

HOUSE BILL No. 4618

May 17, 2017, Introduced by Reps. Byrd and Chirkun and referred to the Committee on Tax Policy.

A bill to amend 1964 PA 284, entitled "City income tax act," by amending section 4 of chapter 1, sections 64a, 73, 82, 84, 85, 92, and 93 of chapter 2, and section 60 of chapter 3 (MCL 141.504, 141.664a, 141.673, 141.682, 141.684, 141.685, 141.692, 141.693, and 141.760), section 64a of chapter 2 as added and sections 73, 82, 84, 85, 92, and 93 of chapter 2 and section 60 of chapter 3 as amended by 1996 PA 478, and by adding section 2b to chapter 1 and sections 86a, 86b, 86c, 86d, 96, and 97 to chapter 2.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

SEC. 2B. BEGINNING JANUARY 1, 2017, NOTWITHSTANDING ANY ORDINANCE OF THE CITY TO THE CONTRARY, A CITY THAT LEVIES A TAX AUTHORIZED BY THIS ACT SHALL COMPLY WITH CHANGES MADE BY THE

1 **AMENDATORY ACT THAT ADDED THIS SECTION REGARDLESS OF WHETHER THE**
2 **CITY AMENDS ITS CITY INCOME TAX ORDINANCE TO INCLUDE THOSE CHANGES.**

3 Sec. 4. (1) ~~The state commissioner of revenue~~ **DEPARTMENT** shall
4 promulgate uniform rules pursuant to ~~Act No. 306 of the Public Acts~~
5 ~~of 1969, as amended, being sections 24.201 to 24.315 of the~~
6 ~~Michigan Compiled Laws,~~ **THE ADMINISTRATIVE PROCEDURES ACT OF 1969,**
7 **1969 PA 306, MCL 24.201 TO 24.328,** governing the form and manner of
8 appeal from a ~~final determination~~ **SPECIAL RULING OR A RULE ADOPTED**
9 by a city affecting a taxpayer, employee, or other person and
10 purporting to be made under or in administration of the uniform
11 city income tax ordinance. The rules shall provide at least 30 days
12 after notice of a ~~final assessment, denial of claim for refund,~~
13 special ruling ~~or rule of the city~~ in which the appeal may be
14 filed. The rules shall provide to the taxpayer, employer, other
15 person, or an authorized representative of the person and to the
16 city an opportunity to present evidence and to examine witnesses
17 relating to the matter under appeal. The hearing shall be held in
18 compliance with ~~Act No. 267 of the Public Acts of 1976, being~~
19 ~~sections 15.261 to 15.275 of the Michigan Compiled Laws.~~ **THE OPEN**
20 **MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.** Public notice of
21 the time, date, and place of the hearing shall be given in the
22 manner required by ~~Act No. 267 of the Public Acts of 1976.~~ **THE OPEN**
23 **MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.** Promptly after
24 completion of the hearing, the ~~commissioner~~ **DEPARTMENT** shall
25 affirm, reverse, or modify by written order the action of the city
26 which is the subject matter of the appeal, and shall furnish a copy
27 of the **DECISION AND** order ~~and opinion~~ to the appellant and to the

1 authorized official of the city.

2 (2) A DECISION AND ORDER ISSUED BY THE DEPARTMENT ON A SPECIAL
3 RULING OR A RULE ADOPTED BY A CITY MAY BE APPEALED IN THE MANNER
4 AND FORM AND WITHIN THE TIME PROVIDED BY THE ADMINISTRATIVE
5 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. A
6 HEARING CONDUCTED BY A CITY PURSUANT TO SECTION 84 OR 92 OF CHAPTER
7 2 SHALL ONLY BE APPEALED AS PROVIDED IN SECTION 93(2) OF CHAPTER 2.

8 CHAPTER 2

9 Sec. 64a. (1) If a person liable for the tax imposed under
10 this ordinance sells a business or the stock of goods of a business
11 or quits a business, the person shall make a final return to the
12 city or the department within 15 days after the date the business
13 or stock of goods is sold or the person quits the business. The
14 purchaser or succeeding purchasers, if any, who purchase a going or
15 closed business or stock of goods of a going or closed business
16 shall escrow sufficient money to cover the amount of taxes,
17 interest, and penalties that may be due and unpaid until the former
18 owner produces a receipt from the administrator that shows that the
19 taxes due have been paid, or a certificate that states that taxes
20 are not due. If the owner provides a written waiver of
21 confidentiality, the administrator may release to a purchaser a
22 business's known tax liability for the purposes of establishing an
23 escrow account for the payment of taxes. If the purchaser or
24 succeeding purchasers of a business or stock of goods of a business
25 fail to comply with the escrow requirements of this subsection, the
26 purchaser is personally liable for the payment of the taxes,
27 interest, and penalties accrued and unpaid by the business of the

1 former owner. The purchaser's or succeeding purchaser's personal
2 liability is limited to the fair market value of the business less
3 the amount of any proceeds applied to balances due on secured
4 interests that are superior to any lien provided for in this
5 ordinance.

6 (2) If a corporation that is liable for the tax imposed under
7 this ordinance fails for any reason to file the required returns or
8 to pay the tax due, any officers of the corporation that have
9 control or supervision of, or who are charged with the
10 responsibility for, making the returns or payments are personally
11 liable for the failure to file or pay. The signature of any
12 corporate officer on a return or negotiable instrument submitted in
13 payment of a tax is prima facie evidence of the officer's
14 responsibility for making the returns and payments. The dissolution
15 of a corporation does not discharge an officer's liability for a
16 prior failure of the corporation to make a return or remit a tax
17 due. The sum due for a liability may be assessed and collected
18 under this ordinance.

19 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2), FOR TAXES
20 ADMINISTERED BY THE DEPARTMENT THROUGH AN AGREEMENT ENTERED INTO
21 UNDER SECTION 9 OF CHAPTER 1 WITH A CITY THAT HAS A POPULATION OF
22 MORE THAN 600,000 ONLY, BOTH OF THE FOLLOWING APPLY:

23 (A) IF A PERSON LIABLE FOR A TAX ADMINISTERED UNDER THIS
24 ORDINANCE SELLS OUT A BUSINESS OR ITS STOCK OF GOODS OR QUILTS THE
25 BUSINESS, THE PERSON SHALL MAKE A FINAL RETURN WITHIN 15 DAYS AFTER
26 THE DATE OF SELLING OR QUITTING THE BUSINESS. THE PURCHASER OR
27 SUCCEEDING PURCHASERS, IF ANY, THAT PURCHASE A GOING OR CLOSED

1 BUSINESS OR ITS STOCK OF GOODS SHALL ESCROW SUFFICIENT MONEY TO
2 COVER THE AMOUNT OF TAXES, INTEREST, AND PENALTIES AS MAY BE DUE
3 AND UNPAID UNTIL THE FORMER OWNER PRODUCES A RECEIPT FROM THE
4 DEPARTMENT SHOWING THAT THE TAXES DUE ARE PAID, OR A CERTIFICATE
5 STATING THAT TAXES ARE NOT DUE. UPON THE OWNER'S WRITTEN WAIVER OF
6 CONFIDENTIALITY, THE DEPARTMENT SHALL, WITHIN 60 DAYS OF RECEIPT OF
7 THE REQUEST, RELEASE TO A PURCHASER A BUSINESS'S KNOWN OR ESTIMATED
8 TAX LIABILITY FOR THE PURPOSES OF ESTABLISHING AN ESCROW ACCOUNT
9 FOR THE PAYMENT OF TAXES. THE DEPARTMENT MAY ESTIMATE TAX LIABILITY
10 BASED ON PRIOR RETURNS AND PAYMENTS. IF THE DEPARTMENT BELIEVES
11 THAT A RETURN MADE OR PAYMENT DOES NOT SUPPLY SUFFICIENT
12 INFORMATION FOR AN ACCURATE DETERMINATION, THE DEPARTMENT MAY MAKE
13 AN ESTIMATE BASED ON OTHER AVAILABLE INFORMATION. IF THE PURCHASER
14 OR SUCCEEDING PURCHASERS OF A BUSINESS OR ITS STOCK OF GOODS FAIL
15 TO COMPLY WITH THE ESCROW REQUIREMENTS OF THIS SUBSECTION, THE
16 PURCHASER IS PERSONALLY LIABLE FOR THE PAYMENT OF THE TAXES,
17 INTEREST, AND PENALTIES ACCRUED AND UNPAID BY THE BUSINESS OF THE
18 FORMER OWNER. IF THE PURCHASER OR SUCCEEDING PURCHASERS OF A
19 BUSINESS OR ITS STOCK OF GOODS COMPLY WITH THE ESCROW REQUIREMENTS
20 OF THIS SUBDIVISION, THE PURCHASER SHALL NOT BE HELD LIABLE FOR
21 MORE THAN THE KNOWN OR ESTIMATED TAX LIABILITY DISCLOSED BY THE
22 DEPARTMENT AND HELD IN ESCROW. HOWEVER, THE PURCHASER SHALL NOT BE
23 HELD LIABLE IF THE DEPARTMENT HAS FAILED TO PROVIDE THE INFORMATION
24 REQUESTED WITHIN 60 DAYS. FOR A PURCHASER OR SUCCEEDING PURCHASER
25 THAT HAS NOT COMPLIED WITH THE ESCROW REQUIREMENTS OF THIS
26 SUBDIVISION, THE PURCHASER'S OR SUCCEEDING PURCHASER'S PERSONAL
27 LIABILITY IS LIMITED TO THE FAIR MARKET VALUE OF THE BUSINESS LESS

1 THE AMOUNT OF ANY PROCEEDS THAT ARE APPLIED TO BALANCES DUE ON
2 SECURED INTERESTS THAT ARE SUPERIOR TO ANY LIEN FILED BY OR ON
3 BEHALF OF THE CITY.

