

Act No. 456  
Public Acts of 2018  
Approved by the Governor  
December 20, 2018  
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December 21, 2018  
EFFECTIVE DATE: December 21, 2018

**STATE OF MICHIGAN  
99TH LEGISLATURE  
REGULAR SESSION OF 2018**

Introduced by Reps. Byrd and Chirkun

# **ENROLLED HOUSE BILL No. 4618**

AN ACT to amend 1964 PA 284, entitled “An act to permit the imposition and collection by cities of an excise tax levied on or measured by income; to permit the collection and administration of the tax by the state; to provide the procedure including referendums for, and to require the adoption of a prescribed uniform city income tax ordinance by cities desiring to impose and collect such a tax; to limit the imposition and collection by cities and villages of excise taxes levied on or measured by income; to prescribe the powers and duties of certain state and municipal agencies, departments, and officials; to establish the city income tax trust fund; to provide for appeals; and to prescribe penalties and provide remedies,” by amending section 6 of chapter 1 and section 51 of chapter 2 (MCL 141.506 and 141.651), section 51 of chapter 2 as amended by 1982 PA 124, and by adding sections 86a, 86b, and 86c to chapter 2.

*The People of the State of Michigan enact:*

## CHAPTER 1

Sec. 6. Except as otherwise provided in this section, the uniform city income tax ordinance does not apply to a person or corporation as to whom or which it is beyond the power of the city to impose the tax provided for in this act. However, an employer located in this state that does not do business in or maintain an establishment in a city that has a population of more than 600,000 and that imposes an income tax pursuant to this act may voluntarily register to withhold taxes on compensation of certain employees in accordance with this act. If an employer voluntarily registers to withhold taxes pursuant to this section, the employer is required to withhold taxes from all employees who are residents of that city and to comply with sections 51 through 61 of chapter 2 and the alternative provisions of chapter 3. An employee who is a resident of that city is not permitted to opt out of the withholding requirements voluntarily imposed by his or her employer pursuant to this section.

## CHAPTER 2

Sec. 51. (1) An employer doing business or maintaining an establishment within the city shall withhold from each payment to the employer’s employees on and after the effective date of this ordinance the tax on their compensation subject to the tax, after giving effect to exemptions, as follows:

(a) Residents.

(i) At a rate equal to the rate set by ordinance to be levied against resident individuals under this ordinance, but not to exceed 3%, of all compensation paid to the employee who is a resident of the city, if the employee is not subject to withholding in any other city levying the tax.

(ii) At a rate equal to the difference in the percentage rate of tax on resident individuals as set by ordinance to be levied under this ordinance less the percentage rate of tax levied by any other city in which the employee works, on all compensation earned by the resident in another city.

(b) Nonresidents. At a rate equal to the rate set by ordinance to be levied under this ordinance on nonresidents but not to exceed 50% of the percentage rate imposed on resident individuals of the compensation paid to the employee for work done or services performed in the city designated by the employee as the employee's predominant place of employment. The withholding rate shall be applied to the percentage of the employee's total compensation equal to the employee's estimated percentage of work to be done or services to be performed in the city for that employer, but no withholding shall be required if the estimated percentage of work is less than 25%.

(2) An employer withholding the tax is deemed to hold the tax as a trustee for the city.

(3) An employer who is required to withhold and who fails or refuses to deduct and withhold is liable for the payment of the amount required to be withheld. The liability shall be discharged upon payment of the tax by the employee but the employer is not relieved of penalties and interest provided in this ordinance for this failure or refusal.

(4) An employer that voluntarily registers to withhold taxes in accordance with section 6 of chapter 1 shall withhold from all employees who are residents of that city based on the form required to be filed by each employee under section 54 on their compensation subject to tax, after giving effect to exemptions as provided under subsection (1)(a). If an employer no longer wishes to voluntarily withhold taxes under section 6 of chapter 1, the employer shall file a written notice with the city, and with the administrator if the administrator is not the city, indicating that the employer will no longer voluntarily withhold taxes from employees who are residents of that city.

