

Act No. 264
Public Acts of 1996
Approved by the Governor
June 12, 1996
Filed with the Secretary of State
June 12, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

**Introduced by Reps. Ryan, Bodem, Profit, Horton, Kukuk, Hill, McManus, Green, Bullard, Perricone,
Whyman, Kaza, Pitoniak, McBryde and Goschka**

ENROLLED HOUSE BILL No. 5694

AN ACT to amend section 351 of Act No. 281 of the Public Acts of 1967, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," as amended by Act No. 82 of the Public Acts of 1991, being section 206.351 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 351 of Act No. 281 of the Public Acts of 1967, as amended by Act No. 82 of the Public Acts of 1991, being section 206.351 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 351. (1) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual, except as otherwise provided, shall deduct and withhold a tax in an amount computed by applying, except as provided by subsection (7), the rate prescribed in section 51 to the remainder of the compensation after deducting therefrom the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The commissioner may prescribe withholding tables that may be used by employers to compute the amount of tax required to be withheld.

(2) The taxes withheld under this section shall accrue to the state on the last day of the month in which the taxes are withheld but shall be returned and paid to the department by the employer within 15 days after the end of any month or as provided in section 355, except prior to July 1, 1993, taxes deposited pursuant to section 19(2) of Act No. 122 of the Public Acts of 1941, being section 205.19 of the Michigan Compiled Laws, are accrued on the last day of the filing period.

(3) An employer required by this section to deduct and withhold taxes on compensation holds the amount of tax withheld as a trustee for the state, is liable for the payment of the tax to the state, and is not liable to any individual for the amount of the payment.

(4) An employer in this state is not required to deduct and withhold a tax on the compensation paid to a nonresident individual employee, who, under section 256, may claim a tax credit equal to or in excess of the tax estimated to be due for the tax year or is exempted from liability for the tax imposed by this act. In each tax year, the nonresident individual shall furnish to the employer, on a form approved by the department, a verified statement of nonresidence.

(5) If an employer is a corporation and does not for any reason file the returns or pay the tax due under this act, any of the officers of the corporation having control, supervision of, or charged with the responsibility for making the returns or payments shall be personally liable for a failure to file or pay. The dissolution of a corporation does not discharge a corporate officer's liability for the failure of the corporation to file a return or remit the tax that was due before dissolution. The sum due for any liability imposed upon a corporate officer under this subsection may be assessed and collected as provided in sections 23 and 24 of Act No. 122 of the Public Acts of 1941, being sections 205.23 and 205.24 of the Michigan Compiled Laws.

(6) An employer required to withhold a tax under this act, by the fifteenth day of the following month, shall provide the department with a copy of any exemption certificate on which the employee claims more than 9 personal or dependency exemptions, claims a status that exempts the employee from withholding under this section, or elects to pay the tax imposed by this act calculated under section 51a.

(7) An employer shall deduct and withhold the tax imposed by this act calculated under section 51a for a resident who files an exemption certificate under subsection (6) to elect to pay the tax calculated under section 51a.

(8) The exemption certificate required by this section shall include the following statement, "Electing to file using the no-form option may not be for everyone who is eligible. If a taxpayer chooses the no-form option, he or she may not be eligible for some of the credits allowed under this act including the property tax credit allowed under sections 520 and 522, the tuition tax credit allowed under section 274, and the city income tax credit allowed under section 257."

Section 2. This amendatory act shall not take effect unless House Bill No. 5695 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.