

# HOUSE BILL No. 4462

April 15, 2015, Introduced by Reps. Clemente, Dianda, LaVoy, Bizon, Hooker and McCready and referred to the Committee on Tax Policy.

A bill to amend 1964 PA 284, entitled  
"City income tax act,"  
by amending section 43 of chapter 2 (MCL 141.643), as amended by  
1996 PA 478.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER 2

Sec. 43. (1) A balance of the tax that is due the city at the  
time of filing an annual return shall be paid with the return  
unless the balance is less than \$1.00, in which case payment is not  
required.

(2) If the annual return reflects an overpayment of the tax,  
the declaration of the overpayment on the return constitutes a  
claim for refund. Subject to subsection (6), if the city or the  
department agrees that a claim is valid, the city or the department  
shall apply the overpayment first to a delinquent tax liability

1 under this ordinance of the taxpayer to the city. The city shall  
2 apply any remaining overpayment against a subsequent liability  
3 under this ordinance or, at the election of the taxpayer and if  
4 indicated on the return, shall refund the overpayment. However, the  
5 city shall not pay a refund of less than \$1.00.

6 (3) If a valid claim for a refund of taxes, except a refund  
7 under section 61, due for the taxable year 1992 or a taxable year  
8 after 1992 is filed, interest at the rate **AND IN THE MANNER**  
9 established in section 30(3) of ~~Act No. 122 of the Public Acts of~~  
10 ~~1941, being section 205.30 of the Michigan Compiled Laws, 1941 PA~~  
11 **122, MCL 205.30**, shall be added to the refund. ~~beginning 45 days~~  
12 ~~after the claim is filed or 45 days after the date established~~  
13 ~~under this ordinance for the filing of the return, whichever is~~  
14 ~~later.~~ For tax years after the 1996 tax year and for which a city  
15 has entered into an agreement pursuant to section 9 of chapter 1, a  
16 claim for refund shall be paid from money in the city income tax  
17 trust fund.

18 (4) For tax years after the 1995 tax year and for which a city  
19 has entered into an agreement pursuant to section 9 of chapter 1,  
20 if a taxpayer pays, when filing his or her annual return, an amount  
21 less than the sum of the declared tax liability under this act, and  
22 the declared tax liability under the income tax act of 1967, ~~Act~~  
23 ~~No. 281 of the Public Acts of 1967, being sections 206.1 to 206.532~~  
24 ~~of the Michigan Compiled Laws, 1967 PA 281, MCL 206.1 TO 206.713,~~  
25 and there is no indication of the allocation of payment between the  
26 tax liabilities against which the payment should be applied, the  
27 amount paid shall first be applied against the taxpayer's tax

1 liability under this act and any remaining amount of payment shall  
2 be applied to the taxpayer's tax liability under ~~Act No. 281 of the~~  
3 ~~Public Acts of 1967.~~ **THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL**  
4 **206.1 TO 206.713.** The taxpayer's designation of a payee on a  
5 payment is not a dispositive determination of the allocation of  
6 that payment under this subsection.

7 (5) If the claim for refund is reflected on a joint tax  
8 return, the administrator shall allocate to each joint taxpayer his  
9 or her share of the refund. The amount allocated to each taxpayer  
10 shall be applied to his or her respective liabilities under this  
11 ordinance.

12 (6) If the administrator or the department determines that all  
13 or a portion of a refund claimed on a joint tax return is subject  
14 to application to a liability of an obligated spouse, the  
15 administrator or the department shall notify the joint taxpayers by  
16 first class mail sent to the address shown on the joint return. The  
17 notice shall be accompanied by a nonobligated spouse allocation  
18 form. The notice shall state all of the following:

19 (a) That all or a portion of the refund claimed by the joint  
20 taxpayers is subject to interception to satisfy a liability or  
21 liabilities of 1 or both spouses.

22 (b) The nature of the liability and the name of the obligated  
23 spouse or spouses.

24 (c) That a nonobligated spouse may claim his or her share of  
25 the refund by filing a nonobligated spouse allocation form with the  
26 city or the department not more than 30 days after the date the  
27 notice was mailed.

1 (d) A statement of the penalties under subsection (9).

2 (7) A nonobligated spouse who wishes to claim his or her share  
3 of a tax refund shall file with the city or the department a  
4 nonobligated spouse allocation form. The nonobligated spouse  
5 allocation form shall be in a form specified by the administrator  
6 or the department and shall require the spouses to state the amount  
7 of income or other tax base and all adjustments to the income or  
8 other tax base, including all subtractions, additions, deductions,  
9 credits, and exemptions, stated on the joint tax return that is the  
10 basis for the claimed refund, and an allocation of those amounts  
11 between the obligated and nonobligated spouse. In allocating these  
12 amounts, all of the following apply:

13 (a) Individual income shall be allocated to the spouse who  
14 earned the income. Joint income shall be allocated equally between  
15 the spouses.

16 (b) Each spouse shall be allocated the personal exemptions he  
17 or she would be entitled to claim if separate federal returns had  
18 been filed, except that dependency exemptions shall be prorated  
19 according to the relative income of the spouses.

20 (c) Adjustments resulting from a business shall be allocated  
21 to the spouse who claimed income from the business.

22 (d) Ownership of other assets relevant to the allocation shall  
23 be disclosed upon request of the administrator or the department.

24 (8) A nonobligated spouse allocation form shall be signed by  
25 both joint taxpayers. However, the form may be submitted without  
26 the signature of the obligated spouse if his or her signature  
27 cannot be obtained. The nonobligated spouse shall certify that he

1 or she has made a good faith effort to obtain the signature of the  
2 obligated spouse and shall state the reason that the signature was  
3 not obtained.

4 (9) A person who knowingly makes a false statement on a  
5 nonobligated spouse allocation form is subject to a penalty of  
6 \$25.00 or 25% of the excessive claim for his or her share of the  
7 refund, whichever is greater, and other penalties as provided in  
8 this ordinance.

9 (10) A nonobligated spouse to whom the administrator or the  
10 department has sent a notice under subsection (6), who fails to  
11 file a nonobligated spouse allocation form within 30 days after the  
12 date the notice was mailed, shall be barred from commencing any  
13 action against the city or the department to recover an amount  
14 withheld to satisfy a liability of the obligated spouse to which a  
15 joint tax refund is applied under this section. The payment by the  
16 city or the department of any amount applied to a liability of a  
17 taxpayer under this section shall release the department or the  
18 city and the administrator from all liability to the obligated  
19 spouse, the nonobligated spouse, and any other person having or  
20 claiming any interest in the amount paid. A payment by the  
21 department of treasury under this subsection shall be made from the  
22 city income tax trust fund created in section 5 of chapter 1.

23 (11) As used in this section:

24 (a) "Nonobligated spouse" means a person who has filed a joint  
25 city income tax return and who is not liable for an obligation of  
26 his or her spouse described in this ordinance.

27 (b) "Obligated spouse" means a person who has filed a joint

1 city income tax return and who is liable for an obligation  
2 described in this ordinance for which his or her spouse is not  
3 liable.

4 Enacting section 1. This amendatory act does not take effect  
5 unless Senate Bill No.\_\_\_\_ or House Bill No. 4461 (request no.  
6 00240'15) of the 98th Legislature is enacted into law.