

ALERTS

New York State Tax Changes Effective April 1 Will Benefit Independent Schools

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For calendar quarters beginning on or after April 1, 2012, certain private schools previously subject to New York's Metropolitan Commuter Transportation Mobility Tax (the "MCTMT") will now be exempt from paying such tax.

The MCTMT, administered at the state level, is a quarterly tax imposed on certain employers and self-employed individuals engaging in business within the metropolitan commuter transportation district, which encompasses the counties of New York, Bronx, Kings, Queens, Richmond, Rockland, Nassau, Suffolk, Orange, Putnam, Dutchess and Westchester. Due quarterly, the MCTMT tax rate is generally 0.34 percent of an employer's payroll expense for all covered employees.

In December 2011, the governor approved legislation to amend the New York tax code governing the MCTMT. The following are three of the key changes:

- *Exemption for Private Schools:* "Eligible educational institutions," including "nonpublic elementary or secondary school[s] that provides instruction in grade one or above," will be exempt from payment of the MCTMT. For calendar quarters beginning on or after April 1, 2012, exempt private schools will neither have to file nor pay the MCTMT.
- *Savings for Self-Employed Individuals:* The threshold above which self-employed individuals (including partners in partnerships and members of limited liability companies treated like partnerships) are subject to the MCTMT has been increased from \$10,000 to \$50,000 in net earnings

from business activity carried on in the metropolitan commuter transportation district, per tax year. This change takes effect for any tax year beginning on or after Jan. 1, 2012.

- *Lower Tax Rates for Small Businesses:* The payroll expense threshold above which an employer is subject to the MCTMT has been increased from \$2,500 per quarter to \$312,500 per quarter. The tax rate on smaller businesses has also been amended to provide for tax relief. The tax rate for employers whose quarterly payroll expense is between \$312,500 and \$375,000 has been decreased to 0.11 percent of payroll expense for that quarter; for employers whose quarterly payroll expense is over \$375,000 but under \$437,500, the quarterly rate will become 0.23 percent; and for employers whose quarterly payroll expense exceeds \$437,500, the 0.34 percent tax rate will remain in effect. This change takes effect for calendar quarters beginning on or after April 1, 2012.

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If you have any questions concerning this *Alert* or the MCTMT, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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