

Legislative Analysis



CITY INCOME TAX COLLECTION PROCEDURES

Phone: (517) 373-8080
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House Bill 4618 as enacted
Public Act 456 of 2018

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5025 as enacted
Public Act 553 of 2018

Sponsor: Rep. Wendell Byrd
House Committee: Tax Policy
Senate Committee: Government Operations
Complete to 2-11-19

SUMMARY:

House Bills 4618 and 5025 modify the City Income Tax Act and the Revenue Act, respectively, to provide new city income tax collection procedures for the City of Detroit (“City”) and the Michigan Department of Treasury (“department”). Pursuant to an agreement signed under the City Income Tax Act, the department provides administration, enforcement, and collection functions for the City’s city income tax.

House Bill 4618 authorizes an employer outside a city with a population of 600,000 or more that imposes a city income tax (i.e., the City of Detroit) to voluntarily register to withhold taxes of employees that are residents of the City. An employee of the employer who elects to withhold city income taxes for the City cannot opt out. An employer who elects to withhold city income taxes for the City must withhold city income taxes from all employees who are residents of the City.

If an employer elects to withhold taxes and subsequently wants to discontinue the practice, the employer must file a written notice with the City and the department as acting administrator of the city income tax for the City.

The bill authorizes the City to recover city income taxes with interest and penalties without a judgment or order from a court through the imposition of a lien on property owned or wages, or other income, reported on a Federal W-2 or 1099 form. The lien attaches to the property for seven years after the date of attachment and may be extended for another seven years by refileing within six months of the initial lien’s expiration.

The lien takes precedence over all other liens and encumbrances, except bona fide liens recorded before the date a lien filed under this bill is recorded. Bona fide liens only take precedence to the extent of disbursements made under a financing arrangement before the 46th day after the date of the tax lien recording or before the person making the disbursements had actual knowledge of a tax lien recording under this ordinance, whichever is earlier.

A purchaser or succeeding purchaser of property upon which a lien executed under this bill is attached is personally liable for the unpaid taxes due. The liability is limited to the value of the

property less any proceeds that were applied to the balances due on secured interests which are superior to the lien recorded.

The bill also permits the City to cause a demand to be made on a taxpayer for payment of city income taxes due. The demand applies to property owned and wages, or other income, reported on a Federal W-2 or 1099. If the liability is not paid within ten days of the demand and if proceedings are not taken to review the liability, a warrant may be issued. The City may levy the amount of the deficiency on all property and sell the property found within the State for the payment of the amount due, the cost of executing the warrant, and the additional penalties and interest.

A person who refuses or fails to surrender any property subject to levy, upon demand by the City, is personally liable to the City for a sum equal to the value of the property not surrendered, not to exceed the amount due for which the levy was made together with the costs and interests on the sum. Additionally, a person failing to surrender property without reasonable cause is liable for a penalty equal to 50% of the value of the property not surrendered plus costs and interest.

Upon satisfaction of the tax liability, the City must file a release of the lien within 20 business days of payment. If the City files for a lien and, upon request, determines that the taxpayer named on the lien has no interest in certain properties owned by another person, the City must file a certificate of nonattachment with all due haste but not more than five days after the City determines that the lien was recorded or filed against property to which the City does not have a lien interest.

Once the City determines that a tax liability is satisfied, it must serve a release of levy on the person that was served a warrant or warrant-notice of levy not more than ten days following the payment of the tax liability. Additionally, if, after issuing a warrant or warrant-notice of levy, the City determines that the property is not subject to levy, the City must serve a release of levy with all due haste but not more than five business days after the determination.

The City must reimburse a person for any fee paid as a result of an erroneous recording or filing of a lien or erroneous issuance and service of a warrant or warrant-notice.

If the tax liability is satisfied and the City subsequently files a lien, warrant, or warrant-notice of levy determined to be in error, the City must file for recording a certificate of withdrawal of the lien, in the case of a lien, or issue a release of levy, in the case of the warrant or warrant notice of levy, with all due haste but not more than five business days after the determination of error is made.

House Bill 5025 adds “a known city income tax liability for a [city income] tax administered by the department” to the list of liabilities to which the department may apply a state income tax refund. Currently, the City of Detroit is the only city that has an agreement with the department to administer and collect city income taxes on its behalf.

MCL 141.506, et al. (House Bill 4618)
MCL 205.30a (House Bill 5025)

BRIEF BACKGROUND:

The City Income Tax Act (1964 PA 284) permits a city to levy an income tax after the city has adopted the uniform city income tax ordinance. Cities can only impose an income tax if one of the following applies: 1) the city had a city income tax prior to 1995, or 2) after 1995, the city income tax is approved by the voters of the city. The Department of Treasury website provides links for city income tax forms for 22 Michigan cities.¹

Treasury began processing Detroit's individual income taxes in January 2016 (for tax year 2015) and corporate income taxes in January 2017 (for tax year 2016). According to a Treasury press release, the transition was part of Detroit's post-bankruptcy management plan.² The city income tax rates are: 2.4% (resident), 1.2% (non-resident), and 2.0% (corporate). In 2017, the Detroit city income tax totaled \$292.7 million of which \$151.1 million came from non-residents. Of the total amount collected between \$10.0 and \$15.0 million is received from corporations.

FISCAL IMPACT:

The bills would increase city income tax revenues for the City of Detroit by an unknown, but likely significant amount. While administrative costs for the City of Detroit and the Department of Treasury could increase, any costs would be more than offset by the increase in revenue due to the enhanced collection methods.

If additional cities signed agreements with the Department of Treasury, the provisions in House Bill 5025 would apply and would presumably lead to increased city income tax revenue collections for those cities by an unknown amount.

Fiscal Analyst: Ben Gielczyk

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

¹ Michigan Department of Treasury, "City Income Tax Forms": <http://www.michigan.gov/taxes/0,4676,7-238-44143-287984--,00.html>

² State of Michigan, Department of Treasury, "State to begin processing Detroit individual income tax returns; changes to take effect for 2015 tax year": http://www.michigan.gov/documents/taxes/CITA_Press_Release_505696_7.pdf