

NECESSITY

DEPARTMENT OF TAXATION AND FINANCE

Specific reasons underlying the finding of necessity: The purpose of the rule is to add a new Part 9 to 20 NYCRR, to implement section 209-B of the Tax Law, as amended by Section 7 of Part A of Chapter 59 of the Laws of 2014. Section 209-B, as amended, generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to section 209-B(1)(f) of the Tax Law, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for state fiscal year 2016-2017, as reflected in the enacted budget for that fiscal year.

Section 209-B(1)(e) of the Tax Law requires the Commissioner to adjust the thresholds at which a corporation is deemed to be deriving receipts from activity in the metropolitan commuter transportation district for purposes of imposing the metropolitan transportation business tax surcharge, after reviewing, at the end of each year, the cumulative percentage change in the consumer price index and adjusting such receipts thresholds if the consumer price index has changed by 10 percent or more since January 1, 2015 or since the date that the thresholds were last adjusted by the Commissioner.

These rules are being adopted on an emergency basis in order to have the metropolitan transportation business tax surcharge rate for Tax Year 2016 in place on January 1, 2016, and to continue to have the rate in effect until the permanent rule establishing the rate is adopted.