



Department of Taxation and Finance

Important

Article 32 of the Tax Law was repealed, effective for tax years beginning on or after January 1, 2015, by Part A of Chapter 59 of the Laws of 2014. As a result, this TSB-M is obsolete and cannot be relied upon for tax years on or after that date insofar as the TSB-M addresses matters relating to Article 32.

For additional information concerning the Article 32 repeal, see [Transitional Filing Provisions for Taxpayers Affected By Corporate Tax Reform Legislation](#).

This TSB-M begins on page 2 below.

Tax Law, Article 32, Section 1455-B.1 (MTA Surcharge) Interpretation Change

The instructions for the 2007 Form CT-32-M, *Banking Corporation MTA Surcharge Return*, will reflect a change that corrects an error in interpretation that was reflected on previous years' forms. The Metropolitan Transportation Authority (MTA) surcharge is imposed on corporations subject to the franchise tax on banking corporations (Article 32 of the Tax Law) that are doing business in the Metropolitan Commuter Transportation District. The corrected interpretation concerns the calculation of the MTA surcharge where a taxpayer has claimed tax credits. This corrected interpretation applies to tax years beginning on or after January 1, 2007.

Section 1455-B.1 of Article 32 of the Tax Law was amended by Part O of Chapter 407 of the Laws of 1999 to require taxpayers to calculate the MTA surcharge as if the rate of tax on entire net income (ENI) was 9%, rather than the newly enacted ENI tax rate reductions for tax years beginning on or after July 1, 2000.

The previous interpretation of this Tax Law provision did not require a banking corporation whose highest measure of tax was ENI and whose tax credits reduced its franchise tax to the fixed dollar amount of \$250 to recompute the tax measured by ENI using the 9% tax rate when computing the MTA surcharge tax base. Instead, the MTA surcharge was based on the fixed dollar amount of \$250. The interpretation was first reflected in the instructions for the 2000 Form CT-32-M and continued through the instructions for the 2006 Form CT-32-M.

Under the new interpretation, *all* banking corporations subject to the MTA surcharge for whom the highest measure of tax before the application of tax credits is ENI, including taxpayers whose tax credits reduce their franchise tax to the fixed dollar amount of \$250 (or less if applying the credit for servicing mortgages), will be required to recalculate the tax measured by ENI using a 9% tax rate when computing the MTA surcharge tax base. This change applies to tax years beginning on or after January 1, 2007.

Banking corporations that benefited from the interpretation previously in effect are not required to file amended returns and will not be assessed additional tax as a result of this new interpretation.

Banking corporations should consider the change in interpretation when making estimated MTA surcharge payments.