

Act No. 442  
Public Acts of 1996  
Approved by the Governor  
December 19, 1996  
Filed with the Secretary of State  
December 19, 1996

**STATE OF MICHIGAN  
88TH LEGISLATURE  
REGULAR SESSION OF 1996**

Introduced by Reps. Bodem, Bullard and Randall

# **ENROLLED HOUSE BILL No. 5191**

AN ACT to amend sections 52, 54, and 55 of chapter 2 of Act No. 284 of the Public Acts of 1964, entitled "An act to permit the imposition and collection by cities of an excise tax levied on or measured by income; 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 the state commissioner of revenue; and to provide for appeals of income tax matters," being sections 141.652, 141.654, and 141.655 of the Michigan Compiled Laws; and to add section 8 to chapter 1 and section 35 to chapter 2.

*The People of the State of Michigan enact:*

Section 1. Sections 52, 54, and 55 of chapter 2 of Act No. 284 of the Public Acts of 1964, being sections 141.652, 141.654, and 141.655 of the Michigan Compiled Laws, are amended and section 8 is added to chapter 1 and section 35 is added to chapter 2 to read as follows:

## **CHAPTER 1**

Sec. 8. If a city or any part of a city that imposes a city income tax pursuant to this act is within the boundaries of a renaissance zone designated pursuant to the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, the city shall amend its city income tax ordinance to include section 35 of chapter 2. As used in this section, "renaissance zone" means that term as defined in Act No. 376 of the Public Acts of 1996.

## **CHAPTER 2**

Sec. 35. (1) Notwithstanding any other provision of this ordinance and to the extent and for the duration provided in the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, for the 1997 tax year and each tax year after 1997, a qualified taxpayer may deduct from gross income in determining income subject to tax under this ordinance, to the extent a deduction is applicable to income subject to the tax under this ordinance, an amount equal to 1 of the following for the specified types of taxpayers:

(a) For a qualified taxpayer as defined in subsection (12)(c)(i):

(i) Except as provided in subparagraphs (ii) and (iii), income subject to the tax that is earned or received in the tax year during the period of time that the taxpayer was a qualified taxpayer.

(ii) Capital gains subject to the tax that are received during the tax year during the period of time that the taxpayer was a qualified taxpayer. The deduction allowed under this subdivision shall be prorated based on the percentage of time that the asset was held by the taxpayer while the taxpayer was a qualified taxpayer.

(iii) Income received by the qualified taxpayer from winning an on-line lottery game sponsored by this state but only if the date on which the drawing for that game was held is after the taxpayer became a qualified taxpayer of a renaissance zone and income received by the taxpayer from winning an instant lottery game sponsored by this state but only if the taxpayer was a qualified taxpayer of a renaissance zone on the validation date of the lottery ticket for that game.

(b) For a qualified taxpayer as defined in subsection (12)(c)(ii), the amount determined pursuant to section 14, 19, 20 to 24, or 25 of this ordinance multiplied by a fraction the numerator of which is the percentage that the average net book value of the tangible personal property owned and the real property, including leasehold improvements, owned or used by the qualified taxpayer in the business and situated within the renaissance zone during the taxable period, is of the average net book value of all such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period situated in the city plus the percentage that the total compensation paid to employees for work done or for services performed within the renaissance zone is of the total compensation paid to all the taxpayer's employees within the city during the period covered by the return and the denominator of which is 2. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer. Real property includes real property rented or leased by the qualified taxpayer and the value of that property is considered to be 8 times the annual gross rental on the property. "Gross rental on the property" means gross rental of real property as that term is defined in section 21 of this ordinance.

(c) For a qualified taxpayer as defined in subsection (12)(c)(iii), the amount determined pursuant to section 15 of this ordinance multiplied by a fraction the numerator of which is the percentage that the average net book value of the tangible personal property owned and the real property, including leasehold improvements, owned or used by the qualified taxpayer in the business and situated within the renaissance zone during the taxable period, is of the average net book value of all such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period situated in the city plus the percentage that the total compensation paid to employees for work done or for services performed within the renaissance zone is of the total compensation paid to all the taxpayer's employees within the city during the period covered by the return and the denominator of which is 2. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer. Real property includes real property rented or leased by the qualified taxpayer and the value of that property is considered to be 8 times the annual gross rental on the property. "Gross rental on the property" means gross rental of real property as that term is defined in section 21 of this ordinance.

(2) For a qualified taxpayer as defined in subsections (12)(c)(ii) and (iii), any portion of income subject to tax under this ordinance derived from illegal activity conducted in a renaissance zone shall not be used to calculate a deduction allowed under this section. For a qualified taxpayer who is an individual, any portion of income subject to tax under this ordinance derived from illegal activity conducted anywhere shall not be used to calculate the deduction allowed under this section. For a qualified taxpayer as defined in subsection (12)(c)(ii) and (iii), any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, Initiated Law of 1996, being sections 432.201 to 432.216 of the Michigan Compiled Laws.

(3) Income used to calculate a deduction under any other section of this ordinance shall not be used to calculate a deduction under this section.

(4) If a qualified taxpayer completes the residency requirements under subsection (12)(c) before the end of the tax year in which the qualified taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for that tax year. If the qualified taxpayer completes the residency requirements under subsection (12)(c) in a tax year subsequent to the tax year in which the qualified taxpayer first resided in the renaissance zone, the following apply:

(a) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and before the date for filing the annual return under this ordinance for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the taxpayer first resided in the renaissance zone.

