



This Week in State Tax (TWIST)

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California: Office of Tax Appeals on Eligibility of Certain New York Local Taxes for Other State Tax Credit

The California Office of Tax Appeals (OTA) recently addressed whether an individual taxpayer was eligible for the California credit for taxes paid to another state (OSTC) for taxes paid under the New York City Unincorporated Business Tax (NYC UBT) and the New York Metropolitan Commuter Transportation Mobility Tax (NY MCTMT). Under California law, residents may claim a credit for taxes based on net income paid to another state on income derived from that state subject to certain limitations.

Although California generally treats taxes paid to another state by a partnership as if paid by the partners, the OTA first determined that the taxpayer was not eligible for a credit for taxes paid under the NYC UBT (which is imposed on certain partnerships) because that tax was a local tax imposed by New York City rather than a tax imposed by a state. The OTA noted that although the tax was authorized by state, it was imposed and administered by the City. In contrast, the OTA determined that the NY MCTMT (also imposed on certain partnerships) was imposed and administered by New York State. It also held it was a tax on net income and not a fee, finding that California broadly defines “tax” to encompass “any levy, charge or, or exaction of any kind imposed by the State.” As a result, the OTA concluded that amounts paid under the NY MCTMT on New York-source income are eligible for the tax credit.

While a tax may be eligible for the OSTC, California permits a taxpayer to take a credit only for the portion of the otherwise eligible tax that relates to income California would have sourced to the other state using California’s rules for sourcing the income of a nonresident. The OTA ultimately denied the taxpayers involved the credit for the NY MCTMT because the taxpayer had not provided sufficient information to calculate their NY MCTMT-source income under California rules. For questions about [In re Mather](#), please contact [Oksana Jaffe](#).

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