



# Instructions for Form MTA-409

## Estimated Metropolitan Commuter Transportation Mobility Tax Penalties for Partnerships

# MTA-409-I

## General instructions

### Who must pay the underpayment penalty

In general, the partnership may owe a penalty unless the total estimated metropolitan commuter transportation mobility tax (MCTMT) paid on behalf of all nonresident individual partners is at least 90% of the estimated MCTMT required to be paid for tax year 2009.

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

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

### 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 pay a penalty of \$50 per partner for each failure, unless it is shown that the failure is due to reasonable cause and not due to willful neglect.

*Estimated MCTMT* means a partner's distributive share of the partnership's net earnings from self-employment allocated to the Metropolitan Commuter Transportation District (MCTD) multiplied by a rate of .34% (.0034). For tax year 2009, each partner's estimated MCTMT liability is based on ten-twelfths of his or her 2009 net earnings from self-employment allocated to the MCTD.

### 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 any partner if the partnership is authorized to file and pay MCTMT on a group basis, and the partner has elected to be included in all MCTMT group filings. For more information on MCTMT group filing, see Form MTA-505-I, *Instructions for Form MTA-505, Metropolitan Commuter Transportation Mobility Tax Group Return for Partners*, and TSB-M-09(2)MCTMT, *Metropolitan Commuter Transportation Mobility Tax Group Estimated Tax Payments and Group Returns for Partners*.
- Estimated MCTMT payments are not required for partners who are residents of New York State, partnerships, corporations, estates, or trusts.

**Exemption certificates** — Estimated MCTMT payments are not required for any partner that 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.

**Overpayments of estimated MCTMT** — 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). Otherwise, the partner will have to claim credit for the estimated MCTMT payment on the partner's individual MCTMT return.

**Penalty rates** — The penalty rates will be based upon the federal short-term interest rates, and will be adjusted quarterly. The federal short-term rate for the first month of the previous calendar quarter, rounded to the nearest whole percent, will be used to set the rates for the next succeeding calendar quarter.

The federal short-term rate that applies during the third month following the tax year will also apply during the fourth month of the following the tax year.

The penalty rate will be the federal short-term rate plus five and one-half percentage points, but not less than 7.5%. The rates from October 1, 2009, through April 30, 2010, are as follows:

October 31, 2009 to December 31, 2009 - 7.5%  
January 1, 2010 to April 30, 2010 - 7.5%

**Period of underpayment** — The penalty is applied to the number of days that the installment was not paid. Determine the period of the underpayment by counting the number of days after the due date of the installment to (and including) the date of payment, to the last date in the penalty rate period, or to the next installment due date, whichever is earliest.

### Where to file

Mail your form to:

**MCTMT PROCESSING CENTER**  
**PO BOX 4142**  
**BINGHAMTON NY 13902-4142**

**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: MCTMT Processing Center — 409, 33 Lewis Road, Binghamton NY 13905-1040.

## Specific instructions

### Name, address, and employer identification number (EIN)

Enter in the spaces at the top of the form the legal name, address, and employer identification number of the partnership.

### Schedule A — Computation of estimated MCTMT underpayment

Use Schedule A to see if the partnership paid enough of its required estimated MCTMT for the tax year. If enough estimated MCTMT was not paid, use Schedule B or Schedule C to compute the penalty.

Do not include any partners who meet the exceptions or who filed exemption certificates (see *Exceptions and Exemption certificates* on page 1).

All filers must complete lines 1 through 5.

### Schedule B — Short method for computing the penalty

If you made no estimated MCTMT payments for the 2009 tax year, complete lines 6 through 8 to compute the penalty due. Otherwise, you must use the regular method in Schedule C.

**Line 7** — If the underpayment on line 5 was paid before April 30, 2010, determine the number of days the payment was made before April 30, 2010, and enter it in the computation for line 7.

**Example:** Assume you had an underpayment of \$2,000 on line 5 and it was paid April 15, 2010. You would compute the amount for line 7 as follows: \$2,000 (amount on line 5) × 15 (number of days before April 30, 2010) × .00020 = \$6.00.

