



Instructions for Form MTA-405

Report of Estimated Metropolitan Commuter Transportation Mobility Tax for New York Nonresident Individual Partners

MTA-405-I

General information

Effective January 1, 2009, the metropolitan commuter transportation mobility tax (MCTMT) is imposed on self-employed individuals (including partners or members in partnerships, limited liability partnerships (LLPs) that are treated as partnerships, and limited liability companies (LLCs) that are treated as partnerships) engaging in business within the Metropolitan Commuter Transportation District (MCTD). The MCTD consists of New York City (the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, and Richmond (Staten Island)) as well as the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

Hereafter, partners and members will be collectively referred to as partners. Partnerships, including LLPs and LLCs treated as partnerships, will be collectively referred to as partnerships.

The Tax Law requires partnerships that do business within the MCTD to make estimated MCTMT payments on behalf of any New York State nonresident individual partner subject to the MCTMT.

The MCTMT is imposed at a rate of .34% (.0034) of each partner's net earnings from self-employment allocated to the MCTD if that partner's net earnings from self-employment allocated to the MCTD exceed \$10,000 for the tax year.

For a fiscal-year partnership, base the payments for 2011 on the partner's share of partnership net earnings from self-employment allocated to the MCTD for the fiscal year that ends in calendar year 2011.

Who must file

Partnerships must file Form MTA-405 to make estimated MCTMT payments on behalf of New York nonresident individual partners. Partnerships do not have to make estimated MCTMT payments for partners who are resident individuals, partnerships, corporations, estates or trusts.

Exceptions:

- Estimated MCTMT payments are not required for any partner whose estimated MCTMT required to be paid for the tax year by the partnership is \$300 or less. **Note:** Partners are still required to make estimated MCTMT payments in their individual capacities if they owe any MCTMT.
- Estimated MCTMT payments are not required for a partner if the partnership is authorized to file and pay MCTMT on a group basis, and the partner has elected to be included in the MCTMT group filings. For more information on MCTMT group filing, see Form MTA-505-I, *Instructions for Form MTA-505*, and TSB-M-09(2)MCTMT, *Metropolitan Commuter Transportation Mobility Tax Group Estimated Tax Payments and Group Returns for Partners*.

Exemption certificates — Estimated MCTMT payments are not required for any partner who files Form MTA-405-E, *Certificate of Exemption from Partnership Estimated Metropolitan Commuter Transportation Mobility Tax Paid on Behalf of New York Nonresident Individual Partners*, with the partnership, certifying that the partner will comply in his or her individual capacity with the MCTMT estimated tax and return filing requirements. For more information see Form MTA-405-E.

Do not submit copies of Form(s) MTA-405-E to the Tax Department. The partnership may rely on these forms to exempt the partners from the estimated MCTMT requirements. The partnership must maintain copies of Form(s) MTA-405-E for its records.

When a partnership makes a payment on behalf of a partner, it is treated as a payment of estimated MCTMT made by the partner. The partners can take into account any payments made on their behalf by the partnership in determining how much individual estimated MCTMT they must pay.

If the partnership overpays estimated MCTMT for the year, a refund will be issued to the partnership only if the partnership can establish that the overpayment was attributable to estimated MCTMT payments made on behalf of a partner for whom it was not required to pay estimated MCTMT (for example, the partnership erroneously made a payment for a partner that is a trust).

When to make estimated MCTMT payments

For tax year 2011, payments are due on May 2, August 1, October 31, 2011, and January 31, 2012.

The partnership must pay the estimated MCTMT by these dates whether the partnership or nonresident individual files its returns on a calendar-year basis or a fiscal-year basis.

The partnership can pay the entire estimated MCTMT due with the first payment or pay in four equal installments.

Notification to partners — Every partnership required to pay estimated MCTMT on behalf of its partners must issue a statement to the partners showing the amount of estimated MCTMT paid on their behalf. The statement must be furnished within 30 days after the estimated MCTMT is paid. There is no specific form for this notification process. The partnership may choose the method of notifying its partners of the payment. The statement must show that the payment is to be treated as a payment of estimated MCTMT when the partners file their MCTMT returns (Forms MTA-6, *Metropolitan Commuter Transportation Mobility Tax Return*).

Penalties

Failure to pay estimated MCTMT on behalf of a partner — If a partnership is required to pay estimated MCTMT on behalf of a partner and fails to do so, the partnership will owe a penalty of \$50 per partner for each failure, unless the partnership shows that the failure is due to reasonable cause and not due to willful neglect.

