

DEPARTMENT OF TREASURY
BUREAU OF LOCAL GOVERNMENT SERVICES
CITY INCOME TAX

(By authority of Act No. 284 of the Public Acts of 1964, being S141.501 et seq. of the Michigan Compiled Laws)

R 205.901 Nature of appeal.

Rule 1. Appeals to the commissioner of revenue are limited to:

(a) A final determination of the board of review on a final assessment, denial in whole or part of a claim for refund, or a special ruling.

(b) Adoption of a rule or regulation by the administrator.

History: 1979 AC.

R 205.902 Time and place of appeal.

Rule 2. The appeal, in form and content as provided in R 205.905, shall be filed with the commissioner of revenue at his offices in Lansing, Michigan, not later than 30 days after notice of the final determination of the board of review or the date of the adoption of the rule or regulation.

History: 1979 AC.

R 205.903 Representation.

Rule 3. A taxpayer or any other person entitled to appeal may appear for himself or by a duly authorized representative. The commissioner may require adequate identification and authority.

History: 1979 AC.

R 205.904 Form and style of papers.

Rule 4. (1) All papers filed with the commissioner of revenue shall be either printed or typewritten, and if typewritten, shall be on only one side of plain white paper. This paper shall be no more than 8 1/2 inches wide and 11 inches long. Copies shall be legible but may be on any weight paper. Citations shall be in italics when printed, and underscored when typewritten.

(2) The proper caption shall be placed upon all papers filed. If the petitioner is an individual, the full given name and surname shall be set forth in the caption. If the petitioner is a married woman, her given name shall be used, not the name of her husband preceded by "Mrs." If the petitioner is a husband and wife who have filed a

joint return, the full given name and surname of each shall be set forth. If the petitioner is a fiduciary, the names of the estate, trust, or other person for whom he acts, shall be given first, followed by the name of the fiduciary.

(3) Except as otherwise provided in these rules, a signed original and 1 copy of all papers shall be filed. Whenever any paper is filed in more than 1 proceeding (as a motion to consolidate proceedings or in proceedings already consolidated), 1 additional copy shall be filed for each additional proceeding.

(4) The written signature, whether of the representative or of the petitioner, shall be in individual and not in the firm name, except that where the petitioner is a corporation the written signature shall be by an active officer of the corporation. The name and mailing address of the petitioner or of the representative shall be typed or printed immediately following the written signature.

History: 1979 AC.

R 205.905 Initiation of a proceeding.

Rule 5. (1) A proceeding shall be initiated by filing with the commissioner of revenue a notice of appeal by petition as provided in R 205.904, and substantially in accordance with the form hereinafter set forth.

(2) The petition shall be complete in itself so as to fully state the issues and shall contain the following:

STATE OF MICHIGAN DEPARTMENT OF REVENUE

_____ Appellant

vs. DOCKET NO. _____

City of _____ Appellee

PETITION

TO THE STATE COMMISSIONER OF REVENUE:

The above-named appellant hereby petitions for a redetermination of the (final assessment, denial in whole or part of a claim for refund, special ruling, adoption of a rule or regulation by the administrator) set forth by the City of _____ in its determination, decision or order dated _____, 19 _____ and as a basis of his proceeding alleges as follows:

1. The appellant is (set forth whether individual, corporation, etc.) with principal office or residence at _____.
(Street) (City) (State)

2. The matter in controversy is

3. The determination, decision or order is based upon the following errors: (Enumerate specifically the assignments of error in a concise manner and avoid pleading facts which properly belong in the succeeding paragraph.) Copy of said determination, decision or order is hereto attached and marked exhibit A.

4. The facts upon which the appellant relies as the basis of this proceeding are as follows:

(Here set forth allegations of facts relied upon, the prior legal steps taken by the petitioner, in orderly and logical sequence, with subparagraphs lettered, so as to inform the commissioner of revenue of the issues to be presented and to enable the city to admit or deny each specific allegation.) Wherefore, the appellant prays that the commissioner of revenue may hear the proceedings and (state the relief desired).

Signed _____ Appellant

_____ Address

State of _____

County of _____

_____, being duly sworn, says that he is the petitioner (if a corporation, or fiduciary, state title of office or trust of person verifying and that he is duly authorized to verify the foregoing petition) above named; that he has read the foregoing petition, or had the same read to him, and is familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those he believes to be true.

Signed _____

Subscribed and sworn to before me this _____ day of _____, 19____

Signed _____

(Official title)

(Seal)

History: 1979 AC.

R 205.906 Filing.

Rule 6. Any document to be filed with the commissioner of revenue must be filed at the office of the commissioner of revenue in Lansing, Michigan; provided that, whenever hearings are held outside of Lansing, Michigan, documents pertaining thereto may be filed at the hearings; provided, further, that any document to be filed with the commissioner of revenue may be filed by mail. The postmark will be considered the date of filing.

