not elect to participate in the PromptTax program must report and pay the MCTMT quarterly by either of the following methods:

- Web File and pay through the Tax Department Web site. (To Web File you must create an [Online Services](#) business account.)
- File paper [Form MTA-305](#), *Employer's Quarterly Metropolitan Commuter Transportation Mobility Tax Return*, and pay by check or money order.

PromptTax filers

MCTMT payments – An employer that is required to participate in the PromptTax program for New York State withholding tax purposes is required to make payments of the MCTMT on the same dates its withholding tax payments are made under the PromptTax program. However, the employer must submit a separate MCTMT PromptTax payment. A payment of MCTMT cannot be combined with a withholding tax payment.

If an employer is **not** required to enroll in the PromptTax program for withholding tax purposes but does so voluntarily, the employer is **not** required to make MCTMT payments through the PromptTax program. However, an employer may elect to do so. If an employer elects to make MCTMT payments through the PromptTax program, the employer must make its MCTMT payments on the same date its PromptTax withholding payments are made. If an employer chooses not to use the PromptTax program for the MCTMT, the employer must report and pay the MCTMT

quarterly as described in *Employers not required or electing to participate in the PromptTax program* above.

For more information on the MCTMT [PromptTax program](#), visit the Tax Department Web site.

Computing MCTMT PromptTax payments – An employer participating in the PromptTax program should compute its MCTMT PromptTax payment by multiplying the payroll expense for the payroll period covered by the payment by the tax rate that will apply to the payroll expense for the calendar quarter. However, since PromptTax payments are often due prior to the end of a calendar quarter, certain PromptTax filers may not be able to determine whether they will be subject to the MCTMT for the quarter, or which MCTMT rate will apply. Accordingly, the following Tax Department policy applies for MCTMT PromptTax filers. Employers who follow this policy will not be subject to any penalties for underpayment of MCTMT PromptTax payments.

- Employers may use their previous quarter's payroll expense to determine if they expect to be subject to the MCTMT and if they must make MCTMT PromptTax payments in the current quarter. Therefore, employers whose payroll expense in the previous calendar quarter did not exceed \$312,500 are not required to make MCTMT PromptTax payments in the current quarter.

However, employers who did not make MCTMT PromptTax payments during the current quarter because their previous quarter's payroll expense did not exceed \$312,500, and whose actual payroll expense for the current quarter exceeds \$312,500, must compute and pay the tax due with their quarterly return.

- Employers whose payroll expense exceeded \$312,500 in the previous quarter and who must make MCTMT PromptTax payments in the current quarter may use the MCTMT rate (see *MCTMT rates* on page 11) that applied to their payroll expense for that previous quarter to compute the MCTMT PromptTax payments due.

At the end of the calendar quarter, employers must compute their actual MCTMT liability using the rate that applies to their actual payroll expense for that quarter. Any unpaid tax must be remitted with the quarterly return. If a quarterly MCTMT return results in an overpayment made through PromptTax, the employer may request a refund or have the overpayment credited to the next quarter.

A PEO and a [common pay agent](#) will separately apply the above policy for each client and for its own organization to determine its MCTMT PromptTax payment amount.

Quarterly MCTMT returns – An employer participating in the PromptTax program must file its quarterly MCTMT returns (see *Quarterly filing requirements and payment of the MCTMT* on page 12) by either of the following methods:

- Web File and, if applicable, pay any additional MCTMT tax due through the Tax Department Web site. (To Web File you must create an [Online Services](#) business account.)
- File paper [Form MTA-305](#), *Employer's Quarterly Metropolitan Commuter Transportation Mobility Tax Return*, and if applicable, pay any additional MCTMT due by check or money order.

Penalties and interest

Employers who file an MCTMT return and/or pay the tax after the due date are subject to penalties and interest. These penalties may include, but are not limited to, the late-filing, late-payment, and failure-to-file penalties. In addition, interest will be charged on any MCTMT that is not paid on or before the payment due date.

Collection of debts from an overpayment of MCTMT

The Tax Department will keep all or part of an employer's overpayment of the MCTMT if the employer owes:

- a past-due legally enforceable debt to a New York State agency,
- a New York City tax warrant judgment debt,
- a past-due legally enforceable debt to the Internal Revenue Service (IRS), or
- a past-due legally enforceable debt to another state, provided that state has entered into a reciprocal agreement with New York State.

