

EY Payroll NewsFlash

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Vol.24, 033

May 8, 2023

New York law increases the Metropolitan Commuter Transportation Mobility Tax for certain New York counties effective July 1, 2023

On May 3, 2023, New York Governor Kathy Hochul approved [Senate Bill 4008](#) which, effective July 1, 2023, increases the top rate for the Metropolitan Transportation Mobility Tax (MCTMT) from 0.34% to 0.60% for employers and individuals in certain New York counties and clarifies the application of the tax for limited partners.

Current law

Under current law, the MCTMT applies to the payroll expense of certain employers that are required to withhold New York state income tax from wages and that engage in business within the Metropolitan Commuter Transportation District (MCTD), which includes the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island), Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester. ([Technical Memorandum TSB-M-13\(7\)](#).)

[Payroll expense](#) is defined as total wages and compensation subject to federal Social Security tax without regard to the Social Security wage limit.

The [MCTMT tax rate](#) for employers depends on the amount of payroll expense for the calendar quarter, as follows:

MCTMT employer tax rates through June 30, 2023

Payroll expense	MCTMT Rate
Over \$312,500 but not over \$375,000	.11%
Over \$375,000 but not over \$437,500	.23%

Payroll expense	MCTMT Rate
Over \$437,500	.34%

The MCTMT also applies to certain individuals (including partners or members in partnerships, limited liability partnerships that are treated as partnerships, and limited liability companies (LLCs) that are treated as partnerships) with net earnings from self-employment exceeding the specified threshold for the tax year and who engage in business within the MCTD.

More information about the current MCTMT is available [here](#).

MCTMT rate increase for employers and individuals effective July 1, 2023

Part Q of Senate Bill 4008 changes the rate structure of the MCTMT by applying a higher top rate to businesses and individuals operating in certain MCTD counties. Specifically, the MCTMT top rate for employers in the counties of New York (Manhattan), Bronx, Kings (Brooklyn), Queens and Richmond (Staten Island) is increased from 0.34% to 0.60% for payroll expense exceeding \$437,500 in any calendar quarter.

For individuals, the top rate similarly increases from 0.34% to 0.60% of net earnings from self-employment exceeding \$50,000 for the tax year.

Employers and individuals operating in the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester retain the previous 0.34% top MCTMT rate.

MCTMT employer tax rates effective July 1, 2023

Payroll expense	MCTD counties	MCTMT Rate
Over \$312,500 but not over \$375,000	New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island), Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester	0.11%

Payroll expense	MCTD counties	MCTMT Rate
Over \$375,000 but not over \$437,500	New York (Manhattan), Bronx, Kings (Brooklyn), Queens, Richmond (Staten Island), Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester	0.23%
Over \$437,500	Dutchess, Nassau, Orange, Putnam, Rockland Suffolk and Westchester	0.34%
Over \$437,500	New York (Manhattan), Bronx, Kings (Brooklyn), Queens and Richmond (Staten Island)	0.60%

Clarification of the treatment of limited partners for the MCTMT

Part B of Senate Bill 4008 amends the definition of the term "net earnings from self-employment" as defined in NY Tax Law Section 800(e) to clarify how limited partners are treated for purposes of the MCTMT. Previously, the law conformed to the definition of "net earnings from self-employment" in IRC Section 1402, which exempts, via IRC Section 1402(a)(13), certain limited partners from paying self-employment tax. For purposes of the MCTMT, Senate Bill 4008 clarifies that this exemption does not apply "if the individual, directly or indirectly, takes part in the control, or participates in the management or operations of the partnership such that the individual is not a passive investor, regardless of the individual's title or characterization in a partnership or operating agreement." (*For more information see EY Tax Alert [2023-0823](#).*)

Contact us for more information

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