



MTA Surcharge Rate and Deriving Receipts Thresholds for 2018

This memorandum announces the rate and deriving receipts thresholds applicable to the Article 9-A Metropolitan Transportation Business Tax Surcharge (MTA surcharge) for tax years beginning on or after January 1, 2018, and before January 1, 2019.

New MTA surcharge rate

On December 1, 2017, the Business Corporation Franchise Tax Regulations were amended, as an emergency measure, to add new section 9-1.2(d) to set forth the MTA surcharge rate for tax years beginning on or after January 1, 2018, and before January 1, 2019.

The Commissioner is required, pursuant to Tax Law § 209-B(1)(f) and 20 NYCRR 9-1.2, to annually adjust the rate of the MTA surcharge for tax years beginning on or after January 1, 2016, as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for the state fiscal year that commences in the year for which the rate is to be set, as reflected in the enacted budget for the fiscal year commencing on the previous April 1.

New section 9-1.2(d) complies with the annual mandate of Tax Law § 209-B(1)(f), setting forth the MTA surcharge rate for tax years beginning on or after January 1, 2016. As required by Tax Law § 209-B(1)(f), the Acting Commissioner of Taxation and Finance has adjusted the MTA surcharge using the state fiscal year 2018-2019 fiscal projections reflected in the enacted budget for fiscal year 2017-2018. As adjusted, the MTA surcharge rate is 28.6% for tax years beginning on or after January 1, 2018, and before January 1, 2019. This rate only applies to Article 9-A taxpayers¹ and will remain the same in any succeeding tax year, unless the Commissioner establishes a new rate. The previously established rate was 28.3%. See [TSB-M-17\(1\)C](#), *MTA Surcharge Rate and Deriving Receipts Thresholds for 2017*, for more information.

Estimated MTA surcharge

When determining the amount of the second, third, and fourth estimated MTA surcharge payments for tax years beginning on or after January 1, 2018, and before January 1, 2019, Article 9-A taxpayers should take into account the 28.6% MTA surcharge rate.

¹ The MTA surcharge is not imposed on New York S corporations. See Tax Law § 209-B(1)(a).

Deriving receipts thresholds

Tax Law § 209-B(1)(e) and 20 NYCRR 9-1.1 require the Commissioner to:

- annually review the thresholds at which a corporation is deemed to be deriving receipts from activity in the Metropolitan Commuter Transportation District (MCTD) for purposes of imposing the MTA surcharge; and
- adjust such thresholds if the Commissioner finds that the Consumer Price Index (CPI) has changed by 10% or more since January 1, 2015, or since the date that the thresholds were last adjusted by the Commissioner.

The Acting Commissioner has reviewed the cumulative percentage change in the CPI and found that the CPI has not changed by 10% or more since January 1, 2015. Therefore, the thresholds at which a corporation is deemed to be deriving receipts from activity in the MCTD for purposes of imposing the MTA surcharge will not be changed for tax years beginning on or after January 1, 2018, and before January 1, 2019. The thresholds will remain the same as set forth in Tax Law § 209-B(1) until such time as the Commissioner next reviews the cumulative percentage change in the CPI and is required to adjust such receipts thresholds.

(Tax Law §§ 171 and 209-B(1), and 20 NYCRR Part 9)

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