The department will refund or apply as an overpayment any amount that exceeds the debt.

A *New York State agency* includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district.

If you have any questions about a past-due legally enforceable debt to the IRS, to another state, or to a New York State agency, contact the IRS, the other state, or the New York State agency.

For information relating to a New York City tax warrant judgment debt, call (212) 440-5487.

For New York State tax liabilities or New York City or Yonkers personal income tax liabilities, call (518) 457-5434 or write to:

NYS TAX DEPARTMENT
CIVIL ENFORCEMENT DIVISION
W A HARRIMAN CAMPUS
ALBANY NY 12227-0841

Amending MCTMT returns

If an error is discovered after filing an MCTMT return, an employer must file an amended MCTMT return.

Generally, an amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid,

whichever is later. (A return filed before the due date is considered filed on the due date.) An employer should not file an amended MCTMT return unless an original return has been filed.

Federal audit changes – If the Internal Revenue Service (IRS) makes a change to an item used to calculate the amount an employer must include in the payroll expense subject to MCTMT, the employer must report this change to the New York State Tax Department within 90 days after the final federal determination of the change by filing an amended MCTMT return.

To amend a previously filed MCTMT return, the employer must complete a new return for that period. The amended return can be Web filed through the Tax Department Web site (if the period is still available to Web file) or by filing a new paper return for that period. The employer must check the *Amended return* box, complete the entire return (correct the appropriate lines with the new information), and recompute the MCTMT liability.

If an amended MCTMT return results in an overpayment, the employer may request a refund or have the overpayment credited to the next quarter.

Treatment of the MCTMT on New York State tax returns

When preparing New York State tax returns, any deduction permitted for federal income tax purposes for the MCTMT must be added back to income, and any refund of the MCTMT must be subtracted from income. These additions and subtractions must be made in computing the New York State taxes imposed by Articles 9-A, 13, 22, and 33 of the Tax Law (the corporation franchise tax, the tax on unrelated business income, the personal income tax, and the insurance franchise tax, respectively); and sections 11-602 and 11-641 of the Administrative Code of the City of New York (the general corporation tax and the bank tax).

A partnership must provide each partner with the partner's share of the addition or subtraction modifications described above. For more information, see the instructions for the tax return being filed.

III. Individuals with net earnings from self-employment

General

Individuals who have net earnings from self-employment allocated to the MCTD are subject to the MCTMT. However, if your total net earnings from self-employment allocated to the MCTD are \$50,000 or less for the tax year, no MCTMT is due.

For purposes of the MCTMT, self-employed individuals include:

- Sole proprietors
- Partners in partnerships
- Members of limited liability companies (LLCs) that are treated as partnerships for federal income tax purposes (hereafter, members are referred to as partners)
- Single-member LLCs that are treated as disregarded entities (sole proprietorships) for federal income tax purposes

If you have net earnings from self-employment allocated to the MCTD from more than one business or partnership, you must use the total of all your net earnings from self-employment allocated to the MCTD for purposes of the \$50,000 threshold and to compute the tax. Additionally, the threshold and the tax must be computed on an individual basis, even though you may file a joint personal income tax return.

If you have employees, you may also be subject to the MCTMT as an employer (see *Employers* on page 6).

Note: For purposes of the MCTMT, a statutory employee is considered an employee. Therefore the MCTMT is paid by the employer.

Definitions

The following definitions apply to the MCTMT for self-employed individuals:

- *Net earnings from self-employment* means your net earnings from self-employment as defined under section 1402(a) of the Internal Revenue Code (IRC).

Note: Section 1402(b)(1) defines self-employment income subject to social security taxes. However, in computing the amount of net earnings from self-employment subject to the MCTMT, section 1402(b), including the annual limitation on the amount of net earnings from self-employment subject to social security tax under section 1402(b)(1), does not apply. Generally, your net earnings from self-employment for purposes of the MCTMT is the amount reported on federal [Schedule SE](#) (Form 1040), *Self-Employment Tax*, Section A or Section B depending on which section you are required to complete. However, see *Net earnings from self-employment – Special situations* on page 18.

