

Income/Franchise:

Michigan Tax Tribunal Says Taxpayer Successfully Showed Right to Apportion for City Income Tax Purposes

Docket No. 23-002017, Mich. Tax Trib. (4/17/25). In a “case of first impression” on what gives a business the right to apportion its income for Michigan city income tax purposes where the business has its sole brick-and-mortar location in a certain Michigan city (“City”) that imposes an income tax, the Michigan Tax Tribunal (Tribunal) concluded that the taxpayer here had business activities outside the City allowing it to apportion its income for purposes of the City’s income tax. In arriving at this decision, the Tribunal noted that while the Michigan Supreme Court previously has addressed Michigan city income tax apportionment [see Case No. 157522, Mich. (5/18/20) for details on the 2020 Michigan Supreme Court case referenced in this decision involving Michigan city income taxes], such earlier caselaw “involved situations where the right to apportion was not in question, but rather only the calculation of the apportioned income.”

URL: <https://taxdocketlookup.apps.lara.state.mi.us/Details.aspx?PK=149588>

URL: http://publicdocs.courts.mi.gov/opinions/final/sct/157522_73_01.pdf

Dismissing the taxpayer’s various claims that it owned inventory out-of-state, sold goods to customers destined outside the City as qualifying “business activity outside the City,” and had employees and independent contractors performing qualifying “business activity outside the City,” the Tribunal nevertheless held that the taxpayer established the right to apportion its City income for tax years 2020 and 2021 based on the location and type of work done by a Michigan employee located outside the City. In reaching this conclusion, the Tribunal rejected the City’s attempt to disregard the taxpayer’s out-of-City business activity by imposing additional requirements for out-of-City “net profits” or meeting other “threshold” activity amounts – reasoning that the business inherently earns some of its net profits from its out-of-City business activities, and any amount of non-City activity means that its business activities are not limited to the City. Moreover, the Tribunal held that because the taxpayer presented the only evidence regarding the location (*i.e.*, sourcing) of its sales, and “because this evidence is credible,” the taxpayer met its burden of proving by a preponderance of the evidence that it had no sales in the City during 2020 and 2021, and thus its City business allocation percentage sales factor is “zero percent” for the tax years in question. However, the Tribunal held that based on the provided facts and lack of submitted evidence showing otherwise, the taxpayer’s property and compensation factors are each 100% for the City income tax years in question. Please contact us with any questions.

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