DEPARTMENT OF TREASURY

CUSTOMER SERVICE BUREAU

INCOME TAX

(By authority conferred on the department of treasury by sections 3 and 13 of 1941 PA 122, sections 9 and 83 of 1965 PA 380, and sections 471 and 520 of 1967 PA 281, MCL 205.3, 205.13, 16.109, 16.183, 206.471 and 206.520.)

R 206.1 "Business income" defined.

Rule 1. "Business income" means that income which is derived during the regular course of a taxpayer's trade or business. The expenses incurred in deriving the income are allowed as a deduction from gross income in determining the taxpayer's adjusted gross income.

History: 1979 AC.

R 206.2 Employee.

Rule 2. (1) The term "employee" is defined in section 8(2) of Act No. 281 of the Public Acts of 1967, as amended, being S206.8(2) of the Michigan Compiled Laws.

(2) The term "employee" includes every individual performing services if the relationship between him and the person for whom he performs such services is the legal relationship of employer and employee. The term includes officers and employees, whether elected or appointed, of the United States, a state, territory, Puerto Rico, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any 1 or more of the foregoing.

(3) Generally, the relationship of employer and employee exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished; that is, an employee is subject to the will and control of the employer, not only as to what shall be done, but also as to how it shall be done. However, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work but not as to the means and methods for accomplishing the result, he is not an employee.

(4) Generally, physicians, lawyers, dentists, veterinarians, contractors, subcontractors, public stenographers, auctioneers, and others who follow an

independent trade, business, or profession, in which they offer their services to the public, are not employees.

(5) Whether the relationship of employer and employee exists shall, in doubtful cases, be determined upon an examination of the particular facts of each case.

(6) If the relationship of employer and employee exists, the designation or description of the relationship by the parties as anything other than that of employer and employee in immaterial. For example, it is of no consequence that the employee is designated as a partner, coadventurer, agent, independent contractor, or the like.

(7) All classes or grades of employees are included within the relationship of employer and employee. Thus, superintendents, managers, and other supervisory personnel are employees. Generally, an officer of a corporation is an employee of the corporation. However, an officer of a corporation who as such does not perform any services, or performs only minor services, and who neither receives nor is entitled to receive, directly or indirectly, any remuneration, is not considered to be an employee of the corporation. A director of a corporation in his capacity as a director is not an employee of the corporation.

(8) The term "employee" includes every individual who receives a supplemental unemployment compensation benefit, which is treated as wages.

History: 1979 AC.

R 206.3 Employer.

Rule 3. (1) The term "employer" is defined in section 8(3) of Act No. 281 of the Public Acts of 1967, as amended, being S206.8(3) of the Michigan Compiled Laws.

(2) The term "employer" means any person for whom an individual performs or performed any service, of whatever nature, as the employee of such person.

(3) It is not necessary that the services be continuing at the time the wages are paid in order that the status of employer exist. Thus, for purposes of withholding, a person for whom an individual has performed past services for which he is still receiving wages from such person is an employer.

(4) An employer may be an individual, a corporation, a partnership, a trust, an estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture, or other unincorporated organization, group, or entity. A trust or estate, rather than the fiduciary acting for, or on behalf of, the trust or estate, is generally the employer.

(5) The term "employer" embraces not only individuals and organizations engaged in a trade or business, but also organizations exempt from income tax, such as religious and charitable organizations, educational institutions, clubs, social organizations and societies, as well as the governments of the United States, the states, territories, Puerto Rico, and the District of Columbia, including their agencies, instrumentalities, and political subdivisions.

(6) The term "employer" also means any person paying wages on behalf of a nonresident alien individual, foreign partnership, or foreign corporation, not

engaged in trade or business within the United States, including Puerto Rico as if a part of the United States.

(7) If the person for whom the services are or were performed does not have legal control of the payment of the wages for such services, the term "employer" means, except for the purpose of the definition of "wages," the person having such control. For example, where wages, such as certain types of pensions or retirement pay, are paid by a trust and the person for whom the services were performed has no legal control over the payment of such wages, the trust is the employer.

(8) The term "employer" also means a person making a payment of a supplemental unemployment compensation benefit when it is treated as if it were wages under the internal revenue code, 26 U.S.C. S3401. For example, if supplemental unemployment compensation benefits are paid from a trust which was created under the terms of a collective bargaining agreement, the trust shall generally be deemed to be the employer. However, if the person making such payment is acting solely as an agent for another person, the term "employer" shall means such other person and not the person actually making the payment.

(9) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax, and for furnishing the statements required under chapter 7 of the Michigan income tax act of 1967.

History: 1979 AC.

R 206.4 "Household income" defined.

Rule 4. (1) "Income" means the sum of federal adjusted gross income as defined in the internal revenue code, 26 U.S.C. S62 plus:

(a) Benefits received from federal social security, including supplemental security income (SSI), and railroad retirement benefits.

(b) Cash public assistance payments paid by a governmental unit.

(c) Unemployment insurance benefits.

(d) Worker's compensation payments whether for temporary disability, permanent disability, or death.

(e) Veteran's disability payments, pension benefits, or mustering out payments.

(f) Amounts received for loss of wages due to permanent disability.

(g) Amounts received as damages for personal injury or sickness.

(h) Amounts in excess of the claimant's contributions received from a pension plan or annuity.

(i) Life insurance proceeds, except benefits from insurance on a spouse.

(j) Money received from a person not a member of the same household who is legally obligated to support a member of the household.

(k) An inheritance, bequest, or devise, excluding an inheritance from a spouse.

(l) Educational benefits received under federal or state legislation with respect to services in the military or naval forces of the United States.

(m) A scholarship or other educational grant.

(n) Income from an obligation issued by a state or its political subdivisions, including this state.

(o) Gifts in cash or kind from nongovernmental sources exceeding $300.00.

(p) The portion of capital gains and dividends excluded or deducted from federal gross income.

(q) Death benefits paid by, or on behalf of, an employer.

(r) The portion of lump sum distributions from pension deducted from federal gross income.

(s) Earned income from foreign sources excluded from federal gross income.

(t) Accumulation distributions received from a trust not previously included in the claimant's adjusted gross income.

(2) "Household income" does not include:

(a) Surplus foods.

(b) Relief in kind by a governmental unit such as medicaid payments to a nursing home or doctor, or rent paid, in whole or in part, directly to the landlord. Chore service payments are income to the provider but not to the person receiving the benefits.

(c) Governmental grants which must be used by the claimant to improve a homestead.

(d) State and city income tax refunds, including homestead property tax credits. Farmland preservation tax credits shall be included in federal adjusted gross income and household income.

(e) Amounts deducted from social security or railroad retirement benefits for medicare premiums.

(f) Amounts paid by an employer for life, health, or accident insurance.

(g) The first $300.00 in income from gambling, bingo, lottery, or prizes and awards.

(3) Effective with the calendar year 1977, any health or accident insurance premiums paid, in whole or in part, by the claimant, and not by an employer, for himself and his family are deductible from gross income to arrive at household income.

History: 1979 AC.

R 206.5 Residency; determination guidelines.