- *Net earnings from self-employment allocated to the MCTD* means your net earnings from self-employment that are attributable to a business carried on within the MCTD.
- *Business activity* is carried on in the MCTD if you have, maintain, operate, or occupy desk space, an office, a shop, a store, a warehouse, a factory, an agency, or other place located in the MCTD where your business matters are systematically and regularly carried on. Similarly, business activity is carried on outside of the MCTD if you have, maintain, operate, or occupy desk space, an office, a shop, a store, a warehouse, a factory, an agency, or other place located outside the MCTD where your business matters are systematically and regularly carried on.

If you do **not** have, maintain, operate, or occupy desk space, an office, a shop, a store, a warehouse, a factory, an agency, or other place located in or out of the MCTD, business is carried on within the MCTD if activities in connection with your business are conducted within the MCTD with a fair measure of permanency and continuity

Net earnings from self- employment – Special situations

Nonresident aliens

If you are a nonresident alien, you are exempt from federal self-employment taxes under section 1402(b) of the IRC. However, since section 1402(b) does not apply to the MCTMT, nonresident aliens will be subject to the MCTMT if they have more than \$50,000 of net earnings from self-employment allocated to the MCTD for the tax year.

In this instance, for purposes of the \$50,000 threshold and in computing your MCTMT liability, you must compute your net earnings from self-employment allocated to the MCTD as if you were subject to federal self-employment tax.

Certain church employees

If you are a church employee and you are required to pay federal self-employment tax, you are subject to the MCTMT if your net earnings from self-employment allocated to the MCTD are more than \$50,000 for the tax year. If you are a church employee and you are not subject to federal self-employment tax, you are not subject to the MCTMT.

Members of the clergy and Christian Science practitioners

If you are a member of the clergy or a Christian Science practitioner or reader and you are required to pay federal self-employment tax, you are subject to the MCTMT if your net earnings from self-employment allocated to the MCTD are more than \$50,000 for the tax year. If you are a member of the clergy or a Christian Science practitioner or reader and you are not subject to federal self-employment tax, you are not subject to the MCTMT.

Allocation of net earnings from self-employment

If all of your business activity is carried on within the MCTD, all of your net earnings from self-employment are allocated to the MCTD. If you carry on business activities both in and outside of the MCTD, only a portion of your net earnings from self-employment are allocated to the MCTD.

If you have net earnings from self-employment from activity both in and outside of the MCTD, you must allocate those net earnings for purposes of:

1. determining whether or not the annual threshold has been met, and
2. computing the amount of MCTMT due.

Allocation is done using the same rules that apply for purposes of the allocation of business income earned in and out of New York State under the personal income tax rules. Accordingly, if you keep books and records that fairly and equitably show net earnings from self-employment from business activity in the MCTD, you may compute the amount to be allocated to the MCTD from those books and records.

If your books and records do not fairly and equitably show the net earnings from self-employment in the MCTD, you must allocate to the MCTD the

amount of your net earnings from self-employment using the formula method (business allocation percentage) or another method that has been authorized by the New York State Commissioner of Taxation and Finance.

The amount to be allocated to the MCTD using the formula method is that part of total net earnings from self-employment that results from multiplying total net earnings by the average of a property percentage, a payroll percentage, and a gross income percentage. For more information, see the instructions for the personal income tax return you are filing.

Partners or members in a partnership, LLP, or LLC will need to obtain allocation information, if applicable, from the partnership, LLP, or LLC. For more information, see *Special rules for partnerships and partners* on page 22.

Tax rate

The MCTMT is imposed at a rate of .34% of your total net earnings from self-employment allocated to the MCTD for the tax year.

Estimated MCTMT payments

Individuals who will owe **any** MCTMT for the tax year must make estimated MCTMT payments.

Estimated MCTMT payments are due quarterly on the same dates specified for payments of estimated personal income tax: April 15, June 15, September 15, and January 15. In addition, the department requires payments of estimated MCTMT and payments of estimated personal income tax be combined (single payment), if applicable.

Generally, no extensions of time to make estimated tax payments are allowed. However, if your spouse died within 30 days before the April 15 due date of your first estimated tax installment, you qualify for a 90-day extension of time to pay that installment (see the instructions for Form IT-2105). This extension does not apply to any other estimated tax installment for the tax year in which your spouse died.

You can estimate and pay all of your estimated MCTMT with the first payment or pay it in four equal installments. If you are a nonresident partner in a partnership, your partnership may make estimated MCTMT payments on your behalf. For more information, see *Special rules for partnerships and partners* on page 22.

