

Changes to New York's Metropolitan Commuter Transportation Mobility Tax

October 31, 2014

Overview

New York Tax Law imposes the Metropolitan Commuter Transportation Mobility Tax ("MCTMT") on certain employers and self-employed individuals engaging in business within the metropolitan commuter transportation district ("MCTD").¹ New York's 2014-2015 Budget Act included certain provisions that simplify the administration of the MCTMT on self-employed individuals and members of partnerships engaging in business within the MCTD.² These changes are effective for tax years beginning on or after January 1, 2015.³ The payment and filing due dates for the MCTMT imposed on employers have not changed. In this Alert we discuss the changes to the MCTMT and suggest some taxpayer considerations.

Individuals with Net Earnings from Self Employment Allocated to the MCTD

Amendments to the MCTMT conform the MCTMT estimated payment and tax return due dates to the estimated payment and tax return due dates in effect for New York State personal income tax purposes. Amendments to the MCTMT also provide that the New York State Department of Taxation and Finance (the "Department") may require combined MCTMT and estimated New York State personal income tax payments and that annual MCTMT return information must be reported on New York State personal income tax returns. The combined payment will be made on Form IT-2105, *Estimated Income Tax Payment Voucher for Individuals*. Under prior law, MCTMT payments could not be combined with personal income tax payments.

The provisions for combined MCTMT/personal income tax payments and MCTMT/personal income tax return information were made possible in part by amendments to the MCTMT that conform the MCTMT payment and filing due dates to the personal income tax payment and filing due dates. Effective for tax years beginning on or after January 1, 2015, combined estimated MCTMT payments and estimated New York State personal income tax payments are due April 15, June 15, September 15, and January 15. Annual MCTMT return information will be reported on New York State personal income tax returns, which are filed by the 15th day of the fourth month following the close of the tax year.

Partnerships Engaging in Business in the MCTD

For tax years beginning on or after January 1, 2015, consistent with the new procedure described above, resident and part-year resident partners (of both calendar year and fiscal year partnerships)⁴ must make individual estimated MCTMT payments using Form IT-2105 (for payment of both individual estimated MCTMT and estimated New York State personal income tax) and report annual MCTMT information on their individual New York State personal income tax returns.

Also, for tax years beginning on or after January 1, 2015, unless the partnership has made estimated MCTMT payments on behalf of its partners (see below), nonresident partners (of both calendar year and fiscal year partnerships) generally must make individual estimated MCTMT payments using Form IT-2105. Nonresident

¹ The MCTD covers the five boroughs of New York City (New York (Manhattan), Brooklyn, Bronx, Richmond (Staten Island), and Queens), Nassau and Suffolk Counties on Long Island, and Dutchess, Orange, Putnam, Rockland, and Westchester Counties, which are to the north of New York City. N.Y. Tax Law § 800(a) and N.Y. Pub. Auth. Law § 1262.

² Chapter 59 of the Laws of 2014 (Part DD).

³ See TSB-M-14(1)MCTMT (Aug. 25, 2014).

⁴ Consistent with the method of reporting fiscal year partnership income on calendar year individual tax filings, the MCTMT will take into account fiscal year income information reported on a calendar year basis. For example, a partner in a partnership with a May 30, 2015, fiscal year end will make estimated payments for its 2015 calendar year return taking into account the partnership year that ends within the calendar year (the period June 1, 2014 to May 30, 2015), beginning with the payment due on April 15, 2015.

partners must report annual MCTMT information on their individual personal income tax returns except for those partners who elect to participate in a New York State personal income tax group return.

Partnerships doing business within the MCTD generally are required to make estimated MCTMT payments on behalf of partners who are New York nonresidents unless:

- The estimated MCTMT required to be paid by the partnership on the nonresident partner's behalf is \$300 or less for the tax year;
- The partnership requested permission and was approved to file a New York State personal income tax group return and the partner has elected to be included on the group return (see below); or
- The partner provides a proper exemption certificate to the partnership.⁵

Also consistent with the new procedures described above, beginning with the estimated MCTMT payment due on April 15, 2015 (for both calendar year and fiscal year partnerships), estimated MCTMT payments made on behalf of nonresident partners must be combined with any required estimated income tax payments and reported on Form IT-2658, *Report of Estimated Tax for Nonresident Individual Partners and Shareholders*.

Group MCTMT Return for Partners

For tax years beginning on or after January 1, 2015, group MCTMT returns for partners are no longer accepted (although a New York State personal income tax group return ("group return") may be filed on behalf of certain electing nonresident partners, as noted below) and MCTMT information generally must be reported on New York State personal income tax returns. Partnerships should notify partners who elected to participate in MCTMT group returns that estimated MCTMT payment and filing requirements have changed for tax years beginning on or after January 1, 2015.

Personal Income Tax Group Return for Nonresident Partners

Partnerships having income derived from or connected with New York sources may, upon approval by the Department, file a group return on behalf of certain electing nonresident partners. If a qualified partner elects to participate in the group return, such partner is not required to file an individual New York State personal income tax return for the tax year. For tax years beginning on or after January 1, 2015, revised Form IT-203-GR, *Group Returns for Nonresident Partners*, will require partnerships to include annual MCTMT information on the group return.

Considerations

Partnerships should alert partners who previously elected to participate in MCTMT group returns that MCTMT group returns are no longer accepted. Moreover, individuals with net earnings from self-employment allocated to the MCTD and individual partners in partnerships engaging in business in the MCTD should be aware of the changes to estimated payments and tax return filing noted above.

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⁵ These rules generally are the same as the rules applicable regarding withholding of estimated tax of nonresident partners.

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