### Schedule C — Regular method

#### Part 1 — Computing the underpayment

**Line 9** — Enter on line 9 the amount of your required MCTMT for the due date shown in each column heading. Multiply the amount on line 5 by 75% (.75) and enter the result in column A. Then multiply the amount on line 5 by 25% (.25) and enter the result in column B.

**Line 10** — Enter the total estimated MCTMT paid for each period.

**Line 11** — Enter any overpayment (or underpayment) from the prior payment period.

**Line 12** — In column A, enter the amount from line 10. In column B, if line 11 is an overpayment, add lines 10 and 11.

If line 11 is an underpayment, subtract line 11 from line 10.

**Line 13** — If line 9 is greater than line 12, subtract line 12 from line 9. The result is an underpayment that should also be entered on line 14 for the same payment due date, and on line 11 for the next payment due date. If line 12 is greater than line 9, subtract line 9 from line 12. The result is an overpayment that should also be entered on line 11 for the next payment due date.

If line 12 is a negative amount, your total underpayment at line 13 is the installment due at line 9 plus the line 12 amount.

#### Part 2 — Computing the penalty

Compute the penalty by applying the applicable rate against each underpayment shown on line 14. The penalty is computed for the number of days that the underpayment remained unpaid or to the next payment due date, whichever is earlier.

The rates are established at various times through the year. During 2009 there was one rate in effect for two periods.

Use lines 15 through 18 to compute the portion of the penalty attributable to different installment periods. For example, use lines 15 and 16 to compute the penalty for the first installment

period at 7.5%. Use the factor .01890 at line 15 to compute the penalty for the first installment if payment is made on January 31, 2010. If the payment is made before January 31, 2010, compute the factor using the number of days the underpayment remained unpaid for the first installment. Use line 16 to compute the actual penalty amount by multiplying the underpayment by the factor.

Read the instructions and examples for lines 15 through 18 beginning below before completing Schedule C, Part 2.

### List your payments for 2009

Before beginning to compute your penalty in Schedule C, Part 2, it will be helpful to organize and list the payments you made for 2009 in the manner presented in the tables below.

In each table list only the payments made during the dates shown in that table heading.

**Table 1** — Payments after October 31, 2009, through January 31, 2010

(a) Date	(b) Payments

**Table 2** — Payments after January 31, 2010, through April 30, 2010

(a) Date	(b) Payments

Use the following instructions to compute the penalty in Schedule C, Part 2.

Complete only those lines from line 15 through line 18 for periods in which there are underpayments.

#### First installment — column A, lines 15 and 16

**Line 15** — Enter on line 15, column A, the factor .01890 if no payment was made before January 31, 2010. If any payment was made before January 31, 2010, compute the number of days from October 31, 2009, to the date the payment was made and divide by 365. Then multiply the result by the interest rate shown to compute the factor to enter on line 15.

**Line 16** — Compute line 16 by multiplying the underpayment on line 14 by the factor on line 15.

**Example 1:** Assume you had an underpayment on line 14, column A, of \$1,000 and that you had no payments listed in Table 1 above. Because the underpayment remained unpaid for the entire first installment period (92 days), you would compute the penalty on the underpayment using the factor shown and enter .01890 on line 15. You would enter \$18.90 (\$1,000 × .01890) on line 16.

**Note:** When dividing the number of days by 365, carry the result to four decimal places but when computing the factor, carry the result to five decimal places. Do not round off in either calculation.

**Example:**  $85 \div 365 = .2328 \times 6\% = .01396$

**If there is a payment listed in Table 1,** on a separate sheet of paper apply the payment to the underpayment shown on line 14. The *underpayment* for the computation on line 16 will be the amount of the payment that you applied to the line 14 underpayment. If the payment is more than the underpayment,

apply only an amount equal to the underpayment and use that amount for the line 16 computation.

