

[Notice of Adoption to be published in the July 24, 2019 issue of City Pulse]

## NOTICE OF ADOPTION

City of East Lansing  
Rules and Regulations Relating to the Administration and Enforcement  
of East Lansing's Income Tax Ordinance.

The following rules and regulations have been adopted by the City's Income Tax Administrator and are hereby applicable to administration and regulation of the Uniform City Income Tax of the City of East Lansing. The regulations are numbered to correspond to the section numbers of the Uniform City Income Tax Ordinance and are meant to be read in conjunction with the corresponding section of the Uniform Income Tax Ordinance as a further explanation of the corresponding provisions.

Reg. 5.1. A person shall not be considered to be doing business in the city, in the absence of maintaining an establishment in the city or engaging in other activity in the city, merely by engaging in one or more of the following acts:

- (a) maintenance, by a corporation, of a resident agent in the city;
- (b) installing, servicing, or instructing in the use of equipment or other goods sold when performed by an employee-salesman of such person and where such activities are incidental to the employee-salesman's primary selling activities;
- (c) occasional credit investigations or collections by an employee-salesman of such person where such activities are incidental to the employee-salesman's primary selling activities;
- (d) exhibiting goods for a short time, in leased space, at a convention, exhibition or trade show;
- (e) mere ownership of real or tangible personal property in the city which is not used in or related to business activity in the city and which does not produce gross income in the city.

Reg. 7.1. "City taxes based on income" as used in Section 7(2) of the ordinance shall mean the City of East Lansing income tax imposed by this ordinance.

Reg. 7.2. Depreciation shall be computed in the same manner as under the federal internal revenue code and taken to the same extent as taken on the taxpayer's federal return for the same taxable year. Depreciable assets acquired before the effective date of the city tax cannot be valued as of such effective date and depreciated on that basis. Provided, however, that a taxpayer may take depreciation on war emergency facilities to the extent still being depreciated on its official books, on which it elected to take special amortization in lieu of depreciation under the authority of Acts of Congress for federal income tax purposes.

Reg. 9.1. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the individual, is permanent rather than transitory. It is the place

in which an individual has voluntarily fixed his habitation, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some unexpected event shall occur to cause him to adopt some other permanent home. Every individual has one and only one domicile. Once established it continues until a new one is established, coupled with the abandonment of the old.

The Administrator may require of individuals claiming domicile outside the City of East Lansing, statement of information with respect to the particular case. Mailing address, place of voting, statements in license and other applications, establishment of business and social contacts, marital status, and other overt acts are evidence of domicile, but no one such item is controlling.

Reg. 9.2. If an individual is a resident during part of a taxable year and a non-resident during the remainder he shall not file two returns. If he is required to file under this ordinance he shall file a resident return only, Form EL1040, reporting thereon the period of time for each status. Income which is taxable to residents but not to non-residents (e.g. interest and dividends) shall be reported and be subject to tax, only for the portion of the year during which he was a resident.

Reg. 13.1. The amount of taxable compensation of nonresidents working in and out of the city is to be computed by dividing the total number of days worked in the city by the total number of days worked during the year, or the total number of hours worked in the city by the total number of hours worked during the year, and applying the resulting percentage to gross annual compensation including vacation, holiday, sickness and bonus pay; except that the amount of taxable compensation of a non-resident compensated on the volume of business secured or other results achieved by him, such as a salesman on a commission basis, shall be the amount received by him for business secured or other results achieved by him attributable to his efforts in the city.

Reg. 13.2. The mere fact that a non-resident employee is subject to call at any time does not permit the allocation of compensation on a seven day per week basis. The mere fact that a non-resident employee is compensated on a seven day per week salary basis, when he does not in fact perform work or render services seven days per week, does not permit the allocation of compensation on a seven day per week basis. The mere fact that a nonresident employee takes work home with him and performs such work at his home does not permit the allocation of compensation.

Reg. 13.3. A nonresident employee who is paid commissions and renewal commissions for selling insurance, not a general insurance agent who conducts his own independent insurance business, shall allocate such compensation on the following basis: for life, health and accident insurance the locus shall be the location of the purchaser of the insurance; for group insurance the locus shall be the location of the group; for fire and casualty insurance the locus shall be the location of the risk insured, except that on vehicles it shall be the location of the purchaser.

Reg. 13.4. Compensation paid to officers or employees of the State of Michigan is subject to the tax. Such compensation shall be taxable even though the services are performed on property owned or controlled by the State within the corporate limits of the City of East Lansing.

