



Instructions for Form MTA-305 Employer's Quarterly Metropolitan Commuter Transportation Mobility Tax Return

MTA-305-I

(4/12)

1st DRAFT

Font is now Arial

New information

For calendar quarters beginning on or after **April 1, 2012**:

- Employers are subject to the metropolitan commuter transportation mobility tax (MCTMT) if the payroll expense for all covered employees exceeds **\$312,500** for the quarter.
- Two new lower MCTMT rates have been added for employers.
- Eligible education institutions are no longer subject to the MCTMT (see *Who must file*).
- A Professional Employer Organization (PEO) (as defined in section 916 of the Labor Law) must calculate the MCTMT due based separately on the payroll expense of each of its clients and its own payroll expense. See our Web site for additional information on how to calculate the MCTMT and filing and payment requirements.

General information

The MCTMT is imposed on certain employers engaging in business within the Metropolitan Commuter Transportation District (MCTD).

In addition, the MCTMT is imposed on individuals with self-employment income (see the instructions for Form MTA-6, *Metropolitan Commuter Transportation Mobility Tax Return*).

The MCTD consists of New York City (the counties of New York (Manhattan) Bronx, Kings (Brooklyn), Queens, and Richmond (Staten Island)) as well as the counties of Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess, and Westchester.

The MCTMT is imposed on an employer's payroll expense for all covered employees. The rate that applies is based on the amount of an employer's payroll expense for the quarter.

Note: An employer may not deduct any amount of MCTMT from the wages or compensation of an employee.

Web file – Employers can electronically file their quarterly MCTMT returns and submit payments via ACH debit on our Web site (at www.tax.ny.gov). Benefits of this filing method include secure online filing as well as immediate data transmittal and confirmation.

Who must file

Employers must file quarterly MCTMT returns if they are required to withhold New York State income tax from wages paid to employees and their payroll expense for all covered employees exceeds **\$312,500** in any calendar quarter. However, the following employers are not subject to the MCTMT:

- any agency or instrumentality of the United States (as specifically stated by a federal law or a decision in a federal court case);
- the United Nations;
- an interstate agency or public corporation created pursuant to an agreement or compact with another state or Canada;
- any eligible education institution, including a public school district, Board of Cooperative Education Services (BOCES), a public elementary or secondary school, a school (approved pursuant to Article 85 or 89 of the Education Law) that serves school-age students with disabilities, or a nonpublic elementary or secondary school that provides instruction in grade one or above;

- a federally chartered credit union; or
- household employers on wages paid to household employees.

Employers who are liable for MCTMT for one quarter and not liable for the next quarter are not required to file a return showing no tax due. However, if the employer is subject to the MCTMT for a subsequent quarter, the employer must file a quarterly return and pay the tax due. Employers who have made any MCTMT payments during the quarter or have an MCTMT overpayment that is carried over from a previous quarter must file a quarterly return to request a refund (or request a credit to the next quarter if you anticipate owing MCTMT for that quarter).

When to file

Employers (PrompTax filers, see below) subject to the MCTMT must file and pay by the last day of the month following the end of the calendar quarter as follows:

Quarter	Due date
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

When the due date falls on a Saturday, Sunday or legal holiday, the employer may file on the next business day. There are no extensions of time allowed for employers to file MCTMT returns.

Employers participating in the PrompTax program – In addition to the quarterly returns described above, employers who are required to remit withholding taxes through the Tax Department's PrompTax program are required to pay MCTMT on the same date their withholding tax payments are made. Employers who voluntarily remit withholding taxes through the Tax Department's PrompTax program may also volunteer to remit MCTMT on the same date their withholding tax payments are made. Visit our Web site for information on the PrompTax program and requirements for MCTMT PrompTax filers. Also see TSB-M-12(1)MCTMT, *Legislative Amendments to the Metropolitan Commuter Transportation Mobility Tax*.

Amending Form MTA-305 information

To amend a previously filed Form MTA-305 for the same period, an employer must complete a new Form MTA-305 and mark an **X** in the *Amended return* box. The employer must complete the entire return, correct the appropriate lines with the new information, and recompute their MCTMT liability.

Note: Employers amending a previously filed quarterly return for the first quarter of 2012 (January 1 to March 31), or before, must apply the \$2,500 threshold to determine if they owe MCTMT, and use the .34% rate in effect for that filing period.

Federal audit changes – If the Internal Revenue Service (IRS) makes a change to an amount the employer must include in the payroll expense subject to MCTMT, the employer must report this change to the New York State Tax Department within 90 days after the final determination of the change by filing an amended Form MTA-305.

Penalties and interest

MCTMT quarterly returns filed and tax paid after the due date are subject to penalties and interest. These penalties may include the: late filing penalty, late payment penalty, failure to file penalty, and others.

Interest will be charged on any MCTMT that is not remitted on or before the payment due date.

Completing Form MTA-305

Please follow these guidelines.

Use black ink only (no red or other color ink or pencils) to print or type all entries.

Do not write in dollar signs, commas, dashes, or decimal points when making entries. All necessary punctuation has been printed on the form.