Sec. 86a. (1) Notwithstanding section 86, a city that has a population of more than 600,000 may recover the tax with interest and penalties without a judgment or order from a court of competent jurisdiction by imposing a lien as provided under this section. However, the city's authority to impose a lien under this section only applies to property owned by a natural person and wages, or other income, that are reported on a federal W-2 or 1099 form. A lien imposed pursuant to this section is a lien in favor of the city against all property and rights of property, both real and personal, tangible and intangible, owned at the time the lien attaches, or afterwards acquired by any person liable for the tax, to secure the payment of the tax. The lien shall attach to the property from and after the date that any report or return on which the tax is levied is required to be filed and shall continue for 7 years after the date of attachment. The lien may be extended for another 7 years by refileing under subsection (2) if the refileing is done within 6 months prior to the expiration date of the original 7-year period.

(2) The lien imposed by this section shall take precedence over all other liens and encumbrances, except bona fide liens recorded before the date the lien under this ordinance is recorded. However, bona fide liens recorded before the lien under this ordinance is recorded shall take precedence only to the extent of disbursements made under a financing arrangement before the forty-sixth day after the date of the tax lien recording or before the person making the disbursements had actual knowledge of a tax lien recording under this ordinance, whichever is earlier. A lien shall be recorded and discharged in the same manner required for a state tax lien under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687.

(3) A purchaser or succeeding purchaser of property, from a taxpayer in other than the ordinary course of business, against which a lien has been properly recorded as provided under subsection (2) is personally liable for the unpaid taxes that are due on the lien. The purchaser's liability is limited to the value of the property less any proceeds that were applied to balances due on secured interests which are superior to the lien recorded under subsection (2).

Sec. 86b. (1) Notwithstanding section 86, a city that has a population of more than 600,000 may cause a demand to be made on a taxpayer for the payment of a tax due under this ordinance. However, the city's authority to cause a demand for payment under this section only applies to property owned by a natural person and wages, or other income, that are reported on a federal W-2 or 1099 form. If the liability remains unpaid for 10 days after the demand and proceedings are not taken to review the liability, a warrant may be issued. Except as provided in this section, the city, through any officer or agent or person authorized to serve process or through authorized employees, may levy on all property and rights to property, real and personal, tangible and intangible, belonging to the taxpayer or on which a lien is provided by law for the amount of the deficiency, and sell the real and personal property of the taxpayer found within the state for the payment of the amount due, the cost of executing the warrant, and the additional penalties and interest. Except as provided in subsection (6), the officer or agent or person serving the warrant shall proceed upon the warrant in all respects and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record. A city, through its authorized representative, may bid for and purchase any property sold pursuant to this section.

(2) A person that refuses or fails to surrender any property or rights to property subject to levy, upon demand by the city, is personally liable to the city in a sum equal to the value of the property or rights not surrendered, but not exceeding the amount due for which the levy was made, together with costs and interest on the sum at the rate provided in section 82 from the date of the levy. Any amount, other than costs, recovered under this subsection shall be credited against the liability for the collection of which the levy was made.

(3) In addition to the personal liability imposed by subsection (2), if a person required to surrender property or rights to property fails or refuses to surrender the property or rights to property without reasonable cause, the person shall be liable for a penalty equal to 50% of the amount recoverable under subsection (2), none of which penalty shall be credited against the liability for the collection of which the levy was made.

(4) A person in possession of, or obligated with respect to, property or property rights subject to levy and upon which a levy has been made who, upon demand of the city, surrenders the property or rights to property or discharges the obligation to the city or who pays a liability under subsection (1) shall have that obligation to a person delinquent in payment of a tax reduced in an amount equal to the property or rights to property surrendered or amounts paid to the city.

(5) Property described in section 6334 of the internal revenue code of 1986, 26 USC 6334, is exempt from levy under this section for an unpaid tax. The effect of a levy on salary or wages shall be continuous from the date the levy is first made until the liability out of which the levy arose is satisfied.

