

HOUSE BILL No. 5845

April 29, 2004, Introduced by Rep. Julian and referred to the Committee on Government Operations.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 351 (MCL 206.351), as amended by 2003 PA 22.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 351. (1) Every employer in this state required under
2 the provisions of the internal revenue code to withhold a tax on
3 the compensation of an individual, except as otherwise provided,
4 shall deduct and withhold a tax in an amount computed by
5 applying, except as provided by subsection (9), the rate
6 prescribed in section 51 to the remainder of the compensation
7 after deducting from compensation the same proportion of the
8 total amount of personal and dependency exemptions of the
9 individual allowed under this act that the period of time covered
10 by the compensation is of 1 year. The commissioner may prescribe
11 withholding tables that may be used by employers to compute the

1 amount of tax required to be withheld.

2 (2) Every flow-through entity in this state shall withhold a
3 tax in an amount computed by applying the rate prescribed in
4 section 51 to the share of taxable income available for
5 distribution of each nonresident member after deducting from that
6 distributive income the same proportion of the total amount of
7 personal and dependency exemptions of the individual allowed
8 under this act that the period of time covered by the
9 distributive income is of 1 year. If a flow-through entity is a
10 nonresident member of a separate flow-through entity in this
11 state, the flow-through entity in this state of which it is a
12 member shall withhold the tax as required by this subsection on
13 behalf of the flow-through entity that is a nonresident member
14 and all nonresident members of that flow-through entity that is a
15 nonresident member.

16 (3) Every casino licensee **in this state** shall withhold a tax
17 in an amount computed by applying the rate prescribed in section
18 51 to the winnings of ~~a nonresident reportable by the casino~~
19 ~~licensee under the internal revenue code~~ **an individual at the**
20 **casino licensee's casino. As used in this subsection, "winnings"**
21 **means, except as otherwise provided by law, proceeds from a**
22 **wagering transaction that would be subject to section 3402(q) of**
23 **the internal revenue code, if the winnings had met the threshold**
24 **amount in section 3402(q) of the internal revenue code.**

25 (4) Every race meeting licensee or track licensee shall
26 withhold a tax in an amount computed by applying the rate
27 prescribed in section 51 to a payoff price on a winning ticket of

1 a nonresident reportable by the race meeting licensee or track
2 licensee under the internal revenue code that is the result of
3 pari-mutuel wagering at a licensed race meeting.

4 (5) Every casino licensee or race meeting licensee or track
5 licensee shall report winnings of a resident reportable by the
6 casino licensee or race meeting licensee or track licensee under
7 the internal revenue code to the department in the same manner
8 and format as required under the internal revenue code.

9 (6) The taxes withheld under this section shall accrue to the
10 state on the last day of the month in which the taxes are
11 withheld but shall be returned and paid to the department by the
12 employer, flow-through entity, casino licensee, or race meeting
13 licensee or track licensee within 15 days after the end of any
14 month or as provided in section 355, except prior to July 1,
15 1993, taxes deposited pursuant to section 19(2) of 1941 PA 122,
16 MCL 205.19, are accrued on the last day of the filing period.

17 (7) An employer, flow-through entity, casino licensee, or
18 race meeting licensee or track licensee required by this section
19 to deduct and withhold taxes on compensation, a share of income
20 available for distribution on which withholding is required under
21 subsection (2), winning on which withholding is required under
22 subsection (3), or a payoff price on which withholding is
23 required under subsection (4) holds the amount of tax withheld as
24 a trustee for the state, is liable for the payment of the tax to
25 the state, and is not liable to any individual for the amount of
26 the payment.

27 (8) An employer in this state is not required to deduct and

1 withhold a tax on the compensation paid to a nonresident
2 individual employee, who, under section 256, may claim a tax
3 credit equal to or in excess of the tax estimated to be due for
4 the tax year or is exempted from liability for the tax imposed by
5 this act. In each tax year, the nonresident individual shall
6 furnish to the employer, on a form approved by the department, a
7 verified statement of nonresidence.

8 (9) An employer, flow-through entity, casino licensee, or
9 race meeting licensee or track licensee required to withhold a
10 tax under this act, by the fifteenth day of the following month,
11 shall provide the department with a copy of any exemption
12 certificate on which the employee, nonresident member, or person
13 subject to withholding under subsection (3) or (4) claims more
14 than 9 personal or dependency exemptions, claims a status that
15 exempts the employee, nonresident member, or person subject to
16 withholding under subsection (3) or (4) from withholding under
17 this section, or elects to pay the tax imposed by this act
18 calculated under section 51a.

19 (10) An employer shall deduct and withhold the tax imposed by
20 this act calculated under section 51a for a resident who files an
21 exemption certificate under subsection (9) to elect to pay the
22 tax calculated under section 51a.

23 (11) The exemption certificate required by this section shall
24 include the following statement, "Electing to file using the
25 no-form option may not be for everyone who is eligible. If a
26 taxpayer chooses the no-form option, he or she may not be
27 eligible for some of the credits allowed under this act including

1 the property tax credit allowed under sections 520 and 522, the
2 tuition tax credit allowed under section 274, and the city income
3 tax credit allowed under section 257.".

4 (12) As used in this section:

5 (a) "Casino" means that term as defined in section 110.

6 (b) "Casino licensee" means a person licensed to operate a
7 casino under the Michigan gaming control and revenue act, the
8 Initiated Law of 1996, MCL 432.201 to 432.226.

9 (c) "Race meeting licensee" and "track licensee" mean a
10 person to whom a race meeting license or track license is issued
11 pursuant to section 8 of the horse racing law of 1995, 1995
12 PA 279, MCL 431.308.