Rule 5. (1) A person who is domiciled in this state is a resident of this state. "Domicile" means the fixed, permanent, and principal home to which a person, wherever temporarily located, always intends to return. A person may have several residences or dwelling places but only may have 1 domicile at a particular time. Domicile, once established, is not lost until there is a concurrence of all of the following:

(a) The specific intent to abandon the old domicile.

(b) The intent to acquire a specific new domicile.

(c) Actual physical presence in the new state of domicile. Generally, the domicile of the wife follows that of the husband.

(2) To overcome the presumption of residency, as stated in subrule (1), a taxpayer shall present detailed factual data to the department. Factors to be considered in determining a taxpayer's residency or domicile include where he keeps his most important possessions, houses his family, votes, maintains club and lodge

memberships, buys automobile licenses, maintains a mailing address and banks, operates a business, or sues for divorce. However, no one of these factors is controlling. The failure of a person to pay income taxes in the state to which he claims to have domicile is very significant.

(3) A person whose residency cannot be determined by the above guidelines shall be deemed a resident of Michigan if he lives within the state for not less than 183 days during the tax year or for more than 1/2 the days during a taxable year of less than 12 months.

History: 1979 AC.

R 206.6 Income from obligations and securities of states other than Michigan.

Rule 6. (1) Gross interest and dividend income from obligations and securities of states other than Michigan, and their political subdivisions, not subject to federal income taxes, including such interest and dividends from qualifying mutual funds, shall be added to adjusted gross income.

(2) The income may be reduced by related expenses not deducted in computing federal adjusted gross income because of the internal revenue code, 26 U.S.C. S265(1).

(a) Example:

Gross interest income from state of Ohio bonds………….	$600.00
Expense (investment counseling fees, bank charges brokerage fees)…………………………………………….	32.00
Interest income to be added to adjusted gross income……	$568.00

(b) Interest on indebtedness incurred in carrying the obligation or security is not deductible from the interest or dividend income.

History: 1979 AC.

R 206.7 Add back of taxes on or measured by income.

Rule 7. (1) Taxes on or measured by income deducted in computing federal adjusted gross income shall be added back to federal adjusted gross income to determine the income subject to Michigan income tax.

(2) An individual who receives distributive income from partnerships, joint ventures, and subchapter S corporations is required to make the adjustment in subrule (1) if the partnership, joint venture, or subchapter S corporation paid city or state income tax on its distributive income and did not add back such taxes to the amounts distributed to the partners or shareholders.

History: 1979 AC.

R 206.8 Losses on sale or exchange of United States obligations; reporting.

Rule 8. Losses on the sale or exchange of United States obligations, the income of which the state is prohibited from taxing, shall be subtracted from federal adjusted gross income. To do this, file form MI-1040D and enter a zero in column "Z" of the line on which the loss is reported.

(a) Example:

Mr. Smith is reporting a gain from the sale of stock in the amount of $2,100.00 and a loss from the sale of United States obligations in the amount of $900.00

(b) These transactions are reported on form MI-1040D as follows:

	Date Acquired	Date Sold	Federal Gain Col. Y	Michigan Gain Co. Z
6. Stock	9-30-68	10-1-77	$2,100.00	$2,100.00
U.S. Obligation	4-1-69	7-10-77	(900.00)	- 0 -
7. Capital gain distribution				
8. Enter gain if applicable from form MI-4797 line 4(a)(1)				
9. Enter your share of net ling-term gain or (loss) from partnerships and fiduciaries				
10. Enter your share of net long-term gain from small business corporations (subchapter S)				
11. Net gain or (loss) combine lines 6 through 19			$1,200.00	$2,100.00
12. Long-term capital loss carryover attributable to years beginning after 1969			( )	( )

13. Net long term gain of (loss) combine lines 11 and 12 $1,200.00
$2,100.00

14. Combine the amounts shown on line 5 and 13 $1,200.00
$2,100.00
and enter the net gain (loss) here

15. If line 14 shows a gain -
(a) Enter 50% of line 13 or 50% of line 14, whichever
is smaller. Enter zero if there is a loss or no entry on line 13 $600.00
$1,050.00
(b) Subtract line 15(a) from line 14. Enter
here and carry amount in column Y to MI-1040 line 39(a)
carry amount in column Z to MI-1040 line 32(a) $600.00
$1,050.00

History: 1979 AC.

R 206.9 Interest income and gains from sale or disposal of United States obligations exempted from state taxation; treatment; interest on federal income tax refunds.

Rule 9. (1) Interest income and gains from the sale or disposal of United States obligations, which are exempted from state taxation by the United States Constitution, treaties, and statutes, are deductible from adjusted gross income. The deduction for such income shall be reduced by any interest on indebtedness incurred in carrying the United States obligation and by any other expense, including amortized bond premiums, deducted from gross income to arrive at adjusted gross income. The income from the following United States obligations is not subject to state income tax:

(a) United States treasury bonds, notes, bills, and savings bonds.

(b) Bonds, notes, debentures, and other obligations issued by:

(i) Federal intermediate credit banks.

(ii) Federal land banks.

(iii) Federal home loan banks.

(iv) Central banks for co-operatives.

(v) Regional banks for co-operatives.

(vi) Tennessee valley authority.

(vii) United States postal service obligations.

(2) Interest on federal income tax refunds is not exempted from state taxation and shall not be claimed as a deduction.

History: 1979 AC.

R 206.10 Compensation for service in the armed forces of the United States; treatment.

Rule 10. (1) Compensation paid from federal appropriations, including retirement benefits, for military services in the armed forces is exempt from Michigan income tax, and is deductible from adjusted gross income by the recipient to the extent it is included in federal adjusted gross income.

(a) Example 1. Active duty personnel

All military compensation is exempt.

(b) Exampe 2. Reservist

Figure for 206.10

(b) Example 2. Reservist

$10,000.00	Compensation from civilian employment
500.00	Active duty military pay
10,500.00	Federal adjusted gross income
500.00	Deduct military pay
$10,000.00	Income subject to Michigan income tax

The $500.00 active duty military pay was paid from federal appropriations ar is not subject to Michigan income tax.

(c) Example 3. National guardsman

$10,000.00	Compensation—Civilian employment
500.00	Two weeks' camp and monthly military pay
250.00	Riot duty (emergency declared by governor)
10,750.00	Adjusted gross income
500.00	Deduct
$10,250.00	Income subject to Michigan income tax

The guardsman was federalized during the 2 weeks at camp and at the monthly military drills. The pay for these came from federal appropriations.

The $250.00 paid for riot duty came from state funds and is subject to Michigan income tax.

(d) Example 4. National guard technicians

National guard technicians, although paid from federal funds, are full-time civilian employees. Their civilian pay is subject to Michigan income tax. They are members of the national guard, however, and compensation paid for the 2 weeks' encampment and the monthly drills is military pay and is exempt from Michigan income tax as in example 3.

(e) Example 5. Armory board of control

Compensation for serving as a member of an armory board of control is subject to Michigan income tax.

(f) Example 6. Retirement benefits

Retirement benefits paid to retirees of the armed forces for services performed while a member of the armed forces are exempt from Michigan income tax.

(2) Employee business expenses attributable to military income shall reduce the subtraction for military income. If the expenses exceed the military income, there can be no subtraction for military income.

