

# Rosen Seymour Shapss Martin & Company LLP

*Certified Public Accountants & Profitability Consultants*

## State and Local Tax Update

Dear Clients and Friends of the Firm:

### **New Tax On Employers and Self-Employed Individuals**

Effective March 1, 2009, New York State passed funding legislation for the MTA which included the new Metropolitan Commuter Transportation Mobility Tax ("MCTMT"). This tax is imposed on employers doing business within the Metropolitan Commuter Transportation District ("MCTD") which includes New York City and Westchester, Nassau, Suffolk, Rockland, Dutchess, Orange, and Putnam counties and whose payroll expense exceeds \$2,500 in any calendar quarter. This tax is also imposed on individuals that have net earnings from self-employment allocated to the MCTD greater than \$10,000 for the tax year. Such individuals also include partners in partnerships and members of an LLC that is treated as a partnership.

For employers, the tax rate is .34% of their payroll expense for those employees whose services are allocated to the MCTD. For self-employed individuals, the tax rate is .34% of net earnings from self-employment attributable to a business carried on within the MCTD.

Although the first payment for both employers and self-employed individuals is due November 2, 2009, there are several questions which have yet to be addressed.

We will provide more information detailing this new tax as the information becomes available.

### **New Jersey Voluntary Disclosure Program**

As we discussed in detail in our prior RSSM State and Local Tax Update, New Jersey's Tax Amnesty program ends midnight on June 15, 2009. As of the end of this program, New Jersey's Voluntary Disclosure program will become stricter. Specifically, the general look-back period will be increased to seven years from four years.

To be eligible for the Voluntary Disclosure Program, there must have been no previous contact with the taxpayer by the Division or any of its Agents. In addition, the taxpayer must be willing to pay ALL outstanding tax liabilities that are included in the Agreement and file the prior year returns within a reasonable period (within 60 days). No deferred payment plans will be permitted.

The Voluntary Disclosure Program will not be available to resident taxpayers for Gross Income Tax purposes, or taxpayers:

- who are registered for the taxes they wish to come forward on;
- who are currently under any criminal investigation;
- who have received a nexus survey, or
- who have otherwise been previously contacted regarding their activities in New Jersey.

A taxpayer who wishes to proceed with a Voluntary Disclosure must submit a written proposal detailing all New Jersey business activity. This proposal should include the commencement date of the activity and the tax(es) to be filed. All taxes administered by the Division are eligible, but the most common include Corporation, Sales/Use, Litter, Personal Income and Withholding taxes.

Any Voluntary Disclosure Agreement entered into after the expiration of the Tax Amnesty period will include the unabateable 5% penalty for failure to take advantage of the Tax Amnesty, the 5% late payment penalty and statutory interest at the prime rate plus 3%.

As an alternative, the Division of Taxation will be willing to enter into negotiations leading to a specific closing agreement with a taxpayer who is prepared to come forward with full disclosure of all pertinent information.

Should you require any additional information on the MCTMT or the new New Jersey Voluntary Disclosure Program, please feel free to contact Steven J. Eller at (212) 303-1051 or via email at [seller@rsmcpa.com](mailto:seller@rsmcpa.com).

*Sincerely,*  
**Rosen Seymour Shapss Martin & Company LLP**

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