History: 1979 AC.

R 205.907 Docket.

Rule 7. Upon receipt of the petition, the proceedings will be docketed and assigned a number, and the parties notified thereof. This number shall be placed by the parties on all papers thereafter filed in the proceeding.

History: 1979 AC.

R 205.908 Service of petition.

Rule 8. (1) The appellant in any case initiated before the commissioner of revenue shall forthwith serve a copy of the petition upon the administrator of the city, or any agent within the city, designated by the administrator. The appellant shall then file proof of service with the

commissioner of revenue within 5 days after such service. If proof of service is filed with the commissioner of revenue by mail the postmark will be considered the date of filing.

(2) Such service upon the administrator or his designated agent may be made by the appellant or his representative either personally or by registered or certified mail with the return receipt demanded.

History: 1979 AC.

R 205.909 Answer.

Rule 9. (1) After service of a copy of the petition, the city shall have 20 days within which to file an answer to the petition. The answer shall be drawn fully and completely so as to advise the appellant and the commissioner of revenue of the nature of the defense. It shall contain a specific admission or denial of each material allegation of fact contained in the petition, and a statement of any facts upon which the city relies for defense, and shall contain any affirmative allegations to be relied upon by the city.

(2) Each paragraph contained in the answer shall be numbered to correspond with the paragraphs of the petition. An original and 1 copy of the answer shall be filed, of which the original shall be signed by the administrator of the city or his counsel and the copies conformed by him.

(3) The city shall forthwith serve a copy of the answer upon the representative of record, or if there is no representative of record then upon the appellant, and shall file proof of service with the commissioner of revenue within 5 days after such service.

History: 1979 AC.

R 205.910 Stipulations.

Rule 10. Matters involving interpretation of law and statements of fact in which parties are in agreement shall be stipulated 5 days prior to the date set for the hearing.

History: 1979 AC.

R 205.911 Notice of hearings.

Rule 11. (1) Upon the filing of the answer, the commissioner of revenue shall have jurisdiction to review such determination, decision or order, and both the appellant and the city shall have the right to swear witnesses and to be represented by counsel.

(2) Said hearing shall be had within 60 days after filing of the answer.

(3) When a proceeding has been placed upon the calendar for hearing, the commissioner of revenue will notify the parties of the time and place of hearing not less than 15 days prior thereto. In his discretion the commissioner may adjourn the hearing to another time or place. Parties

shall arrange to have their witnesses at the time and place designated in the notice of hearing, and exhibits must be ready for presentation at such time.

History: 1979 AC.

R 205.912 Failure to appear.

Rule 12. The unexcused absence of a party or his representative at the place and hour set for hearing of any proceeding before the commissioner of revenue will not be an occasion for delay. The hearing will proceed and the case will be regarded as submitted on the part of the absent party or parties.

History: 1979 AC.

R 205.913 Amendments.

Rule 13. Either party may amend his petition or answer at any time prior to the hearing by consent of the adverse party or by leave of the commissioner of revenue. An original and 1 copy of such amendment shall be filed with the commissioner of revenue, and the adverse party or his representative of record shall be served with a copy thereof. All motions to amend must be accompanied by the proposed amendments.

History: 1979 AC.

R 205.914 Hearings.

Rule 14. (1) The commissioner of revenue may delegate an employee of the department of revenue to hold the hearing in his behalf.

(2) All hearings before the commissioner of revenue shall be public; provided, however, that the commissioner of revenue, upon motion of the appellant, may exclude from the hearing all persons not directly interested therein. The commissioner of revenue may make such an order upon a proper showing by the appellant that information divulged would be detrimental to the appellant's business.

(3) Either party may, at his own expense, arrange to have a transcript of the proceedings.

History: 1979 AC.

R 205.915 Briefs.

Rule 15. The commissioner of revenue, or his delegate, in his discretion, may require that briefs be submitted either before or after the hearing and may designate the manner of filing and serving the same and the time therefor.

History: 1979 AC.

R 205.916 Proposed findings of fact.

Rule 16. The commissioner of revenue or his delegate may require either party to a proceeding to submit proposed findings of fact at the close of the hearing or within such time as he may direct.

History: 1979 AC.

R 205.917 Order and opinion.

Rule 17. The commissioner of revenue, after completion of the hearing, shall review the record, briefs, and such other matters as may have been submitted and by written order affirm, reverse, or modify the action of the city, and shall further serve upon the appellant or his duly authorized representative and the duly authorized official of the city by registered or certified mail with the return receipt demanded, a copy of his order and opinion.

History: 1979 AC.