History: 1979 AC.

R 206.11 Rescinded.

History: 1979 AC; 1998 - 2000 AACS.

R 206.12 Allocation and apportionment of income; adjustments.

Rule 12. (1) Salaries, wages, and other compensation received by a Michigan resident are allocated to Michigan. The credit provided in section 255 of Act No. 281 of the Public Acts of 1967, being §206.255 of the Michigan Compiled Laws, may be claimed if the compensation was earned in another state and taxed by that state.

(2) Salaries and wages earned in Michigan by a nonresident are allocated to Michigan.

(3) Income from a trade or business as defined in R 206.1 is allocated or apportioned to the state in which the activity takes place.

(4) Business income that is attributable to Michigan and 1 or more other states shall be apportioned as provided in sections 115 to 195 of Act No. 281 of the Public Acts of 1967, as amended, being §§206.115 to 206.195 of the Michigan Compiled Laws.

(5) Net rents and royalties from real property are allocated to the state in which the real property is located.

(6) Net rents and royalties from tangible property are allocated to Michigan, if either of the following provisions applies:

(a) The personal property is utilized in Michigan.

(b) The rent is received by a Michigan resident or the recipient has a commercial domicile in Michigan and is not organized under the laws of, or subject to tax by, the state in which the property was utilized.

(7) Capital gains and losses from the disposition of real property are allocated to the state in which the real property is located.

(8) Capital gains and losses from the disposition of personal property are allocated to Michigan if any of the following provisions apply:

(a) The property was located in Michigan at the time of sale.

(b) The taxpayer is a Michigan resident.

(c) The taxpayer has a commercial domicile in this state and is not taxable in the state in which the property had a situs.

(9) Capital gains and losses from the disposition of intangible personal property are allocated to Michigan if received by a Michigan resident.

(10) Interest, dividends, and pension and annuity income are allocated to Michigan if received by a Michigan resident.

(11) Patent and copyright royalties are allocated to Michigan if either of the following provisions applies:

(a) The patent or copyright is used in Michigan.

(b) The owner is a Michigan resident or has a commercial domicile in Michigan and is not taxable in the state in which the patent or copyright was used.

(12) A patent is used in Michigan if the patented product is produced in Michigan or the patent is used in Michigan production, fabrication, manufacturing, or other processing.

(13) A copyright is used in Michigan if the printing or publication of the copyrighted item takes place in Michigan.

(14) Income includable in federal adjusted gross income not specifically allocated or apportioned by this rule is allocated to Michigan when received by a Michigan resident. Credit for tax paid to another state on income subject to tax in the other state may be claimed by the Michigan resident.

(15) The following forms of income may be claimed as a subtraction from adjusted gross income if not allocated or apportioned to Michigan; conversely, losses not allocated or apportioned to Michigan shall be added to adjusted gross income:

(a) Trade or business, including farming.

(b) Rents and royalties from real and personal property.

(c) Capital gains from the disposition of real and tangible personal property.

(d) Capital gains from the disposition of intangible personal property.

(e) Interest and dividends.

(f) Pensions and annuities.

(g) Patent and copyright royalties.

(16) Distributive share items received by a partner are allocated or apportioned as follows:

(a) Ordinary income is apportioned to Michigan by the partnership apportionment factors provided in sections 115 to 195 of Act No. 281 of the Public Acts of 1967, as amended, being §§206.115 to 206.195 of the Michigan Compiled Laws.

(b) Salary allocated to Michigan when received by a Michigan resident. Credit may be claimed for tax paid to another state if the salary was earned in the other state. Salary earned in Michigan by a nonresident partner is allocated to Michigan.

(c) Short-term capital gains (losses), long-term capital gains (losses), involuntary conversion gains (losses), and other gains (losses) from real or personal property that had a situs in Michigan at the time of sale are allocated to Michigan. Capital gains from the sale of intangible personal property are allocated to Michigan when received by a Michigan resident.

(d) Additional first-year depreciation on property located in Michigan is allocated to Michigan.

(e) Distributive items from a partnership not allocated or apportioned to Michigan may be claimed as a deduction from adjusted gross income. Conversely, losses and deductions not allocated or apportioned to Michigan shall be added to adjusted gross income.

(17) All distributive income from a subchapter S corporation includable in the shareholder's adjusted gross income is subject to tax if allocated or apportioned to Michigan.

(18) Dividend distributions taxable as ordinary income, plus undistributed income taxable as ordinary income, are apportioned to Michigan if all of the corporation's business activities are confined to Michigan. If the corporation is taxable both within and without Michigan, such income is apportioned to Michigan as provided in

sections 115 to 195 of Act No. 281 of the Public Acts of 1967, as amended, being §§206.115 to 206.195 of the Michigan Compiled Laws.

(19) Dividend distributions taxable as long-term capital gains and undistributed long-term capital gains are allocated as follows:

(a) Capital gains from the disposition of real property are allocated to Michigan if the property is located in Michigan.

(b) Capital gains from the disposition of tangible personal property are allocated to Michigan if the property has a situs in Michigan at the time of sale.

(c) Capital gains from the sale of intangible personal property are allocated to Michigan when received by a Michigan resident.

(20) Distributive income from a subchapter S corporation not allocated or apportioned to Michigan may be claimed as a subtraction from adjusted gross income. Conversely, losses not allocated or apportioned to Michigan shall be added to adjusted gross income.

History: 1979 AC; 1998 - 2000 AACS.

R 206.13 Exemption allowance; proration for nonresident or part-year resident; death of taxpayer.

Rule 13. (1) A person who is permanently leaving Michigan and is filing a final federal return covering less than 12 months shall file a Michigan return covering the same period and prorate the exemption allowance on the basis of months in Michigan during the calendar year to 12 months.

(2) A proration of the exemption allowance is not required because of the death of the taxpayer during the tax year.

History: 1979 AC; 1998 - 2000 AACS.

R 206.14 Moving expenses.

Rule 14. Persons moving into or out of the state of Michigan shall allocate all adjustments to gross income resulting from the move to the state of destination as shown in the following examples:

(a) Example 1. Wage earner moves to Michigan.

Figure for 206.14 (1 of 4)

Michigan wages	$ 6,000.00	Reported on MI-1040 as follows:	
Nonresident wages	4,000.00	Federal adjusted gross income	$ 8,500.
Total	10,000.00	Income attributable to another state	4,000.
Moving expenses	(1,500.00)	Income subject to Michigan tax	$ 4,500.
Adjusted gross income	$ 8,500.00		

Note: The Michigan income is reduced by the moving expenses.

Note: The Michigan income is reduced by the moving expenses.

(b) Example 2. Taxpayer moves to Michigan and his reimbursed expenses exceeded the amount that could be deducted on his federal return.

Figure for 206.14 (2 of 4)

Michigan wages		$12,000.00	Reported on MI-1040 as follows:	
Nonresident wages		8,000.00	Federal adjusted gross income	$20,500.0
Total		$20,000.00	Income attributable to another state	8,000.0
Reimbursed moving expenses	3,000.00		Income subject to Michigan tax	$12,500.0
Not allowable moving expenses	2,500.00			
Difference		500.00		
Federal adjusted gross income		$20,500.00		

Note: Reimbursed moving expenses include reimbursement for the cost of selling a house in forn state, as this is a separate transaction not included in the computation of the gain from the sale of residence.

