

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) proposes rules to add the Tax on Medallion Taxicab Rides in the Metropolitan Commuter Transportation District to the total charges for medallion taxicab trips.

These rules are proposed pursuant to sections 1043 and 2303(b)(11) of the Charter and section 19-503 of the Administrative Code of the City of New York. These proposed rules were not included in the TLC’s regulatory agenda for Fiscal Year 2009, because the need for them was not anticipated at the time the regulatory agenda was prepared.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006 on September 17, 2009, at 9:30 A.M. Persons wishing to testify at the hearing may notify the TLC in advance, either in writing or by telephone to the TLC’s Office of Legal Affairs at the address and telephone number given below. Any request for a sign language interpreter or other form of reasonable accommodation at the hearing for a disability must be submitted to the Office of Legal Affairs in writing or by telephone, no later than September 14, 2009.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs, addressed as follows, and must be received no later than September 14, 2009.

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New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. It is hereby proposed that section 1-01 of Title 35 of the Rules of the City of New York be amended to add, in alphabetical order, definitions of “MTA Tax” and “Taxpayer” to read as follows:

MTA Tax. The “MTA Tax” is the 50-cent tax on taxicab trips that is imposed by article 29-A of the New York State Tax Law.

Taxpayer. “Taxpayer” is a person or entity who is liable under article 29-A of the New York State Tax Law to pay the MTA Tax to the New York State Department of Taxation and Finance.

Section 2. It is hereby proposed that section 1-69(a) and (b) of Title 35 of the Rules of the City of New York be amended, to read as follows:

(a) Notwithstanding the rate of fare set forth in [§]§1-70(a) and (b), the fare for a trip between Kennedy Airport and Manhattan shall be a flat rate of Forty-five Dollars (\$45), plus any tolls; and beginning on November 1, 2009, plus the MTA Tax of fifty cents per trip.

(1) The surcharge set forth in §1-70(b) shall not be added to this flat rate.

(2) The taximeter shall reflect that this trip is a flat fare.

(b) If passengers request multiple stops on a trip from Kennedy Airport to Manhattan, the fare shall be as follows: the first stop in Manhattan is paid in accordance with subdivision (a) of this section; the meter is then turned on for a separate trip at the rate of fare as set forth in §1-70, and the total on the meter is paid at the last stop by the remaining passenger. (For example, if three passengers request stops at 42nd St., 18th St. and 4th St., then [\$45] \$45.50 will be collected at 42nd St. and the meter will be turned on. When the second passenger exits at 18th St., the meter remains on, and no money is paid to the driver. The passenger dropped off at 4th St. must pay the fare on the meter.

Section 3. It is hereby proposed that section 1-70 of Title 35 of the Rules of the City of New York be amended to add a new subdivision (c), to read as follows:

(c) In addition to the rate of fare set forth in §1-70(a) and, if applicable, the surcharge set forth in §1-70(b), all taxicabs shall charge, beginning on November 1, 2009, the MTA Tax of fifty cents per trip on any trip that originates in New York City and terminates either in New York City or in the county of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk or Westchester.

Section 4. It is hereby proposed that section 1-71(b) and (d) of Title 35 of the Rules of the City of New York be amended, to read as follows:

(b) *Group ride fare from York Avenue.* Notwithstanding the rate of fare set forth in §1-70(a) and (b), the fare for trips made pursuant to a group riding plan from York Avenue to the Financial District shall be as follows for each passenger: [~~\$3.50~~] \$6.00. [In addition, there may be such fee for dispatch services as passenger: \$3.50.] In addition, there may be such fee for dispatch services as the Commission may determine.

(d) *MTA Tax.* The fare for any passenger paying the MTA Tax for any group ride trip will be reduced by the amount of the MTA Tax paid. Therefore, all passengers in a particular group ride plan will pay the same total amount. (Example: If three passengers are taking a group ride for which the fare is \$6.00 per person, the fare will be adjusted so that the total fare for all three passengers equals \$17.50 plus the \$0.50 MTA Tax.)

Section 5. It is hereby proposed that section 1-73(a) and (b) of Title 35 of the Rules of the City of New York be amended, to read as follows:

(a) For a trip beyond the limits of the City of New York, except for the Counties of Westchester or Nassau, or the facilities of the Port Authority of New York and New Jersey at Newark Airport, the fare shall be a flat rate. (A flat rate is a definite amount fixed between the driver and the passenger at the start of the trip. For example, “\$20” is a flat rate. “Double the meter” is *not* a flat rate and is *not* the proper fare.) Beginning on November 1, 2009, the MTA Tax of fifty cents per trip shall be added to the total fare on any trip that originates in New York City and terminates either in New York City or in the county of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk or Westchester.