**If there are no payments listed in Table 1**, the *underpayment* is the entire balance shown on line 14, column A, because the entire underpayment was unpaid for the whole installment period.

**Example 2:** Assume you had an underpayment on line 14, column A, of \$1,000 and that your first payment in Table 1 was made on November 20, 2009, in the amount of \$1,000. You would compute the penalty on the underpayment by computing the factor as follows:  $20 \div 365$  (20 is the number of days from 10/31 to 11/20) multiplied by 7.5% equals .00410. Enter .00410 on line 15. You would enter \$4.10 ( $\$1,000 \times .00410$ ) on line 16.

If there are additional payments listed in Table 1 and the first payment was not enough to reduce the underpayment to zero, you must make a separate computation for each payment listed until the underpayment is reduced to zero. If there is still an underpayment balance after applying all of the payments, you must compute the penalty on the balance of the underpayment as explained in Example 3 below.

**Example 3:** Assume you had an underpayment on line 14, column A, of \$1,000 and that your first payment in Table 1 was made on November 9, 2009, in the amount of \$600. Because the payment did not reduce the underpayment to zero, you would compute the penalty on the underpayment by computing the factors as follows:  $9 \div 365$  (9 is the number of days from October 31 to November 9) multiplied by 7.5% equals .00184. Enter .00184 on line 15; as there are no other payments listed in Table 1, you would have a second computation to compute the factor on the remaining underpayment of \$400 as follows: enter .01890 (factor for period October 31, 2009 to January 31, 2010) on line 15. You would enter \$1.10 ( $\$600 \times .00184$ ) and \$7.56 ( $\$400 \times .01890$ ) on line 16.

**Column B** — In column B, compute the penalty on any underpayment shown on line 14. Compute the penalty for each period in the same manner as in column A.

#### Second installment — column B, lines 17 and 18

**Line 17** — Enter on line 17, column B, the factor .01828 if no payment was made before April 30, 2010. If any payment was made after January 31, 2010, but before April 30, 2010, determine the number of days from January 31, 2010, to the date the payment was made and divide by 365. Then multiply the result by the interest rate to compute the factor to enter on line 17.

**Line 18** — Compute line 18 by multiplying the underpayment on line 14 by the factor on line 17.

#### Schedule D — Failure to pay estimated MCTMT on behalf of partners who are nonresident individuals

Complete Schedule D for any partner for whom you were required to pay estimated MCTMT, but failed to do so. Attach additional sheets if necessary.

**Line 22 Total penalty** — Add the amounts from lines 19, 20, and 21 as applicable. Transfer the amount from line 22 to the *Payment enclosed* box on the front of Form MTA-409. Pay this amount in U.S. funds, and make your check or money order payable to **Commissioner of Taxation and Finance**.

#### Fee for payments returned by banks

A new 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.

#### Third-party designee

Do you want to authorize another person (third-party designee) to discuss this form 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 form 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 form. You are also authorizing the designee to:

- give the Tax Department any information that is missing from this form;
- call the Tax Department for information about the processing of this form or the status of the payment; and
- respond to certain Tax Department notices that you share with the designee about math errors and form 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 Form POA-1, *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 Form POA-1.

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

#### 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](http://www.nystax.gov)  
(for information, forms, and publications)



**Fax-on-demand forms:** Forms are  
available 24 hours a day,  
7 days a week. 1 800 748-3676



**Telephone assistance** is available from 8:00 A.M. to  
5:00 P.M. (eastern time), Monday through Friday.  
**MCT Mobility Tax** Information Center: (518) 485-2392  
For in-state callers without free  
long distance: 1 866 579-2498  
To order MCTMT forms (518) 485-2392  
For in-state callers without free  
long distance: 1 866 579-2498



**Text Telephone (TTY) Hotline** (for persons with  
hearing and speech disabilities using a TTY): If you  
have access to a TTY, contact us at 1 800 634-2110.  
If you do not own a TTY, check with independent  
living centers or community action programs to find  
out where machines are available for public use.



**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.