Note: Taxpayer's excess reimbursed moving expense is taxable in Michigan.

Note: Reimbursed moving expenses include reimbursement for the cost of selling a house in former state, as this is a separate transaction not included in the computation of the gain from the sale of the residence.

Note: Taxpayer's excess reimbursed moving expense is taxable in Michigan.

(c) Example 3. Wage earner moves from Michigan to another state.

Figure for 206.14 (3 of 4)

Michigan income	$ 6,000.00	Reported on MI-1040 as follows:	
Nonresident income	4,000.00	Federal adjusted gross income	$ 8,500.0
Total	10,000.00	Income attributable to another state	2,500.0
Allowable moving expenses	1,500.00	Income subject to Michigan tax	$ 6,000.0
Federal adjusted gross income	$ 8,500.00		

Note: Taxpayer's subtraction of income attributable to state of destination is reduced by moving expense.

Note: Taxpayer's subtraction of income attributable to state of destination is reduced by the moving expense.

(d) Example 4. Taxpayer moving out of Michigan whose reimbursed moving expenses exceeded the amount that could be deducted on his federal return.

Figure for 206.14 (4 of 4)

Michigan wages		$12,000.00	Reported on MI-1040 as follows:	
Nonresident wages		8,000.00	Federal adjusted gross income	$20,500.0
Total		20,000.00	Income attributable to another state	8,500.0
Reimbursed moving expenses	3,000.00		Income subject to Michigan tax	$12,000.0
Allowable moving expenses	2,500.00			
Difference		500.00		
Federal adjusted gross income		$20,500.00		

Note: Taxpayer's subtraction of income attributable to state of destination includes the exce reimbursed moving expense.

History: 1954 ACS 96, p. 13, Eff. Apr. 5, 1978.

Note: Taxpayer's subtraction of income attributable to state of destination includes the excess reimbursed moving expense.

History: 1979 AC.

R 206.15 Credit for income tax withheld from compensation.

Rule 15. (1) The income tax deducted and withheld from compensation under chapter 7 of Act No. 281 of the Public Acts of 1967, as amended, is allowed as a credit against the income tax of the person from whose wages the tax was withheld. Credit shall be given to the employee even though such tax has not been paid to the department by the employer.

(a) Example 1. An employee received compensation of $15,000.00 from his employer for the year. The employer withheld tax of $500.00 from the employee and furnished him with a W-2 wage and tax statement showing $500.00 withheld. The department shall give the employee credit for tax withheld of $500.00.

(b) Example 2. The employer paid his employees by check and withheld tax from each payment of wages. Each check contained a stub which itemized all deductions. One of the deductions was headed "Michigan Tax." The employees did not have W-2 wage and tax statements to attach to their individual income tax returns because the employer did not give the employees the statements. The employees shall receive credit against the tax established by their individual income tax returns for all tax they can prove was withheld. A copy of each check stub shall be accepted as evidence of the

tax withheld unless the department can prove otherwise. If the employee cannot support his claim for tax withheld by W-2 wage and tax statements or check stubs, he shall file an employee complaint form with his income tax return.

(2) If a taxpayer files individual income tax returns on any basis other than a calendar year basis, the tax deducted and withheld during any calendar year is allowed as a credit against the income tax on the person from whose wages the tax was withheld for the taxable year which begins in such calendar year. If the person from whose wages the tax was withheld has more than 1 taxable year beginning in that calendar year, the credit shall be allowed against the tax for the last taxable year beginning in such calendar year.

(a) Example 1. A man and his wife own a business and file their individual income tax return, MI-1040, on a fiscal year basis ending June 30th. They made 4 estimated payments totaling $700.00 toward their tax liability for their year ending June 30, 1976. The husband also worked for another business and the employer withheld $325.00 tax from his compensation for calendar year 1975. The tax liability of the husband and wife established by the MI-1040 for fiscal year ending June 30, 1976, was $1,100.00. The taxpayer should take credit for the $700.00 estimated payments made for the fiscal year ending June 30, 1976, plus the $325.00 tax the husband's employer withheld during calendar year 1975. They must pay $75.00 with the MI-1040 when they file.

(b) Example 2. The situation in this example is the same as in example 1 except the husband worked from January 15, 1976, to May 31, 1976, for the employer but did not work for him during calendar year 1975. The husband and wife cannot claim the $325.00 tax the employer withheld from the husband's compensation in 1976 on their MI-1040 for fiscal year ending June 30, 1976, and must pay $400.00 at the time they file their annual return, MI-1040. They must take credit for the $325.00 tax withheld in 1976 on their MI-1040 for the year ending June 30, 1977.

(c) Example 3. After filing his 1976 tax return on a calendar year basis, a taxpayer decides to change his filing to a fiscal year basis using the fiscal period of July 1 to June 30. He must file a return for the period of January 1, 1977, to June 30, 1977, and pay the tax. He shall not receive credit for the tax withheld during that period. When filing his full year return for the fiscal period July 1, 1977, to June 30, 1978, he shall report his income for the last 6 months of 1977 and the first 6 months of 1978 and shall receive credit for the full amount of tax withheld during calendar year 1977. The 1977 W-2 wage and tax statement shall be attached to the return.

Figure for 206.15

(a) Example 1. Wage earner moves to Michigan.

Michigan wages .... $ 6,000.00
Nonresident wages 4,000.00
Total 10,000.00
Moving expenses .... (1,500.00)
Adjusted gross income..... $ 8,500.00

Reported on MI-1040 as follows:
Federal adjusted gross income .... $ 8,50
Income attributable to another state 4,00
Income subject to Michigan tax .... $ 4,50

Note: The Michigan income is reduced by the moving expenses.

(b) Example 2. Taxpayer moves to Michigan and his reimbursed expen exceeded the amount that could be deducted on his federal return.

Michigan wages $12,000.00
Nonresident wages 8,000.00
Total $20,000.00
Reimbursed moving expenses 3,000.00
Not allowable moving expenses 2,500.00
Difference........................ 500.00
Federal adjusted gross income $20,500.00

Reported on MI-1040 as follows:
Federal adjusted gross income.......................... $20,500.
Income attributable to another state .... 8,000.
Income subject to Michigan tax................. $12,500.

Note: Reimbursed moving expenses include reimbursement for the cost of selling a house in for state, as this is a separate transaction not included in the computation of the gain from the sale of residence.
Note: Taxpayer's excess reimbursed moving expense is taxable in Michigan.

(c) Example 3. Wage earner moves from Michigan to another state.

Michigan income .... $ 6,000.00
Nonresident income 4,000.00
Total 10,000.00
Allowable moving expenses 1,500.00
Federal adjusted gross income .... $ 8,500.00

Reported on MI-1040 as follows:
Federal adjusted gross income.......................... $ 8,500.
Income attributable to another state .... 2,500.
Income subject to Michigan tax................. $ 6,000.

Note: Taxpayer's subtraction of income attributable to state of destination is reduced by moving expense.