4 (B) IF A BUSINESS LIABLE FOR TAXES ADMINISTERED UNDER THIS
5 ORDINANCE FAILS, FOR ANY REASON AFTER ASSESSMENT, TO FILE THE
6 REQUIRED RETURNS OR TO PAY THE TAX DUE, ANY OF ITS OFFICERS,
7 MEMBERS, MANAGERS OF A MANAGER-MANAGED LIMITED LIABILITY COMPANY,
8 OR PARTNERS WHO THE DEPARTMENT DETERMINES, BASED ON EITHER AN AUDIT
9 OR AN INVESTIGATION, ARE RESPONSIBLE PERSONS, ARE PERSONALLY LIABLE
10 FOR THE FAILURE TO PAY THE TAXES. THE DISSOLUTION OF A BUSINESS
11 DOES NOT DISCHARGE A RESPONSIBLE PERSON'S LIABILITY FOR A PRIOR
12 FAILURE OF THE BUSINESS TO FILE A RETURN OR PAY THE TAX DUE. THE
13 SUM DUE FOR A LIABILITY MAY BE ASSESSED AND COLLECTED AS PROVIDED
14 UNDER THIS ORDINANCE. THE DEPARTMENT SHALL PROVIDE A RESPONSIBLE
15 PERSON ASSESSED UNDER THIS SECTION WITH NOTICE OF ANY AMOUNT
16 COLLECTED BY THE DEPARTMENT FROM ANY OTHER RESPONSIBLE PERSON
17 DETERMINED TO BE LIABLE UNDER THIS SUBSECTION OR PURCHASER
18 DETERMINED TO BE LIABLE UNDER SUBDIVISION (A) THAT IS ATTRIBUTABLE
19 TO THE ASSESSMENT. THE DEPARTMENT SHALL NOT ASSESS A RESPONSIBLE
20 PERSON UNDER THIS SECTION MORE THAN 4 YEARS AFTER THE DATE OF THE
21 ASSESSMENT ISSUED TO THE BUSINESS. A RESPONSIBLE PERSON MAY
22 CHALLENGE THE VALIDITY OF AN ASSESSMENT TO THE SAME EXTENT THAT THE
23 BUSINESS COULD HAVE CHALLENGED THAT ASSESSMENT UNDER THIS ORDINANCE
24 WHEN ORIGINALLY ISSUED. THE DEPARTMENT HAS THE BURDEN TO FIRST
25 PRODUCE PRIMA FACIE EVIDENCE TO ESTABLISH THAT THE PERSON IS A
26 RESPONSIBLE PERSON. IN A SEPARATE PROCEEDING BEFORE THE CIRCUIT
27 COURT, A RESPONSIBLE PERSON FOUND TO BE LIABLE FOR THE ASSESSMENT

1 UNDER THIS SECTION MAY RECOVER FROM OTHER RESPONSIBLE PERSONS AN
2 AMOUNT EQUAL TO THE ASSESSMENT OR PORTION OF THE ASSESSMENT BASED
3 ON THAT PERSON'S PROPORTIONATE LIABILITY FOR THE ASSESSMENT AS
4 DETERMINED IN THAT PROCEEDING. BEFORE ASSESSING A RESPONSIBLE
5 PERSON AS LIABLE UNDER THIS SUBSECTION FOR THE TAX ASSESSED TO THE
6 BUSINESS, THE DEPARTMENT SHALL FIRST ASSESS A PURCHASER OR
7 SUCCEEDING PURCHASER OF THE BUSINESS PERSONALLY LIABLE UNDER
8 SUBDIVISION (A) IF THE DEPARTMENT HAS INFORMATION THAT CLEARLY
9 IDENTIFIES A PURCHASER OR SUCCEEDING PURCHASER UNDER SUBDIVISION
10 (A) AND ESTABLISHES THAT THE ASSESSMENT OF THE PURCHASER OR
11 SUCCEEDING PURCHASER WOULD PERMIT THE DEPARTMENT TO COLLECT THE
12 ENTIRE AMOUNT OF THE TAX ASSESSMENT OF THE BUSINESS. THE DEPARTMENT
13 MAY ASSESS A RESPONSIBLE PERSON UNDER THIS SUBSECTION
14 NOTWITHSTANDING THE LIABILITY OF A PURCHASER OR SUCCEEDING
15 PURCHASER UNDER SUBDIVISION (A) IF THE PURCHASER OR SUCCEEDING
16 PURCHASER FAILS TO PAY THE ASSESSMENT.

17 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ORDINANCE,
18 UPON REQUEST OF A RESPONSIBLE PERSON THAT WAS ISSUED AN INTENT TO
19 ASSESS BY THE DEPARTMENT FOR LIABILITY UNDER SUBSECTION (3) (B), THE
20 DEPARTMENT SHALL DISCLOSE ANY DOCUMENTS CONSIDERED IN THE
21 DEPARTMENT'S AUDIT OR INVESTIGATION IN DETERMINING THAT THE PERSON
22 IS A RESPONSIBLE PERSON AND IS PERSONALLY LIABLE FOR THE ASSESSMENT
23 AND ANY OTHER DOCUMENTS THAT THE TRIBUNAL OR COURT DETERMINES ARE
24 NECESSARY FOR A FAIR ADJUDICATION OF A PERSON'S LIABILITY UNDER
25 SUBSECTION (3) (B).

26 (5) AS USED IN SUBSECTIONS (3) AND (4):

27 (A) "BUSINESS" MEANS A CORPORATION, LIMITED LIABILITY COMPANY,

1 LIMITED LIABILITY PARTNERSHIP, PARTNERSHIP, OR LIMITED PARTNERSHIP.

2 (B) "RESPONSIBLE PERSON" MEANS AN OFFICER, MEMBER, MANAGER OF
3 A MANAGER-MANAGED LIMITED LIABILITY COMPANY, OR PARTNER FOR THE
4 BUSINESS WHO CONTROLLED, SUPERVISED, OR WAS RESPONSIBLE FOR THE
5 FILING OF RETURNS OR PAYMENT OF EMPLOYEE WITHHOLDING TAXES OWED
6 DURING THE TIME PERIOD OF DEFAULT AND WHO, DURING THE TIME PERIOD
7 OF DEFAULT, WILLFULLY FAILED TO FILE A RETURN OR PAY THE TAX DUE.
8 THE SIGNATURE, INCLUDING ELECTRONIC SIGNATURE, OF ANY OFFICER,
9 MEMBER, MANAGER OF A MANAGER-MANAGED LIMITED LIABILITY COMPANY, OR
10 PARTNER ON RETURNS OR NEGOTIABLE INSTRUMENTS SUBMITTED IN PAYMENT
11 OF TAXES OF THE BUSINESS DURING THE TIME PERIOD OF DEFAULT IS PRIMA
12 FACIE EVIDENCE THAT THE PERSON IS A RESPONSIBLE PERSON. A
13 SIGNATURE, INCLUDING ELECTRONIC SIGNATURE, ON A RETURN OR
14 NEGOTIABLE INSTRUMENT SUBMITTED IN PAYMENT OF TAXES AFTER THE TIME
15 PERIOD OF DEFAULT ALONE IS NOT PRIMA FACIE EVIDENCE THAT THE PERSON
16 IS A RESPONSIBLE PERSON FOR THE TIME PERIOD OF DEFAULT BUT MAY BE
17 CONSIDERED ALONG WITH OTHER EVIDENCE TO MAKE A PRIMA FACIE CASE
18 THAT THE PERSON IS A RESPONSIBLE PERSON. WITH RESPECT TO A RETURN
19 OR NEGOTIABLE INSTRUMENT SUBMITTED IN PAYMENT OF TAXES BEFORE THE
20 TIME PERIOD OF DEFAULT, THE SIGNATURE, INCLUDING ELECTRONIC
21 SIGNATURE, ON THAT DOCUMENT ALONG WITH EVIDENCE, OTHER THAN THAT
22 DOCUMENT, SUFFICIENT TO DEMONSTRATE THAT THE SIGNATORY WAS AN
23 OFFICER, MEMBER, MANAGER OF A MANAGER-MANAGED LIMITED LIABILITY
24 COMPANY, OR PARTNER DURING THE TIME PERIOD OF DEFAULT IS PRIMA
25 FACIE EVIDENCE THAT THE PERSON IS A RESPONSIBLE PERSON.

26 (C) "TIME PERIOD OF DEFAULT" MEANS THE TAX PERIOD FOR WHICH
27 THE BUSINESS FAILED TO FILE THE RETURN OR PAY THE TAX DUE UNDER

1 SUBSECTION (3) AND THROUGH THE LATER OF THE DATE SET FOR THE FILING
2 OF THE TAX RETURN OR MAKING THE REQUIRED PAYMENT.

3 (D) "WILLFUL" OR "WILLFULLY" MEANS THE PERSON KNEW OR HAD
4 REASON TO KNOW OF THE OBLIGATION TO FILE A RETURN OR PAY THE TAX,
5 BUT INTENTIONALLY OR RECKLESSLY FAILED TO FILE THE RETURN OR PAY
6 THE TAX.

7 Sec. 73. (1) If a taxpayer or employer fails or refuses to
8 make a return or payment as required, in whole or in part, or if
9 the administrator or the department has reason to believe that a
10 return made does not supply sufficient information for an accurate
11 determination of the amount of tax due, the administrator or the
12 department may obtain information on which to base an assessment of
13 the tax. The administrator or the department may examine the books,
14 papers, and records of any person, employer, taxpayer, or agent or
15 representative of any person, employer, or taxpayer or audit the
16 accounts of any person, employer, or taxpayer or any other records
17 pertaining to the tax, to verify the accuracy and completeness of a
18 return filed, or, if no return was filed, to ascertain the tax,
19 withholding, penalties, or interest due under this ordinance.

20 (2) The administrator or the department may examine any
21 person, under oath, concerning income which was or should have been
22 reported for taxation under this ordinance, and for this purpose
23 may compel the production of books, papers, and records and the
24 attendance of all parties before him or her, whether as parties or
25 witnesses, if he or she believes those persons have knowledge of
26 the income. In addition, for tax years after the 1996 tax year and
27 for which a city has entered into an agreement with the department

~~of treasury~~ pursuant to section 9 of chapter 1, all of the following apply to implement this section:

(a) The department ~~of treasury~~ shall send to the taxpayer or employer a letter of inquiry stating, in a courteous and unthreatening manner, the department's opinion that the taxpayer or employer needs to furnish further information or owes taxes to the city, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the taxpayer or employer may initiate communication with the department to resolve any dispute. A letter of inquiry may be served on the taxpayer in any manner determined appropriate by the department. ~~of treasury.~~ This subdivision does not apply in any of the following circumstances:

(i) The taxpayer or employer files a return that shows a tax due and fails to pay that tax.

(ii) The deficiency resulted from an audit of the taxpayer's or employer's books and records by the city or the department.