Specific instructions for employers

To calculate your MCTMT, you must determine your payroll expense for the quarter for all covered employees.

Determining if an employee is a covered employee

A *covered employee* means an employee (including a statutory employee) whose services are allocated to the MCTD.

To determine if an employee's services are allocated to the MCTD, apply the following tests in the order presented below. If any test results in the allocation of an employee's services to the MCTD, the employee is a covered employee and no further test need be applied. Otherwise proceed to the next succeeding test.

- 1) **Localization test** – An employee's services are allocated to the MCTD if those services are: 1) performed entirely within the MCTD or 2) performed both inside and outside of the MCTD, but the services performed outside the MCTD are incidental to the employee's services performed within the MCTD (for example, the services are temporary or transitory in nature, or consist of isolated transactions).
- 2) **Base of operations test** – An employee's services are allocated to the MCTD if the employee's base of operations is in the MCTD. This test cannot be applied if the employee has no base of operations, or has more than one base of operations. *Base of operations* means the place where the employee is not continuously located, but from which the employee customarily starts out to perform his or her functions within or outside the MCTD. The *base of operations* is where the employee customarily returns in order to receive instructions from his or her employer, communications from other persons, or to replenish stock and materials, repair equipment used, or to perform any other function necessary in the exercise of his or her trade or profession.
- 3) **Place of direction and control test** – An employee's services are allocated to the MCTD if the employee's direction and control emanates only from within the MCTD and the employee performs some services within the MCTD. *Direction and control* means the place from which the employer directs and controls the activities of the employees. It is not necessarily the location of the principal office, but rather the point from which basic authority over the supervision of services emanates (for example, the place where job assignments are made and/or instructions are issued, or the place where personnel and payroll records are maintained).
- 4) **Residence test** – If none of the preceding tests results in a clear allocation of services, all of the employee's services are allocated to the MCTD if the employee resides in the MCTD and performs some services in the MCTD. If the employee either doesn't reside in the MCTD or resides there, but performs no services in the MCTD, the employee is not a covered employee.

Example: *Employee A works as a corporate trainer for XYZ Corporation. Employee A maintains an office at*

XYZ Corporation's Manhattan office where he receives his training schedule, agenda updates, and training materials. However, Employee A spends approximately three weeks out of each month on training assignments at XYZ Corporation branches outside of the MCTD. Is he considered a covered employee?

Yes. *In applying the first test, we cannot conclude that Employee A's services are localized to the MCTD because the services performed outside of the MCTD would not be considered incidental to Employee A's services within the MCTD. Employee A's primary service is providing training to employees of XYZ Corporation and these services are done outside of the MCTD. We then apply the next test by determining the location of Employee A's base of operations. Since Employee A customarily returns to the Manhattan branch of XYZ Corporation to receive his training schedule, training materials, and corporate information, we can conclude that the Manhattan branch is Employee A's base of operations. All of Employee A's services are allocated to the MCTD and he is a covered employee of XYZ Corporation.*

Payroll expense subject to the MCTMT

Once you have identified the covered employees, you must determine the payroll expense for each covered employee for the quarter.

Payroll expense for covered employees subject to federal social security taxes means the total wages and compensation as defined in section 3121 of the Internal Revenue Code (IRC), without regard to section 3121(a)(1). Section 3121 of the IRC defines wages and compensation subject to federal social security taxes. However, in computing the payroll expense, the annual cap on the amount of wages and compensation of a covered employee subject to social security tax contained in section 3121(a)(1) of the IRC does not apply.

Payroll expense for covered employees subject to federal railroad retirement tax means the total wages and compensation as defined in section 3231 of the IRC, without regard to section 3231(e)(2)(A)(i). Section 3231 of the IRC defines wages and compensation subject to federal railroad retirement tax. However, in computing payroll expense, the annual cap on the amount of wages and compensation of a covered employee subject to the railroad retirement tax contained in section 3231(e)(2)(A)(i) of the IRC does not apply.

Note: Employers should reduce their *payroll expense* by the value of certain benefits (for example, health benefits that are treated as domestic partner health benefits for federal tax purposes) that the employer provided to a same-sex married employee who is a covered employee. This only applies when the value of these benefits if provided to a different-sex married spouse wouldn't be subject to social security tax. See our Web site for additional information.

You cannot allocate payroll expenses for covered employees who work both inside and outside of the MCTD for the purposes of computing the MCTMT. If an employee is considered a covered employee, then all of the payroll expense for that employee is subject to the MCTMT.

Line instructions

Enter your legal name, business mailing address including ZIP code, and your employer identification number (EIN). Your business mailing address is where all of your withholding tax, unemployment insurance (if applicable), and MCTMT mail will be sent.

Foreign addresses – Enter the information in the following order: city, province or state, and then country (all in the City,

village, or post office box). Follow the country's practice for entering the postal code. **Do not abbreviate the country name.**

Address change – If you need to update your withholding tax, unemployment insurance (if applicable), and MCTMT address, you can do so online. Visit our Web site and select the option to change your address. Otherwise, enter your new mailing address for withholding tax, unemployment insurance (if applicable), and MCTMT in the appropriate area on Form MTA-305, and mark an **X** in the *Address change* box on the address line. **Do not** mark an **X** in this box if your address is new since your last filing but was already updated online.