Underpayment of estimated MCTMT — In the case of an underpayment of estimated MCTMT by the partnership, an underpayment penalty will be added to the estimated MCTMT required to be paid. In general, the partnership may owe the penalty if the total estimated MCTMT paid on behalf of all nonresident individual partners is not equal to or greater than the smaller of:

- 1) 90% of the estimated MCTMT required to be paid for 2011; or

- 2) 100% of the estimated MCTMT required to be paid on behalf of partners for the prior tax year (110% of that amount if the partnership is not primarily engaged in farming or fishing and the net earnings from self-employment allocated to the MCTD for all New York nonresident individual partners is more than \$150,000).

Note: This calculation is used only to determine if the partnership owes a penalty for underpayment of MCTMT. It does not take into account whether the partnership properly allocated the total payment among the nonresident individual partners.

In addition to the penalties that may be imposed upon the partnership, partners may be subject to penalties on their individual MCTMT returns if they have not paid sufficient estimated MCTMT for the year.

Specific instructions

Mark an **X** in the appropriate box to indicate the date for which the estimated MCTMT payments are being made.

Enter the partnership's legal name, business name if different, address, and employer identification number (EIN). Please provide a contact name, phone number, and e-mail address. Also enter the legal name and EIN on the back page and on each page of your Form(s) MTA-405-ATT, *Attachment to Form MTA-405*.

Foreign addresses — Enter the information in the following order: city, province or state, and then country (all in the *City, village, or post office box*). Follow the country's practice for entering the postal code. **Do not abbreviate the country name.**

Enter the total number of New York nonresident individual partners for whom estimated MCTMT payments are being made with Form MTA-405 and attached Form(s) MTA-405-ATT.

Additional sheets — If the partnership is making estimated MCTMT payments on behalf of more than eleven New York nonresident individual partners, list the additional partners on Form MTA-405-ATT. Follow the instructions for Form MTA-405 to complete Form MTA-405-ATT. Be sure to attach Form(s) MTA-405-ATT to Form MTA-405.

Total net earnings from self-employment allocated to the MCTD — Allocate net earnings from self-employment to the MCTD based on the business activity carried on in the MCTD. *Business activity* is carried on in the MCTD if the partnership has, maintains, operates, or occupies desk space, an office, a shop, a store, a warehouse, a factory, an agency, or other place located in the MCTD where business matters are systematically and regularly carried on. Similarly, business activity is carried on outside of the MCTD if the partnership has, maintains, operates, or occupies desk space, an office, a shop, a store, a warehouse, a factory, an agency, or other place located outside the MCTD where business matters are systematically and regularly carried on.

If all of the partnership's business activity for 2011 is carried on in the MCTD, enter the estimated amount that will be reported on the partnership's 2011 Form IT-204, *Partnership Return*, Section 7 – *Partner's share of income, deductions, etc.*, line 101.

If the partnership's business activity for 2011 is carried on both inside and outside the MCTD, you must use one of the following methods to allocate the partnership's estimated net earnings to the MCTD:

- **Books and records** — If the partnership maintains books and records from which net earnings from self-employment from business activities carried on in the MCTD can be fairly and equitably determined, you may enter the net earnings

from self-employment allocated to the MCTD as determined from the books of account.

- **Business allocation percentage** — If the partnership's books and records do not allow you to determine the partnership's net earnings from self-employment allocated to the MCTD, use Form IT-204, Section 10 — *New York allocation schedule* (and its instructions), substituting *MCTD for New York State*. Multiply the resulting business allocation percentage by the estimated net earnings from self-employment that will be reported on the partnership's 2011 Form IT-204 Section 7, line 101, and enter the result. If the business allocation percentage method does not fairly and equitably reflect the partnership's net earnings from self-employment allocated to the MCTD, you may use an authorized alternate allocation method.

Allocation of estimated MCTMT to partners — Complete columns A through D for each New York nonresident individual partner for which the partnership is making an estimated MCTMT payment.

Column C Partner's percentage of ownership — Enter the partner's ownership percentage in the partnership. Round the percentage to four decimal places only. If the actual percentage of ownership is less than .0001, enter it as **00.0001**. If the current-year's percentage is not available, enter the prior-year's percentage.

Column D Amount of estimated MCTMT paid on behalf of partner — You can use an estimate of 2011 net earnings from self-employment allocated to the MCTD to determine the estimated MCTMT to be paid on each partner's behalf or you can use each partner's actual net earnings from self-employment allocated to the MCTD from 2010. However, if the partner was not a partner in the partnership for 2010, you must use the 2011 estimate to compute the estimated MCTMT to be paid on the partner's behalf. Use the *Estimated MCTMT worksheet* on page 3 to determine the amount of estimated MCTMT to be paid on behalf of each partner.