(d) Example 4. Taxpayer moving out of Michigan whose reimbursed mov expenses exceeded the amount that could be deducted on his federal return.

Michigan wages $12,000.00
Nonresident wages 8,000.00
Total 20,000.00
Reimbursed moving expenses 3,000.00
Allowable moving expenses 2,500.00
Difference........................ 500.00
Federal adjusted gross income $20,500.00

Reported on MI-1040 as follows:
Federal adjusted gross income.......................... $20,500.
Income attributable to another state .... 8,500.
Income subject to Michigan tax................. $12,000.

Note: Taxpayer's subtraction of income attributable to state of destination includes the ex reimbursed moving expense.

History: 1979 AC.

R 206.16 Credit allowed resident for income tax paid to other states.

Rule 16. (1) A resident taxpayer is allowed a credit for tax imposed on income which is also subject to tax by another state of the United States, or political subdivision thereof, or the District of Columbia. This credit is limited to the smaller of (a) the Michigan tax on such income or (b) the tax imposed by the other state. The credit is that portion of the Michigan income tax that the income which is subject to tax in both states bears to total taxable income. Example:

Michigan wages..	$ 8,000.00
Wages earned in another state…………………	2,000.00
United States government bond interest……….	1,000.00
Adjusted gross income…………………………	11,000.00
United States government bond interest………	1,000.00
Total taxable income…………………………..	10,000.00

Income subject to tax in both states $2,000.00 or 20%

Taxpayer has 2 exemptions	
2 X $1,500.00 …………………………………	3,000.00
Taxable balance ………………………………	7,000.00
Tax @ 4.6%...	322.00
Tax paid to other state; $70.00	
Maximum credit allowed 20% of $322.00……	$ 64.00

In this example, the taxpayer cannot claim the full $70.00 paid to another state as his credit is limited to 20% of $322.00 or $64.40. The credit cannot exceed the amount paid to another state.

(2) Since Michigan allows a subtraction of income attributable to other states the credit is ordinarily limited to tax imposed on compensation received for services rendered in another state.

History: 1979 AC.

R 206.17. City income tax credit.

Rule 17. (1) Each person subject to tax under Act No. 281 of the Public Acts of 1967, being §§206.1 through 206.532 of the Michigan Compiled Laws, may claim a credit for a portion of the income taxes levied by cities in Michigan that are deductible if that person had not elected the standard deduction. For purposes of computations of this credit, city income taxes do not include penalties or interest paid.

(2) The amount of city income taxes used as a basis for computation of this credit shall be the city income tax paid by the taxpayer in the tax year. The tax paid shall be reduced by any refund of overpaid taxes of a prior year.

(3) If a person is assessed and pays additional city income taxes applicable to prior years, the additional taxes paid shall be added to the city income tax of the year in which they are paid for purposes of computation of this credit.

History: 1979 AC; 1998 - 2000 AACS.

R 206.18 Rescinded.

History: 1979 AC; 1998 - 2000 AACS.

R 206.19 Adjustment of pre-tax gains or losses.

Rule 19. (1) A taxpayer, whose federal adjusted gross income includes gains and losses realized in the tax year from the disposition of property acquired prior to October 1, 1967, which are described in and subject to the provisions of subchapter P of the internal revenue code, 26 U.S.C.S1201 et seq., may reduce taxable income by the portion of gain or loss attributable to the period before October 1, 1967. When this election is made, it shall include all items of gain or loss realized during the taxable year.

(2) To compute this adjustment a fraction is applied to the gain. The denominator is the total months held and the numerator is the number of months held after October 1, 1967. In making this calculation, property acquired or disposed of from the first to the fifteenth of the month shall be counted from the first of the month and property acquired or disposed of after the fifteenth of the month shall be counted from the last day of the month.

(3) Losses resulting from the application of this rule shall not be carried forward.

History: 1979 AC.

R 206.20 Withholding generally.

Rule 20. (1) Every employer, over whom Michigan has jurisdiction, required to withhold federal income tax from compensation paid an employee, shall also withhold Michigan income tax from (a) compensation paid to the employee if the employee is a resident of Michigan, and (b)

from that portion of the compensation earned in Michigan if the employee is not a resident of Michigan, unless (i) the compensation is paid to an employee from whom the employer is prohibited from withholding Michigan income tax because of a federal law, or (ii) the employer is not required to withhold Michigan income tax because of a reciprocal agreement between Michigan and another state or between Michigan and another city. (See employer's tax guide.)

(2) Churches, schools, governmental agencies, and nonprofit organizations exempt from income tax shall withhold Michigan income tax from compensation paid employees the same as any other employer.

(a) Example 1. A church has a full-time secretary and withholds federal income tax from her compensation. The church shall also withhold Michigan income tax from her compensation.

(b) Example 2. A machine shop is located in Michigan close to the Indiana state line. It employs residents of both Michigan and Indiana and is required to withhold federal income tax from all employees. The firm shall withhold Michigan income tax from Michigan residents, but will not be required to withhold Michigan income tax from residents of Indiana who provide the employer with a certificate of nonresidency. Michigan and Indiana have a reciprocal agreement.

(c) Example 3. A contractor from Pennsylvania builds a shopping center in Michigan. He employs residents of Michigan from the local labor force and brings 2 of his permanent employees from Pennsylvania to Michigan for 3 months to supervise the construction. The contractor shall register and withhold Michigan income tax from the compensation paid to all employees engaged in the project including the compensation paid to the 2 residents of Pennsylvania for the compensation paid for the work performed in Michigan. This contractor has the same obligation to withhold the Michigan tax as a Michigan contractor who performs all of his business in Michigan.

History: 1979 AC.

R 206.21 Failure to withhold; withholding less than correct amount; liability of employer.

Rule 21. (1) If an employer erroneously fails to withhold Michigan income tax from compensation paid to an employee, or withholds less than the correct amount, he is liable for payment of the amount which should have been withheld, whether or not it is collected from the employee by the employer. The employer should correct the error within the same calendar year, if possible, by deducting the difference between the amount withheld and the amount required to be withheld from any compensation still owed the employee.

(2) If the failure to withhold is in a year other than the current year, the employer is still liable for the amount that should have been withheld and shall pay it to the department. Any reimbursement by the employee to the employer is a matter between the employer and the employee.

(3) If the employer fails to withhold the tax as required and, thereafter, the income tax against which the tax may be credited is paid, the tax required to be deducted and withheld shall not be collected from the employer. Such payment does not, however, operate to relieve the employer from liability for penalties and interest on the tax that should have been withheld.

(a) Example 1. An individual started a business on March 1 of the current year. He was an employer and the people on his payroll were employees subject to collection of federal income tax at source on wages under chapter 24 of the internal revenue code, 26 U.S.C. S4101 et seq. The employer did not register and start withholding Michigan income tax until August 1. The employer is liable for withholding the correct tax from the compensation he pays his employees. He should compute the tax he should have withheld from each employee from March 1 to August 1 and withhold

this from each employee during the remainder of the year in addition to the correct tax that must be withheld from each payment of compensation. This is according to subrule (1) above.