(iii) The taxpayer or employer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department ~~of treasury~~ sends the taxpayer or employer a letter of inquiry or if a letter of inquiry is not required under subdivision (a), the department, after determining the amount of tax due from a taxpayer or employer, shall give notice to the taxpayer or employer of the ~~department of treasury's~~ **DEPARTMENT'S** notice of intent to assess the tax. **THE DEPARTMENT SHALL SERVE THE INTENT TO ASSESS THE TAX UPON THE TAXPAYER OR EMPLOYER IN PERSON, BY FIRST-CLASS MAIL, OR BY REGISTERED OR CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE**

1 TAXPAYER OR EMPLOYER. PROOF OF MAILING THE INTENT TO ASSESS IS
2 PRIMA FACIE EVIDENCE OF RECEIPT OF THE INTENT TO ASSESS THE TAX BY
3 THE ADDRESSEE. The notice shall include all of the following:

4 (i) The amount of the tax the department ~~of treasury~~ claims
5 the taxpayer or employer owes.

6 (ii) The reason for the deficiency.

7 (iii) A statement advising the taxpayer or employer of his or
8 her right to file a protest and to a hearing with the department.
9 ~~of treasury.~~

10 (C) IF THE DEPARTMENT DETERMINES THAT A CLAIM FOR REFUND DOES
11 NOT SUPPLY SUFFICIENT INFORMATION FOR AN ACCURATE DETERMINATION OF
12 REFUND DUE, THE DEPARTMENT SHALL ISSUE A NOTICE OF REFUND
13 ADJUSTMENT OR DENIAL. THE NOTICE SHALL BE SERVED UPON THE TAXPAYER
14 OR EMPLOYER IN PERSON, BY FIRST-CLASS MAIL, OR BY REGISTERED OR
15 CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE TAXPAYER OR
16 EMPLOYER, AND THE NOTICE SHALL INCLUDE ALL OF THE FOLLOWING:

17 (i) THE AMOUNT OF THE ADJUSTMENT OR DENIAL.

18 (ii) THE REASON FOR THE ADJUSTMENT OR DENIAL.

19 (iii) A STATEMENT ADVISING THE TAXPAYER OR EMPLOYER OF HIS OR
20 HER RIGHT TO FILE A PROTEST AND TO A HEARING WITH THE DEPARTMENT. A
21 SEPARATE NOTICE IS NOT REQUIRED UNDER THIS SUBDIVISION IF A LETTER
22 OF INQUIRY AND A NOTICE OF INTENT TO ASSESS ARE ISSUED UNDER
23 SUBDIVISIONS (A) AND (B).

24 (3) A taxpayer or employer has ~~30~~60 days after receipt of a
25 notice of intent to assess OR OF REFUND ADJUSTMENT OR DENIAL within
26 which to file a written protest with the department. ~~of treasury.~~
27 If a written protest is received, the department ~~of treasury~~ shall

1 give the taxpayer or employer or duly authorized representative of
2 the taxpayer or employer an opportunity to be heard and present
3 evidence and arguments in his or her behalf. **A HEARING UNDER THIS**
4 **SUBSECTION IS NOT SUBJECT TO THE ADMINISTRATIVE PROCEDURES ACT OF**
5 **1969, 1969 PA 306, MCL 24.201 TO 24.328.**

6 (4) If a protest to the notice of intent to assess the tax
7 under subsection (2) is determined by the department ~~of treasury~~ to
8 be a frivolous protest or a desire by the taxpayer or employer to
9 delay or impede the administration of the tax under this ordinance,
10 a penalty of \$25.00 or 25% of the amount of tax under protest,
11 whichever is greater, shall be added to the tax.

12 (5) **UPON RECEIPT OF A TAXPAYER'S WRITTEN PROTEST FILED**
13 **PURSUANT TO SUBSECTION (3), THE DEPARTMENT SHALL SET A MUTUALLY**
14 **AGREED UPON OR REASONABLE TIME AND PLACE FOR A HEARING AND SHALL**
15 **GIVE THE TAXPAYER REASONABLE WRITTEN NOTICE OF THAT HEARING NOT**
16 **LESS THAN 20 DAYS BEFORE THE HEARING. THE NOTICE SHALL SPECIFY THE**
17 **INTENT TO ASSESS OR THE REFUND ADJUSTMENT OR DENIAL AND THE TAX**
18 **YEAR THAT IS THE SUBJECT OF THE HEARING. THE TAXPAYER MAY APPEAR OR**
19 **BE REPRESENTED BY ANY PERSON BEFORE THE DEPARTMENT AT THE HEARING**
20 **AND MAY PRESENT TESTIMONY AND ARGUMENT. AT THE PARTY'S OWN EXPENSE**
21 **AND WITH ADVANCE NOTICE TO THE OTHER PARTY, A TAXPAYER OR THE**
22 **DEPARTMENT, OR BOTH, MAY MAKE AN AUDIO RECORDING OF THE HEARING. A**
23 **TAXPAYER THAT HAS MADE A TIMELY REQUEST FOR A HEARING MAY AT ANY**
24 **TIME WITHDRAW THAT REQUEST BY FILING WRITTEN NOTICE WITH THE**
25 **DEPARTMENT. UPON RECEIPT OF THE REQUEST FOR WITHDRAWAL FROM THE**
26 **HEARING, THE DEPARTMENT SHALL ISSUE A DECISION AND ORDER AND, WHERE**
27 **APPROPRIATE, A FINAL ASSESSMENT, FROM WHICH A TAXPAYER MAY SEEK AN**

1 APPEAL TO THE TAX TRIBUNAL AS PROVIDED UNDER SECTION 93.

2 (6) DURING THE COURSE OF A HEARING CONDUCTED BY THE DEPARTMENT
3 PURSUANT TO SUBSECTION (5), THE TAXPAYER BY WRITTEN NOTICE MAY
4 CONVERT THE TAXPAYER'S PROTEST OF AN ASSESSMENT TO A CLAIM FOR A
5 REFUND. THE HEARING SHALL CONTINUE AND THE DEPARTMENT SHALL RENDER
6 A DECISION AND ORDER IN WRITING SETTING FORTH THE REASONS AND
7 AUTHORITY FOR GRANTING OR DENYING THE CLAIM OF REFUND, IN WHOLE OR
8 IN PART, OR UPHOLDING THE INTENT TO ASSESS, IN WHOLE OR IN PART. IF
9 THE INTENT TO ASSESS IS UPHELD, IN WHOLE OR IN PART, THE DEPARTMENT
10 SHALL ISSUE A FINAL ASSESSMENT SETTING FORTH THE TOTAL AMOUNT FOUND
11 TO BE DUE AND PAYABLE. THE DECISION AND ORDER ARE LIMITED TO THE
12 SUBJECT OF THE HEARING AS INCLUDED IN THE NOTICE UNDER SUBSECTION
13 (2) (B) .

14 (7) FOR AUDITS COMMENCED AFTER JANUARY 1, 2018, THE DEPARTMENT
15 SHALL COMPLETE FIELDWORK AND PROVIDE A WRITTEN PRELIMINARY AUDIT
16 DETERMINATION FOR ANY TAX YEAR NO LATER THAN 1 YEAR AFTER THE AUDIT
17 COMMENCES. ANY AUDIT COMMENCED BEFORE THE PERIOD PROVIDED IN
18 SECTION 88 MAY BE COMPLETED WITHIN 1 YEAR AND ANY ASSESSMENT OR
19 REFUND DETERMINED AS A RESULT OF THE AUDIT MAY BE MADE WITHIN 9
20 MONTHS OF THE DATE OF THE PRELIMINARY AUDIT DETERMINATION
21 NOTWITHSTANDING ANY PROVISION TO THE CONTRARY UNLESS THE TAXPAYER,
22 FOR ANY REASON, REQUESTS RECONSIDERATION OF THE PRELIMINARY AUDIT
23 DETERMINATION OR THE TAXPAYER REQUESTS A HEARING UNDER SECTION 73.
24 A REQUEST FOR RECONSIDERATION BY A TAXPAYER PERMITS, BUT DOES NOT
25 REQUIRE, THE DEPARTMENT TO DELAY THE ISSUANCE OF A FINAL
26 ASSESSMENT.

27 Sec. 82. (1) All taxes imposed in a taxable year before the

1 1992 taxable year on a taxpayer and money withheld by an employer
2 under this ordinance and remaining unpaid after the taxes or money
3 withheld are due bear interest from the due date at the rate of 1/2
4 of 1% per month until paid. For the 1992 taxable year and each
5 subsequent taxable year before the 1997 taxable year, all taxes
6 imposed on a taxpayer and money withheld by an employer under this
7 ordinance and remaining unpaid after the taxes or money withheld
8 are due bear interest from the due date at the current monthly rate
9 of 1 percentage point above the adjusted prime rate per annum per
10 month until the tax or money is paid. For taxable years after the
11 1996 taxable year, if the amount of a tax paid is less than the
12 amount that should have been paid or an excessive claim for credit
13 has been made, the deficiency and interest on the deficiency at the
14 current monthly interest rate of 1 percentage point above the
15 adjusted prime rate per annum from the time the tax was due, and
16 until paid, are due and payable after a final assessment as
17 provided in section 85. A deficiency in an estimated payment
18 required by this ordinance shall be treated in the same manner as a
19 tax due and is subject to the same current monthly interest rate of
20 1 percentage point above the adjusted prime rate per annum from the
21 time the payment was due, until paid. The term "adjusted prime
22 rate" means the average predominant prime rate quoted by not less
23 than 3 commercial banks to large businesses, as determined by the
24 department of treasury. For tax years before the 1997 tax year, the
25 adjusted prime rate is to be based on the average prime rate
26 charged by not less than 3 commercial banks during the 12-month
27 period ending on September 30. One percentage point shall be added

1 to the adjusted prime rate, and the resulting sum shall be divided
2 by 12 to establish the current monthly interest rate. The resulting
3 current monthly interest rate based on the 12-month period ending
4 September 30 becomes effective on January 1 of the following year.
5 For tax years after the 1996 tax year, "adjusted prime rate" means
6 that term as defined in and determined under section 23(2) of Act
7 ~~No. 122 of the Public Acts of 1941, being section 205.23 of the~~
8 ~~Michigan Compiled Laws.1941 PA 122, MCL 205.23.~~

