



SENATE BILL No. 1062

July 3, 1996, Introduced by Senators CARL, GOUGEON, SHUGARS and HOFFMAN and referred to the Committee on Finance.

A bill to amend sections 3, 3a, 3b, and 3c of chapter 1 and sections 8, 11, 15, 16, 27, 34, and 51 of chapter 2 of Act No. 284 of the Public Acts of 1964, entitled "City income tax act," section 3 of chapter 1 as amended and section 3c of chapter 1 as added by Act No. 520 of the Public Acts of 1988, section 3a of chapter 1 as amended and section 3b of chapter 1 as added by Act No. 223 of the Public Acts of 1987, section 11 of chapter 2 as amended by Act No. 125 of the Public Acts of 1993, and section 51 of chapter 2 as amended by Act No. 124 of the Public Acts of 1982, being sections 141.503, 141.503a, 141.503b, 141.503c, 141.608, 141.611, 141.615, 141.616, 141.627, 141.634, and 141.651 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 3, 3a, 3b, and 3c of chapter 1 and
2 sections 8, 11, 15, 16, 27, 34, and 51 of chapter 2 of Act
3 No. 284 of the Public Acts of 1964, section 3 of chapter 1 as
4 amended and section 3c of chapter 1 as added by Act No. 520 of
5 the Public Acts of 1988, section 3a of chapter 1 as amended and
6 section 3b of chapter 1 as added by Act No. 223 of the Public
7 Acts of 1987, section 11 of chapter 2 as amended by Act No. 125
8 of the Public Acts of 1993, and section 51 of chapter 2 as
9 amended by Act No. 124 of the Public Acts of 1982, being sections
10 141.503, 141.503a, 141.503b, 141.503c, 141.608, 141.611, 141.615,
11 141.616, 141.627, 141.634, and 141.651 of the Michigan Compiled
12 Laws, are amended to read as follows:

CHAPTER 1

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

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

22 (b) Subsection (2).

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

24 (2) In a city with a population of more than 1,000,000, the
25 governing body may levy and collect a tax at a rate to be
26 determined from time to time, that rate to be not more than 2% on

1 corporations ~~—~~ AND not more than 3% on resident individuals.
2 ~~—, and not more than 1 1/2% on nonresident individuals but not to~~
3 ~~exceed 1/2 of the tax rate imposed on resident individuals.~~

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

23 (4) Petitions for a referendum election on the question of
24 adopting an ordinance adopted by the governing body may be filed
25 with the city clerk not later than the sixth Monday following the
26 adoption of the ordinance. The petitions shall be signed by a
27 number of registered electors of the city equal to at least 10%,

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

1 provisions of the ordinance based on a full tax year are modified
2 accordingly to be applicable to the partial tax year.

3 (5) For cities with a population of more than 1,000,000, an
4 amendment to the ordinance to increase the rate of tax levied
5 above that in effect for the 1980 tax year shall become effective
6 on and after the first day of the month in which all of the fol-
7 lowing conditions prevail or, if all the following conditions
8 prevail on or before August 15, 1981, the amendment to the ordi-
9 nance shall become effective July 1, 1981:

10 (a) The increase in the rate of the tax has been approved by
11 a majority of the qualified electors voting on the question.

12 (b) A commitment exists to purchase bonds or other obliga-
13 tions of the city, in principal amount not to exceed
14 \$125,000,000.00, under the fiscal stabilization act, Act No. 80
15 of the Public Acts of 1981, being sections 141.1001 to 141.1011
16 of the Michigan Compiled Laws, and employee wage and salary
17 agreements and concessions have been secured or implemented,
18 ~~which~~ THAT in combination with the revenues from the tax rate
19 authorized by the amendment to the ordinance result in a condi-
20 tion whereby, for the city's fiscal year beginning July 1, 1981,
21 the total estimated expenditures, including an accrued deficit in
22 the budget, do not exceed the total estimated revenues, including
23 any available unappropriated surplus.

24 (c) The conditions provided in subdivisions (a) and (b) have
25 been attested to in writing by the state administrative board for
26 the fiscal year beginning July 1, 1981.

1 (6) For cities with a population of 1,000,000 or more,
2 unless the state administrative board attests by June 15, 1982
3 that, for the city's fiscal year beginning July 1, 1982, the
4 total estimated expenditures, including an accrued deficit in the
5 budget, do not exceed the total estimated revenues, including any
6 available unappropriated surplus, an increase in the rate above
7 that in effect for the 1980 tax year shall not be levied after
8 June 30, 1982.

9 Sec. 3a. (1) The specific rates to be levied by a city on
10 corporations ~~—~~ AND resident individuals ~~— and nonresident~~
11 ~~individuals~~ shall be established within the applicable limita-
12 tions allowed under this section and section 3 of this chapter in
13 the ordinance ~~which~~ THAT otherwise incorporates by reference
14 the uniform city income tax ordinance set forth in chapter 2.