(b) Example 2. An employer was withholding federal income tax from wages, but was not withholding Michigan income tax. The department made an audit in June, 1976, and determined the following:

Figure for 206.21

	1973		1974	
Employee	Wages paid	Should have withheld	Wages paid	Should have withheld
No. 1	$15,255.00	$328.00	$15,425.00	$438.00
No. 2	$12,000.00	300.00	$13,000.00	416.00
Tax due		$628.00		$854.00

	1975		1976	
Employee	Wages paid	Should have withheld	Wages paid	Should have withheld
No. 1	$16,000.00	$450.00	$8,000.00	$225.00
No. 2	$14,000.00	448.00	$7,000.00	224.00
Tax due		$898.00		$449.00

The department assessed tax of $2,829.00 plus penalty and interest against the employer. Subsequently, the employer obtained signed employee wage statements from the employees and sent them to the department.

Employee no. 2 claimed he filed MI-1040 returns for the years 1973, 1974, and 1975. The department checked its records and found returns for all 3 years and that the employee did pay the tax on his own MI-1040. Since the assessment had not been paid, the department reduced the assessment by $1,164.00, which is the tax in the audit for the years, 1973, 1974, and 1975. If the assessment had been paid, the department would have issued a refund to the employer. This is according to subrule (3) above. Employee no. 1 also gave his employer signed employee wage statements claiming he filed MI-1040 returns and paid his own tax on the wages he received from the employer. The department checked its records and could not find a return for 1973. They found a joint return for 1974, but the adjusted gross income on the return was $12,000.00. This was compensation the wife received as a schoolteacher. It agreed with the compensation shown on the W-2 issued by the school district. The department also found a joint return for 1975 and the employee and his wife reported the compensation from both their employers. The department reduced the assessment against the employer by $450.00 for the tax included in the audit for 1975 since the employee paid the tax on this compensation on his own MI-1040. This is according to subrule (3) above. The department cannot give the employer relief for the tax he should have withheld from employee no. 1 in 1973 and 1974 since the employee did not report on any MI-1040 the compensation he received from the employer.

Employee no. 1 is delinquent for the year 1973 and filed a false MI-1040 for 1974. The department will give the employee credit as tax withheld of $328.00 in 1973 and $438.00 in 1974 at the time it confronts him about his individual income tax returns. The employer shall look to the employee if he wishes to get reimbursed for these 2 amounts. This is a matter between the employer and the employee. See subrule (2) above. The employer may recover the $449.00 tax he did not withhold in 1976 by deducting it from future compensation paid the employee during the remainder of the year according to subrule (1). The employees shall be given credit for these amounts on their 1976 W-2 plus any additional tax to be deducted for the remainder of 1976.

History: 1979 AC.

R 206.22 Overwithholding or withholding in error.

Rule 22. (1) If an employer overwithholds income tax from an employee's wages, or if he withholds Michigan tax where he should not have withheld Michigan tax, he may repay the amount withheld in error to the employee at any time within the same calendar year. He shall obtain a receipt from the employee for the amount refunded and keep it as a part of his own records. The employer may adjust his records internally and deduct the amount refunded from the tax owing on his next return or he may ask for a cash refund.

(2) The fact that an employer is withholding more on 1 basis than he would if he were using another method, for example, the wage bracket method as compared to the percentage method, does not mean that there has been an overcollection. The employer may choose whichever method he prefers and if his computation is correct according to the method selected, there is no overcollection. Similarly, if an employee does not file an exemption certificate so that more is withheld than would have been if he had claimed his exemptions, there is no overcollection on that account and no repayments to him by the employer would be authorized.

(3) If the employer does not repay the employee for the overcollection, the employee's remedy lies in claiming credit for the amount withheld on an individual income tax return.

(a) Example 1. An employee was a resident of Michigan and lived and worked in Michigan through June of the current year. On July 1, his employer reassigned the employee to New York state. The employee moved to and became a legal resident of New York state on July 1.

The employer correctly withheld $600.00 Michigan tax from January through June, but erroneously withheld another $200.00 Michigan tax instead of New York tax during July and August and paid Michigan $800.00 tax which was withheld from this 1 employee.

The employer should refund $200.00 to the employee and obtain a receipt for his records. The employer may either reduce his next Michigan return by $200.00 or ask for a refund. The W-2 shall show $600.00 Michigan tax withheld.

(b) Example 2. A coding error resulted in Michigan tax being withheld from an employee who is a resident of Minnesota. The employee never lived or worked in Michigan. The employee found the error when he received his W-2. If the employer can recover the W-2 and issue a corrected W-2 showing no Michigan tax withheld, he may refund the tax to the employee, obtain a receipt, and either deduct it from the amount withheld the following month or ask the department for a refund. If the employer cannot recover the W-2 from the employee, the employee shall obtain relief by filing a Michigan individual income tax return.

History: 1979 AC.

R 206.23 Withholding tax returns.

Rule 23. The income tax withheld from compensation paid to employees is a personal obligation of the employer (taxpayer) and is due and payable on or before the fifteenth day of the month next succeeding the month in which the tax was withheld. The commissioner of revenue may require filing of returns on other than a monthly basis. The taxpayer shall make out a tax return for the preceding month on the form required by the department, showing the amount of the tax for which he is liable and mail the return, together with a remittance for the amount of the tax, payable to the state of Michigan, to the address as indicated on the return, on or before the fifteenth day of the month. The return shall be signed by the taxpayer or the duly authorized agent of the taxpayer.

History: 1979 AC.

R 206.24 Withholding exemption certificate.

Rule 24. (1) Every employee shall file a signed employee's Michigan withholding exemption certificate, form MI-W4, with his or her employer. The number of personal and dependency exemptions claimed on the MI-W4 shall not exceed the number of personal and dependency exemptions the

employee is entitled to claim on his or her individual income tax return.If married, and the employee and his or her spouse are both employed, they shall not claim the same personal and dependency exemptions with their employers at the same time. If a person is unmarried and holds more than 1 job, the person shall not claim the same exemption with more than 1 employer at the same time.

(2) An employee may claim exemption from Michigan income tax withholding, which shall be renewed annually, if all of the following conditions exist:

(a) He claimed exemption from federal income tax withholding.

(b) He did not incur a Michigan income tax liability for the previous year.

(c) He does not anticipate a Michigan income tax liability for the current year because his employment is less than full time, intermittent, or temporary, and his personal and dependency exemptions will exceed his annual compensation.

(3) An employee shall file a new certificate within 10 days if the number of exemptions previously claimed decreases because:

(a) The spouse for whom the employee has been claiming exemption is divorced or legally separated, or claims her or his own exemption on a separate certificate.

(b) The employee finds that a dependent claimed as an exemption on the certificate must be dropped for federal purposes.

(4) The death of a spouse or a dependent does not affect the employee's withholding until the following year.

(5) If an employee fails or refuses to furnish an exemption certificate, the employer shall withhold tax from the employee's total compensation without allowance for any exemptions.

History: 1979 AC.

R 206.25 "Homestead" defined.

