

Legislative Analysis



CHANGE FILING DEADLINE FOR WITHHOLDING STATEMENT AND RETURN

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House Bill 5091 (H-2) as reported from committee
Sponsor: Rep. Bronna Kahle
Committee: Tax Policy
Complete to 2-8-18

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

(Enacted as Public Act 118 of 2018)

SUMMARY:

House Bill 5091 would amend the Income Tax Act (MCL 206.711) to change the annual date, from February 28 to January 31, by which a person must file an income tax withholding statement and an annual reconciliation return with the Michigan Department of Treasury. The bill would also require returns or reports made by certain employers to be made electronically.

Currently under the Act, **every person required to deduct and withhold income taxes** for a tax year must send to the individual receiving the income, by January 31 of the succeeding year, a statement of the total income paid during the tax year and the amount deducted or withheld. The person must file this same statement, along with an annual reconciliation return, MI-W3, with the Department of Treasury by February 28.¹ The bill would change this deadline to January 31. This would begin for the 2018 tax year, and continue each tax year thereafter.

Also under the Act, **every person required to deduct or withhold income taxes** must make a return or report in form and content and at times prescribed by the department. The bill would require an employer with more than 250 employees to file its annual return or report in electronic form.

[Section 703 of the Income Tax Act requires certain persons to deduct and withhold estimated income taxes from payments made to individuals subject to the tax. Generally speaking, those required to withhold taxes include employers who must withhold federal income taxes under the Internal Revenue Code, payers of taxable pensions or annuities, and casinos and racetracks. Certain flow-through entities are also required to withhold under certain circumstances.]

FISCAL IMPACT:

House Bill 5091 would have no operational fiscal impact on the Department of Treasury. However, according to the Department of Treasury, the provisions of the bill could assist with fraud detection efforts and improved data matching as it relates to income taxes.

¹ For more information on withholding documentation, see "2016 Michigan Income Tax Withholding Guide," Michigan Department of Treasury. http://www.michigan.gov/documents/taxes/446_2016_519513_7.pdf

BRIEF DISCUSSION:

According to testimony, the changes proposed in the bill mirror a federal change enacted in 2015. The Protecting Americans from Tax Hikes (PATH) Act required employers to file copies of their W-2s with the Social Security Administration by January 31, as opposed to the end of February.² Moving the deadline up was intended to help the IRS improve its efforts to spot errors on returns filed by taxpayers. By receiving W-2 information earlier, the IRS would be able to more easily verify the legitimacy of tax returns and properly issue refunds. Reportedly, many states have already changed filing deadlines with their respective tax processing agencies to mirror the federal changes. The proposed changes in the bill—moving the filing date up and requiring e-filing for certain employers—will allow the Department of Treasury to receive financial information and verify tax returns in real time, supporting its efforts to reduce fraudulent returns and identity theft.

POSITIONS:

A representative of the Michigan Department of Treasury testified in support of the bill.
(1-31-18)

Representatives of the following entities indicated support for the bill (1-31-18):

Michigan Chamber of Commerce
Small Business Association of Michigan
National Federation of Independent Business

Legislative Analyst: Patrick Morris
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.

² See “Reminder: Employers Face New Jan. 31 W-2 Filing Deadline; Some Refunds Delayed Until Feb. 15.” U.S. Internal Revenue Service. <https://www.irs.gov/newsroom/reminder-employers-face-new-jan-31-w2-filing-deadline-some-refunds-delayed-until-feb-15>