Married taxpayers – If both spouses owe MCTMT, each spouse must calculate his or her estimated MCTMT liability separately, and each spouse must establish a separate estimated tax account.

You must estimate your net earnings from self-employment for the tax year. This is the amount you expect to enter in Section A or Section B of federal [Schedule SE](#) (Form 1040), *Self-Employment Tax*. If your net earnings from self-employment are not subject to federal self-employment tax (for example, nonresident aliens), use federal Schedule SE (Form 1040) to compute your net earnings from self-employment as if they were subject to the tax. However, only your total net earnings from self-employment

allocated to the MCTD are to be considered when computing the amount of estimated MCTMT due for the tax year.

If you have net earnings from self-employment allocated to the MCTD from more than one business or partnership, you must use the **total** of all your net earnings from self-employment allocated to the MCTD. If you have net earnings from self-employment from business activity carried on both in and out of the MCTD, see the worksheets in the instructions for [Form IT-2105, Estimated Tax Payment Voucher for Individuals](#).

To estimate the amount of MCTMT due, you must first estimate your net earnings from self-employment for the tax year allocated to the MCTD and multiply that amount by .34% (.0034). The result may then be divided by four, and that amount is the quarterly estimated MCTMT payment due.

You have the option to pay your estimated MCTMT payments by either of the following methods:

- Web File and pay through the Tax Department Web site. (To Web File you must create an [Online Services](#) account.)
- File paper [Form IT-2105, Estimated Tax Payment Voucher for Individuals](#), and pay by check or money order.

Penalty for underpayment of estimated MCTMT

To avoid a penalty for underpayment of estimated MCTMT for the tax year, your payments must be made on time and your total amount of estimated MCTMT payment(s) must be:

- at least 90% (66 2/3% for farmers and fishermen) of the total MCTMT due for the tax year; or
- 100% of the MCTMT shown on the MCTMT return for the prior tax year (110% of that amount if you are not a farmer or a fisherman and your net earnings from self-employment allocated to the MCTD as shown on the prior year's MCTMT return are more than \$150,000). You must have filed an MCTMT return for the prior year for a full 12-month year.

In addition, if your income varied during the year because, for example, you received unexpected income in November or later, you may still be able to avoid a penalty by using the *Annualized income installment* worksheet in the instructions for [Form IT-2105.9, Underpayment of Estimated Tax by Individuals and Fiduciaries](#). For more information, see the [instructions for Form IT-2105.9](#).

Reporting annual MCTMT information

You must report annual MCTMT information on your personal income tax return if you meet either of the following conditions:

- Your total net earnings from self-employment allocated to the MCTD exceed \$50,000 for the tax year. (The \$50,000 threshold must be computed on an individual basis, even if you file a joint personal income tax return.)

- You want to claim a refund of any estimated MCTMT paid by you or on your behalf.

You must report the actual amount of the MCTMT due for the tax year. If you owe any additional MCTMT, it must be remitted with your personal income tax return. An overpayment of tax will be refunded, or you may elect to have the overpayment carried forward as a credit toward your next year's estimated tax.

Penalties and interest

If you file your personal income tax return late or pay the tax after the due date, you may be subject to late-filing and/or late-payment penalties.

You may also be subject to an underpayment penalty if you did not pay enough estimated tax (see *Penalty for underpayment of estimated MCTMT* on page 20).

Interest will be charged on any tax that is not remitted on or before the payment due date.

Overpayments of tax

If you have an overpayment of tax, you may request a refund or credit the overpayment to the next tax year.

In addition, if you had an overpayment of tax for the previous tax year, you may need to know the overpayment amount from federal [Form 1099-G, Certain Government Payments](#), to complete your federal personal income tax return for the current tax year. This amount can be obtained on our Web site (www.tax.ny.gov) through our [Online Services](#), or by calling (518) 485-2392.

Collections of debts from an overpayment of tax

The Tax Department will keep all or part of your overpayment under the following circumstances:

- you owe a New York State tax liability or a New York City or Yonkers personal income tax liability;
- you owe a past-due support or a past-due legally enforceable debt to the Internal Revenue Service (IRS) or a New York State agency, or to another state;
- you defaulted on a governmental education loan, state university, or city university loan; or
- you owe a New York City tax warrant judgment debt.