9 (2) A person who fails to file a return, pay the tax, or remit
10 withholding, when due, is liable, in addition to the interest, to a
11 penalty of 1% of the amount of the unpaid tax for each month or
12 fraction of a month, not to exceed a total penalty of 25% of the
13 unpaid tax. If a return is filed or remittance is paid after the
14 time specified and it is shown to the satisfaction of the city or
15 the department that the failure was due to reasonable cause and not
16 to willful neglect, the penalty shall be waived by the
17 administrator or the department. If the total interest or interest
18 and penalty to be assessed is less than \$2.00, the administrator or
19 the department shall instead assess \$2.00. **THE TAXPAYER BEARS THE**
20 **BURDEN OF AFFIRMATIVELY ESTABLISHING, BY CLEAR AND CONVINCING**
21 **EVIDENCE, THAT THE FAILURE TO FILE OR FAILURE TO PAY WAS DUE TO**
22 **REASONABLE CAUSE. REASONABLE CAUSE EXISTS IF, IN SPITE OF**
23 **EXERCISING ORDINARY BUSINESS CARE AND PRUDENCE IN COMPLYING WITH**
24 **FILING AND PAYMENT REQUIREMENTS, THE TAXPAYER WAS UNABLE TO FILE A**
25 **RETURN OR PAY A TAX. TIMELINESS, FACTS, AND CIRCUMSTANCES ARE**
26 **FACTORS THAT ARE CONSIDERED IN DETERMINING THE EXISTENCE OF**
27 **REASONABLE CAUSE.**

1 (3) Except as provided in subsection (4), if any part of the
2 deficiency or an excessive claim for credit is due to negligence,
3 but without intent to defraud, a penalty of \$10.00 or 10% of the
4 total amount of the deficiency in the tax, whichever is greater,
5 plus interest as provided in subsection (1), shall be added. The
6 penalty becomes due and payable after a final assessment is issued
7 as provided in section 85. If a taxpayer subject to a penalty under
8 this subsection demonstrates to the satisfaction of the
9 administrator or the department that the deficiency or excess claim
10 for credit was ~~due to reasonable cause,~~ **NOT DUE TO NEGLIGENCE**, the
11 administrator or the department shall ~~waive~~ **DISMISS** the penalty.
12 **NEGLIGENCE IS THE LACK OF DUE CARE IN FAILING TO DO WHAT A**
13 **REASONABLE AND ORDINARILY PRUDENT PERSON WOULD HAVE DONE UNDER THE**
14 **PARTICULAR CIRCUMSTANCES. THE STANDARD FOR DETERMINING NEGLIGENCE**
15 **IS WHETHER THE TAXPAYER EXERCISED ORDINARY CARE AND PRUDENCE IN**
16 **PREPARING AND FILING A RETURN AND PAYING THE APPLICABLE TAX IN**
17 **ACCORDANCE WITH THE LAW. THE FACTS AND CIRCUMSTANCES OF EACH CASE**
18 **WILL BE CONSIDERED.**

19 (4) If any part of the deficiency or an excessive claim for
20 credit is due to intentional disregard of this ordinance, but
21 without intent to defraud, a penalty of \$25.00 or 25% of the total
22 amount of the deficiency in the tax, whichever is greater, plus
23 interest as provided in subsection (1), shall be added. The penalty
24 becomes due and payable after a final assessment is issued as
25 provided in section 85. If a penalty is imposed under this
26 subsection and the taxpayer subject to the penalty successfully
27 disputes the penalty, the administrator or the department shall not

1 impose a penalty prescribed by subsection (3) to the tax otherwise
2 due. **INTENTIONAL DISREGARD MAY BE NEGATED BY CLEAR AND CONVINCING**
3 **EVIDENCE THAT THE TAXPAYER ACTED IN GOOD FAITH.**

4 (5) If any part of the deficiency or an excessive claim for
5 credit is due to fraudulent intent to evade the tax imposed under
6 this ordinance, or to obtain a refund for a fraudulent claim, a
7 penalty of 100% of the deficiency, plus interest as provided in
8 subsection (1), shall be added. The penalty becomes due and payable
9 after a final assessment is issued as provided in section 85.

10 Sec. 84. (1) For tax years before the 1997 tax year and for
11 tax years after the 1996 tax year and for which a city has not
12 entered into an agreement pursuant to section 9 of chapter 1, if
13 the administrator determines that a taxpayer or an employer subject
14 to the provisions of this ordinance has failed to pay the full
15 amount of the tax due or tax withheld, he or she shall issue a
16 proposed assessment showing the amount due and unpaid, together
17 with interest and penalties that may have accrued thereon. The
18 proposed assessment shall be served upon the taxpayer or employer
19 in person, **BY FIRST-CLASS MAIL**, or by registered or certified mail
20 to the last known address of the taxpayer or employer. Proof of
21 mailing the proposed assessment is prima facie evidence of a
22 receipt of the proposed assessment by the addressee.

23 (2) A taxpayer or employer has 30 days after receipt of a
24 proposed assessment within which to file a written protest with the
25 administrator ~~or 30 days after receipt of a notice of intent to~~
26 ~~assess from the department of treasury to file a written protest~~
27 ~~with the department of treasury,~~ who shall then give the taxpayer

1 or employer or his or her duly authorized representative an
 2 opportunity to be heard and present evidence and arguments in his
 3 or her behalf.

4 Sec. 85. (1) After the hearing as provided in section 84, the
 5 administrator ~~or the department~~ shall issue a final assessment
 6 setting forth the total amount found due in the proposed assessment
 7 or notice of intent to assess and any adjustment he or she may have
 8 made as a result of the protest. The final assessment shall be
 9 served in the same manner as a proposed assessment. ~~or notice of~~
 10 ~~intent to assess.~~ Proof of mailing of the final assessment is prima
 11 facie evidence of receipt of the final assessment by the addressee.

12 (2) If a protest under section ~~73(3) or 84(2)~~ is not filed in
 13 respect to a proposed assessment, ~~or notice of intent to assess,~~ a
 14 taxpayer or employer is considered to have received a final
 15 assessment 30 days after receipt of the proposed assessment.

16 **SEC. 86A. (1) NOTWITHSTANDING SECTION 86, FOR TAXES**
 17 **ADMINISTERED BY THE DEPARTMENT THROUGH AN AGREEMENT ENTERED INTO**
 18 **UNDER SECTION 9 OF CHAPTER 1 WITH A CITY THAT HAS A POPULATION OF**
 19 **MORE THAN 600,000 ONLY, THE DEPARTMENT, ON BEHALF OF THE CITY, MAY**
 20 **RECOVER THE TAX WITH INTEREST AND PENALTIES WITHOUT A JUDGMENT OR**
 21 **ORDER FROM A COURT OF COMPETENT JURISDICTION BY IMPOSING A LIEN AS**
 22 **PROVIDED UNDER THIS SECTION. A LIEN IMPOSED PURSUANT TO THIS**
 23 **SECTION IS A LIEN IN FAVOR OF THE CITY AGAINST ALL PROPERTY AND**
 24 **RIGHTS OF PROPERTY, BOTH REAL AND PERSONAL, TANGIBLE AND**
 25 **INTANGIBLE, OWNED AT THE TIME THE LIEN ATTACHES, OR AFTERWARDS**
 26 **ACQUIRED BY ANY PERSON LIABLE FOR THE TAX, TO SECURE THE PAYMENT OF**
 27 **THE TAX. THE LIEN SHALL ATTACH TO THE PROPERTY FROM AND AFTER THE**

1 DATE THAT ANY REPORT OR RETURN ON WHICH THE TAX IS LEVIED IS
2 REQUIRED TO BE FILED AND SHALL CONTINUE FOR 7 YEARS AFTER THE DATE
3 OF ATTACHMENT. THE LIEN MAY BE EXTENDED FOR ANOTHER 7 YEARS BY
4 REFILING UNDER SUBSECTION (2) IF THE REFILING IS DONE WITHIN 6
5 MONTHS PRIOR TO THE EXPIRATION DATE OF THE ORIGINAL 7-YEAR PERIOD.
6 THE DEPARTMENT IS THE ONLY ENTITY AUTHORIZED TO ACT UNDER THIS
7 SECTION, AND THE DEPARTMENT SHALL NOT DELEGATE ITS AUTHORITY TO ACT
8 UNDER THIS SECTION TO THE CITY.

9 (2) THE LIEN IMPOSED BY THIS SECTION SHALL TAKE PRECEDENCE
10 OVER ALL OTHER LIENS AND ENCUMBRANCES, EXCEPT BONA FIDE LIENS
11 RECORDED BEFORE THE DATE THE LIEN UNDER THIS ORDINANCE IS RECORDED.
12 HOWEVER, BONA FIDE LIENS RECORDED BEFORE THE LIEN UNDER THIS
13 ORDINANCE IS RECORDED SHALL TAKE PRECEDENCE ONLY TO THE EXTENT OF
14 DISBURSEMENTS MADE UNDER A FINANCING ARRANGEMENT BEFORE THE FORTY-
15 SIXTH DAY AFTER THE DATE OF THE TAX LIEN RECORDING OR BEFORE THE
16 PERSON MAKING THE DISBURSEMENTS HAD ACTUAL KNOWLEDGE OF A TAX LIEN
17 RECORDING UNDER THIS ORDINANCE, WHICHEVER IS EARLIER. A LIEN SHALL
18 BE RECORDED AND DISCHARGED IN THE SAME MANNER REQUIRED FOR A STATE
19 TAX LIEN UNDER THE STATE TAX LIEN REGISTRATION ACT, 1968 PA 203,
20 MCL 211.681 TO 211.687.

