



MTA Surcharge Rate and Deriving Receipts Thresholds for 2016

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, 2016, and before January 1, 2017.

New MTA surcharge rate

On December 31, 2015, the Business Corporation Franchise Tax Regulations were amended, as an emergency measure, to add a new Part 9, entitled Metropolitan Transportation Business Tax Surcharge. Part 9 implements Tax Law section 209-B, which generally imposes a tax surcharge on every corporation subject to Tax Law section 209, 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 (MCTD), for all or any part of the corporation's tax year. Tax Law section 209-B(1)(a) requires that the rate of MTA surcharge applies only to that portion of the tax imposed under Tax Law section 209, before the deduction of any credits, that is attributable to the taxpayer's business activity carried on within the MCTD.

The Commissioner is required, pursuant to Tax Law section 209-B(1)(f), 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 1st.

Part 9 of the Regulations complies with the mandate of Tax Law section 209-B(1)(f), setting forth the MTA surcharge rate for tax years beginning on or after January 1, 2016. As required by section 209-B(1)(f), the Commissioner has adjusted the MTA surcharge using the state fiscal year 2016-2017 fiscal projections reflected in the enacted budget for fiscal year 2015-2016. As adjusted, the MTA surcharge rate is 28% for tax years beginning on or after January 1, 2016, and before January 1, 2017. This rate only applies to Article 9-A taxpayers and will remain the same in any succeeding tax year, unless the Commissioner establishes a new rate. The previously established statutory rate was 25.6%.

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, 2016, and before January 1, 2017, Article 9-A taxpayers should take into account the 28% MTA surcharge rate.

Deriving receipts thresholds

Part 9 of the Regulations also implements Tax Law section 209-B(1)(e), which requires the Commissioner to annually review the thresholds at which a corporation is deemed to be deriving receipts from activity in the MCTD for purposes of imposing the MTA surcharge, and to 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 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, 2016, and before January 1, 2017. The thresholds will remain the same as set forth in Tax Law section 209-B(1) until such time as the Commissioner next reviews the cumulative percentage change in the CPI and adjusts such receipts thresholds.

(Tax Law sections 171 and 209-B(1) and Title 20 NYCRR Part 9)

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.