A *New York State agency* includes any state department, board, bureau, division, commission, committee, public authority, public benefit corporation, council, office, or other entity performing a governmental or proprietary function for the state or a social services district.

If you have any questions about a past-due legally enforceable debt to the IRS, to another state, or to a New York State agency, contact the IRS, the other state, or the New York State agency.

For information relating to a New York City tax warrant judgment debt, call (212) 440-5487.

For New York State tax liabilities or New York City or Yonkers personal income tax liabilities, call (518) 457-5434; or write to:

NYS TAX DEPARTMENT
CIVIL ENFORCEMENT DIVISION
W A HARRIMAN CAMPUS
ALBANY NY 12227-0841

Amending MCTMT information

If you realize you have made an error in computing your MCTMT liability after filing your New York State personal income tax return, you must report the correct amount of MCTMT due to the New York State Tax Department by filing an amended personal income tax return.

Generally, an amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. (A return filed before the due date is considered filed on the due date.)

Do not file an amended return unless you have already filed your original return.

Note: If the IRS makes a change to your federal income tax return, you must report this change by filing an amended New York State personal income tax return with the Tax Department within 90 days of the final federal determination of the change.

Treatment of the MCTMT on New York State personal income tax returns

Deductions permitted for federal income tax purposes for the MCTMT are not allowed in computing your New York State and New York City personal income taxes. Additionally, any amount of refund, credit, or overpayment of the MCTMT must be subtracted from your federal income when computing your New York adjusted gross income to the extent included in your federal adjusted gross income.

For more information, see the instructions for the income tax return you are filing.

IV. Special rules for partnerships and partners

General

For purposes of this section, partnerships, including LLPs and LLCs treated as partnerships for federal income tax purposes, will be collectively referred to as partnerships; and partners and members will be collectively referred to as partners.

If a partnership is doing business within the MCTD, each partner may be subject to the MCTMT based on his or her share of the partnership's net earnings from self-employment allocated to the MCTD.

The partnership must provide the actual amount of net earnings from self-employment allocated to the MCTD (without regard to the \$50,000 threshold) so that the partner can determine the actual amount of his or her MCTMT due.

For detailed information on allocating partnership income from business carried on both in and out of the MCTD, see the instructions for the *New York allocation schedule* in [Form IT-204-I, Instructions for Form IT-204](#), and replace *New York State* with *MCTD*.

If a partnership has employees, the partnership may be subject to the MCTMT as an employer (see *Employers* on page 6).

Net earnings from self-employment

Net earnings from self-employment means an individual's net earnings from self-employment as defined under section 1402(a) of the Internal Revenue Code (IRC).

A partner's distributive share of net earnings from self-employment allocated to the MCTD will be determined based on the partnership's allocation to the MCTD (determined by the formula method or books and records). In the case of a tiered partnership, the allocated amount will be based on each partnership's allocation to the MCTD using the same look-through approach as used for personal income tax purposes.

Guaranteed payments to nonresident alien partners

Nonresident alien partners are not exempt from the MCTMT even though they may be exempt from federal self-employment taxes (see *Nonresident aliens* on page 18).

Certain guaranteed payments received by nonresident alien partners are not included in computing the partner's federal and New York State income taxes. However, these payments are **not** excluded from *net earnings from self-employment* as defined under section 1402(a) of the IRC. Therefore, guaranteed payments to nonresident alien partners may be subject to the MCTMT. The amount allocated to the MCTD will be determined based on the partnership's business allocation to the MCTD.

Estimated MCTMT payments made on behalf of nonresident individual partners

Partnerships that do business within the MCTD are **required** to make estimated MCTMT payments on behalf of partners who are nonresident individuals of New York State¹ **except** in the following circumstances:

- The estimated MCTMT required to be paid for the tax year by the partnership on the partner's behalf is \$300 or less.

Note: While the partnership is not required to make estimated MCTMT payments on a nonresident individual's behalf because the MCTMT required to be paid is \$300 or less, the individual partner is still required to make individual estimated payments if he or she is liable for **any** amount of MCTMT.

- The partner submits a completed exemption form to the partnership:
 - For tax year 2015, partners must use [Form MTA-405-E, Certificate of Exemption from Partnership Estimated Metropolitan Commuter Transportation Mobility Tax Paid on Behalf of New York Nonresident Individual Partners](#), or

¹ Partnerships may also be required to make estimated personal income tax payments on behalf of nonresident partners.

