



2023 MTA Surcharge Rate and Deriving Receipts Thresholds

MTA surcharge rate

Under current law and regulations,¹ the Commissioner of Taxation and Finance is required to annually adjust the rate of the MTA surcharge 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 1.

The Acting Commissioner has determined that the MTA surcharge rate will remain at 30% for tax years beginning on or after January 1, 2023, and before January 1, 2024. This rate only applies to Article 9-A taxpayers² and will remain the same in any succeeding tax year, unless the Commissioner establishes a new rate.

Deriving receipts thresholds for the Article 9-A franchise tax and MTA Surcharge

The Commissioner is also required to annually review the thresholds at which a corporation is deemed to be deriving receipts from activity in New York State and in the Metropolitan Commuter Transportation District (MCTD) for purposes of imposing the franchise tax and MTA surcharge.³ The Commissioner is required to adjust these thresholds if the Commissioner finds that the Consumer Price Index (CPI) has changed by 10% or more since the date that the thresholds were last adjusted by the Commissioner. The Acting Commissioner of Taxation and Finance last adjusted these thresholds on December 28, 2021, for the 2022 tax year. For more information, see [TSB-M-21\(3\)C, 2022 Deriving Receipts Thresholds](#).

The thresholds at which a corporation is deemed to be deriving receipts from activity in New York State and in the MCTD for purposes of imposing the Article 9-A franchise tax and MTA surcharge will remain at \$1,138,000 for tax years beginning on or after January 1, 2023, and before January 1, 2024.

Additionally, the receipts thresholds to be used in determining if members of a unitary group that meet the ownership requirements under Tax Law section 210-C are deriving receipts from activity within New York State and in the MCTD will remain at \$11,000 and \$1,138,000.⁴ Corporations described in section 210-C (2)(c) are not considered for this purpose.

These thresholds will remain the same until such a time as the Commissioner next reviews the cumulative percentage change in the CPI and is required to adjust such receipts thresholds.

¹ See Tax Law § 209-B(1)(f) and 20 NYCRR 9-1.2.

² The MTA surcharge is not imposed on New York S corporations. See Tax Law § 209-B(1)(a).

³ See Tax Law §§ 209(1)(e) and 209-B(1)(e).

⁴ See Tax Law §§ 209(1)(d)(i) and 209-B(1)(d)(i).

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