

Metropolitan Commuter Transportation Mobility Tax Group Estimated Tax Payments and Group Returns for Partners

General information

A partnership (including a limited liability partnership (LLP) and limited liability company (LLC) treated as a partnership) that is doing business within the Metropolitan Commuter Transportation District (MCTD), may be granted approval to make group estimated metropolitan commuter transportation mobility tax (MCTMT) payments and file a group MCTMT return on behalf of its qualified New York State **resident and nonresident** partners or members. A partnership, LLP, or LLC may file on a group basis only if it has 2 or more qualified partners or members who elect to file on a group basis for each year. In addition, all qualified partners who elect to participate in the group filing must have the same accounting period. (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.)

Group estimated MCTMT payments are considered to be a group of individual estimated tax payments which meet each partner's estimated MCTMT payment requirement. Also, a group return is considered to be a group of individual MCTMT returns which meet each partner's MCTMT return filing requirement. Accordingly, if a qualified partner elects to participate in the group, the partner is not required to make individual estimated MCTMT payments or file an individual MCTMT return.

See our Web site at www.nystax.gov for additional information regarding the MCTMT.

Approval to file on a group basis

A partnership that wishes to file on a group basis must request permission to do so by submitting an application on Form MTA-599, *Application for Permission to Make Metropolitan Commuter Transportation Mobility Tax Group Estimated Tax Payments and File a Group Return*. Form MTA-599 must be submitted to: NYS Tax Department, Taxpayer Contact Center - MTA Group Return, W. A. Harriman Campus Albany, NY 12227. Form MTA-599 must be filed no later than 45 days before the due date of the first required estimated MCTMT payment for the tax year. Accordingly, for the 2009 tax year, Form MTA-599 must be filed no later than September 15, 2009. For subsequent tax years, Form MTA-599 must be filed no later than March 15 of the applicable tax year.

After receipt of a properly completed Form MTA-599, the Tax Department will determine whether permission will be granted and will notify the partnership accordingly. If approval is granted, the partnership will be issued a special MCTMT identification number to be used only for making the group estimated MCTMT payments and filing the group MCTMT return. The Tax Department's approval to file on a group basis is contingent upon the receipt of

the group return for the applicable tax year (for example, 2009), and is subject to revocation upon audit. An approval to file on a group basis will remain in effect unless it is revoked. Annual approval is not required. However, see *Reinstatement*, below.

Note: You must obtain prior approval to file on a group basis. If you file on a group basis without receiving the special MCTMT identification number which must be included on the group estimated tax payments and group return, the group estimated tax payments and group return will not be processible, and the participating partners could be subject to underpayment, late-filing, and late-payment penalties.

Reinstatement: If a partnership that has received permission to file on a group basis decides not to file on a group basis for a particular tax year, it must notify the Tax Department of its decision in writing at the address previously stated for filing Form MTA-599. The notice must show the name and address of the partnership and the special MCTMT identification number. In addition, if the partnership wishes to file on a group basis for a subsequent tax year, it must request reinstatement of its approval to file on a group basis. A request for reinstatement must be submitted on Form MTA-599. Form MTA-599 must be submitted no later than March 15 of the first tax year for which reinstatement is requested.

Group agent and powers of attorney

A partnership that requests approval to file on a group basis must appoint one partner as the *group agent*. The group agent must have legal authority to act as an agent in matters relating to the group estimated MCTMT payments and group MCTMT return, for all partners participating in the group. The group agent is required to maintain records relating to the portion of the total estimated tax paid on behalf of each partner and to sign the group return. Any communications from the Tax Department will be sent to the group agent. Any notices required by law (for example, a notice of deficiency or a notice and demand) will be sent to the group agent as well as to the individual partner involved. The group agent will be personally liable for only those penalties relating to making or signing an erroneous, false, or fraudulent return, but only if the agent was actually responsible for the error.

Form MTA-599 must be accompanied by an individual power of attorney for each qualified partner (however, see *Note* below for filing Form DTF-350, *Group Affidavit*) who the group agent knows, at the time of application, will be participating in the group. The power of attorney must authorize the group agent to represent the participating partner in making group estimated tax payments and filing the group return. If, after the application date, an additional partner elects to participate in the group (or subsequent year's group filing), a power of attorney for that partner must be attached to the first group return on which the partner is included. If a partnership requests reinstatement of approval to file on a group basis (see *Reinstatement*, above), the partnership must also resubmit powers of attorney as previously described.

If the partnership changes its group agent, it must notify the Tax Department immediately at the previously stated address. The notice must also be accompanied by new powers of attorney for all participating partners (however, see *Note* below).

Note: Instead of individual powers of attorney, you may submit other evidence, if acceptable to the Tax Department, that establishes the group agent's authority to act as an agent in making, executing, and filing the group estimated tax payments and group return for the qualified electing partners. If you wish to submit other evidence, attach a statement to Form MTA-599 describing the evidence you wish to submit; the Tax Department will notify you whether or not it is acceptable. Form DTF-350, filed in accordance with the instructions for that form, is acceptable evidence that may be submitted instead of individual powers of attorney.

