



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

NICK A. KHOURI
STATE TREASURER

REVENUE ADMINISTRATIVE BULLETIN 2018-27

Approved: December 17, 2018

**INCOME TAX – TAXABILITY OF PERSONAL SERVICE INCOME RECEIVED BY A
NONRESIDENT PROFESSIONAL ATHLETE**

(This RAB replaces RAB 1988-48)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

RAB 2018-27. This Revenue Administrative Bulletin (RAB) describes the Michigan income tax treatment of income earned by a nonresident professional athlete for personal services performed in Michigan for any professional team including, but not limited to, football, baseball, basketball, or hockey teams.

Taxation of Employee Compensation

A professional athlete is taxed on compensation earned for personal services performed in Michigan to the same extent as are other individuals who perform personal services in Michigan. The Michigan Income Tax Act, MCL 206.110, provides, in relevant part:

- (1) For a resident individual, estate, or trust, all taxable income from any source whatsoever, except that attributable to another state under section 111 to 115 and subject to section 255, is allocated to this state.
- (2) For a nonresident individual, estate, or trust, all taxable income is allocated to this state to the extent it is earned, received, or acquired in 1 or more of the following ways:
 - (a) For the rendition of personal services performed in this state.

The Duty Days Method

For professional athletes, the player contract will generally specify the personal services that a player is required to perform, which typically include attendance at training camps, exhibition games, travel days, practice days, regular season and playoff games, and certain off-season

promotional activities. In fulfilling those contractual obligations, the player will likely perform those services in more than one state, with the income generally taxable to the state in which the service was performed. To determine the income taxable to Michigan under MCL 206.110, therefore, all personal service income received by the player shall be multiplied by a fraction, the numerator of which shall be the sum of all “Michigan duty days” and the denominator of which shall be “total duty days.” This general formula is commonly referred to as the “duty days method.”

Personal Service Income

Income received by a professional athlete for the performance of personal services under the terms of the player contract is subject to allocation using the duty days method. This generally includes the regular playing season’s salary and wages, guaranteed payments, certain bonuses, deferred compensation, and other forms of performance-based compensation paid to a player. This excludes strike benefits, severance pay, termination pay, relocation payments, contract buy-outs, and other payments that are unrelated to services performed under the player contract.

In particular, a bonus paid for signing a contract or for reporting to a team is not personal service income under the duty days method. Because these bonuses are not based on performance, the bonuses must instead be allocated to the player’s state of residence. However, a bonus that is based on performance relative to the player contract, such as a bonus for a championship or playoff appearance, or any other performance-based payments, must be allocated to Michigan using the duty days method.

In some cases, income received by a professional athlete is not based on services rendered pursuant to a player contract. This is generally the case for income earned based upon a player’s performance at a particular event (e.g., prize money). Income earned from events held in Michigan must be allocated entirely to Michigan irrespective of the duty days method.¹

Duty Days

“Total duty days” generally includes any day in which the player is required to perform services for a team under the terms of that player’s employment contract. Specifically, “total duty days” includes all days from the beginning of the team’s official preseason training through the last game in which the team plays, including postseason play. It also includes any additional days outside of the playing season in which the player is required to participate in a team activity or otherwise provide a service for the team (e.g., participation in a promotional activity or offseason instructional league). Thus, the calculation of “total duty days” includes, but is not limited to, all of the following:

- Game days, practice days, days spent in preseason training camps or instructional leagues, all-star games, and days spent at team meetings;

¹ For example, a professional golfer who wins \$100,000 in prize money for winning a tournament in Michigan must report those winnings as Michigan income.

- Days spent for promotional activities or other team-imposed activities that occur after the conclusion of the playing season and which are required under the player contract;
- Days for which a player is on the disabled list or any other inactive status; however, days for which a player is not compensated and not rendering services for the team, such as when a player is suspended without pay, are excluded;
- Travel days, regardless whether the travel day includes another activity that may be taxable by any particular state; and
- Off-season workouts that are mandatory and conducted at team facilities.

“Total duty days” will vary according to the standard length of each professional sport season and each player’s own facts and circumstances. For example, players who participate in postseason play or have significant offseason promotional obligations may include those days in the calculation of “total duty days.” Players signed to a professional contract mid-season are required to compute “total duty days” beginning on the first day the player is signed to the player contract. Any activities completed prior to signing a contract, such as try-out days or voluntary workouts, are not included in that player’s “total duty days” calculation. Conversely, players retiring mid-season must use the last day that the player was under contract as the final day in the “total duty days” calculation.

“Michigan duty days” refers to the total duty days spent by a player within Michigan performing a service for the team as required under the terms of the player contract. “Michigan duty days” are determined based on each player’s facts and circumstances, but the following activities may be excluded from the calculation:

- Travel days that do not include a game, practice, team meeting, or other team activity performed in Michigan; and
- Days in which the player is listed on the disabled list or other inactive status, including days in which the player is not compensated and not rendering services for the team.

Taxation of Personal Service Income using the Duty Days Method

Using the duty days method, personal service income earned by the player shall be multiplied by the duty days formula to determine the amount of income taxable in Michigan. A nonresident will be exempt from the tax on income determined using the duty days method if a reciprocal agreement exists with the nonresident’s state of residence.²

Personal service income earned from each player contract must be allocated separately to Michigan using the duty days formula. Players who play for multiple teams must therefore compute the “total duty days” and “Michigan duty days” for each player contract and/or team for which the player provides services. For example, a player who is released by one team and signs a contract with another team must report the Michigan share of income earned from each contract separately. Players in developmental or tiered leagues, such as the minor league baseball system, may provide services to multiple teams at the major league and minor league levels and must determine the

² RAB 2017-13 provides a list of the states that have entered into reciprocal agreements with Michigan.

Michigan share of income by multiplying the duty days formula as determined for each contract by the personal service income earned from each contract.³

Nonresident Players Required to Pay Estimated Income Tax

The Michigan Income Tax Act, MCL 206.301, requires every individual (resident and nonresident) expecting an annual Michigan tax liability to exceed \$500.00 (after reducing the annual tax by the amount of tax withheld and the credits provided under the Act) to pay installments of estimated tax. These payments must be made on or before April 15, June 15, and September 15 of the individual's tax year and January 15 of the following year. Each installment shall be equal to one fourth (1/4) of the individual's estimated tax after deducting withholding and credits.

A nonresident professional athlete whose employer is located in Michigan shall have Michigan income tax withheld from his or her compensation, unless the employer is not required to withhold Michigan income tax because of a reciprocal agreement between Michigan and another state. A nonresident professional athlete whose employer is located in a non-reciprocal state may enter into a voluntary agreement with his or her employer to have Michigan income tax withheld and remitted to this State.

³ Assume that a nonresident baseball player performs 90 duty days for his team's minor league AAA affiliate pursuant to a minor league contract. An MLB team later purchases the player's contract and adds that player to the 40-man roster. The player subsequently performs 90 duty days for the MLB team pursuant to a new major league contract. That player will apply the duty days formula separately to the personal service income received for his minor league contract and to the personal service income receive for his major league contract.