

HOUSE BILL NO. 4862

June 28, 2023, Introduced by Reps. Aragona, Kunse, Fox, Slagh, Johnsen, DeBoyer, Bollin, Rigas, Schmaltz, Beson, St. Germaine, Cavitt, Markkanen, Outman and Hoadley and referred to the Committee on Tax Policy.

A bill to amend 1964 PA 284, entitled "City income tax act," by amending sections 2a, 3, 3a, 3b, and 3c of chapter 1 and sections 11, 13, 15, 16, and 51 of chapter 2 (MCL 141.502a, 141.503, 141.503a, 141.503b, 141.503c, 141.611, 141.613, 141.615, 141.616, and 141.651), section 2a of chapter 1 as added by 1995 PA 234, section 3 of chapter 1 as amended by 2012 PA 394, section 3a of chapter 1 as amended and section 3b of chapter 1 as added by 1987 PA 223, section 3c of chapter 1 as amended by 2011 PA 56, section 11 of chapter 2 as amended by 1995 PA 233, section 13 of chapter 2 as amended by 1988 PA 216, and section 51 of chapter 2 as

amended by 2018 PA 456.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 1

2 Sec. 2a. **(1)** Beginning January 1, 1995, a city shall not
3 impose an excise tax on income under this act unless at least 1 of
4 the following applies:

5 (a) The city had in effect on January 1, 1995 an excise tax on
6 income under this act.

7 (b) The imposition of an excise tax on income under this act
8 is approved by the qualified and registered electors of the city.

9 **(2) Beginning January 1, 2024, a city shall not impose an**
10 **excise tax on income under this act on nonresident individuals.**

11 Sec. 3. (1) The governing body of a city, by a lawfully
12 adopted ordinance that incorporates by reference the uniform city
13 income tax ordinance set forth in chapter 2, may levy, assess, and
14 collect an excise tax on income as provided in the ordinance. The
15 ordinance ~~shall~~**must** state the rate of the tax ~~which shall be~~**and**
16 the rate **must be** authorized by 1 of the following:

17 (a) The uniform city income tax ordinance under section 11 of
18 chapter 2.

19 (b) Subsection (2).

20 (c) Section 3a, 3b, or 3c of this chapter.

21 (2) In a city with a population of more than 600,000, the
22 governing body may levy and collect a tax at a rate to be
23 determined from time to time, that rate ~~to be~~**must not be** more than
24 2% on corporations and the following maximum tax rates on resident
25 individuals and, **through December 31, 2023, on** nonresident
26 individuals for the following years:

27 (a) Before July 1, 1999, 3.00% on resident individuals and

1 1.50% on nonresident individuals.

2 (b) Beginning July 1, 1999 and each July 1 after 1999 through
3 July 1, 2012, except for 2008 and 2009, the maximum tax rate under
4 this subsection on resident individuals ~~shall~~**must** be reduced by
5 0.1 until the rate on resident individuals is 2.0%. The tax rate
6 imposed on nonresident individuals shall be 50% of the tax rate
7 imposed on resident individuals each year.

8 (c) Notwithstanding any other provision of this section, for
9 the 2008 and 2009 calendar years, the city shall impose the same
10 tax rate on resident individuals and nonresident individuals as the
11 city had imposed for the 2007 calendar year.

12 (d) Except as otherwise provided under subdivision (e),
13 beginning January 1, 2013 and each year after 2013, a rate of not
14 more than 2.40% on resident individuals and 1.20% on nonresident
15 individuals.

16 (e) Beginning January 1 of the year immediately succeeding the
17 year that all bonds, obligations, and other evidence of
18 indebtedness issued by a lighting authority have been fully paid
19 and each year thereafter, a rate of not more than 2.20% on resident
20 individuals and 1.10% on nonresident individuals.

21 (3) Notwithstanding any other provision of law or any
22 ordinance of the city to the contrary, a city that forms a lighting
23 authority shall deposit an amount equal to the sum of the revenue
24 collected from 0.2% of the rate levied on resident individuals
25 pursuant to subsection (2) (d) and 0.1% of the rate levied on
26 nonresident individuals pursuant to subsection (2) (d) directly into
27 the budget of the city's police department and use it exclusively
28 to retain or hire police officers. The transfer and use of the
29 revenue as provided under this subsection ~~shall~~ continue until all

1 bonds, obligations, or other evidence of indebtedness issued by a
2 lighting authority have been fully paid and revenue is no longer
3 being pledged from taxes levied under the city utility users tax
4 act, 1990 PA 100, MCL 141.1151 to 141.1177, to the lighting
5 authority. As used in this subsection, "lighting authority" means a
6 lighting authority incorporated under the municipal lighting
7 authority act, **2012 PA 392, MCL 123.1261 to 123.1295.**

