

1 ARTICLE 23

2 METROPOLITAN COMMUTER TRANSPORTATION

3 MOBILITY TAX

4 Section 800. Definitions.

5 801. Imposition of tax and rate.

6 802. Pass through of tax prohibited.

7 803. Exemption override.

8 804. Payment of tax.

9 805. Deposit and disposition of revenue.

10 806. Procedural provisions.

11 § 800. Definitions. For the purposes of this article:

12 (a) Metropolitan commuter transportation district. The metropolitan
13 commuter transportation district ("MCTD") means the area of the state
14 included in the district created and governed by section twelve hundred
15 sixty-two of the public authorities law.

16 (b) Employer. Employer means an employer required by section six
17 hundred seventy-one of the tax law to deduct and withhold tax from
18 wages, that has a payroll expense in excess of two thousand five hundred
19 dollars in any calendar quarter; other than

20 (1) any agency or instrumentality of the United States;

21 (2) the United Nations; or

22 (3) an interstate agency or public corporation created pursuant to an
23 agreement or compact with another state or the Dominion of Canada.

24 (c) Payroll expense. Payroll expense means wages and compensation as
25 defined in sections 3121 and 3231 of the internal revenue code (without
26 regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)), paid to all
27 covered employees.

1 (d) Covered employee. Covered employee means an employee who is
2 employed within the MCTD.

3 (e) Net earnings from self-employment. Net earnings from self-employ-
4 ment has the same meaning as in section 1402 of the internal revenue
5 code.

6 § 801. Imposition of tax and rate. (a) For the sole purpose of provid-
7 ing an additional stable and reliable dedicated funding source for the
8 metropolitan transportation authority and its subsidiaries and affil-
9 iates to preserve, operate and improve essential transit and transporta-
10 tion services in the metropolitan commuter transportation district, a
11 tax is hereby imposed at a rate of thirty-four hundredths (.34) percent
12 of (1) the payroll expense of every employer who engages in business
13 within the MCTD and (2) the net earnings from self-employment of indi-
14 viduals that are attributable to the MCTD if such earnings attributable
15 to the MCTD exceed ten thousand dollars for the tax year.

16 (b)(1) An individual having net earnings from self-employment from
17 activity both within and without the metropolitan commuter transporta-
18 tion district is required to allocate and apportion such net earnings to
19 the MCTD in the manner required for allocation and apportionment of
20 income under article twenty-two of this chapter.

21 (2) In the case of individuals with earnings from self-employment, the
22 net earnings from self employment threshold in paragraph two of
23 subsection (a) of this section will be computed on an individual basis
24 regardless of whether that individual filed a joint personal income tax
25 return.

26 (c) The determination of whether a covered employee is employed within
27 the MCTD will be made by utilizing the rules applicable to the jurisdic-
28 tion of employment for purposes of the statewide wage reporting system

1 under section one hundred seventy-one-a of this chapter and substituting
2 the MCTD for the state in that application.

3 § 802. Pass through of tax prohibited. An employer cannot deduct from
4 the wages or compensation of an employee any amount that represents all
5 or any portion of the tax imposed on the employer under this article.

6 § 803. Exemption override. Any exemption from tax specified in any
7 other New York state law will not apply to the tax imposed by this arti-
8 cle.

9 § 804. Payment of tax. (a) Employers with payroll expense. The tax
10 imposed on the payroll expense of employers under section eight hundred
11 one of this article for each calendar quarter must be paid quarterly at
12 the same time as the statewide wage reporting system report is required
13 under section one hundred seventy-one-a of this chapter; provided,
14 however, that payment for the last calendar quarter must be made by
15 January thirty-first of the succeeding year.

16 (b) Individuals with net earnings from self-employment. Individuals
17 with earnings from self-employment must make estimated tax payments of
18 the tax imposed by this article for the taxable year on the same dates
19 specified in subsection (a) of this section for the quarterly payments
20 of the tax imposed on the payroll expense of employers. In addition,
21 these self-employed individuals must file a return for the taxable year
22 by the thirtieth day of the fourth month following the close of the
23 taxable year. Paragraph one of subsection (d) of section six hundred
24 eighty-five of this chapter shall not apply to the estimated tax
25 payments required by this subsection.

26 § 805. Deposit and disposition of revenue. (a) The taxes, interest,
27 and penalties imposed by this article and received by the commissioner
28 will be deposited daily with such responsible banks, banking houses or

1 trust companies, as may be designated by the comptroller, to the credit
2 of the comptroller in trust for the metropolitan transportation authori-
3 ty. An account may be established in one or more of such depositories.
4 Such deposits will be kept separate and apart from all other money in
5 the possession of the comptroller. The comptroller will require adequate
6 security from all such depositories. The taxes, interest, and penalties
7 imposed by this article, received by the commissioner, administered by
8 the comptroller, and deposited in trust for the metropolitan transporta-
9 tion authority shall be monies and funds of metropolitan transportation
10 authority and shall not be or be deemed to be part of the state treasury
11 or any of its funds, or funds under the management of the state treas-
12 ury. Of the total revenue collected or received under this article, the
13 comptroller will retain such amount as the commissioner may determine to
14 be necessary for refunds under this article. The commissioner is
15 authorized and directed to deduct from the amounts it receives under
16 this article, before deposit into the trust accounts designated by the
17 comptroller, a reasonable amount necessary to effectuate refunds of
18 appropriations of the department to reimburse the department for the
19 costs incurred to administer, collect and distribute the taxes imposed
20 by this article.

21 (b) On or before the twelfth day of each succeeding month, after
22 reserving such amount for such refunds and deducting such amounts for
23 such costs, as provided for in subsection (a) of this section, the
24 commissioner will certify to the comptroller the amount of all revenues
25 so received during the prior month as a result of the taxes, interest
26 and penalties so imposed. The amount of revenues so certified will be
27 paid over by the comptroller by the fifteenth day of each succeeding
28 month from such metropolitan transportation authority trust accounts to

1 the metropolitan transportation authority capital finance authority fund
2 established under section twelve hundred seventy-e of the public author-
3 ities law to be applied in the manner set forth in such section.

4 § 806. Procedural provisions. All provisions of article twenty-two of
5 this chapter will apply to the provisions of this article in the same
6 manner and with the same force and effect as if the language of article
7 twenty-two of this chapter had been incorporated in full into this arti-
8 cle and had been specifically adjusted for and expressly referred to the
9 tax imposed by this article, except to the extent that any provision is
10 either inconsistent with a provision of this article or is not relevant
11 to this article. Notwithstanding the preceding sentence, no credit
12 against tax in article twenty-two of this chapter can be used to offset
13 the tax due under this article. Notwithstanding any other law to the
14 contrary, the commissioner may require that all filings of forms or
15 returns under this article must be filed electronically and all payments
16 of tax must be paid electronically.

17 § 21. Clause (i) of subparagraph 5 of paragraph (a) of subdivision 9
18 of section 208 of the tax law, as amended by chapter 61 of the laws of
19 1989, is amended to read as follows:

20 (i) any refund or credit of a tax imposed under this article, article
21 twenty-three, or article thirty-two of this chapter, for which tax no
22 exclusion or deduction was allowed in determining the taxpayer's entire
23 net income under this article, article twenty-three, or [such] article
24 thirty-two of this chapter for any prior year,

25 § 22. Paragraph (b) of subdivision 9 of section 208 of the tax law is
26 amended by adding a new subparagraph 20 to read as follows:

27 (20) The amount of any federal deduction for taxes imposed under arti-
28 cle twenty-three of this chapter.