

8193

2011-2012 Regular Sessions

I N A S S E M B L Y

June 6, 2011

Introduced by M. of A. LATIMER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to creating regions one and two for the metropolitan commuter transportation mobility tax

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 800 of the tax law, as added by section 1 of part C  
2 of chapter 25 of the laws of 2009, is amended to read as follows:  
3 S 800. Definitions. For the purposes of this article:  
4 (a) Metropolitan commuter transportation district. The metropolitan  
5 commuter transportation district ("MCTD") means [the area] THE COMBINA-  
6 TION OF REGION ONE AND REGION TWO of the state included in the district  
7 created and governed by section twelve hundred sixty-two of the public  
8 authorities law.  
9 (b) REGION ONE. REGION ONE MEANS COUNTIES CONTAINED WHOLLY WITHIN A  
10 CITY WITH A POPULATION OF ONE MILLION OR MORE.  
11 (C) REGION TWO. REGION TWO MEANS THE COUNTIES OF DUTCHESS, NASSAU,  
12 ORANGE, PUTNAM, ROCKLAND, SUFFOLK, AND WESTCHESTER.  
13 (D) Employer. Employer means an employer required by section six  
14 hundred seventy-one of this chapter to deduct and withhold tax from  
15 wages, that has a payroll expense in excess of two thousand five hundred  
16 dollars in any calendar quarter; other than  
17 (1) any agency or instrumentality of the United States;  
18 (2) the United Nations; [or]  
19 (3) an interstate agency or public corporation created pursuant to an  
20 agreement or compact with another state or the Dominion of Canada[.];  
21 (4) A NON-PUBLIC PRIMARY OR SECONDARY SCHOOL LOCATED IN THE MCTD THAT  
22 SATISFIES THE REQUIREMENTS PRESCRIBED BY LAW FOR NON-PUBLIC SCHOOLS IN  
23 THIS STATE, AND THAT HAS QUALIFIED FOR FEDERAL TAX EXEMPTION UNDER  
24 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE;  
25 (5) A PUBLIC PRIMARY OR SECONDARY SCHOOL LOCATED IN THE MCTD; OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 (6) AN EMPLOYER THAT IS LOCATED IN THE MCTD WITH TWENTY-FIVE OR LESS  
2 COVERED EMPLOYEES OR AN INDIVIDUAL HAVING NET EARNINGS FROM SELF EMPLOY-  
3 MENT FROM ACTIVITY WITHIN THE MCTD.

4 [(c)] (E) Payroll expense. Payroll expense means wages and compen-  
5 sation as defined in sections 3121 and 3231 of the internal revenue code  
6 (without regard to section 3121(a)(1) and section 3231(e)(2)(A)(i)),  
7 paid to all covered employees.

8 [(d)] (F) Covered employee. Covered employee means an employee who is  
9 employed within REGION ONE OR REGION TWO OF the MCTD.

10 [(e)] (G) Net earnings from self-employment. Net earnings from self-  
11 employment has the same meaning as in section 1402 of the internal  
12 revenue code.

13 S 2. Section 801 of the tax law, as added by section 1 of part C of  
14 chapter 25 of the laws of 2009, is amended to read as follows:

15 S 801. Imposition of tax and rate. (a) For the sole purpose of provid-  
16 ing an additional stable and reliable dedicated funding source for the  
17 metropolitan transportation authority and its subsidiaries and affil-  
18 iates to preserve, operate and improve essential transit and transporta-  
19 tion services in the metropolitan commuter transportation district, a  
20 tax is hereby imposed [at a rate of thirty-four hundredths (.34) percent  
21 of] ON: (1) the payroll expense of every employer who engages in busi-  
22 ness within the MCTD and (2) the net earnings from self-employment of  
23 individuals that are attributable to the MCTD if such earnings attribut-  
24 able to the MCTD exceed ten thousand dollars for the tax year[.] AT THE  
25 FOLLOWING RATES:

26 (I) FOR REGION ONE, ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE AND  
27 BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, THIRTY-FOUR HUNDREDTHS  
28 (.34) PERCENT; ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND  
29 BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN, TWENTY-EIGHT HUNDREDTHS  
30 (.28) PERCENT; AND ON JANUARY FIRST, TWO THOUSAND FOURTEEN AND THEREAFT-  
31 ER, TWENTY-ONE HUNDREDTHS (.21) PERCENT.

32 (II) FOR REGION TWO, ON OR AFTER JANUARY FIRST, TWO THOUSAND NINE AND  
33 BEFORE JANUARY FIRST, TWO THOUSAND TWELVE, THIRTY-FOUR HUNDREDTHS (.34)  
34 PERCENT; ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE AND BEFORE JANU-  
35 ARY FIRST, TWO THOUSAND THIRTEEN, TWENTY-THREE HUNDREDTHS (.23) PERCENT;  
36 ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN AND BEFORE JANUARY  
37 FIRST, TWO THOUSAND FOURTEEN, TWELVE HUNDREDTHS (.12) PERCENT; AND ON  
38 JANUARY FIRST, TWO THOUSAND FOURTEEN AND THEREAFTER, ZERO (0) PERCENT.

39 (b)(1) An individual having net earnings from self-employment from  
40 activity both within and without the metropolitan commuter transporta-  
41 tion district is required to allocate and apportion such net earnings to  
42 the MCTD in the manner required for allocation and apportionment of  
43 income under article twenty-two of this chapter. AN INDIVIDUAL HAVING  
44 NET EARNINGS FROM SELF-EMPLOYMENT FROM ACTIVITY BOTH WITHIN AND WITHOUT  
45 REGIONS ONE AND TWO IS REQUIRED TO ALLOCATE AND APPORTION SUCH NET EARN-  
46 INGS TO THE RESPECTIVE REGION IN THE MANNER REQUIRED FOR ALLOCATION AND  
47 APPORTIONMENT OF INCOME UNDER ARTICLE TWENTY-TWO OF THIS CHAPTER.

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

53 (c) The determination of whether a covered employee is employed within  
54 REGION ONE OR REGION TWO OF the MCTD will be made by utilizing the rules  
55 applicable to the jurisdiction of employment for purposes of the state-  
56 wide wage reporting system under section one hundred seventy-one-a of

1 this chapter, AS ADDED BY CHAPTER FIVE HUNDRED FORTY-FIVE OF THE LAWS OF  
2 NINETEEN HUNDRED SEVENTY-EIGHT, and substituting REGION ONE OR REGION  
3 TWO OF the MCTD for the state in that application.  
4 S 3. This act shall take effect immediately; provided, however, that  
5 the provisions of section one of this act shall take effect on January  
6 1, 2012.