(b) For a trip to the Counties of Westchester or Nassau the fare shall be:

(1) the amount shown on the taximeter for that portion of the trip that is inside the City limits, plus twice the amount shown on the meter for that portion of the trip that is outside the City limits; [and]

(2) all necessary tolls to and from the destination shall be paid by the passenger; and

(3) beginning on November 1, 2009, the MTA Tax of fifty cents per trip shall be added to the total fare.

Section 6. It is hereby proposed that section 1-78(a)(4) and (d) of Title 35 of the Rules of the City of New York be amended, to read as follows:

(a) *Standard Lease Cap.* An owner of a taxicab may charge a lease rate to a driver that is not greater than the Standard Lease Cap.

. . .

(4) *Limits on Additional Charges.* No owner, including any employee or agent of an owner, may charge to or accept from a driver any payment of any kind, such as a tax, surcharge,

pass-along, tip or fee of any kind, for the lease of a medallion or of a medallion and a vehicle, other than a lease amount no greater than the applicable Standard Lease Caps set forth in paragraphs one and two of this subdivision, plus

(vii) If the owner or agent is a Taxpayer who is liable for the MTA Tax, the owner or agent may collect the MTA Tax due from the driver by, first, deducting the MTA Tax due from credit card reimbursements due to the driver pursuant to §1-78(d); second, deducting any additional MTA Tax due from the driver's security deposit pursuant to §1-79(a)(5); and third, charging the driver for any remaining MTA Tax due.

(viii) The lease of a medallion and vehicle under paragraphs one and two of this subdivision includes service and maintenance. Service and maintenance of the vehicle is the responsibility of the lessor of the medallion and vehicle and the lessor and an agent of lessor may not charge the lessee for service and maintenance costs for the vehicle.

(d) Credit Card Charges. (1) An owner or the owner's agent must pay a driver daily in cash the driver's receipts that are charged to a credit card on that day, less only a credit card pass-along no greater than permitted by section 1-85(b) of this chapter for any lease under paragraphs one or two of subdivision (a) of this section. For all other leases, an owner or an owner's agent must pay the driver in cash no less often than weekly the driver's receipts that are charged to a credit card, less only a credit card pass-along no greater than permitted by section 1-85(b) of this chapter. (2) If any owner or owner's agent is a Taxpayer, then the owner or owner's agent may deduct from the driver's credit card receipts payable under this subdivision (d) the amount due for the MTA Tax as a result of the trips driven by the driver.

Section 7. It hereby proposed that § 1-79(a) of Title 35 of the Rules of the City of New York be amended by amending paragraphs (3) and (4) and adding a new paragraph (5), to read as follows:

(3) any parking tickets issued during the lease; [and]

(4) any red light violations issued to the owner during the lease, pursuant to the N.Y.C. Dept. of Transportation's camera surveillance system; and

(5) if the owner or agent is a Taxpayer liable for the MTA Tax, any MTA Tax remaining due from the driver after deductions from credit card reimbursements due to the driver.

Section 8. It is hereby proposed that section 2-01 of Title 35 of the Rules of the City of New York be amended to add, in alphabetical order, definitions of "MTA Tax" and "Taxpayer," to read as follows:

MTA Tax. The “MTA Tax” is the 50-cent tax on taxicab trips that is imposed by article 29-A of the New York State Tax Law.

Taxpayer. “Taxpayer” is a person or entity who is liable under article 29-A of the New York State Tax Law to pay the MTA Tax to the New York State Department of Taxation and Finance.

Section 9. It is hereby proposed that section 2-25 of Title 35 of the Rules of the City of New York be amended to add a new subdivision (j), to read as follows:

(j) If the driver is not a Taxpayer who is liable for the MTA Tax, the driver shall forward to the Taxpayer the amount of fifty cents for each taxicab trip driven by the driver that originated in New York City and terminated either in New York City or in the county of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk or Westchester, no less often than weekly. A driver shall not collect the MTA Tax for any taxicab trip unless the trip originated in New York City and terminated either in New York City or in the county of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk or Westchester.

Section 10. It is hereby proposed that sections 15-01(g) through (q) of Title 35 of the Rules of the City of New York be amended to add the definition of MTA Tax at subdivision (g), re-letter existing subdivisions (g) through (q) as (h) through (r), to read as follows:

(g) **MTA Tax.** The “MTA Tax” is the 50-cent tax on taxicab trips that is imposed by article 29-A of the New York State Tax Law.