- For tax years after 2015, partners must use [Form IT-2658-E, Certificate of Exemption from Partnership or New York S Corporation Estimated Tax Paid on Behalf of Nonresident Individual Partners and Shareholders](#).
- The partnership is authorized to file a personal income tax group return and the partner has elected to be included on the group return (see [Form IT-203-GR, Group Return for Nonresident Partners](#), and the [instructions for Form IT-203-GR](#)).

Note: If the partnership plans to file a group return and a partner elects to be included, the partnership must make the partner's estimated MCTMT payments, personal income tax payments (if applicable), and file the New York State group income tax return.

A partnership required to make estimated MCTMT payments on behalf of a nonresident individual partner must file [Form IT-2658, Report of Estimated Tax for Nonresident Individual Partners and Shareholders](#), attach [Form IT-2658-MTA, Attachment to Form IT-2658](#), and pay by check or money order.

The partnership can pay the nonresident partner's entire estimated MCTMT with the first payment or pay it in four equal installments (see *Estimated MCTMT payments* on page 19).

When a partnership makes an estimated MCTMT payment on behalf of a nonresident partner, it is treated as a payment of tax made by the partner. The partnership must issue a statement to the nonresident partner showing the amount of the individual estimated MCTMT payment made on the partner's behalf. This statement must be furnished to the partner within 30 days after the payment is made. There is no specific form for this notification process.

If a partnership has made any individual estimated MCTMT payments on behalf of a nonresident partner, the date an estimated tax payment was made and the amount must also be shown on the partner's [Form IT-204-IP](#).

The partner can take credit for any payments made on his or her behalf by the partnership when the partner files his or her New York State personal income tax return.

Note: If a nonresident partner has elected to be included in the partnership's group return for nonresident partners, no entry should appear on the nonresident partner's Form IT-204-IP with regard to estimated MCTMT paid on his or her behalf. In addition, the partner is not required to file a New York State nonresident income tax return.

Form IT-203-GR, Group Return for Nonresident Partners

For tax years beginning on or after January 1, 2015, annual MCTMT information will be reported on [Form IT-203-GR, Group Return for Nonresident Partners](#).

A partnership that has any income derived from or connected with New York sources may be granted approval to file a group return on behalf of its qualified electing **nonresident** individual partners.

The group return is considered a group of individual personal income tax returns that meet the New York State and Yonkers return filing requirements. Accordingly, if a qualified partner elects to participate in the group return, the partner is not required to file an individual New York State or Yonkers personal income tax return or nonresident earnings tax return for the tax year.

Note: Resident partners and grantor trusts are not eligible partners for personal income tax groups and cannot be included on Form IT-203-GR.

Group overpayments of MCTMT

Any overpayment of tax shown on Form IT-203-GR cannot be refunded. An overpayment of tax in one tax year must be applied to the group estimated tax account for the following year.

Amending MCTMT information on a group return

An amended group return must be filed if an error in the original group return is discovered that changes any items used in calculating net earnings from self-employment allocated to the MCTD reported on the original group return.

Generally, an amended return must be filed within three years of the date the original return was filed or within two years of the date the tax was paid, whichever is later. (A return filed before the due date is considered filed on the due date.)

Do not file an amended return unless an original return has already been filed.

Note: An amended group return must be filed if an amended federal return is filed by the partnership, or if a federal audit of the partnership changes any of the partnership items of income, gain, loss, or deduction reported on the original group return. An amended group return must be filed within 90 days of the date the federal amended partnership return is filed, or, in the case of a federal audit, within 90 days after the final determination of the change.

New York State Tax Department

Online Services

Create an Online Services account
and log in to:

- make payments
- file certain returns and other tax forms
- view your account and filing information
- change your address
- receive email notifications
- respond to bills and notices

Access is available 24 hours a day, 7 days
a week (except for scheduled maintenance).

www.tax.ny.gov

Need help?



Visit our Web site at ***www.tax.ny.gov***

- get information and manage your taxes online
- check for new online services and features



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Telephone assistance

MCT Mobility Tax Information Center: (518) 485-2392

To order MCTMT forms: (518) 485-2392



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.