

HOUSE BILL NO. 4089

January 24, 2019, Introduced by Rep. Hornberger 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 1982 PA 124.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

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, 2020, 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 state the rate of the tax which shall be the rate
16 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 not more than 2% on
24 corporations and the following maximum tax rates on resident
25 individuals and nonresident individuals for the following years:

26 (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 be reduced by 0.1
5 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, **through December 31,**
15 **2019,** 1.20% on nonresident 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, **through December 31, 2019,** 1.10% on nonresident
21 individuals.

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

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

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13 adopted or rescinded by the governing body at any time.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

28 (5) Petitions for a referendum election on the question of
29 adopting an ordinance adopted by the governing body may be filed

1 with the city clerk not later than the sixth Monday following the
2 adoption of the ordinance. The petitions shall be signed by a
3 number of registered electors of the city equal to at least 10%,
4 but not more than 20%, of the registered electors of the city
5 voting in the last general municipal election prior to the adoption
6 of the ordinance by the governing body. If proper petitions are
7 filed, the question of adopting the ordinance shall be submitted by
8 the governing body to the city electors at the next primary or
9 general election or at a special election called for the purpose,
10 in any case held not less than 45 days nor more than 90 days after
11 the clerk has reported the filing of the referendum petition to the
12 city's governing body. The checking of names on the petitions, the
13 counting, canvassing, and return of the votes on the question, and
14 other procedures for the election shall be as provided by law or
15 charter. Upon a favorable vote of the city electors, the ordinance
16 shall be effective as specified in the ordinance which may be
17 amended by the governing body of the city following the election to
18 specify July 1 or January 1 as the effective date of the ordinance,
19 if the effective date originally specified in the ordinance is
20 considered impractical or inconvenient for any reason. The
21 provisions in this section for a referendum election, and for
22 delaying the effective date of the ordinance if petitions for a
23 referendum are filed, are not applicable to a city that on January
24 1, 1964 had in effect a valid ordinance levying and imposing an
25 excise tax levied on or measured by income. Notwithstanding any
26 other provision of this act, if an ordinance becomes effective on
27 any date other than January 1, each tax year shall end on December
28 31, and the provisions of the ordinance based on a full tax year
29 are modified accordingly to be 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, 2019,**
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, 2019,** 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 effective until the governing body of the city, by
26 resolution, provides for securing the services of a financial
27 management consultant. The financial management consultant shall be
28 selected by the mayor with the approval of the local emergency
29 financial assistance loan board created under ~~Act No. 243 of the~~

1 ~~Public Acts of 1980, as amended, being sections 141.931 to 141.942~~
2 ~~of the Michigan Compiled Laws. **the emergency municipal loan act,**~~
3 **1980 PA 243, MCL 141.931 to 141.942.** The resolution shall further
4 provide that the financial management consultant shall be paid from
5 city funds. The duties of the financial management consultant shall
6 be to monitor the fiscal condition of the city, to report the
7 findings of this monitoring to the local governing body, the mayor,
8 and the local emergency financial assistance loan board, and to
9 provide financial management technical assistance to the city. The
10 local emergency financial assistance loan board shall determine the
11 form of monitoring and the frequency of reporting. The financial
12 management consultant shall have full access to all fiscal and
13 other records of the city. The services of a financial management
14 consultant may be terminated subject to the approval of the local
15 emergency financial assistance loan board at such time as
16 improvement in the financial condition of the city warrants this
17 action. The local emergency financial assistance loan board may
18 make recommendations to the legislature that will assist in the
19 attainment of further fiscal improvement for the city.

20 Sec. 3b. A city that levied the tax authorized by this act
21 before ~~the effective date of this section~~ **December 28, 1987** may
22 amend the ordinance to increase the rate to an annual tax of not
23 more than 1.4% on corporations and resident individuals and,
24 **through December 31, 2019,** not more than 0.7% on nonresident
25 individuals. The increase in the tax authorized by this section
26 shall be levied for not longer than 13 years as provided in the
27 ballot proposal submitted to the electors. An amendment to the city
28 income tax ordinance under this section is not effective unless the
29 amendment is approved before July 1, 1988 by a majority vote of the

1 hereby imposed at that lower rate. If the tax is imposed at a lower
2 rate, the rate on nonresident individuals shall not exceed 1/2 of
3 the rate on corporations and resident individuals.

4 Sec. 13. ~~The~~ **Through December 31, 2019, the** tax shall apply on
5 the following types of income of a nonresident individual to the
6 same extent and on the same basis that the income is subject to
7 taxation under the federal internal revenue code:

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

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

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

28 Sec. 15. An unincorporated business, profession or other
29 activity conducted by 1 or more persons subject to the tax as

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

6 (a) A resident proprietor or partner is taxable upon his
 7 entire distributive share of the net profits of the activity
 8 regardless of where the activity is conducted.

9 (b) ~~A—Through December 31, 2019, a~~ nonresident proprietor or
 10 partner is taxable only upon his distributive share of the portion
 11 of the net profits of the activity which is attributable to the
 12 city under the allocation methods provided in this ordinance.

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

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

25 (a) The entire net profit for the period covered by the return
 26 and the taxable portion of the net profit attributable to the city.

27 (b) The names and addresses of the owners of the
 28 unincorporated activity and each owner's taxable distributive share
 29 of the total net profit and each nonresident owner's share of the

1 ~~taxable~~ net profit attributable to the city.

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

7 (a) Residents.

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

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

18 (b) ~~Nonresidents.~~ **Through December 31, 2019, nonresidents.** At
19 a rate equal to the rate set by ordinance to be levied under this
20 ordinance on nonresidents but not to exceed 50% of the percentage
21 rate imposed on resident individuals of the compensation paid to
22 the employee for work done or services performed in the city
23 designated by the employee as the employee's predominant place of
24 employment. The withholding rate shall be applied to the percentage
25 of the employee's total compensation equal to the employee's
26 estimated percentage of work to be done or services to be performed
27 in the city for that employer, but no withholding shall be required
28 if the estimated percentage of work is less than 25%.

29 (2) An employer withholding the tax is deemed to hold the tax

1 as a trustee for the city.

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