(b) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and after the date for filing the annual return under this ordinance for the tax year in which the taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for the tax year in which the residency requirement is completed on the annual return for the tax year in which the residency requirement is completed and may claim the deduction for the tax year

in which the qualified taxpayer first resided in the renaissance zone by filing an amended return for that tax year in which the qualified taxpayer first resided in the renaissance zone.

(5) To be eligible for the deduction under this section, a taxpayer shall file an annual return under this ordinance.

(6) A qualified taxpayer shall file a withholding form prescribed by the city with his or her employer after the date the qualified taxpayer completes the requirements under subsection (12)(c) or, at the option of the city, for taxpayers who claim to be qualified taxpayers under subsection (12)(c)(i), the taxpayer shall file a form prescribed by the city with the city after the date the taxpayer completes the requirements under subsection (12)(c)(i). If the city verifies the information on the form, the city shall issue a certificate of qualification to the taxpayer which the taxpayer shall file with his or her employer. When a taxpayer who filed a form under this subsection is no longer a qualified taxpayer under subsection (12)(c)(i), the taxpayer shall send a written notice of that change in status to the city not more than 10 days after the change in status occurs.

(7) If the administrator finds that a taxpayer has claimed a deduction under this section to which he or she is not entitled, the taxpayer is subject to the interest and penalty provisions under this ordinance.

(8) The deduction allowed under this section continues through the tax year in which the renaissance zone designation expires.

(9) A net operating loss deduction allowed under this ordinance shall be calculated without regard to any deduction allowed under this section.

(10) If a taxpayer who was a qualified taxpayer during the tax year changes status and is not a qualified taxpayer or vice versa, income subject to tax under this ordinance shall be determined separately for income in each status.

(11) A qualified taxpayer as defined in subsection (12)(c)(i) is a resident of a renaissance zone for purposes of Act No. 376 of the Public Acts of 1996. A qualified taxpayer as defined in subsection (12)(c)(ii) or (iii) is located and conducts business in a renaissance zone for purposes of Act No. 376 of the Public Acts of 1996.

(12) As used in this section:

(a) "Conducts business activity" means doing business as defined in this ordinance.

(b) "Domicile" means a place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she intends to return, and domicile continues until another permanent establishment is established.

(c) "Qualified taxpayer" means 1 of the following:

(i) A taxpayer who is an individual, a resident of the city as determined under this ordinance, and is domiciled in an area of the city that is designated a renaissance zone for a period of 183 consecutive days. A taxpayer may begin calculating the 183-day period during the 183 days immediately preceding the designation of the area as a renaissance zone. Qualified taxpayer under this subparagraph includes the estate of an individual who was a qualified taxpayer at the time of death. After a taxpayer has completed the 183-day requirement under this subparagraph, the taxpayer is considered to have been a qualified taxpayer of that renaissance zone beginning from the first day used to determine if the 183-day requirement has been met.

(ii) A taxpayer that is a corporation and that is located and conducts business activity in a renaissance zone in the city.

(iii) A person who is located in and conducts business activity as an unincorporated business, profession, or other activity in a renaissance zone and is not a qualified taxpayer under subparagraph (i) or (ii).

(d) "Renaissance zone" means that term as defined in Act No. 376 of the Public Acts of 1996.

Sec. 52. Employers shall not withhold any tax from the following payments or persons:

(a) Compensation paid to domestic help.

(b) Compensation paid to a person who is not an employee, including an independent contractor.

(c) An amount allowed and paid to an employee as reimbursement for expenses necessarily and actually incurred by the employee in the actual performance of his or her services, and that is deductible by the employer.

(d) A qualified taxpayer. "Qualified taxpayer" means that term as defined in section 35(12)(c)(i).

Sec. 54. An employee with compensation subject to tax shall file with his or her employer a form on which the employee states the number of exemptions claimed, the city of residence, the predominant place of employment, whether or not the employee claims status as a qualified taxpayer of a renaissance zone, and the percentage of work done or services performed in the predominant place of employment. The percentage shall be expressed as "less than 25%", "40%", "60%", "80%", or "100%". The employer shall retain the form, rely on the information on the form for withholding purposes unless directed by the city to withhold on another basis, and, if the employee claims status as a qualified taxpayer based on residency in a renaissance zone, the employer shall forward a copy of the form to the city.

If information submitted by the employee is not believed to be true, correct, and complete, the city shall be advised. As used in this section, "renaissance zone" means that term as defined in section 35.

Sec. 55. (1) Except as provided in subsection (2), an employee shall file with his or her employer a revised form within 10 days after the number of exemptions decreases when a change in residence from or to a taxing city occurs. The employee may file a revised form when the number of exemptions increases. An employee shall file a revised form by December 1 of each year, if his or her predominant place of employment, estimate of the percentage of work done or services to be rendered in the city, or status as a qualified taxpayer of a renaissance zone will change for the ensuing year. Revised withholding certificates shall not be given retroactive effect.

(2) An employee shall file a revised form with his or her employer within 10 days after the employee completes the residency requirements under section 35(12), and when a change of status occurs from resident of a renaissance zone to nonresident of a renaissance zone. The employer shall forward a copy of a revised form filed under this subsection to the city.

(3) As used in this section, "renaissance zone" means that term as defined in section 35.

This act is ordered to take immediate effect.

-----  
Clerk of the House of Representatives.

-----  
Secretary of the Senate.

Approved -----

-----  
Governor.