21 (3) A PURCHASER OR SUCCEEDING PURCHASER OF PROPERTY, FROM A
22 TAXPAYER IN OTHER THAN THE ORDINARY COURSE OF BUSINESS, AGAINST
23 WHICH A LIEN HAS BEEN PROPERLY RECORDED AS PROVIDED UNDER
24 SUBSECTION (2) IS PERSONALLY LIABLE FOR THE UNPAID TAXES THAT ARE
25 DUE ON THE LIEN. THE PURCHASER'S LIABILITY IS LIMITED TO THE VALUE
26 OF THE PROPERTY LESS ANY PROCEEDS THAT WERE APPLIED TO BALANCES DUE
27 ON SECURED INTERESTS WHICH ARE SUPERIOR TO THE LIEN RECORDED UNDER

1 SUBSECTION (2) .

2 SEC. 86B. (1) NOTWITHSTANDING SECTION 86, FOR TAXES
3 ADMINISTERED BY THE DEPARTMENT THROUGH AN AGREEMENT ENTERED INTO
4 UNDER SECTION 9 OF CHAPTER 1 WITH A CITY THAT HAS A POPULATION OF
5 MORE THAN 600,000 ONLY, THE DEPARTMENT, ON BEHALF OF THE CITY, MAY
6 CAUSE A DEMAND TO BE MADE ON A TAXPAYER FOR THE PAYMENT OF A TAX
7 DUE UNDER THIS ORDINANCE. IF THE LIABILITY REMAINS UNPAID FOR 10
8 DAYS AFTER THE DEMAND AND PROCEEDINGS ARE NOT TAKEN TO REVIEW THE
9 LIABILITY, A WARRANT MAY BE ISSUED UNDER THE OFFICIAL SEAL OF THE
10 CITY. EXCEPT AS PROVIDED IN SUBSECTION (5), THE DEPARTMENT, ON
11 BEHALF OF THE CITY, THROUGH ANY OFFICER OR AGENT OR PERSON
12 AUTHORIZED TO SERVE PROCESS OR THROUGH AUTHORIZED EMPLOYEES, MAY
13 LEVY ON ALL PROPERTY AND RIGHTS TO PROPERTY, REAL AND PERSONAL,
14 TANGIBLE AND INTANGIBLE, BELONGING TO THE TAXPAYER OR ON WHICH A
15 LIEN IS PROVIDED BY LAW FOR THE AMOUNT OF THE DEFICIENCY, AND SELL
16 THE REAL AND PERSONAL PROPERTY OF THE TAXPAYER FOUND WITHIN THE
17 STATE FOR THE PAYMENT OF THE AMOUNT DUE, THE COST OF EXECUTING THE
18 WARRANT, AND THE ADDITIONAL PENALTIES AND INTEREST. EXCEPT AS
19 PROVIDED IN SUBSECTION (6), THE OFFICER OR AGENT OR PERSON SERVING
20 THE WARRANT SHALL PROCEED UPON THE WARRANT IN ALL RESPECTS AND IN
21 THE SAME MANNER AS PRESCRIBED BY LAW IN RESPECT TO EXECUTIONS
22 ISSUED AGAINST PROPERTY UPON JUDGMENTS BY A COURT OF RECORD. A
23 CITY, THROUGH ITS AUTHORIZED REPRESENTATIVE, MAY BID FOR AND
24 PURCHASE ANY PROPERTY SOLD PURSUANT TO THIS SECTION.

25 (2) A PERSON THAT REFUSES OR FAILS TO SURRENDER ANY PROPERTY
26 OR RIGHTS TO PROPERTY SUBJECT TO LEVY, UPON DEMAND BY THE
27 DEPARTMENT, ON BEHALF OF THE CITY, IS PERSONALLY LIABLE TO THE CITY

1 IN A SUM EQUAL TO THE VALUE OF THE PROPERTY OR RIGHTS NOT
2 SURRENDERED, BUT NOT EXCEEDING THE AMOUNT DUE FOR WHICH THE LEVY
3 WAS MADE, TOGETHER WITH COSTS AND INTEREST ON THE SUM AT THE RATE
4 PROVIDED IN SECTION 82 FROM THE DATE OF THE LEVY. ANY AMOUNT, OTHER
5 THAN COSTS, RECOVERED UNDER THIS SUBSECTION SHALL BE CREDITED
6 AGAINST THE LIABILITY FOR THE COLLECTION OF WHICH THE LEVY WAS
7 MADE.

8 (3) IN ADDITION TO THE PERSONAL LIABILITY IMPOSED BY
9 SUBSECTION (2), IF A PERSON REQUIRED TO SURRENDER PROPERTY OR
10 RIGHTS TO PROPERTY FAILS OR REFUSES TO SURRENDER THE PROPERTY OR
11 RIGHTS TO PROPERTY WITHOUT REASONABLE CAUSE, THE PERSON SHALL BE
12 LIABLE FOR A PENALTY EQUAL TO 50% OF THE AMOUNT RECOVERABLE UNDER
13 SUBSECTION (2), NONE OF WHICH PENALTY SHALL BE CREDITED AGAINST THE
14 LIABILITY FOR THE COLLECTION OF WHICH THE LEVY WAS MADE.

15 (4) A PERSON IN POSSESSION OF, OR OBLIGATED WITH RESPECT TO,
16 PROPERTY OR PROPERTY RIGHTS SUBJECT TO LEVY AND UPON WHICH A LEVY
17 HAS BEEN MADE WHO, UPON DEMAND OF THE DEPARTMENT, ON BEHALF OF THE
18 CITY, SURRENDERS THE PROPERTY OR RIGHTS TO PROPERTY OR DISCHARGES
19 THE OBLIGATION TO THE DEPARTMENT OR WHO PAYS A LIABILITY UNDER
20 SUBSECTION (1) SHALL HAVE THAT OBLIGATION TO A PERSON DELINQUENT IN
21 PAYMENT OF A TAX REDUCED IN AN AMOUNT EQUAL TO THE PROPERTY OR
22 RIGHTS TO PROPERTY SURRENDERED OR AMOUNTS PAID TO THE DEPARTMENT,
23 ON BEHALF OF THE CITY.

24 (5) PROPERTY DESCRIBED IN SECTION 6334 OF THE INTERNAL REVENUE
25 CODE OF 1986, 26 USC 6334, IS EXEMPT FROM LEVY UNDER THIS SECTION
26 FOR AN UNPAID TAX. THE EFFECT OF A LEVY ON SALARY OR WAGES SHALL BE
27 CONTINUOUS FROM THE DATE THE LEVY IS FIRST MADE UNTIL THE LIABILITY

1 OUT OF WHICH THE LEVY AROSE IS SATISFIED.

2 (6) A WARRANT NOTICE OF LEVY MAY BE SERVED BY CERTIFIED MAIL,
3 RETURN RECEIPT REQUESTED, ON ANY PERSON IN POSSESSION OF, OR
4 OBLIGATED WITH RESPECT TO, PROPERTY AND RIGHTS TO PROPERTY, REAL
5 AND PERSONAL, TANGIBLE AND INTANGIBLE, BELONGING TO THE TAXPAYER OR
6 ON WHICH A LIEN IS PROVIDED BY LAW. THE DATE OF DELIVERY ON THE
7 RECEIPT SHALL BE THE DATE THE LEVY IS MADE. A PERSON MAY, UPON
8 WRITTEN NOTICE TO THE DEPARTMENT, ON BEHALF OF THE CITY, HAVE ALL
9 NOTICES OF LEVY SENT TO 1 DESIGNATED OFFICE.

10 SEC. 86C. FOR TAXES UNDER THIS ORDINANCE ADMINISTERED BY THE
11 DEPARTMENT THROUGH AN AGREEMENT ENTERED PURSUANT TO SECTION 9 OF
12 CHAPTER 1, THE DEPARTMENT MAY REQUEST IN WRITING INFORMATION OR
13 RECORDS IN THE POSSESSION OF ANY OTHER DEPARTMENT, INSTITUTION, OR
14 AGENCY OF STATE GOVERNMENT FOR THE PERFORMANCE OF DUTIES UNDER THIS
15 ACT. DEPARTMENTS, INSTITUTIONS, OR AGENCIES OF STATE GOVERNMENT
16 SHALL FURNISH THE INFORMATION AND RECORDS UPON RECEIPT OF THE
17 DEPARTMENT'S REQUEST.

18 SEC 86D. (1) IF THE DEPARTMENT FILES FOR RECORDING A LIEN
19 IMPOSED PURSUANT TO THIS ORDINANCE AGAINST PROPERTY OR RIGHTS OF
20 PROPERTY TO SATISFY A TAX LIABILITY AND THE DEPARTMENT DETERMINES
21 THAT THE TAX LIABILITY OUT OF WHICH THE LIEN AROSE IS SATISFIED,
22 THE DEPARTMENT SHALL FILE FOR RECORDING A RELEASE REGARDING THE
23 PROPERTY OR RIGHTS OF PROPERTY IN THE SAME MANNER REQUIRED FOR A
24 STATE TAX LIEN UNDER THE STATE TAX LIEN REGISTRATION ACT, 1968 PA
25 203, MCL 211.681 TO 211.687, NOT MORE THAN 20 BUSINESS DAYS AFTER
26 FUNDS TO SATISFY THE TAX LIABILITY OUT OF WHICH THE LIEN AROSE HAVE
27 BEEN APPLIED TO THE TAXPAYER'S ACCOUNT.

1 (2) IF THE DEPARTMENT FILES FOR RECORDING A LIEN IMPOSED
2 PURSUANT TO THIS ORDINANCE AGAINST PROPERTY OR RIGHTS OF PROPERTY
3 TO SATISFY A TAX LIABILITY AND UPON REQUEST THE DEPARTMENT
4 DETERMINES THAT THE TAXPAYER NAMED ON THE RECORDED LIEN DOES NOT
5 HAVE ANY INTEREST IN CERTAIN PROPERTIES OWNED BY ANOTHER PERSON,
6 THE DEPARTMENT SHALL FILE FOR RECORDING A CERTIFICATE OF
7 NONATTACHMENT REGARDING THE PROPERTY OR RIGHTS OF PROPERTY, IN THE
8 SAME MANNER AS REQUIRED FOR A STATE TAX LIEN UNDER THE STATE TAX
9 LIEN REGISTRATION ACT, 1968 PA 203, MCL 211.681 TO 211.687, WITH
10 ALL DUE HASTE BUT NOT MORE THAN 5 BUSINESS DAYS AFTER THE
11 DEPARTMENT DETERMINES THAT THE LIEN IS RECORDED OR FILED AGAINST
12 PROPERTY OR RIGHTS OF PROPERTY TO WHICH THE STATE DOES NOT HAVE A
13 LIEN INTEREST UNDER SECTION 86A. THE DEPARTMENT SHALL CLEARLY
14 INDICATE ON THE CERTIFICATE OF NONATTACHMENT THAT THE TAXPAYER
15 NAMED ON THE RECORDED LIEN DOES NOT HAVE ANY INTEREST IN THE
16 PROPERTY OR RIGHTS OF PROPERTY OF THE OTHER PERSON.

