

Update to May 2009 Law Firm Services Memorandum

New York Provides Group Filing Options for the Metropolitan Commuter Transportation Mobility Tax (MCTMT)

In Brief

In May 2009, the New York State Senate passed legislation to enact the Metropolitan Commuter Transportation Mobility Tax ("MCTMT"). The MCTMT was enacted as part of the State's legislation to fund the New York Metropolitan Transit Authority (MTA). The MCTMT is imposed on certain employers and self-employed individuals (including partners in partnerships and members of LLCs that are treated as partnerships) engaging in business within a metropolitan commuter transportation district ("MCTD").^[1] At the time the MCTMT was signed into law, the New York State Department of Taxation and Finance, who administers the tax, did not provide a method for group filings. The Department has now released guidance providing partnerships the ability to file a group MCTMT return and make estimated payments for all participating partners, as well as for non-participating nonresident partners.

Composite (Group) Filing Guidelines

New York now provides an option for filing a group return for partners electing to participate in a group MCTMT return. The group return filing is available for all partners, both New York State residents and nonresidents. A partnership may qualify for group filing if they fulfill the following requirements: 1) have two or more qualified partners who want to file as a group and all partners in the group have the same filing period; and 2) must appoint one partner as a group agent. The partnership cannot include a partner in any group filing if the partner made individual estimated MCTMT payments for the year or is a partner in another partnership, but chose not to be included in the group MCTMT filings for that partnership.

The group return filing for MCTMT is separate from the NY nonresident composite income tax return filing on Form IT 203-GR. A partner can participate in the group return filing for MCTMT and still elect to file separately for the NY nonresident income tax return filing.

For any New York State nonresident partners electing not to participate in the MCTMT group return, the partnership will be required to make estimated payments on behalf of these New York nonresident partners, unless an MCTMT exemption is in place to certify that the partner will separately comply with the estimated MCTMT tax filing requirements.

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^[1] Refer to the Law Firm Services memorandum released in May 2009 for information on the MCTMT tax and its computation.

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Partnerships eligible for composite (group) filing must first file Form MTA-599, *Application for Permission to Make Metropolitan Commuter Transportation Mobility Tax Group Estimated Tax Payments and File a Group Return* (Note, no MCTMT forms have been released to date). **For the tax year 2009, the form must be filed on or before September 15, 2009.** For tax years after 2009, the form must be filed on or before March 15 of the tax year. If the partnership is approved, the group will be issued a special MCTMT identification number, which will remain in effect unless revoked, to be used on all MCTMT group filings. Annual approval to file a group return is not required.

Composite (Group) Return

The Partnership will file a group return on Form MTA-505, *Metropolitan Commuter Transportation Mobility Tax Group Return for Partners* and include Form MTA-505-ATT, *Attachment to Form MTA-505*. The return is due April 30th for calendar year filers and on or before the 30th day of the fourth month following the close of the tax year for fiscal year filers. Any overpayment of the MCTMT cannot be refunded, and must be applied to the group estimated MCTMT account for the following year. A six-month extension is available, but any MCTMT due must be paid with the extension request.

Estimated Tax Requirements

Estimated tax payments will be administered by the New York State Department of Taxation and Finance. Partnerships must use Form MTA-405, *Report of Estimated Metropolitan Commuter Transportation Mobility Tax for New York Nonresident Individual Partners* and Form MTA-405-ATT, *Attachment to Form MTA-405* to make estimated tax payments for a New York nonresident partner.

A partnership must pay estimated MCTMT on behalf of a New York State nonresident partner even if a partner does not elect to participate in the group return, unless:

- The estimated MCTMT the partnership is required to pay on the partner's behalf is \$300 or less for the tax year;
- The partner is included in the partnership's group MCTMT filings; or

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- The partner submits Form MTA-405-E, *Certificate of Exemption from Partnership Estimated Metropolitan Commuter Transportation Mobility Tax Paid on Behalf of Nonresident Individual Partners* to the partnership.

Estimated Payments - Composite (Group)

Estimated payments are paid with Form MTA-5, *Estimated Metropolitan Commuter Transportation Mobility Tax Payment Voucher*, using the group identification number. Payments are due according to the estimated payment due dates, listed below. Group estimated payments are not permitted online and must be made by check or money order.

Estimated Payments – Resident Partners

New York Resident partners would file Form MTA-5, *Estimated Metropolitan Commuter Transportation Tax Payment Voucher* to make their quarterly estimated MCTMT payments.

Payment Due Dates

For the tax year 2009, estimated payments for the period January 1, 2009 to September 30, 2009 are due November 2, 2009 and for the period October 1, 2009 to December 31, 2009 are due February 1, 2010. Note, partnerships are instructed to use tenths of the partner's net earnings from self-employment allocated to the MCTD to figure the estimated payment due November 2, 2009.

For tax years after 2009, estimated payments for the quarter January 1 to March 31 are due April 30; April 1 to June 30 are due July 31; July 1 to September 30 are due October 31; and October 1 to December 31 are due January 31.

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Firms may need additional assistance in establishing systems, policies and procedures to address this new tax. Our professionals at PwC have extensive experience assisting clients with these types of taxes. If you wish to further discuss this issue, please contact Stanley Kolodziejczak at (646) 471-3160, Gregg Sincoff at (646) 471-1335, or Paul Bullock at (646) 471-4690.