Qualified partner

A *qualified partner* is a partner who is a New York State **resident or nonresident** individual who meets both of the following conditions:

- The partner must have no net earnings from self-employment allocated to the MCTD other than (1) the partner's net earnings from self-employment allocated to the MCTD from the partnership, or (2) net earnings from self-employment allocated to the MCTD from another partnership where the partner is included in that partnership's MCTMT group filing.
- The partner must waive the \$10,000 net earnings from self-employment income threshold for imposing the tax.

Electing to participate in the group

A qualified partner elects to participate in the group estimated MCTMT payments and group MCTMT return by informing the group agent that he or she wishes to participate and by executing a power of attorney as described previously. The election must be made by the thirtieth day of the fourth month following the close of the tax year for which the election is made. However, a partner who has made any individual estimated MCTMT payments for that tax year cannot be included on the group return for that tax year. In addition, if a qualified partner is a partner in another partnership that conducts business in the MCTD, the partner must be included in both partnerships' group MCTMT filings. The partner's inclusion in the group filing constitutes notice to the Tax Department that the partner is electing to participate in the group filing.

A partner who elects to participate in the group filing may not change that election after the thirtieth day of the fourth month after the close of the tax year. However, if it is later determined that a partner included in the group filing did not meet the definition of a qualified partner for the tax year, the partner must file an individual MCTMT return.

Filing requirements

The group estimated MCTMT payments are filed using Form MTA-5, *Estimated Metropolitan Commuter Transportation Mobility Tax Payment Voucher*. The group estimated

tax payments are due on April 30, July 31, and October 31 of the current year, and January 31 of the following year. Form MTA-5 must show the name and address of the partnership and the special MCTMT identification number assigned to the partnership. The form must also show the total MCTMT paid on behalf of the group. However, the group agent must maintain records to show that portion of the total that is paid on behalf of each participating partner.

Special rule for tax year 2009 – The initial estimated MCTMT payment is due by November 2, 2009, (due to October 31, 2009, falling on a Saturday) and must include each partner's total estimated tax due for the period January 1, 2009, through September 30, 2009.

For the partner to avoid a penalty for underpayment of the MCTMT for the tax year, the partner's total amount of MCTMT payment(s) must be:

- at least 90% (66 2/3% for farmers and fisherman) of the amount of the partner's MCTMT due for the tax year; or
- 100% of the MCTMT reported for the partner for the prior tax year (110% of that amount if the partner is not a farmer or a fisherman and the partner's net earnings from self-employment allocated to the MCTD for the prior year is more than \$150,000). However, this rule does not apply for tax year 2009.

There will be no penalty for the underpayment of estimated tax for periods prior to October 31, 2009, provided the partner's total estimated tax due for the period January 1, 2009, through September 30, 2009, is included in the October 31 payment.

If a qualified partner or partners who were included in the group estimated tax payments decide not to participate in the group return, the group agent should notify the Tax Department no later than March 1 of the year in which the return is due. This notification must contain the following information for each partner:

- the name and address of the partnership;
- the special MCTMT identification number assigned to the partnership;
- the partner's name, address, and social security number;
- the amount of MCTMT paid on the partner's behalf; and
- a request that the payment or payments be switched to an individual estimated MCTMT account in the partner's name.

If the partnership subsequently decides not to file a group return for the tax year, the above partner information should be provided for each partner no later than March 1 of the year in which the return is due. The notification must be mailed to: **NYS Tax Department, Estimated MCTMT Unit, W A Harriman Campus, Albany NY 12227-0125.**

This transfer of estimated tax payments could take two to three weeks to become effective. If the partner files an individual MCTMT return before the transfer becomes effective, the partner will not get credit for these payments when the return is processed, and a tax due

notice will be issued to the partner. Therefore, the partner may wish to request an extension of time to file the partner's individual MCTMT return to ensure that the estimated tax payments made on the partner's behalf have been properly credited to the partner's individual MCTMT estimated tax account prior to the partner's individual MCTMT return being filed.

The group return must be filed on Form MTA-505, *Metropolitan Commuter Transportation Mobility Tax Group Return for Partners*, no later than April 30 following the close of the tax year. However, see *Extensions of Time* below. Any overpayment of MCTMT cannot be refunded. Instead, it will be applied to the group estimated tax account for the following year.

In addition, a partnership filing a group return must attach to its Form IT-204, *New York State Partnership Return*, a list showing the name (in alphabetical order) and social security number of each partner who will be included on the group MCTMT return.

Extension of time

If the partnership cannot meet the filing deadline, it may request an extension of time to file the group MCTMT return using Form MTA-7, *Application for Automatic Six-Month Extension of Time to File a Metropolitan Commuter Transportation Mobility Tax Return*. Form MTA-7 must show the special MCTMT identification number assigned to the partnership. The partnership must also attach to Form MTA-7 a list showing each participating partner's name and social security number (in either alphabetical or social security number order).

Amended return

An amended group MCTMT return must be filed if an amended federal return is filed by the partnership that changes any items used in calculating net earnings from self-employment allocated to the MCTD reported on the original group return. An amended group MCTMT return must also be filed if a federal audit of the partnership changes any items used in calculating net earnings from self-employment allocated to the MCTD reported on the original group return. An amended group return must be filed within 90 days of the date the federal amended partnership return is filed, or, in the case of a federal audit, within 90 days after the final determination of the change. Attach a copy of the federal report of examination changes and a signed statement by the group agent indicating you concede the federal audit changes. If you do not concede the federal audit changes, attach a signed statement explaining why.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.