17 (3) IF A WARRANT OR WARRANT-NOTICE OF LEVY IS ISSUED AND
18 SERVED UPON A PERSON TO LEVY ON PROPERTY OR RIGHTS OF PROPERTY TO
19 SATISFY A TAX LIABILITY AND THE DEPARTMENT DETERMINES THAT THE TAX
20 LIABILITY OUT OF WHICH THE WARRANT OR WARRANT-NOTICE OF LEVY AROSE
21 IS SATISFIED, THE DEPARTMENT SHALL SERVE A RELEASE OF LEVY
22 REGARDING THE PROPERTY OR RIGHTS OF PROPERTY ON THE PERSON THAT WAS
23 SERVED THE WARRANT OR WARRANT-NOTICE OF LEVY NOT MORE THAN 10
24 BUSINESS DAYS AFTER FUNDS TO SATISFY THE TAX LIABILITY OUT OF WHICH
25 THE WARRANT OR WARRANT-NOTICE OF LEVY AROSE HAVE BEEN APPLIED TO
26 THE TAXPAYER'S ACCOUNT.

27 (4) IF A WARRANT OR WARRANT-NOTICE OF LEVY IS ISSUED AND

1 SERVED UPON A PERSON TO LEVY ON PROPERTY OR RIGHTS OF PROPERTY TO
2 SATISFY A TAX LIABILITY AND THE DEPARTMENT DETERMINES THAT THE
3 PROPERTY OR RIGHTS OF PROPERTY ARE NOT SUBJECT TO LEVY UNDER
4 SECTION 86A, THE DEPARTMENT SHALL SERVE A RELEASE OF LEVY REGARDING
5 THE PROPERTY OR RIGHTS OF PROPERTY ON THE PERSON THAT WAS SERVED
6 THE WARRANT OR WARRANT-NOTICE OF LEVY WITH ALL DUE HASTE BUT NOT
7 MORE THAN 5 BUSINESS DAYS AFTER THE DEPARTMENT DETERMINES THAT THE
8 PROPERTY OR RIGHTS OF PROPERTY ARE NOT SUBJECT TO LEVY UNDER
9 SECTION 86A, THE DEPARTMENT SHALL CLEARLY INDICATE ON THE RELEASE
10 OF LEVY THAT THE PROPERTY OR RIGHTS OF PROPERTY WERE NOT SUBJECT TO
11 LEVY UNDER SECTION 86A.

12 (5) IF A PERSON IS REQUIRED TO PAY A FEE TO THE DEPARTMENT, A
13 BANK, OR OTHER FINANCIAL INSTITUTION AS THE RESULT OF AN ERRONEOUS
14 RECORDING OR FILING OF A LIEN AS DESCRIBED IN SUBSECTION (2), OR AN
15 ERRONEOUS ISSUANCE AND SERVICE OF A WARRANT OR WARRANT-NOTICE OF
16 LEVY AS DESCRIBED IN SUBSECTION (4), THE DEPARTMENT SHALL REIMBURSE
17 THE FEE TO THAT PERSON.

18 (6) IF THE DEPARTMENT RECEIVES MONEY TO SATISFY A TAX
19 LIABILITY OR LIABILITIES OR RECEIVES INFORMATION THAT WOULD CANCEL
20 THAT TAX LIABILITY OR THOSE LIABILITIES AND SUBSEQUENTLY FILES A
21 LIEN FOR RECORDING SPECIFYING THAT TAX LIABILITY OR THOSE
22 LIABILITIES, THE DEPARTMENT, UPON REQUEST AND UPON A DETERMINATION
23 BY THE DEPARTMENT THAT THE LIEN WAS FILED AND RECORDED IN ERROR,
24 WITH ALL DUE HASTE, BUT NOT MORE THAN 5 BUSINESS DAYS AFTER THE
25 DEPARTMENT DETERMINES THAT IT HAS ERRONEOUSLY FILED A LIEN FOR
26 RECORDING, SHALL FILE FOR RECORDING A CERTIFICATE OF WITHDRAWAL FOR
27 THAT TAX LIABILITY OR THOSE LIABILITIES WHICH WERE SATISFIED WHICH

1 STATES THAT THE RECORDED LIEN FOR THAT TAX LIABILITY OR THOSE
2 LIABILITIES WAS FILED IN ERROR.

3 (7) IF THE DEPARTMENT RECEIVES MONEY TO SATISFY A TAX
4 LIABILITY OR LIABILITIES OR RECEIVES INFORMATION THAT WOULD CANCEL
5 THAT TAX LIABILITY OR THOSE LIABILITIES AND SUBSEQUENTLY ISSUES A
6 WARRANT OR WARRANT-NOTICE OF LEVY SPECIFYING THAT LIABILITY OR
7 THOSE LIABILITIES PURSUANT TO THIS ORDINANCE, UPON REQUEST AND UPON
8 A DETERMINATION BY THE DEPARTMENT THAT THE WARRANT OR WARRANT-
9 NOTICE OF LEVY WAS ISSUED IN ERROR, WITH ALL DUE HASTE, BUT NOT
10 MORE THAN 5 BUSINESS DAYS AFTER THE DEPARTMENT DETERMINES THAT IT
11 HAS ERRONEOUSLY ISSUED A WARRANT OR WARRANT-NOTICE OF LEVY, THE
12 DEPARTMENT SHALL ISSUE A RELEASE OF LEVY FOR THAT TAX LIABILITY OR
13 THOSE LIABILITIES WHICH WERE SATISFIED WHICH STATES THAT THE LEVY
14 FOR THAT TAX LIABILITY OR THOSE LIABILITIES WAS ISSUED IN ERROR.

15 Sec. 92. (1) A taxpayer or employer may file a written notice
16 of appeal with the secretary of the income tax board of review not
17 more than 30 days after receipt by the taxpayer or employer of a
18 final assessment, denial in whole or **IN** part of a claim for refund,
19 decision, order, or special ruling of the administrator. ~~or the~~
20 ~~department.~~ Upon receipt of the notice of appeal **FROM A DECISION**
21 **AND ORDER ISSUED BY AN ADMINISTRATOR UNDER SECTION 85**, the income
22 tax board of review shall notify the administrator ~~or the~~
23 ~~department,~~ who shall forward within 15 days to the income tax
24 board of review a certified transcript of all actions and findings
25 taken by the administrator ~~or the department~~ that relate to the
26 matter under appeal. The appellant or his or her duly authorized
27 representative may inspect the transcript.

1 (2) The income tax board of review shall grant the appellant a
 2 hearing at which the appellant or his or her duly authorized
 3 representative and the administrator ~~or the department~~ have an
 4 opportunity to present evidence that relates to the matter under
 5 appeal. After conclusion of the hearing, the income tax board of
 6 review by a majority vote of its 3 members shall affirm, reverse,
 7 or modify the final assessment, denial, decision, or order under
 8 appeal and furnish a copy of the decision to the appellant and to
 9 the administrator. ~~or the department.~~

10 (3) The provisions of this ordinance as to the confidential
 11 character of tax data are applicable to proceedings pending before
 12 or submitted to the income tax board of review.

13 (4) A tax deficiency or refund and any interest or penalties
 14 on a deficiency or refund shall be paid not more than 30 days after
 15 receipt by the taxpayer or employer or by the city ~~or the~~
 16 ~~department~~ of notice of determination by the income tax board of
 17 review if no further appeal is made.

18 Sec. 93. (1) A taxpayer, employer, or other person aggrieved
 19 by a rule adopted by the administrator may file a timely appeal to
 20 the ~~state commissioner of revenue~~ **DEPARTMENT** in the form and manner
 21 prescribed by the ~~commissioner~~ **DEPARTMENT**.

22 (2) A taxpayer or employer aggrieved by a final assessment,
 23 denial, decision, or order ~~of~~ **ISSUED BY THE DEPARTMENT UNDER**
 24 **SECTION 73 OR ISSUED BY** the income tax board of review other than a
 25 decision under subsection (1) ~~may~~ appeal the assessment, denial,
 26 decision, or order to the tax tribunal not more than 35 days after
 27 the final assessment, denial, decision, or order was issued. The

1 uncontested portion of a final assessment, order, or decision shall
2 be paid as a prerequisite to appeal. An appeal under this
3 subsection shall be perfected as provided under the tax tribunal
4 act, ~~Act No. 186 of the Public Acts of 1973, being sections 205.701~~
5 ~~to 205.779 of the Michigan Compiled Laws, 1973 PA 186, MCL 205.701~~
6 **TO 205.779**, and rules promulgated under that act for the tax
7 tribunal.

8 (3) Not more than 35 days after a final order of the tax
9 tribunal, the taxpayer, employer, or other person shall pay the
10 city the taxes, interest, and penalty found due to the city or the
11 department, and the city or the department shall refund to the
12 taxpayer, employer, or other person any amount found to have been
13 overpaid by the taxpayer, employer, or other person.

14 **SEC. 96. (1) FOR TAXES ADMINISTERED BY THE DEPARTMENT THROUGH**
15 **AN AGREEMENT ENTERED INTO UNDER SECTION 9 OF CHAPTER 1 WITH A CITY**
16 **THAT HAS A POPULATION OF MORE THAN 600,000 ONLY, THE DEPARTMENT, ON**
17 **BEHALF OF THE CITY, MAY ENTER INTO A VOLUNTARY DISCLOSURE AGREEMENT**
18 **PURSUANT TO SUBSECTIONS (2) TO (10).**

19 (2) A VOLUNTARY DISCLOSURE AGREEMENT MAY BE ENTERED INTO WITH
20 A PERSON THAT APPLIES, THAT IS A NONFILER, AND THAT MEETS 1 OR MORE
21 OF THE FOLLOWING CRITERIA:

22 (A) HAS A FILING RESPONSIBILITY CREATED BY NEXUS WITH THE
23 CITY.

24 (B) HAS A REASONABLE BASIS TO CONTEST LIABILITY, AS DETERMINED
25 BY THE DEPARTMENT.

26 (3) TO BE ELIGIBLE FOR A VOLUNTARY DISCLOSURE AGREEMENT,
27 SUBJECT TO SUBSECTION (1), A PERSON MUST MEET ALL OF THE FOLLOWING

1 REQUIREMENTS:

2 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, HAS HAD
3 NO PREVIOUS CONTACT BY THE CITY OR THE DEPARTMENT OR ITS AGENTS
4 REGARDING A TAX COVERED BY THE AGREEMENT. FOR PURPOSES OF THIS
5 SUBDIVISION, A LETTER OF INQUIRY REQUESTING INFORMATION UNDER
6 SECTION 73(2) (A) THAT WAS SENT TO A NONFILER SHALL NOT BE
7 CONSIDERED A PREVIOUS CONTACT UNDER THIS SUBDIVISION.