(h) **Owner.** “Owner” shall mean an individual, partnership, limited liability company or corporation licensed by the Commission to own and operate a medallion taxicab or taxicabs.

[(h)](i) **Representative.** “Representative” shall mean an individual, partnership, limited liability company or corporation appointed by a manufacturer of taximeters required to be licensed under this chapter to hold a license on behalf of such manufacturer and to carry out such manufacturer’s duties and responsibilities as a licensee under this chapter.

[(i)] (j) **Rate of fare.** “Rate of fare” shall mean the established fare which may be charged by a licensed taxicab, which fare has been promulgated by the commission, and which fare may include, but is not limited to night surcharges, the MTA Tax and waiting times.

[(j)] (k) **Seal.** “Seal” shall mean a device, approved by the commission, which may be installed on a taximeter, wire, wiring mechanism, gear or other device, so that no adjustment, repair, alteration or replacement can be made without removing or mutilating the seal or seals.

[(k)] (l) **Taxicab technology service provider.** A “taxicab technology service provider” is a vendor who has contracted with the Commission to install and maintain the taxicab technology system in taxicabs.

[(l)] (m) **Taxicab technology system.** The “taxicab technology system” is hardware and software that provides the following four core services (collectively “four core services”): (i) credit, debit and prepaid card payment required by section 3-03(e)(7) of this title, (ii) text messaging required by section 3-03(e)(8) of this title, (iii) trip data collection and transmission required by section 3-06 of this title, and (iv) data transmission with the passenger information monitor required by section 3-07 of this title.

[(m)] (n) **Taximeter.** “Taximeter” shall mean an instrument or device approved by the commission by which the charge to a passenger for hire of a licensed taxicab is automatically calculated and on which such charge is plainly indicated.

[(n)] (o) **Taximeter business.** “Taximeter business” shall mean any business which engages, in whole or in part, in the manufacture, sale (whether of new or used equipment), installation, repair, adjustment, testing, sealing or calibrating of taximeters, for use upon any licensed vehicle in the City of New York, including any business which engages in whole or in part in the installation of taxicab roof lights.

[(o)] (p) **Taximeter business owner.** “Taximeter business owner” shall mean an individual, partnership or corporation licensed by the commission to own and operate a taximeter business.

[(p)] (q) **Taximeter test.** “Taximeter test” (sometimes alternatively referred to as “test”) shall mean a method to determine compliance with distance and time tolerances, utilizing either a road test over a precisely measured road course or a simulated road test determining the distance traveled by use of a roller device, or by computation from rolling circumference and wheel-turn data, said test having been conducted in accordance with National Institute of Standards and Technology Handbook No. 44.

[(q)] (r) **Wiring Harness.** “Wiring harness” shall mean any wire or collection of wires, including all connections thereto, which is connected in any manner whatsoever to a taximeter, or in any way affects the operation of a taximeter.

Section 11. It is hereby proposed that Title 35 of the Rules of the City of New York be amended to add a new section 15-15, to read as follows:

§ 15-15 ~~[[Reserved]]~~ **MTA Tax.** Each taximeter business is required to adjust any taximeter in a taxicab used to provide trips in New York City to implement the MTA Tax commencing on November 1, 2009.

Statement of Basis and Purpose of Rules

Effective November 1, 2009, the New York State Legislature enacted a tax on taxicab trips within the Metropolitan Commuter Transportation District (the “MTA Tax”), as part of article 29-A of the New York State Tax Law. The MTA Tax will add fifty cents to the cost of each taxicab trip that originates in New York City and ends within New York City or the Counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester.

The MTA Tax must be paid by “taxpayers” defined at length in article 29-A of the Tax Law – either the owner of the taxicab vehicle or, under certain circumstances, a lessee of the vehicle. The MTA Tax must be passed along to the passenger, and taxicab rate regulators are required to adjust taxicab fares accordingly.

To implement the MTA Tax, the proposed rules would:

- Adjust the fares for all trips that originate in New York City and terminate either in New York City or in the county of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk or Westchester.
- Require drivers to collect the tax and pass it along to the statutorily defined “taxpayer,” if that is not the driver.
- Permit owners or agents who are “taxpayers” to recoup the MTA Tax from drivers – first, by deduction from reimbursements due to drivers for credit card receipts; second, by deduction from drivers’ security deposits; and third, by directly charging drivers.

In addition, the proposed rules would revise the York Avenue group ride fare from \$3.50 to \$6.00, to accurately reflect current practices among participants in that group ride program.