

# HOUSE BILL No. 4614

March 21, 1991, Introduced by Reps. Profit, Munsell, Brown, DeMars and Palamara and referred to the Committee on Taxation.

A bill to amend sections 6, 8, 22, 26, and 351 of Act No. 281 of the Public Acts of 1967, entitled "Income tax act of 1967," section 351 as amended by Act No. 15 of the Public Acts of 1983, being sections 206.6, 206.8, 206.22, 206.26, and 206.351 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 6, 8, 22, 26, and 351 of Act No. 281 of  
2 the Public Acts of 1967, section 351 as amended by Act No. 15 of  
3 the Public Acts of 1983, being sections 206.6, 206.8, 206.22,  
4 206.26, and 206.351 of the Michigan Compiled Laws, are amended to  
5 read as follows:

6 Sec. 6. (1) "Commercial domicile" means the principal  
7 place from which the trade or business of the taxpayer is  
8 directed or managed.

1 (2) "Commissioner" means the commissioner of the  
2 department.

3 (3) "Compensation" means wages as defined in section 3401  
4 ~~and~~ OF THE INTERNAL REVENUE CODE, other payments as provided in  
5 section 3402 of the internal revenue code, AND PAYMENTS MADE TO  
6 AN INDEPENDENT CONTRACTOR.

7 (4) "Corporation" means, in addition to an incorporated  
8 entity, an association, trust, or ~~any~~ unincorporated organi-  
9 zation ~~which~~ THAT is defined as a corporation in the internal  
10 revenue code.

11 Sec. 8. (1) "Department" means the revenue division of the  
12 department of treasury.

13 (2) "Employee" means an employee as defined in section  
14 3401(c) of the internal revenue code OR AN INDEPENDENT  
15 CONTRACTOR. ~~Any~~ A person from whom an employer is required to  
16 withhold for federal income tax purposes ~~shall prima facie be~~  
17 ~~deemed~~ IS an employee.

18 (3) "Employer" means an employer as defined in section  
19 3401(d) of the internal revenue code. ~~Any~~ A person required to  
20 withhold for federal income tax purposes ~~shall prima facie be~~  
21 ~~deemed~~ IS an employer. A PERSON REQUIRED TO PROVIDE A FORM 1099  
22 TO AN INDEPENDENT CONTRACTOR FOR FEDERAL INCOME TAX PURPOSES IS  
23 CONSIDERED AN EMPLOYER.

24 Sec. 22. "Tax" includes interest and penalties and further  
25 includes the tax required to be withheld by an employer on  
26 salaries, ~~and~~ wages, OR OTHER COMPENSATION unless the intention  
27 to give it a more limited meaning is disclosed by the context.

1       Sec. 26. "Taxpayer" means ~~any~~ A person subject to the  
2 ~~taxes~~ TAX imposed by this act or ~~any~~ AN employer required to  
3 withhold ~~taxes~~ THE TAX on salaries, ~~and~~ wages, OR OTHER  
4 COMPENSATION.

5       Sec. 351. (1) ~~Every~~ AN employer in this state, ~~required~~  
6 ~~under the provisions of the internal revenue code to withhold a~~  
7 ~~tax on the compensation of an individual~~ except as otherwise  
8 provided, shall deduct and withhold a tax in an amount computed  
9 by applying ~~, except as provided by subsection (7),~~ the rate  
10 prescribed in section 51 to the remainder of the compensation  
11 after deducting therefrom the same proportion of the total amount  
12 of personal and dependency exemptions of the individual allowed  
13 under this act that the period of time covered by the compensa-  
14 tion is of 1 year. The commissioner may prescribe withholding  
15 tables ~~which~~ THAT may be used by ~~employers in computing~~ AN  
16 EMPLOYER TO COMPUTE the amount of tax required to be withheld.

17       (2) The taxes withheld under this section shall accrue to  
18 the state on the last day of the month in which they are withheld  
19 but shall be returned and paid to the department by the employer  
20 within 15 days after the end of any month or as provided in sec-  
21 tion 355.

22       (3) ~~Every~~ AN employer required by this section to deduct  
23 and withhold taxes on compensation holds the amount of ~~tax~~  
24 TAXES withheld as a trustee for the state, ~~and~~ is liable for  
25 the payment thereof to the state, and is not liable to any indi-  
26 vidual for the amount of the payment.

1       (4) ~~Employers~~ AN EMPLOYER in this state ~~shall~~ IS not  
2 ~~be~~ required to deduct and withhold a tax on the compensation  
3 paid to A nonresident individual ~~employees,~~ EMPLOYEE who, under  
4 ~~the provisions of~~ section 256, ~~are entitled to~~ MAY claim a  
5 tax credit equal to or in excess of the tax estimated to be due  
6 for the taxable year, or ~~are~~ IS exempted from liability for the  
7 tax imposed by this act. In each taxable year, the nonresident  
8 individual shall furnish the employer, on a form approved by the  
9 department, a verified statement of nonresidence.

10       (5) If the employer is a corporation and does not for any  
11 reason file the returns or pay the tax due ~~as required~~ under  
12 this act, any of the officers of the corporation having control  
13 OF, supervision of, or charged with the responsibility for making  
14 the returns and payments shall be personally liable for a failure  
15 to file or pay. The dissolution of a corporation shall not dis-  
16 charge a corporate officer's liability for the failure of the  
17 corporation to file a return or remit the tax that was due before  
18 dissolution. The sum due for any liability imposed upon a corpo-  
19 rate officer under this subsection may be assessed and collected  
20 as provided in ~~sections~~ SECTION 23 ~~and~~ OR 24 of Act No. 122  
21 of the Public Acts of 1941, as amended, being sections 205.23 and  
22 205.24 of the Michigan Compiled Laws.

23       (6) ~~Every~~ AN employer required to withhold a tax under  
24 this act shall, by the ~~15th~~ FIFTEENTH day of the following  
25 month, provide the department with a copy of any exemption cer-  
26 tificate on which the employee is claiming more than 9 personal

1 or dependency exemptions or claims a status exempting the  
2 employee from withholding ~~as prescribed by~~ UNDER this section.

3 ~~(7) Subject to the deductions and exceptions provided by~~  
4 ~~this section, for the period that commences on the effective date~~  
5 ~~of this subsection and ends on December 31, 1983, the department~~  
6 ~~shall prescribe withholding rates and tables sufficient to with-~~  
7 ~~hold the following amounts:~~

8 ~~(a) A tax computed by applying 4.6% to the compensation of~~  
9 ~~the individual.~~

10 ~~(b) A tax computed by applying to the compensation of the~~  
11 ~~individual paid in the period for which this subsection is appli-~~  
12 ~~cable, a rate equal to the product of 1.75% multiplied by the~~  
13 ~~quotient of 365 divided by the number of days in the period for~~  
14 ~~which this subsection is applicable.~~

15 Section 2. This amendatory act shall not take effect unless  
16 Senate Bill No. \_\_\_\_\_ or House Bill No. 4615 (request  
17 no. 02361'91 \*) of the 86th Legislature is enacted into law.