

HOUSE BILL No. 5217

October 16, 2001, Introduced by Reps. Patterson, Raczkowski, Stewart, Kuipers, Pappageorge, Drolet, Voorhees, Lipsey, Birkholz, Wojno, Vear, Bovin, Richardville, Shackleton, Richner and Bishop and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 351 (MCL 206.351), as amended by 1996 PA 264,
and by adding section 351a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 351. (1) Every employer in this state required under
2 the provisions of the internal revenue code to withhold a tax on
3 the compensation of an individual, except as otherwise provided,
4 shall deduct and withhold a tax in an amount computed by apply-
5 ing, except as provided by subsection (7) AND SECTION 351A, the
6 rate prescribed in ~~section~~ SECTIONS 51 AND 51C TO 51E to the
7 remainder of the compensation after deducting ~~therefrom~~ FROM
8 THAT COMPENSATION the same proportion of the total amount of
9 personal and dependency exemptions of the individual allowed
10 under this act that the period of time covered by the

1 compensation is of 1 year. The commissioner may prescribe
2 withholding tables that may be used by employers to compute the
3 amount of tax required to be withheld.

4 (2) The taxes withheld under this section shall accrue to
5 the state on the last day of the month in which the taxes are
6 withheld but shall be returned and paid to the department by the
7 employer within 15 days after the end of any month or as provided
8 in section 355, except prior to July 1, 1993, taxes deposited
9 pursuant to section 19(2) of ~~Act No. 122 of the Public Acts of~~
10 ~~1941, being section 205.19 of the Michigan Compiled Laws~~ 1941 PA
11 122, MCL 205.19, are accrued on the last day of the filing
12 period.

13 (3) An employer required by this section to deduct and with-
14 hold taxes on compensation holds the amount of tax withheld as a
15 trustee for the state, is liable for the payment of the tax to
16 the state, and is not liable to any individual for the amount of
17 the payment.

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

26 (5) If an employer is a corporation and does not for any
27 reason file the returns or pay the tax due under this act, any of

1 the officers of the corporation having control, supervision of,
2 or charged with the responsibility for making the returns or pay-
3 ments shall be personally liable for a failure to file or pay.

4 The dissolution of a corporation does not discharge a corporate
5 officer's liability for the failure of the corporation to file a
6 return or remit the tax that was due before dissolution. The sum
7 due for any liability imposed upon a corporate officer under this
8 subsection may be assessed and collected as provided in sections
9 23 and 24 of ~~Act No. 122 of the Public Acts of 1941, being sec-~~
10 ~~tions 205.23 and 205.24 of the Michigan Compiled Laws 1941 PA~~
11 ~~122, MCL 205.23 AND 205.24.~~

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

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

23 (8) The exemption certificate required by this section shall
24 include the following statement, "Electing to file using the
25 no-form option may not be for everyone who is eligible. If a
26 taxpayer chooses the no-form option, he or she may not be
27 eligible for some of the credits allowed under this act including

1 the property tax credit allowed under sections 520 and 522, the
2 tuition tax credit allowed under section 274, and the city income
3 tax credit allowed under section 257.".

4 SEC. 351A. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
5 2000, A QUALIFIED TAXPAYER MAY FILE A WITHHOLDING EXEMPTION CER-
6 TIFICATE WITH HIS OR HER EMPLOYER OR OTHER ENTITY THAT IS A
7 SOURCE OF ANY INCOME TO THE QUALIFIED TAXPAYER THAT IS SUBJECT TO
8 TAX UNDER THIS ACT.

9 (2) A WITHHOLDING EXEMPTION CERTIFICATE EXEMPTS THE QUALI-
10 FIED TAXPAYER FROM WITHHOLDING UNDER THIS SECTION FOR 1 YEAR AND
11 SHALL BE FILED BEFORE APRIL 15 OF THE TAX YEAR FOR WHICH THE
12 WITHHOLDING EXEMPTION WILL APPLY.

13 (3) AN EMPLOYER OR OTHER ENTITY SHALL NOT DEDUCT AND WITH-
14 HOLD A TAX ON COMPENSATION PAID TO A QUALIFIED TAXPAYER FOR THE
15 TAX YEAR IN WHICH THE WITHHOLDING EXEMPTION CERTIFICATE IS FILED
16 IF THE QUALIFIED TAXPAYER PROPERLY FILES A WITHHOLDING EXEMPTION
17 CERTIFICATE WITH THE EMPLOYER OR OTHER ENTITY UNDER THIS
18 SECTION.

19 (4) AN EMPLOYER OR OTHER ENTITY THAT RECEIVES A WITHHOLDING
20 EXEMPTION CERTIFICATE PURSUANT TO THIS SECTION SHALL SEND A COPY
21 OF THE WITHHOLDING EXEMPTION CERTIFICATE TO THE DEPARTMENT WITHIN
22 30 DAYS AFTER THE EMPLOYER OR OTHER ENTITY RECEIVES THE WITHHOLD-
23 ING EXEMPTION CERTIFICATE FROM THE QUALIFIED TAXPAYER.

24 (5) AS USED IN THIS SECTION, "QUALIFIED TAXPAYER" MEANS AN
25 INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING CRITERIA FOR THE TAX
26 YEAR IMMEDIATELY PRECEDING THE TAX YEAR FOR WHICH THE WITHHOLDING
27 EXEMPTION CERTIFICATE IS FILED:

1 (A) FILED A RETURN UNDER THIS ACT OR A WITHHOLDING EXEMPTION
2 CERTIFICATE UNDER THIS SECTION.

3 (B) IS 55 YEARS OF AGE OR OLDER.

4 (C) HAS ADJUSTED GROSS INCOME OF \$25,000.00 OR LESS FOR A
5 SINGLE RETURN OR \$35,000.00 OR LESS FOR A HUSBAND AND WIFE FILING
6 A JOINT RETURN.

7 (D) DOES NOT OWE ANY TAX OR PENALTY TO THE DEPARTMENT FOR
8 ANY TAX IMPOSED UNDER THIS ACT AT THE TIME THE WITHHOLDING CER-
9 TIFICATE UNDER THIS SECTION IS FILED AND HAS NOT HAD ANY REPORT-
10 ING, PAYMENT, OR TAX AVOIDANCE PROBLEMS WITH THE DEPARTMENT FOR
11 THE 25-YEAR PERIOD PRIOR TO THE TIME THE WITHHOLDING EXEMPTION IS
12 FILED.