Rule 25. (1) "Homestead" means a dwelling, or a unit in a multiple unit dwelling, which is subject to property tax or a service charge in lieu of taxes pursuant to section 15a of Act No. 346 of the Public Acts of 1968, and is occupied as a home by the owner or renter. Real property classified as agricultural land for property tax purposes is part of a person's homestead under any of the following conditions:

(a) If the gross receipts from the taxpayer's agricultural or horticultural operations are greater than his household income, all taxes on farmland may be claimed for credit.

(b) If gross receipts from the taxpayer's agricultural or horticultural operations are less than his household income, the credit for property taxes is limited to the property taxes on land that he has lived on for 10 years or more and which is adjacent or contiguous to his home.

(c) If the taxpayer has not lived on the land for 10 years and the gross receipts from agricultural or horticultural operations do not exceed the taxpayer's household income, only the taxes on the home and 5 acres of land may be claimed for credit.

(2) The taxes on a homestead, which is an integral part of a larger unit of assessment, shall be the proportion of the total property tax that the value of the homestead is to the total value of the assessed property.

(a) Example 1. The taxpayer is an insurance agent and is using the first floor of his 2-story house as a business office. He and his wife live on the second floor. Assuming the value of the real property used for business is equal to the value of the real property used as a home, the taxpayer may claim for credit one-half of the property taxes.

(b) Example 2. The taxpayer has converted the second floor of his home to an apartment which he rents for $175.00 per month. To determine the property taxes applicable to the apartment, the annual rent of $2,100.00 (12 x $175.00 = $2,100.00) is multiplied by 17%. This amounts to $357.00 which is subtracted from the total property taxes assessed to arrive at the homestead property tax the taxpayer may claim for credit. This example is used when the homestead is a part of a larger unit of assessment and that portion of the assessed property not used as a homestead by the taxpayer is rented or leased to another person who occupies it as his home.

(3) A mobile home or trailer coach in a trailer park is a homestead. See R 206.28 for the property taxes that may be claimed for credit by persons residing in a mobile home in a trailer park.

(4) A nursing home or foster care home or home for the aged is the homestead of a permanent resident. A homestead maintained elsewhere by the spouse is considered a part of the same homestead.

(5) A single person who is a permanent resident of a nursing home, foster care home, or home for the aged and also owns the house he formerly occupied may claim for credit either the taxes on the house or his share of the taxes paid by a nursing home, foster care home, or home for the aged, but not both.

(6) See R 206.28 for the property taxes that may be claimed for credit by a person residing in a nursing home, foster care home, or home for the aged.

History: 1979 AC.

R 206.26 Property taxes claimable for homestead property tax credit; sale of property; apportionment of taxes; computation of credit.

Rule 26. (1) Property taxes which may be claimed for a property tax credit are:

(a) Taxes based on the state equalized value of the homestead, including collection fees. Special assessments based on state equalized value may also be claimed.

(b) The property must be located in Michigan and be the principal residence of the claimant.

(c) The taxes shall be the taxes billed for the year the credit is claimed. For example, a property tax credit claimed for 1976 shall be based on taxes billed to the owner for 1976, usually in July and December.

(2) If the property is sold during the year, the taxes shall be apportioned between the buyer and seller according to the number of days in the calendar year that each occupied the house.

Example 1. The taxpayer sold his home in April, 1976, which he occupied until May 31, 1976. The property taxes for 1976 amounted to $600.00 (summer taxes $200.00, winter taxes $400.00) billed to the new owner in July and December of 1976. On August 1, 1976, he purchased a new home which he first occupied on October 1, 1976. The 1976 taxes on the new home totaled $800.00 (summer taxes $300.00, winter taxes $500.00). The taxes that may be claimed for credit are computed as follows:

Computation Steps	Homestead Sold	Homestead Bought	
1. Number of days occupied	152	92	
2. Divide line 1 by 366 days	41.5%	25.1%	
3. 1976 property taxes	$600.00	$800.00	
4. Prorated taxes line 3 X line 2	$249.00	$200.80	
5. Total taxes for credit			$449.80

The taxpayer rented a home for the period June 1 to September 30, 1976, and may also claim the 17% of tax in rent.

History: 1979 AC.

R 206.27 Homestead property tax credit; "owner" defined.

Rule 27. (1) The term "owner," for the purpose of claiming a homestead property tax credit, means a natural person who owns his home or is:

(a) Purchasing a homestead under a mortgage or land contract.

(b) Purchasing a dwelling on leased land.

(c) A tenant stockholder of a cooperative housing corporation.

(d) Holding a life lease in a homestead previously sold.

(e) The sole occupant of a homestead in which he is a joint owner.

(2) Claimants not related as husband and wife, who jointly own and occupy the same dwelling, shall file separate claims on their prorated share of the taxes.

History: 1979 AC.

R 206.28 Homestead property tax credit; renter.

Rule 28. (1) A person renting a homestead that is subject to a property tax is entitled to a homestead property tax credit similar to the credit allowed the homeowner.

(2) The renter, in his or her computation of the credit, shall use 17% of gross rent for taxes on his or her homestead.

(3) Gross rent is the contracted rental amount the renter or lessee pays to the landlord. If the department has reason to believe that the amount charged is excessive, the department may adjust the rent to fair market value for purposes of computing the credit.

(4) Persons living in a mobile home park may claim credit on the $3.00 per month specific tax and 17% of the remaining charges as rent.

Example 1. Monthly charges for the lot are $65.00, including the $3.00 per month specific tax. Rent paid for the entire year, $62.00 x 12 = $744.00.

Property tax in rent, 17% x 744.00…………………..	$126.48
Specific tax at $3.00 per month…………………….	36.00
Homestead property taxes for credit computation….	$162.48

(5) A person renting a homestead that is subject to a service fee as provided by section 15a of 1966 PA 346, MCL 125.1415a, in lieu of an ad valorem property tax, shall base his or her property tax credit on the service fee included in the rent he or she pays. The person does not use 17% of rent paid. For example, John Doe rents a home for $160.00 per month or $1,920.00 per year. The home is tax exempt but a service fee of 7% of rent is paid to the city by the owner. In the computation of the credit, John Doe uses 7% of $1,920.00 or $134.40 for property taxes. The service fees can vary from 1% to 10% of the rent paid depending on the city and type of housing. Therefore, occupants

of service fee housing should ask their management agent for the percentage that applies to their homestead.

(6) This rule is effective for the tax year starting January 1, 1978.

History: 1979 AC; 2016 AACS.

R 206.29 Homestead property tax credit; separation or divorce of claimants.

Rule 29. (1) For the period prior to separation or divorce, the taxes or rent paid shall be prorated on the basis of each spouse's income to total income for the period. However, if 1 spouse's income does not equal 1/2 the taxes or tax in rent for the period, the other spouse may claim all of the taxes or tax in rent for that period. In the example in subrule (5) Alice is not entitled to claim part of the property taxes during the period they lived together because for that period she did not have income equal to 1/2 of the taxes.

(2) During the period of separation or divorce, the occupant of the homestead is entitled to the credit.

(3) If 1 of the parties to a separation or divorce is required to continue the house payments and taxes or the rent on the dwelling occupied by the other, the occupant shall include these payments in his or her household income.

(4) Household income is that income received during the period the claimant is entitled to claim property taxes or tax in rent.