8 (B) HAS HAD NO NOTIFICATION OF AN IMPENDING AUDIT BY THE
9 DEPARTMENT OR ITS AGENTS.

10 (C) IS NOT CURRENTLY UNDER AUDIT BY THE DEPARTMENT OR UNDER
11 INVESTIGATION BY THE DEPARTMENT OF STATE POLICE, DEPARTMENT OF
12 ATTORNEY GENERAL, OR ANY LOCAL LAW ENFORCEMENT AGENCY REGARDING A
13 TAX UNDER THIS ORDINANCE.

14 (D) IS NOT CURRENTLY THE SUBJECT OF A CIVIL ACTION OR A
15 CRIMINAL PROSECUTION INVOLVING THE TAX COVERED BY THE AGREEMENT.

16 (E) HAS AGREED TO REGISTER, FILE RETURNS, AND PAY ALL TAXES
17 DUE IN ACCORDANCE WITH THIS ORDINANCE FOR ALL PERIODS AFTER THE
18 LOOKBACK PERIOD.

19 (F) HAS AGREED TO PAY ALL TAXES DUE FOR THE TAX COVERED UNDER
20 THE AGREEMENT FOR THE LOOKBACK PERIOD, PLUS INTEREST, WITHIN THE
21 PERIOD OF TIME AND IN THE MANNER SPECIFIED IN THE AGREEMENT.

22 (G) HAS AGREED TO FILE RETURNS AND WORKSHEETS FOR THE LOOKBACK
23 PERIOD AS SPECIFIED IN THE AGREEMENT.

24 (H) HAS AGREED NOT TO FILE A PROTEST OR SEEK A REFUND OF TAXES
25 PAID TO THE CITY FOR THE LOOKBACK PERIOD BASED ON THE ISSUES
26 DISCLOSED IN THE AGREEMENT OR BASED ON THE PERSON'S LACK OF NEXUS
27 OR CONTACTS WITH THE CITY.

1 (4) IF A PERSON SATISFIES SUBSECTIONS (2) AND (3), THE
2 DEPARTMENT SHALL ENTER INTO A VOLUNTARY DISCLOSURE AGREEMENT WITH
3 THAT PERSON PROVIDING THE FOLLOWING RELIEF:

4 (A) THE DEPARTMENT SHALL NOT ASSESS ANY TAX, DELINQUENCY FOR A
5 TAX, PENALTY, OR INTEREST COVERED UNDER THE AGREEMENT FOR ANY
6 PERIOD BEFORE THE LOOKBACK PERIOD IDENTIFIED IN THE AGREEMENT.

7 (B) THE DEPARTMENT SHALL NOT ASSESS ANY APPLICABLE
8 DISCRETIONARY OR NONDISCRETIONARY PENALTIES FOR THE LOOKBACK
9 PERIOD.

10 (C) THE DEPARTMENT SHALL PROVIDE COMPLETE CONFIDENTIALITY OF
11 THE AGREEMENT AND SHALL ALSO ENTER INTO AN AGREEMENT NOT TO
12 DISCLOSE ANY OF THE TERMS OR CONDITIONS OF THE AGREEMENT TO ANY TAX
13 AUTHORITIES OR EXCHANGE INFORMATION OBTAINED UNDER THIS SECTION
14 WITH OTHER STATES REGARDING THE PERSON UNLESS INFORMATION REGARDING
15 THE PERSON IS SPECIFICALLY REQUESTED BY ANOTHER STATE.

16 (5) THE DEPARTMENT SHALL NOT BRING A CRIMINAL ACTION AGAINST A
17 PERSON FOR FAILURE TO REPORT OR TO REMIT ANY TAX COVERED BY THE
18 AGREEMENT BEFORE OR DURING THE LOOKBACK PERIOD IF THE FACTS
19 ESTABLISHED BY THE DEPARTMENT ARE NOT MATERIALLY DIFFERENT FROM THE
20 FACTS DISCLOSED BY THE PERSON TO THE DEPARTMENT.

21 (6) A VOLUNTARY DISCLOSURE AGREEMENT IS EFFECTIVE WHEN SIGNED
22 BY THE PERSON SUBJECT TO THE AGREEMENT, OR HIS, HER, OR ITS LAWFUL
23 REPRESENTATIVE, AND RETURNED TO THE DEPARTMENT WITHIN THE TIME
24 PERIOD SPECIFIED IN THE AGREEMENT. THE DEPARTMENT SHALL ONLY
25 PROVIDE THE RELIEF SPECIFIED IN THE EXECUTED AGREEMENT. ANY VERBAL
26 OR WRITTEN COMMUNICATION BY THE DEPARTMENT BEFORE THE EFFECTIVE
27 DATE OF THE AGREEMENT SHALL NOT AFFORD ANY PENALTY WAIVER, LIMITED

1 LOOKBACK PERIOD, OR OTHER BENEFIT OTHERWISE AVAILABLE UNDER THIS
2 SECTION.

3 (7) A MATERIAL MISREPRESENTATION OF FACT BY AN APPLICANT
4 RELATING TO THE APPLICANT'S CURRENT ACTIVITY IN THE CITY RENDERS AN
5 AGREEMENT NULL AND VOID AND OF NO EFFECT. A CHANGE IN THE
6 ACTIVITIES OR OPERATIONS OF A PERSON AFTER THE EFFECTIVE DATE OF
7 THE AGREEMENT IS NOT A MATERIAL MISREPRESENTATION OF FACT AND SHALL
8 NOT AFFECT THE AGREEMENT'S VALIDITY.

9 (8) THE DEPARTMENT MAY AUDIT ANY OF THE TAXES COVERED BY THE
10 AGREEMENT WITHIN THE LOOKBACK PERIOD OR IN ANY PRIOR PERIOD IF, IN
11 THE DEPARTMENT'S OPINION, AN AUDIT OF A PRIOR PERIOD IS NECESSARY
12 TO DETERMINE THE PERSON'S TAX LIABILITY FOR THE TAX PERIODS WITHIN
13 THE LOOKBACK PERIOD OR TO DETERMINE ANOTHER PERSON'S TAX LIABILITY.

14 (9) NOTHING IN SUBSECTIONS (2) TO (8) SHALL BE INTERPRETED TO
15 ALLOW OR PERMIT UNJUST ENRICHMENT. ANY TAX COLLECTED OR WITHHELD
16 FROM ANOTHER PERSON BY AN APPLICANT SHALL BE REMITTED TO THE
17 DEPARTMENT WITHOUT RESPECT TO WHETHER IT WAS COLLECTED DURING OR
18 BEFORE THE LOOKBACK PERIOD.

19 (10) THE DEPARTMENT SHALL NOT REQUIRE A PERSON THAT ENTERS
20 INTO A VOLUNTARY DISCLOSURE AGREEMENT TO MAKE ANY FILINGS THAT ARE
21 ADDITIONAL TO THOSE OTHERWISE REQUIRED BY LAW.

22 (11) AS USED IN THIS SECTION:

23 (A) "LOOKBACK PERIOD" MEANS 1 OR MORE OF THE FOLLOWING:

24 (i) THE MOST RECENT 48-MONTH PERIOD AS DETERMINED BY THE
25 DEPARTMENT OR THE FIRST DATE THE PERSON SUBJECT TO AN AGREEMENT
26 UNDER THIS SECTION BEGAN DOING BUSINESS IN THE CITY IF LESS THAN 48
27 MONTHS.

1 (ii) NOTWITHSTANDING SUBPARAGRAPH (i) , THE MOST RECENT 36-
2 MONTH PERIOD AS DETERMINED BY THE DEPARTMENT OR THE FIRST DATE THE
3 PERSON SUBJECT TO AN AGREEMENT UNDER THIS SECTION BEGAN DOING
4 BUSINESS IN THE CITY IF LESS THAN 36 MONTHS, IF TAX RETURNS FILED
5 UNDER THIS ORDINANCE IN ANOTHER CITY INCLUDED SALES IN THE
6 NUMERATOR OF THE APPORTIONMENT FORMULA THAT NOW MUST BE INCLUDED IN
7 THE NUMERATOR OF THE APPORTIONMENT FORMULA AND THOSE SALES
8 INCREASED THE NET TAX LIABILITY PAYABLE TO THAT CITY.

9 (iii) IF THERE IS DOUBT AS TO LIABILITY FOR THE TAX DURING THE
10 LOOKBACK PERIOD, ANOTHER PERIOD AS DETERMINED BY THE DEPARTMENT TO
11 BE IN THE BEST INTEREST OF THE CITY AND TO PRESERVE EQUITABLE AND
12 FAIR ADMINISTRATION OF TAXES.

13 (B) "NONFILER" FOR A PARTICULAR TAX MEANS, BEGINNING JANUARY
14 1, 2017, A PERSON THAT HAS NOT FILED A RETURN FOR THE PARTICULAR
15 TAX BEING DISCLOSED FOR PERIODS BEGINNING AFTER DECEMBER 31, 2015
16 FOR INDIVIDUALS AND AFTER DECEMBER 31, 2016 FOR ALL OTHER PERSONS.

17 (C) "PERSON" MEANS AN INDIVIDUAL, FIRM, BANK, FINANCIAL
18 INSTITUTION, LIMITED PARTNERSHIP, COPARTNERSHIP, PARTNERSHIP, JOINT
19 VENTURE, ASSOCIATION, CORPORATION, LIMITED LIABILITY COMPANY,
20 LIMITED LIABILITY PARTNERSHIP, RECEIVER, ESTATE, TRUST, OR ANY
21 OTHER GROUP OR COMBINATION ACTING AS A UNIT.

22 (D) "PREVIOUS CONTACT" MEANS ANY NOTIFICATION OF AN IMPENDING
23 AUDIT, REVIEW, NOTICE OF INTENT TO ASSESS, PROPOSED ASSESSMENT OR
24 ASSESSMENT, OR A SUBPOENA FROM THE DEPARTMENT OR THE CITY FOR A TAX
25 DUE UNDER THIS ORDINANCE.