15 (2) The governing body of a city with a population of less
16 than 1,000,000 persons may levy, assess, and collect an excise
17 tax on income earned and received at a rate of not more than 2%
18 on corporations ~~—~~ AND not more than 2% on resident individuals
19 ~~—, and not more than 50% of the rate imposed on resident individ-~~
20 ~~uals on nonresident individuals~~ if approved by a majority of the
21 qualified electors of the city voting thereon before November 15,
22 1988, and if all of the following occurred in the calendar year
23 immediately preceding the calendar year in which the increased
24 rates allowed by this subsection initially would apply:

25 (a) The city levied more than 22 mills for city purposes and
26 for payment of judgments ordered by a court of competent
27 jurisdiction.

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

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

4 (3) Any increase in the tax rate permitted by this section
5 shall not become effective until the governing body of the city,
6 by resolution, provides for securing the services of a financial
7 management consultant. The financial management consultant shall
8 be selected by the mayor with the approval of the local emergency
9 financial assistance loan board created under THE EMERGENCY
10 MUNICIPAL LOAN ACT, Act No. 243 of the Public Acts of 1980, ~~as~~
11 ~~amended,~~ being sections 141.931 to 141.942 of the Michigan
12 Compiled Laws. The resolution shall further provide that the
13 financial management consultant shall be paid from city funds.
14 The duties of the financial management consultant shall be to
15 monitor the fiscal condition of the city, to report the findings
16 of this monitoring to the local governing body, the mayor, and
17 the local emergency financial assistance loan board, and to pro-
18 vide financial management technical assistance to the city. The
19 local emergency financial assistance loan board shall determine
20 the form of monitoring and the frequency of reporting. The
21 financial management consultant shall have full access to all
22 fiscal and other records of the city. The services of a finan-
23 cial management consultant may be terminated subject to the
24 approval of the local emergency financial assistance loan board
25 at such time as improvement in the financial condition of the
26 city warrants this action. The local emergency financial
27 assistance loan board may make recommendations to the legislature

1 that will assist in the attainment of further fiscal improvement
2 for the city.

3 Sec. 3b. A city that levied the tax authorized by this act
4 before ~~the effective date of this section~~ DECEMBER 28, 1987 may
5 amend the ordinance to increase the rate to an annual tax of not
6 more than 1.4% on corporations and resident individuals. ~~and~~
7 ~~not more than 0.7% on nonresident individuals.~~ The increase in
8 the tax authorized by this section shall be levied for not longer
9 than 13 years as provided in the ballot proposal submitted to the
10 electors. An amendment to the city income tax ordinance under
11 this section is not effective unless the amendment is approved
12 before July 1, 1988 by a majority vote of the registered and
13 qualified electors of that city voting on the proposition. This
14 section applies only to a city that has a population of more than
15 50,000 and that, within 6 years before the approval of the amend-
16 ment authorized by this section, annexes to the city an area con-
17 taining more than 20 square miles.

18 Sec. 3c. A city that levied the tax authorized by this act
19 before ~~the effective date of this section~~ MARCH 30, 1989 may
20 amend the ordinance to increase the rate to an annual tax of not
21 more than 1-1/2% on corporations and resident individuals. ~~and~~
22 ~~not more than 3/4% on nonresident individuals, but not more than~~
23 ~~1/2 of the tax rate imposed on resident individuals.~~ An amend-
24 ment to the city income tax ordinance under this section is not
25 effective unless the amendment is approved by a majority of the
26 qualified electors voting on the question. Before November 10,
27 1989, an amendment under this section shall not be placed before

1 the voters for approval more than once in any 12-month period.
 2 This section applies only to a city with a population of more
 3 than 140,000 and less than 1,000,000 or a city with a population
 4 of more than 65,000 and less than 100,000 in a county with a pop-
 5 ulation less than 300,000.

6 CHAPTER 2

7 Sec. 8. ~~(1) "Nonresident" means an individual domiciled~~
 8 ~~outside the city.~~

9 (1) ~~(2)~~ "Person" means a natural person, partnership,
 10 fiduciary, association, corporation, or other entity. When used
 11 in any provision imposing a criminal penalty, "person" as applied
 12 to an association means the parties or members thereof, and as
 13 applied to a corporation, the officers thereof.

14 (2) ~~(3)~~ "Predominant place of employment" means that city
 15 imposing a tax under a uniform city income tax ordinance other
 16 than the city of residence, in which the employee estimates he OR
 17 SHE will earn the greatest percentage of his OR HER compensation
 18 from the employer, which percentage is 25% or more.

19 Sec. 11. Subject to the exclusions, adjustments,
 20 exemptions, and deductions herein provided, an annual tax of 1%
 21 on corporations and resident individuals ~~and of 1/2% on nonresi-~~
 22 ~~dent individuals~~ for general revenue purposes and the purposes
 23 provided for in sections 11a and 11b is hereby imposed as an
 24 excise on income earned and received on and after the effective
 25 date of this ordinance.

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

1 either a sole proprietorship or partnership shall not be taxable
2 as 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 OR
7 HER entire distributive share of the net profits of the activity
8 regardless of where the activity is conducted.

9 ~~(b) A nonresident proprietor or partner is taxable only~~
10 ~~upon his distributive share of the portion of the net profits of~~
11 ~~the activity which is attributable to the city under the alloca-~~
12 ~~tion methods provided in this ordinance.~~

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

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

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

4 (b) The names and addresses of the owners of the unincorpor-
5 ated activity and each owner's taxable distributive share of the
6 total net profit. ~~and each nonresident owner's share of the~~
7 ~~taxable net profit attributable to the city.~~

8 Sec. 27. An estate or trust is not subject to tax under
9 this ordinance. ~~, except that it shall be treated as a nonresi-~~
10 ~~dent individual for purposes of section 11 of this ordinance to~~
11 ~~the extent income of the estate or trust described in section 13~~
12 ~~is not includible in the return of a resident individual as~~
13 ~~"income from estates and trusts".~~ A resident individual shall
14 include "income from estates and trusts" in his OR HER income
15 subject to tax under this ordinance without regard to the situs
16 of the estate or trust. For this purpose, an "estate" means the
17 estate of a deceased person during the period of administration
18 or settlement and a "trust" means an inter vivos or testamentary
19 trust created by an individual for the benefit of 1 or more
20 persons.

21 Sec. 34. The following expenses paid or incurred by an
22 individual may be deducted from gross income in determining
23 income subject to tax to the extent the expenses are applicable
24 to income taxable under this ordinance:

25 (a) An individual may deduct alimony, separate maintenance
26 payments, and principal sums payable in installments, to the
27 extent includable in the spouse's adjusted gross income under the

1 federal internal revenue code but only to the extent deductible
2 by the individual under the federal internal revenue code. ~~A~~
3 ~~nonresident individual may deduct only that proportion of his~~
4 ~~alimony, separate maintenance or principal sums payable in~~
5 ~~installments that his income taxable under this ordinance bears~~
6 ~~to his total federal adjusted gross income.~~

7 (b) An employee or self-employed individual may deduct
8 moving expenses to the extent provided in section 217 of the fed-
9 eral internal revenue code.

10 (c) A self-employed individual may deduct payments to a
11 qualified retirement plan to the extent provided in section 404
12 of the federal internal revenue code.

13 (d) An individual may deduct payments to an individual
14 retirement account established pursuant to the employee retire-
15 ment income security act of 1974, ~~29 U.S.C. 1001 to 1381~~
16 PUBLIC LAW 93-406, 88 STAT. 829, to the extent provided in sec-
17 tion 219 of the internal revenue code.

18 Sec. 51. (1) An employer doing business or maintaining an
19 establishment within the city shall withhold from each payment to
20 the employer's employees WHO ARE RESIDENTS OF THE CITY on and
21 after the effective date of this ordinance the tax on their com-
22 pensation subject to the tax, after giving effect to exemptions,
23 ~~as follows: (a) Residents. (i) At~~ AT a rate equal to the rate
24 set by ordinance to be levied against resident individuals under
25 this ordinance, but not to exceed 3%, of all compensation paid to
26 the employee who is a resident of the city. ~~, if the employee~~
27 ~~is not subject to withholding in any other city levying the tax.~~

1 ~~(ii) At a rate equal to the difference in the percentage~~
2 ~~rate of tax on resident individuals as set by ordinance to be~~
3 ~~levied under this ordinance less the percentage rate of tax~~
4 ~~levied by any other city in which the employee works, on all com-~~
5 ~~pensation earned by the resident in another city.~~

6 (b) ~~Nonresidents. At a rate equal to the rate set by ordi-~~
7 ~~nance to be levied under this ordinance on nonresidents but not~~
8 ~~to exceed 50% of the percentage rate imposed on resident individ-~~
9 ~~uals of the compensation paid to the employee for work done or~~
10 ~~services performed in the city designated by the employee as the~~
11 ~~employee's predominant place of employment. The withholding rate~~
12 ~~shall be applied to the percentage of the employee's total com-~~
13 ~~pensation equal to the employee's estimated percentage of work to~~
14 ~~be done or services to be performed in the city for that employ-~~
15 ~~er, but no withholding shall be required if the estimated percen-~~
16 ~~tage of work is less than 25%.~~

17 (2) An employer withholding the tax is ~~deemed~~ CONSIDERED
18 to hold the tax as a trustee for the city.

19 (3) An employer who is required to withhold and who fails or
20 refuses to deduct and withhold is liable for the payment of the
21 amount required to be withheld. The liability shall be dis-
22 charged upon payment of the tax by the employee but the employer
23 is not relieved of penalties and interest provided in this ordi-
24 nance for this failure or refusal.

25 Section 2. Sections 13 and 65 of chapter 2 of Act No. 284
26 of the Public Acts of 1964, being sections 141.613 and 141.665 of
27 the Michigan Compiled Laws, are repealed.