(5) Example 1. Bob and Alice Jones separated June 1 and were divorced November 3. They owned a home on which the taxes for the year were $900.00. Alice continued to occupy the home and received title to the property upon their divorce. Bob moved into an apartment June 1 and paid $225.00 per month rent for the balance of the year. Bob's income for the year was $15,000.00 and, at the time they separated, he was ordered to pay Alice $200.00 per month plus the payments on the house ($240.00 per month, including taxes and insurance). The divorce decree called for alimony to Alice of $200.00 per month. Alice earned $30.00 per month on a part-time job through July but quit to go to work full time on August 1 for a salary of $500.00 per month. Their homestead property tax credits are computed as follows:

Figure for 206.29

Alice	
Wages:	
Part-time June 1-July 31	$ 60.
Full-time Aug. 1-Dec. 31	2,500.
Alimony and separate maintenance	
7 months @ $200.00	1,400.
5 months @ $240.00	1,200.
Total household income	
June 1-Dec. 31	5,160.
Property taxes	
Jan. 1-May 31	—0—
June 1-Dec. 31 7/12 x $900.00 =	525.
Total taxes	
Amount not refundable	
3½% of $5,160.00	180.
Balance	344.
Property tax credit (60%)	$ 206.
Bob	
Wages: Jan. 1-Dec. 31	$15,000.
Total household income	15,000.
Property taxes	
Jan. 1-May 31 5/12 x $900.00 =	375.
Tax in rent	
7 x $2,225.00 x 17% =	267.
Total taxes	
Amount not refundable	
3½% of $15,000.00	525.
Balance	117.
Property tax credit (60%)	$ 70.

History: 1979 AC.

R 206.30 Homestead property tax credit; part-year resident.

Rule 30. A person who moved into or out of the state during the tax year and was a resident for at least 6 months may compute a property tax credit on his or her Michigan household income. For purposes of computing the credit, the taxes on the Michigan home bought or sold shall be reduced to the ratio of days occupied to total days in the tax year.

(a) Example 1. Mr. Jones came to Michigan on May 1, purchased a home, and moved into it with his family on June 1. The taxes on the home for the full year were $720.00. Mr. Jones received the following income:

Figure for 206.30

Source of Income	Total	Michigan	Other St
Wages	$13,400.00	$ 8,400.00	$5,000
Moving reimbursement	3,000.00	3,000.00	
Total	16,400.00	11,400.00	5,000
Moving expense	2,700.00	2,700.00	—0–
Federal adjusted gross income	$13,700.00	$ 8,700.00	$5,000

The homestead property tax credit is computed as follows:

Household income	$8,700
Property tax [illegible] = 59% x $720.00	424
Amount not refundable 3.5% of $8,700.00	304
Balance	120
Credit 60%	$ 72

History: 1979 AC.

R 206.31 Homestead property tax credit; death of taxpayer.

Rule 31. The 6-month residency rule does not apply to deceased taxpayers. The taxes on which a credit may be based are those taxes billed to, and paid by, the claimant for the current tax year. For renters, the tax is 17% of the rent paid up to the date of death.

History: 1979 AC.

R 206.32 Veteran's homestead property tax credit.

Rule 32. (1) The credit allowed servicemen, veterans, or their widows under the requirements of section 506 of Act No. 281 of the Public Acts of 1967, being S206.506 of the Michigan Compiled Laws, shall be known as a veteran's homestead property tax credit.

(2) A person eligible for the veteran's credit may file a claim for the year in which he first became eligible and all years thereafter for which he remains eligible, including the year in which his eligibility is terminated. Eligible claimants of a veteran's homestead property tax
credit who buy or sell and rent a home during the tax year shall compute their credit as shown in the following example:

John Brown is an eligible veteran with a 30% service-connected disability which entitles him to a state equalized value allowance of $3,500.00. He sold his home in March and moved out on April 30. Its state equalized value was $10,500.00. The taxes for the entire year amounted to $546.00. He rented a home for the next 5 months for $275.00 per month. He purchased a new which he moved into on October 1. The state equalized value is $15,000.00. Taxes of $780.00 were assessed for the entire year. Mr. and Mrs. John Brown's household income for the tax year amounted to $12,000.00.

Figure for 206.32

Credit computation—

	Homestead Bought Col. A	Homestead Sold Col. B	Homeste Rentec Col. C
37. Number of days occupied	120	92	153
38. Divide line 37 by 365 days	32.9%	25.2%	41.
39. Property taxes for calendar year	$ 546.00	$ 780.00	
40. Prorated taxes (multiply line 39 by line 38)	179.63	196.56	
41. State equalized value allowance	3,500.00	3,500.00	
42. State equalized value	10,500.00	15,000.00	
43. Divide line 41 by line 42	33.3%	23.3%	
44. Multiply line 40 by line 43	59.82	45.80	
45. Property tax credit on homes purchased and sold, add columns A and B of line 44. If you rented a home for part of the year, complete lines 46 through 50			$ 105.
46. Rent paid			1,375.
47. Multiply line 46 by 17%			233.
48. Household income	12,000.00		
49. Multiply line 48 by line 38, Col. C	5,028.00		
50. Multiply line 49 by 3.5%			175.
51. Subtract line 50 from line 47			57.
52. Multiply line 51 by 60%			34.
53. Homestead property tax credit, add lines 45 and 52			$ 140.

Note: Veterans renting a homestead subject to a service fee in lieu of property taxes should enter their share of the service fee on line 47 instead of 17% of rent paid. See your management agent for your share of the service fee.

History: 1979 AC.

R 206.33 Income tax return preparers.

Rule 33. (1) An income tax return preparer shall furnish a completed copy of any return or refund claim he prepares to the taxpayer before or at the time he presents it to him for signing.

(2) The preparer shall retain a completed copy of the return or refund claim, or retain on a list the name, taxpayer's social security number and taxable year of the taxpayer for whom such return or claim for refund was prepared.

(3) The preparer shall make such copy or list available for inspection upon request by the commissioner of revenue or his representative. The return copy or list shall be retained for the 3-year period following the close of the return period during which such return or claim for refund

was presented to the taxpayer for filing. However, in the case of a return which becomes due during a return period (including extensions, if any) following the return period during which the return was presented to the taxpayer for filing, then such materials as described in this paragraph shall be retained and kept available for inspection upon request for the 3-year period following the close of such later return period in which the return became due. For the definition of "return period" see the internal revenue code, 26 U.S.C. S6060(c).

(4) For the purpose of this rule, the term "income tax return preparer" means any person who prepares for compensation, or who employs 1 or more persons to prepare for compensation, any return of tax imposed by Act No. 281 of the Public Acts of 1967, or any claim for refund under the same act. For the purpose of the preceding sentence, the preparation of a substantial portion of a return or claim for refund shall be treated as if it were the preparation of such return or claim for refund.

(5) In the case of an employment between 2 or more income tax return preparers, the person who employs 1 or more other preparers to prepare for compensation any claim for refund other than for such person (and not the other preparer) shall be considered to be the income tax return preparer.

(6) In the case of a partnership arrangement for the preparation of returns and claims, the partnership shall be considered to be the income tax return preparer.

History: 1979 AC.