Note: If the partnership is also required to file Form IT-2658 or CT-2658, do **not** combine estimated MCTMT payments with any payment of estimated income tax that the partnership is required to make. The payment due dates and processing addresses for the MCTMT are different.

(continued)

Estimated MCTMT worksheet
(round to the nearest whole dollar)

- | | | |
|---|----|-------|
| 1. Partner's actual (2010) or estimated (2011) net earnings from self-employment allocated to the MCTD..... | 1. | _____ |
| 2. Estimated MCTMT due (multiply line 1 by .34% (.0034)) | 2. | _____ |
| 3. Estimated MCTMT payment (see instructions)... | 3. | _____ |

Estimated MCTMT worksheet instructions

Line 1 — If you are using an estimate of net earnings from self-employment allocated to the MCTD from 2011, multiply the amount from Form MTA-405 in the box titled *Total net earnings from self-employment allocated to the MCTD* by the partner's percentage of ownership from Form MTA-405 or Form MTA-405-ATT, column C. Enter the result on line 1 of the worksheet. Otherwise, to use the partner's actual 2010 net earnings from self-employment allocated to the MCTD, multiply the amount from the partnership's 2010 Form IT-204, line 101, by the percentage shown on the 2010 Form IT-204, line 116b. Multiply the result by the partner's percentage of ownership from Form MTA-405 or MTA-405-ATT, column C.

Line 2 — To pay 100% of the nonresident partner's estimated MCTMT with the first required payment, enter the amount from line 2 on Form MTA-405 or Form(s) MTA-405-ATT, in column D. To pay the estimated MCTMT due in installments, continue with line 3.

Line 3 — To pay in four equal installments, multiply the amount on line 3 by 25% (.25) and enter the result on line 3 of the worksheet and on Form MTA-405 or MTA-405-ATT, in column D.

Third-party designee

Do you want to authorize another person (third-party designee) to discuss this return with the New York State Tax Department?

If **No**, mark an **X** in the **No** box.

If **Yes**, mark an **X** in the **Yes** box. Print the designee's name, phone number, and any five numbers the designee chooses as his or her personal identification number (PIN). If you want to authorize the paid preparer who signed this return to discuss it with the Tax Department, print the preparer's name and phone number in the spaces for the designee's name and phone number (you do not have to provide a PIN).

If you mark the **Yes** box, you are authorizing the Tax Department to discuss with the designee any questions that arise during the processing of this return. You are also authorizing the designee to:

- give the Tax Department any information that is missing from this return;
- call the Tax Department for information about the processing of this return or the status of the payment; and
- respond to certain Tax Department notices that you share with the designee about math errors and return preparation. We will not send notices to the designee.

You are not authorizing the designee to bind you to anything (including any additional tax liability), or otherwise represent you before the Tax Department. If you want the designee to perform those services for you, you must file a power of attorney. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) will only be sent to the designee if you file a power of attorney.

The third-party designee authorization cannot be revoked. However, the authorization only includes the tax period covered on this return. You may designate the same representative, or another representative, on future returns.

Signatures

A general partner, member, or other authorized person must sign Form MTA-405. Enter your daytime telephone number including the area code. This entry will enable the Tax Department to correct minor errors or omissions by calling you rather than writing or sending back the return.

Anyone you pay to prepare this return must also sign it and fill in the other blanks in the paid preparer's area of the return. If someone prepares the return and does not charge you, the paid preparer's area should not be filled in.

Paid preparer's responsibilities — Under the law, all paid preparers must sign and complete the paid preparer section of the form. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.

When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number.

Where to file

Mail Form MTA-405, any Form(s) MTA-405-ATT, and payment to:

MCTMT PROCESSING CENTER
PO BOX 4140
BINGHAMTON NY 13902-4140

Make your check or money order payable in U.S. funds to **Commissioner of Taxation and Finance** and write the partnership's EIN and **MTA-405** on it.

Fee for payments returned by banks — The law allows the Tax Department to charge a \$50 fee when a check, money order, or electronic payment is returned by a bank for nonpayment. However, if an electronic payment is returned as a result of an error by the bank or the department, the department won't charge the fee.

If your payment is returned, we will send a separate bill for \$50 for each return or other tax document associated with the returned payment.

Private delivery services — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service unless you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, Designated Private Delivery Services. See *Need help?* on page 4 of these instructions for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use any private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: JP Morgan Chase, MCTMT Processing Center — 405, 33 Lewis Road, Binghamton NY 13905-1040.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Telephone assistance is available from 8:30 A.M. to 4:30 P.M. (eastern time), Monday through Friday.

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

To order MCTMT forms: (518) 485-2392

Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



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.