If there have been changes to other business information (for example, business name, identification number, telephone number, etc.), you must complete and submit Form DTF-95, *Business Tax Account Update*. To report a change to your physical or paid preparer address only, you may file Form DTF-96, *Report of Address Change for Business Tax Accounts*.

Filing period – Mark an **X** in the box for the quarter and enter the last two digits of the tax year of the period for which you are filing.

Amended return – If you are filing an amended return, mark an **X** in the *Amended return* box. Complete the return using the corrected information.

Note: Employers amending a previously filed quarterly return for the first quarter of 2012 (January 1 to March 31), or before, must apply the \$2,500 threshold to determine if they owe MCTMT, and use the .34% rate in effect for that filing period.

Number of employees – Enter the number of full-time and part-time covered employees whose payroll expense is included in the amount on line 1. If the amount on line 1 is 0, enter **0**.

Special condition code – No special condition code exists at this time.

Final payroll date – If you have permanently ceased paying wages subject to the MCTMT, enter the date of the final payroll in the box where indicated on the return. Do not enter a date if you are temporarily not paying wages subject to the MCTMT.

Line 1 – Enter the total payroll expense for all covered employees for the quarter. Do not leave line 1 blank. If this amount is not greater than \$312,500 for the quarter, you are not subject to the MCTMT for the quarter. Enter **0** on line 2 and continue on line 3.

Line 2 – Multiply line 1 by the percentage shown in the table below. Enter the result on line 2.

If the payroll expense on line 1 is:		Multiply line 1 by:
over	but not over	
\$312,500	\$375,000	.11% (.0011)
375,000	437,500	.23% (.0023)
437,500		.34% (.0034)

Amended return – If you are filing an amended return for the first quarter of 2012 (January 1 to March 31), or before, multiply line 1 by .34% (.0034). Enter the result on line 2.

Line 3 – Enter the total of:

- any MCTMT payments remitted through the Tax Department's PromptTax program for payrolls during the quarter; and

- any MCTMT overpayment from the previous quarter that you requested be applied to the current quarter (if this amount was adjusted by the Tax Department, use the adjusted amount).

Amended return filers – Make the following adjustments to the amount reported on line 3 of the previously filed MTA-305 you are amending:

- Add any amount paid with your original return as reported on your original Form MTA-305, line 4. If you paid additional amounts since your original return was filed, also include these payments on line 3. If you did not pay the entire amount due shown on your original return, enter the actual amount that was paid. **Do not include payments of interest or penalties.**
- Subtract any overpayment shown on line 5 of your original Form MTA-305. If the overpayment claimed on your original return was previously adjusted by the Tax Department, subtract the adjusted overpayment amount. **Do not include interest you received on any refund.**

Line 4 – If line 2 is more than line 3, subtract line 3 from line 2; this is the total MCTMT balance due for the quarter. Make your check or money order payable in U.S. funds to **Commissioner of Taxation and Finance** for the total payment due. Write your EIN and **MTA-305** on your payment.

Fee for payments returned by banks – The 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.

Line 6 – To request a refund of the amount on line 5, mark an **X** in box 6a. To request a credit to next quarter's MCTMT, mark an **X** in box 6b.

The department will keep all or part of any overpayment (refund) you report on line 5 if you have outstanding liabilities.

Third-party designee

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

- give the Tax Department any information that is missing from this return;
- call the Tax Department for information about the processing of this return or the status of the refund or payment(s); **and**
- respond to certain Tax Department notices that you share with the designee about math errors, offsets, and return 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 a power of attorney. Copies of statutory tax notices or documents (such as a *Notice of Deficiency*) will only be sent to your designee if you file a power of attorney.

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

Signature

You must sign the return and print your name, title, date, and telephone number. The taxpayer signature area must be completed by: the individual if the employer is an individual owner; the president, treasurer, or other principal officer if the employer is a corporation; a responsible and duly authorized member having knowledge of a firm's affairs if the employer is a partnership or other unincorporated organization; or a responsible and duly authorized governmental official, where appropriate. The signature certifies that the information contained in this return is true and correct.

If you use a payroll service or a paid preparer, the paid preparer section must be completed by the payroll service or preparer.

Paid preparer's responsibilities – Under the law, all paid preparers must sign and complete the paid preparer section of the return. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.

When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number. If you are a payroll service company you must also enter the name and EIN of the company.

Keep a copy of your completed and signed return for your records.

Mail your return to:

**MCTMT PROCESSING CENTER
PO BOX 4139
BINGHAMTON NY 13902-4139**

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?* 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: JPMorgan Chase, MCTMT Processing Center – 305, 33 Lewis Road, Binghamton NY 13905-1040.

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?



Visit our Web site at **www.tax.ny.gov**

- get information and manage your taxes online
- check for new online services and features



Telephone assistance

MCT Mobility Tax Information Center: (518) 485-2392

To order MCTMT forms:

(518) 485-2392



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at (518) 485-5082. 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.