8 (4) The governing body of a city may adopt the uniform city
9 income tax ordinance with the alternative sections as set forth in
10 chapter 3 instead of the similarly numbered sections as set forth
11 in chapter 2. The uniform city income tax ordinance may be lawfully
12 adopted or rescinded by the governing body at any time. The
13 adoption of an ordinance is effective on and after January 1 or
14 July 1 following adoption of the ordinance, as specified in the
15 ordinance, but an ordinance ~~shall~~**must** not become effective earlier
16 than 45 days after adoption or until approved by the electors if a
17 referendum petition is filed as authorized in this act or a
18 referendum is otherwise required. The rescission of an ordinance
19 ~~shall become~~**is** effective on the following December 31. The
20 ordinance may be rescinded at any time by the governing body in the
21 same manner in which it was adopted and with appropriate
22 enforcement, collection, and refund provisions with respect to
23 liabilities incurred prior to the effective date of the rescission
24 of the ordinance. The ordinance ~~shall~~**must** not be amended except as
25 provided by the legislature. A city may amend the ordinance to
26 change the tax rate to a rate authorized by this act.

27 (5) Petitions for a referendum election on the question of
28 adopting an ordinance adopted by the governing body may be filed
29 with the city clerk not later than the sixth Monday following the

1 adoption of the ordinance. The petitions shall be signed by a
2 number of registered electors of the city equal to at least 10%,
3 but not more than 20%, of the registered electors of the city
4 voting in the last general municipal election prior to the adoption
5 of the ordinance by the governing body. If proper petitions are
6 filed, the question of adopting the ordinance ~~shall~~**must** be
7 submitted by the governing body to the city electors at the next
8 primary or general election or at a special election called for the
9 purpose, in any case held not less than 45 days nor more than 90
10 days after the clerk has reported the filing of the referendum
11 petition to the city's governing body. The checking of names on the
12 petitions, the counting, canvassing, and return of the votes on the
13 question, and other procedures for the election ~~shall~~**must** be as
14 provided by law or charter. Upon a favorable vote of the city
15 electors, the ordinance ~~shall be~~**is** effective as specified in the
16 ordinance which may be amended by the governing body of the city
17 following the election to specify July 1 or January 1 as the
18 effective date of the ordinance, if the effective date originally
19 specified in the ordinance is considered impractical or
20 inconvenient for any reason. The provisions in this section for a
21 referendum election, and for delaying the effective date of the
22 ordinance if petitions for a referendum are filed, are not
23 applicable to a city that on January 1, 1964 had in effect a valid
24 ordinance levying and imposing an excise tax levied on or measured
25 by income. Notwithstanding any other provision of this act, if an
26 ordinance becomes effective on any date other than January 1, each
27 tax year shall end on December 31, and the provisions of the
28 ordinance based on a full tax year are modified accordingly to be
29 applicable to the partial tax year.

1 Sec. 3a. (1) The specific rates to be levied by a city on
 2 corporations, resident individuals, and, **through December 31, 2023**,
 3 nonresident individuals shall be established within the applicable
 4 limitations allowed under this section and section 3 of this
 5 chapter in the ordinance which otherwise incorporates by reference
 6 the uniform city income tax ordinance set forth in chapter 2.

7 (2) The governing body of a city with a population of less
 8 than 1,000,000 persons may levy, assess, and collect an excise tax
 9 on income earned and received at a rate of not more than 2% on
 10 corporations, not more than 2% on resident individuals, and,
 11 **through December 31, 2023**, not more than 50% of the rate imposed on
 12 resident individuals on nonresident individuals if approved by a
 13 majority of the qualified electors of the city voting thereon
 14 before November 15, 1988, and if all of the following occurred in
 15 the calendar year immediately preceding the calendar year in which
 16 the increased rates allowed by this subsection initially would
 17 apply:

18 (a) The city levied more than 22 mills for city purposes and
 19 for payment of judgments ordered by a court of competent
 20 jurisdiction.

21 (b) More than 65 mills were levied in the city for all
 22 purposes.

23 (c) The city levied a tax pursuant to this act.

24 (3) Any increase in the tax rate permitted by this section
 25 ~~shall not become~~ **is not** effective until the governing body of the
 26 city, by resolution, provides for securing the services of a
 27 financial management consultant. The ~~financial management~~
 28 ~~consultant shall be selected by the mayor~~, with the approval of the
 29 local emergency financial assistance loan board created under ~~Act~~

1 ~~No. 243 of the Public Acts of 1980, as amended, being sections~~
2 ~~141.931 to 141.942 of the Michigan Compiled Laws. **the emergency**~~
3 ~~**municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, shall**~~
4 ~~**select the financial management consultant.**~~ The resolution shall
5 further provide that the financial management consultant ~~shall~~**must**
6 be paid from city funds. The ~~duties of the~~ financial management
7 consultant shall ~~be to~~ monitor the fiscal condition of the city, ~~to~~
8 report the findings of this monitoring to the local governing body,
9 the mayor, and the local emergency financial assistance loan board,
10 and ~~to~~ provide financial management technical assistance to the
11 city. The local emergency financial assistance loan board shall
12 determine the form of monitoring and the frequency of reporting.
13 The financial management consultant shall have full access to all
14 fiscal and other records of the city. The services of a financial
15 management consultant may be terminated subject to the approval of
16 the local emergency financial assistance loan board at such time as
17 improvement in the financial condition of the city warrants this
18 action. The local emergency financial assistance loan board may
19 make recommendations to the legislature that will assist in the
20 attainment of further fiscal improvement for the city.