(6) A warrant notice of levy may be served by certified mail, return receipt requested, on any person in possession of, or obligated with respect to, property and rights to property, real and personal, tangible and intangible, belonging to the taxpayer or on which a lien is provided by law. The date of delivery on the receipt shall be the date the levy is made. A person may, upon written notice to the department, on behalf of the city, have all notices of levy sent to 1 designated office.

Sec. 86c. (1) If a city that has a population of more than 600,000 files for recording a lien imposed pursuant to this ordinance against property or rights of property to satisfy a tax liability and the city determines that the tax liability out of which the lien arose is satisfied, the city shall file for recording a release regarding the property or rights of property in the same manner required for a state tax lien under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687, not more than 20 business days after funds to satisfy the tax liability out of which the lien arose have been applied to the taxpayer's account.

(2) If the city files for recording a lien imposed pursuant to this ordinance against property or rights of property to satisfy a tax liability and upon request the city determines that the taxpayer named on the recorded lien does not have any interest in certain properties owned by another person, the city shall file for recording a certificate of nonattachment regarding the property or rights of property, in the same manner as required for a state tax lien under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687, with all due haste but not more than 5 business days after the city determines that the lien is recorded or filed against property or rights of property to which the city does not have a lien interest under section 86a. The city shall clearly indicate on the certificate of nonattachment that the taxpayer named on the recorded lien does not have any interest in the property or rights of property of the other person.

(3) If a warrant or warrant-notice of levy is issued and served upon a person to levy on property or rights of property to satisfy a tax liability and the city determines that the tax liability out of which the warrant or warrant-notice of levy arose is satisfied, the city shall serve a release of levy regarding the property or rights of property on the person that was served the warrant or warrant-notice of levy not more than 10 business days after funds to satisfy the tax liability out of which the warrant or warrant-notice of levy arose have been applied to the taxpayer's account.

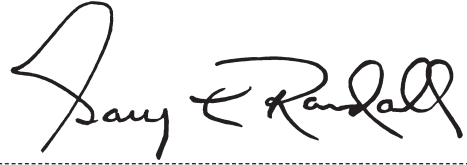
(4) If a warrant or warrant-notice of levy is issued and served upon a person to levy on property or rights of property to satisfy a tax liability and the city determines that the property or rights of property are not subject to levy under section 86a, the city shall serve a release of levy regarding the property or rights of property on the person that was served the warrant or warrant-notice of levy with all due haste but not more than 5 business days after the city determines that the property or rights of property are not subject to levy under section 86a, the city shall clearly indicate on the release of levy that the property or rights of property were not subject to levy under section 86a.

(5) If a person is required to pay a fee to the city, a bank, or other financial institution as the result of an erroneous recording or filing of a lien as described in subsection (2), or an erroneous issuance and service of a warrant or warrant-notice of levy as described in subsection (4), the city shall reimburse the fee to that person.

(6) If the city receives money to satisfy a tax liability or liabilities or receives information that would cancel that tax liability or those liabilities and subsequently files a lien for recording specifying that tax liability or those liabilities, the city, upon request and upon a determination by the city that the lien was filed and recorded in error, with all due haste, but not more than 5 business days after the city determines that it has erroneously filed a lien for recording, shall file for recording a certificate of withdrawal for that tax liability or those liabilities which were satisfied which states that the recorded lien for that tax liability or those liabilities was filed in error.

(7) If the city receives money to satisfy a tax liability or liabilities or receives information that would cancel that tax liability or those liabilities and subsequently issues a warrant or warrant-notice of levy specifying that liability or those liabilities pursuant to this ordinance, upon request and upon a determination by the city that the warrant or warrant-notice of levy was issued in error, with all due haste, but not more than 5 business days after the department determines that it has erroneously issued a warrant or warrant-notice of levy, the city shall issue a release of levy for that tax liability or those liabilities which were satisfied which states that the levy for that tax liability or those liabilities was issued in error.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor