

WITHHOLDING OF WINNINGS AT DETROIT CASINOS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5845

Sponsor: Rep. Larry Julian

Committee: Government Operations

Complete to 5-17-04

A SUMMARY OF HOUSE BILL 5845 AS INTRODUCED 4-29-04

The Income Tax Act requires casinos licensed under the Michigan Gaming and Revenue Control Act (i.e. the Detroit casinos) to withhold a tax, based on the income tax rate, on the winnings of nonresidents that are reportable by the casino under the federal Internal Revenue Code (IRC). House Bill 5845 would, instead, require the Detroit casinos to withhold a tax on the winnings of all individuals at the casino. The bill would define “winnings” to mean proceeds from a wagering transaction that would be subject to withholding under section 3402(q) of the IRC, if the winnings met the threshold amount in that section.

Section 3402(q) of the IRC generally requires that gaming establishments withhold a tax of 25 percent of the winnings (less the amount wagered) if the winnings exceed \$5,000 and are from sweepstakes, wagering pools, lotteries, or other wagering transactions and if the winnings are at least 300 times the amount wagered. The withholding requirement does not apply to winnings from slot machines, bingo, or keno, although winnings from those gaming activities may be subject to a 28 percent “backup withholding” under Section 3406 of the IRC. However, gambling winnings are generally reportable on IRS form W-2G if the amount paid (less the wager) is at least \$600 and at least 300 times the amount of the wager. And keno winnings (less the wager) of at least \$1,500, and bingo and slot machine winnings (not less the wager) of at least \$1,200 are reportable. *The bill, then, appears to raise the withholding threshold for non-residents (to make it more in-line with federal withholding requirements), and collects the applicable income tax of Michigan residents at the time the resident taxpayer collects his or her winnings rather than when he or she files a return.*

Gambling winnings of Michigan residents are subject to the income tax to the extent that they are included in federal adjusted gross income (AGI), which serves as the starting point for the calculation of Michigan income tax liability. The Income Tax Act (MCL 206.510) specifically excludes from the definition of “income” the first \$300 received from awards, prizes, lottery, bingo, or other gambling winnings for the purposes of calculating the homestead exemption. Gambling losses can be deducted on an itemized federal return (Form 1040, Schedule A), but only up to the amount of any winnings. Losses cannot be deducted on a Michigan return.

Legislative Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.