



# Union Scores Important Win On Tier 6 Payroll Deductions

**LOCAL 100 PRESIDENT TONY UTANO – CONCERNED THE MTA WAS OVERCHARGING TIER 6 MEMBERS FOR PENSIONS – ASKED THE MTA DO AN INTERNAL REVIEW!**



THE MTA CONFIRMED THAT MISTAKES WERE MADE – AND THAT SOME TIER 6 MEMBERS WILL GET REFUNDS!

Utano made clear that any and all such refunds must be paid as soon as possible. **Until the MTA completes a comprehensive review, the authority can't state how many members will be receiving refunds.**

THE MTA CAN NOT YET SAY HOW MANY MEMBERS WILL BE GETTING A REFUND. A COMPREHENSIVE MULTI-YEAR ANALYSIS MUST NOW BE DONE!

*“We will closely monitor how the MTA rectifies this situation. It will take time for them to correct it and get the overpayments back to our members caught up in this situation. But we are determined to ensure that management complies with the statute quickly.”* **Tony Utano, President, Local 100**

## HERE'S WHAT HAPPENED

**TWU Local 100 President Tony Utano** uncovered a serious error in how the MTA was calculating paycheck deductions for some Tier 6-covered transit workers who exceed the overtime cap (**currently approximately \$17,000 for 2021**) under the Tier 6 plan.

According to the Tier 6 plan covering transit workers (Transit Operating Force 25-Year/Age 55 Retirement Plan), an employee should only be paying pension deductions based on his/her 40-hour pay rate, plus earned overtime up to the cap set by the plan in a given year.

Utano pointed out his concerns about the pension calculations in a letter (**SEE REVERSE SIDE**) to the MTA last month. The MTA subsequently admitted their error after meeting with Utano and union counsel Denis Engel. As a result, **the MTA has committed to correcting the situation as soon as possible**, probably as soon as September, and to provide refunds to those who have been overcharged. They could not commit to a time-frame for refunds – but

A worker whose base rate, for example is \$70,000, will pay pension deductions on that amount plus overtime up to approximately \$17,000 in 2021. Therefore, deductions should stop at \$87,000 in this example for the rest of the year. However, the MTA has been deducting contributions from certain members not yet identified on all monies earned over and above the cap, according to them, since 2015. The MTA believes that a computer programming error is the cause of the problem.

**LOCAL 100 WILL PROVIDE PERIODIC UPDATES ON THIS DEVELOPING VICTORY FOR PENSION JUSTICE.**



# TRANSPORT WORKERS UNION

## OF GREATER NEW YORK • AFL-CIO • LOCAL 100

**Tony Utano**  
President

**Earl Phillips**  
Secretary Treasurer

**LaTonya Crisp**  
Recording Secretary

**Lynwood Whichard**  
Administrative VP

Anita Miller, Esq.  
Metropolitan Transportation Authority  
Chief Employee Relations and Administrative Officer  
2 Broadway  
20<sup>th</sup> Floor  
New York, New York 10004

RE: Tier VI Member Contributions

Dear Ms. Miller:

After many months of inquiry regarding Tier VI Member Contributions, I have had several productive conversations with MTA representatives and other State officials regarding the cessation of such contributions once a Member meets the FAS Earnings Cap (including overtime limitations). Essentially the issue is this: once a Tier VI Member's annual compensation meets the FAS earnings "cap" (his/her base pay plus overtime – which is capped by statute), Local 100's position is that the Member's contributions should cease. Much as employers discontinue withholding Federal Insurance Contribution Act (FICA) taxes once an employee reaches the statutory limit, the MTA should stop deducting Tier VI Member Contributions once a Member reaches the FAS CAP, on an annual basis, which is the base pay plus overtime pay. These are principles on there is no dispute.

It should be noted as well that the definition of wages also excludes: 1. wages in excess of the annual salary paid to the Governor of the State of New York; 2. lump sum payments for deferred compensation, sick leave, accumulated vacation or other credits for time not worked; 3. any form of termination pay; 4. any additional compensation paid in anticipation of retirement; and 5. in the case of employees who receive wages from three or more employers in a twelve month period, the wages paid by the third and each additional employer.

This letter is to inform you that Local 100 intends to determine whether and to what extent the MTA has overwithheld Tier VI Member Contributions from Local 100 members and will seek reimbursement of any such overpayments (with interest). As an initial step, Local 100 requests a written explanation as to the methodology the MTA employs in withholding Tier VI Member Contributions. Please provide, in addition to the methodology, redacted examples of instances in which the Member Contribution stopped being withheld because the Member reached the FAS earnings cap.

Once the requested information has been supplied, we will review the explanation and convene a meeting of representatives of the MTA and Local 100 to determine the appropriate course of action to take to reimburse those Members whose pay was wrongfully diverted to the NYCERS/MaBSTOA Pensions.

I look forward to your expedient reply.

Sincerely,

Anthony Utano  
President  
Transport Workers Union Local 100