Reg. 13.5. Compensation paid to officers or employees of the United States Government, not for service in the armed forces, is subject to the tax. Such compensation shall be taxable

even though the services are performed on property owned or controlled by the United States Government within the corporate limits of the City of East Lansing.

Reg. 14.1. Corporations are not permitted to file as so-called "tax option" corporations. Every corporation subject to the city tax must file a return and pay the tax, regardless of any option available to it under the federal internal revenue code.

Reg. 15.1. A nonresident owner of an unincorporated business or profession must include in income subject to tax his distributive share of interest, dividends, and other income from intangibles if such income is directly related to the nature of the business (as, for example, where one of the functions of the business is to lend money at interest).

Reg. 17.1. If the unincorporated business, profession or other activity elects to pay the tax on behalf of its owners then such unincorporated business, profession or other activity assumes the status of a taxpayer under Sections 62, 63, and 64 of the ordinance and is required to file a declaration of estimated tax and pay the estimated tax shown thereon.

Reg. 18.1. The fact that a person fills orders by shipment to an out-of-city destination, when such person has no regularly maintained and established out-of-city location and engages in no out-of-city business activity, does not entitle such person to apportion part of his net profit as being earned as a result of work done, services rendered or other business activity conducted out of the city.

Reg. 18.2. The mere solicitation of orders by telephone or by catalogs or other mailed matter, from a location within the city for shipment to an out-of-city destination, does not of itself constitute out-of-city activity. The solicitation of orders for or on behalf of a person by an independent contractor does not constitute business activity by the person.

Reg. 19.1. In determining whether the taxpayer's books and records show with reasonable accuracy the portion of its net profits attributable to work done, services performed or rendered, and business or other activity conducted within the city the administrator shall consider whether the unit, branch or activity in the city is capable of being maintained separately as an independent profit making business.

Reg. 23.1. In determining "sales made in the city" the fact that title may pass to the purchaser on delivery to a common or private carrier or other means of transportation is immaterial. The place at which the goods are ultimately received after all transportation has been completed, shall be considered as the place at which the goods are received by the purchaser.

Reg. 32.1. Service in the armed forces of the United States shall include service in the Army, Navy, Marine Corp, Air Force and Coast Guard. It shall not include employment as a civilian by the armed forces.

Reg. 32.2. Payments made by an employer to an employee with respect to periods during which the employee is serving in the armed forces are not to be considered compensation received for services in the armed forces.

Reg. 41.1. The fact that a taxpayer has paid his entire tax liability on a declaration of estimated tax does not relieve him from the requirement of filing an annual return. (See section 64 (1) of this ordinance.)

Reg. 41.2. Spouses who both have income subject to the tax and who elect to file separate returns may each take only those exemptions to which they would be entitled under the federal internal revenue code.

Reg. 42.1. In filing his annual return an individual shall support his claim for the amount of tax previously withheld by attaching thereto a copy of the information return, Form W-2 or ELW-2, required to be furnished him by his employer in Section 61.(2) of this ordinance.

Reg. 51.1. In determining whether the tax shall be withheld from musicians, entertainers, athletes and other such individuals the definition of employee in Sec. 6(1) of the ordinance shall be controlling. ("Employee" means a person from whom an employer is required to withhold for either federal income or federal social security taxes.)

Reg. 51.2. An employer, whether or not an individual, and whether or not a resident of the city, who maintains a business establishment or business establishments in the city and a business establishment or business establishments outside the city must withhold the tax from all East Lansing residents working at such employer's out-of-city establishment or establishments.

Reg. 51.3. Compensation subject to withholding shall include wage and salary advances, and advances on commissions.

Reg. 52.1. An employer who directly makes wage continuation payments for personal injuries, sickness or disability may elect to withhold or not withhold the tax on the exempt portion of such payments. In either case the amount of exempt income shall be included in the total amount of compensation reported on the annual information return required of all employers under Section 61(2) of this ordinance, either as part of total wages paid or as a separate figure.

Reg. 58.1. The taxpayer's return shall have an option for the taxpayer to donate all or a portion of the taxpayer's refund to one of three options in lieu of receiving their refund. Those options are (1) Park Stewardship & Conservation (2) Parks and Playgrounds and (3) Recreational Youth Scholarships.

Reg. 64.1. A written request for extension of time for filing an annual return must be made by the date such annual return was first due under this ordinance. Provided, however, that where

the federal internal revenue code grants an automatic extension to persons outside the United States the administrator shall grant a like automatic extension to the same date.

Reg. 64.2. Nothing in this ordinance or rules and regulations shall be construed to give the administrator authority to extend the time for making quarterly returns and payments of tax withheld, or for filing and making payments on declaration of estimated tax.