21 Sec. 3b. A city that levied the tax authorized by this act
22 before ~~the effective date of this section~~ **December 28, 1987** may
23 amend the ordinance to increase the rate to an annual tax of not
24 more than 1.4% on corporations and resident individuals and,
25 **through December 31, 2023,** not more than 0.7% on nonresident
26 individuals. The increase in the tax authorized by this section
27 shall **not** be levied for ~~not longer~~ **more** than 13 years as provided
28 in the ballot proposal submitted to the electors. An amendment to
29 the city income tax ordinance under this section is not effective

1 governing body of the city adopts a resolution to impose the tax at
2 a lower rate, the tax is hereby imposed at that lower rate. If the
3 tax is imposed at a lower rate, the rate on nonresident individuals
4 **through December 31, 2023** shall not exceed 1/2 of the rate on
5 corporations and resident individuals.

6 Sec. 13. ~~The~~ **Through December 31, 2023, the** tax shall apply on
7 the following types of income of a nonresident individual to the
8 same extent and on the same basis that the income is subject to
9 taxation under the federal internal revenue code:

10 (a) On a salary, bonus, wage, commission, and other
11 compensation for services rendered as an employee for work done or
12 services performed in the city. Income that the nonresident
13 taxpayer receives as the result of disability and after exhausting
14 all vacation pay, holiday pay, and sick pay is not compensation for
15 services rendered as an employee for work done or services
16 performed in the city. Vacation pay, holiday pay, sick pay and a
17 bonus paid by the employer are considered to have the same tax
18 situs as the work assignment or work location and are taxable on
19 the same ratio as the normal earnings of the employee for work
20 actually done or services actually performed.

21 (b) On a distributive share of the net profits of a
22 nonresident owner of an unincorporated business, profession,
23 enterprise, undertaking, or other activity, as a result of work
24 done, services rendered, and other business activities conducted in
25 the city.

26 (c) On capital gains less capital losses from sales of, and on
27 the net profits from rentals of, real and tangible personal
28 property, if the capital gains arise from property located in the
29 city.

1 Sec. 15. An unincorporated business, profession or other
 2 activity conducted by 1 or more persons subject to the tax as
 3 either a sole proprietorship or partnership shall not be taxable as
 4 such. The persons carrying on the unincorporated business,
 5 profession or other activity are liable for income tax only in
 6 their separate and individual capacities and on the following
 7 bases:

8 (a) A resident proprietor or partner is taxable upon ~~his-that~~
 9 **individual's** entire distributive share of the net profits of the
 10 activity regardless of where the activity is conducted.

11 (b) ~~A-Through December 31, 2023, a~~ nonresident proprietor or
 12 partner is taxable only upon ~~his-that~~ **individual's** distributive
 13 share of the portion of the net profits of the activity which is
 14 attributable to the city under the allocation methods provided in
 15 this ordinance.

16 (c) In the hands of a proprietor or partner of an
 17 unincorporated activity, the character of any item of income
 18 taxable under this ordinance is determined as if ~~such-that~~ item
 19 were realized by the individual proprietor or partner directly from
 20 the source from which it is realized by the unincorporated
 21 activity. In computing ~~his~~ taxable income for a taxable year, a
 22 ~~person-an~~ **individual** who is required to file a return shall include
 23 ~~therein-his-that~~ **individual's** taxable distributive share of the net
 24 profits for any partnership year ending within or with ~~his-the~~
 25 **individual's** taxable year **in the return.**

26 Sec. 16. An unincorporated business, profession or other
 27 activity owned by 2 or more persons shall file an annual
 28 information return setting forth:

29 (a) The entire net profit for the period covered by the return

1 and the taxable portion of the net profit attributable to the city.

2 (b) The names and addresses of the owners of the
3 unincorporated activity and each owner's taxable distributive share
4 of the total net profit and each nonresident owner's share of the
5 ~~taxable~~ net profit attributable to the city.

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

11 (a) Residents.

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

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

22 (b) ~~Nonresidents.~~ **Through December 31, 2023, nonresidents.** At
23 a rate equal to the rate set by ordinance to be levied under this
24 ordinance on nonresidents but not to exceed 50% of the percentage
25 rate imposed on resident individuals of the compensation paid to
26 the employee for work done or services performed in the city
27 designated by the employee as the employee's predominant place of
28 employment. The withholding rate ~~shall~~ **must** be applied to the
29 percentage of the employee's total compensation equal to the

1 employee's estimated percentage of work to be done or services to
2 be performed in the city for that employer, but no withholding
3 ~~shall be~~**is** required if the estimated percentage of work is less
4 than 25%.

5 (2) An employer withholding the tax ~~is deemed to hold~~**holds**
6 the tax as a trustee for the city.

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

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