26 (E) "UNJUST ENRICHMENT" MEANS THE WITHHOLDING OF INCOME TAX
27 UNDER THIS ORDINANCE THAT HAS NOT BEEN REMITTED TO THE DEPARTMENT.

1 (F) "VOLUNTARY DISCLOSURE AGREEMENT" OR "AGREEMENT" MEANS A
2 WRITTEN AGREEMENT THAT COMPLIES WITH THIS SECTION.

3 SEC. 97. (1) BEGINNING JANUARY 1, 2018, FOR TAXES ADMINISTERED
4 BY THE DEPARTMENT THROUGH AN AGREEMENT ENTERED INTO UNDER SECTION 9
5 OF CHAPTER 1 WITH A CITY THAT HAS A POPULATION OF MORE THAN 600,000
6 ONLY, THE DEPARTMENT, ON BEHALF OF THE CITY, MAY COMPROMISE ALL OR
7 ANY PART OF ANY PAYMENT OF A TAX DUE UNDER THIS ORDINANCE FOR TAX
8 YEARS BEGINNING AFTER DECEMBER 31, 2016, INCLUDING ANY RELATED
9 PENALTIES AND INTEREST, IF 1 OR MORE OF THE FOLLOWING GROUNDS
10 EXIST:

11 (A) A DOUBT EXISTS AS TO LIABILITY IF THE DEPARTMENT
12 CONCLUDES, BASED ON EVIDENCE PROVIDED BY THE TAXPAYER, THAT THE
13 TAXPAYER WOULD HAVE PREVAILED IN A CONTESTED CASE IF THE TAXPAYER'S
14 APPEAL RIGHTS HAD NOT EXPIRED.

15 (B) A DOUBT EXISTS AS TO COLLECTABILITY IF THE TAXPAYER
16 ESTABLISHES BOTH OF THE FOLLOWING:

17 (i) THE AMOUNT OFFERED IN PAYMENT IS THE MOST THAT CAN BE
18 EXPECTED TO BE PAID OR COLLECTED FROM THE TAXPAYER'S PRESENT ASSETS
19 OR INCOME.

20 (ii) THE TAXPAYER DOES NOT HAVE REASONABLE PROSPECTS OF
21 ACQUIRING INCREASED INCOME OR ASSETS THAT WOULD ENABLE THE TAXPAYER
22 TO SATISFY A GREATER AMOUNT OF THE LIABILITY THAN THE AMOUNT
23 OFFERED, WITHIN A REASONABLE PERIOD OF TIME.

24 (C) A FEDERAL COMPROMISE OF TAX UNDER SECTION 7122 OF THE
25 INTERNAL REVENUE CODE HAS BEEN GRANTED FOR THE SAME TAX YEARS. IF
26 AN OFFER TO COMPROMISE A TAX IS ACCEPTED PURSUANT TO THIS
27 SUBDIVISION, THE DEPARTMENT MAY COMPROMISE THE OUTSTANDING BALANCE

1 OF THE LIABILITY FOR EACH YEAR BY APPLYING THE SAME PERCENTAGE AS
2 THE FEDERAL LIABILITY COMPROMISED TO THE TOTAL LIABILITY.

3 (2) IF THE DEPARTMENT COMPROMISES ALL OR ANY PART OF ANY
4 PAYMENT OF A TAX AS AUTHORIZED UNDER THIS SECTION, THE DEPARTMENT
5 SHALL PLACE ON FILE IN THE OFFICE OF THE MAYOR AND PUBLISH ON THE
6 DEPARTMENT'S CITY TAX WEBSITE A WRITTEN REPORT OUTLINING THE BASIS
7 FOR THE COMPROMISE AND, AT A MINIMUM, A STATEMENT OF EACH OF THE
8 FOLLOWING:

9 (A) THE AMOUNT OF TAX ASSESSED.

10 (B) THE AMOUNT OF INTEREST OR ASSESSABLE PENALTY IMPOSED BY
11 LAW ON THE PERSON AGAINST WHOM THE TAX IS ASSESSED.

12 (C) THE TERMS OF THE COMPROMISE AND THE AMOUNT ACTUALLY PAID
13 IN ACCORDANCE WITH THE TERMS OF THE COMPROMISE.

14 (D) THE GROUNDS FOR THE COMPROMISE.

15 (3) A COMPROMISE UNDER THIS SECTION IS SUBJECT TO CONTINUING
16 REVIEW BY THE DEPARTMENT. THE DEPARTMENT MAY REVOKE ANY COMPROMISE
17 MADE UNDER THIS SECTION, MAY REESTABLISH ALL COMPROMISED
18 LIABILITIES, WITHOUT REGARD TO ANY STATUTE OF LIMITATIONS THAT
19 OTHERWISE MAY BE APPLICABLE, AND SHALL NOT REFUND ANY PORTION OF
20 THE AMOUNT OFFERED IN COMPROMISE, IF EITHER OF THE FOLLOWING
21 OCCURS:

22 (A) THE DEPARTMENT REASONABLY DETERMINES THAT THE PERSON
23 RECEIVING THE COMPROMISE CONCEALED FROM THE DEPARTMENT ANY PROPERTY
24 BELONGING TO THE TAXPAYER, THE ESTATE OF A TAXPAYER, OR ANY OTHER
25 PERSON LIABLE FOR THE TAX OR, WITH THE INTENT TO MISLEAD, WITHHELD,
26 DESTROYED, MUTILATED, OR FALSIFIED ANY BOOK, DOCUMENT, OR RECORD OR
27 MADE ANY FALSE STATEMENT, RELATING TO THE ESTATE OR FINANCIAL

1 CONDITION OF THE TAXPAYER OR OTHER PERSON LIABLE FOR THE TAX TO
2 INDUCE THE COMPROMISE.

3 (B) THE TAXPAYER FAILS TO COMPLY WITH ANY OF THE TERMS AND
4 CONDITIONS RELATIVE TO THE OFFER OR TO FILE SUBSEQUENT REQUIRED
5 RETURNS AND PAY SUBSEQUENT FINAL TAX LIABILITIES WITHIN 20 DAYS
6 AFTER THE DEPARTMENT ISSUES A NOTICE AND DEMAND TO THE PERSON
7 STATING THAT THE CONTINUED FAILURE TO FILE OR PAY THE TAX MAY
8 RESULT IN THE REVOCATION OF THE COMPROMISE MADE UNDER THIS SECTION.

9 (4) BY JANUARY 1, 2019 OR 180 DAYS AFTER THE EFFECTIVE DATE OF
10 THE AMENDATORY ACT THAT ADDED THIS SECTION, WHICHEVER IS LATER, THE
11 DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

12 (A) ESTABLISH GUIDELINES FOR THE OFFER-IN-COMPROMISE PROGRAM
13 AUTHORIZED UNDER THIS SECTION. IF APPROPRIATE, THE GUIDELINES SHALL
14 BE MODELED AFTER THOSE GUIDELINES PUBLISHED BY THE INTERNAL REVENUE
15 SERVICE OF THE UNITED STATES DEPARTMENT OF TREASURY IN REGARD TO
16 THE FEDERAL OFFER-IN-COMPROMISE PROGRAM ESTABLISHED UNDER SECTION
17 7122 OF THE INTERNAL REVENUE CODE.

18 (B) ESTABLISH GUIDELINES FOR OFFICERS AND EMPLOYEES WITHIN THE
19 DEPARTMENT TO USE WHEN MAKING DECISIONS ON WHETHER AN OFFER-IN-
20 COMPROMISE IS APPROPRIATE.

21 (C) ESTABLISH PROCEDURES FOR AN INDEPENDENT ADMINISTRATIVE
22 REVIEW WITHIN THE DEPARTMENT OF ANY REJECTION OF A PROPOSED OFFER-
23 IN-COMPROMISE MADE BY THE TAXPAYER. IN ORDER TO INITIATE A REVIEW
24 UNDER THIS SUBDIVISION, THE TAXPAYER SHALL MAKE A WRITTEN REQUEST
25 ON A FORM PRESCRIBED BY THE DEPARTMENT WITHIN 30 DAYS AFTER THE
26 DEPARTMENT ISSUES THE REJECTION. IF APPROPRIATE, THE INDEPENDENT
27 ADMINISTRATIVE REVIEW PROCEDURES SHALL BE MODELED AFTER THE

1 GUIDELINES PUBLISHED BY THE INTERNAL REVENUE SERVICE FOR THE
2 FEDERAL OFFER-IN-COMPROMISE PROGRAM ESTABLISHED UNDER SECTION 7122
3 OF THE INTERNAL REVENUE CODE.

4 (5) THE DEPARTMENT SHALL DISCLOSE RETURN INFORMATION TO
5 MEMBERS OF THE GENERAL PUBLIC TO THE EXTENT NECESSARY TO PERMIT
6 INSPECTION OF ANY ACCEPTED OFFER-IN-COMPROMISE UNDER THIS SECTION
7 RELATING TO THE LIABILITY FOR A TAX IMPOSED UNDER THIS ORDINANCE.

8 (6) EXCEPT FOR A REVOCATION AS PROVIDED UNDER SUBSECTION (3),
9 A TAX THAT WAS COMPROMISED IS NOT SUBJECT TO ADDITIONAL ASSESSMENT
10 OR COLLECTION UNLESS THE COMPROMISED TAX IS MODIFIED OR ADJUSTED AS
11 A RESULT OF INFORMATION RECEIVED FROM THE INTERNAL REVENUE SERVICE
12 OR AS A RESULT OF AN AUDIT PERFORMED BY THE DEPARTMENT OR THE CITY.
13 EXCEPT AS TO ANY ADDITIONAL ASSESSMENT IMPOSED AS PROVIDED UNDER
14 THIS SUBSECTION, A TAXPAYER SHALL NOT REQUEST AN INFORMAL
15 CONFERENCE OR INSTITUTE TRIBUNAL OR JUDICIAL PROCEEDING AGAINST THE
16 DEPARTMENT OR THE CITY REGARDING THE TAXPAYER'S TAX LIABILITY OR
17 THE COMPROMISE.

18 (7) ON BEHALF OF THE CITY, THE DEPARTMENT SHALL NOT LEVY
19 AGAINST PROPERTY TO COLLECT A LIABILITY WHILE AN OFFER TO
20 COMPROMISE IS PENDING UNLESS THE DEPARTMENT HAS DETERMINED THAT THE
21 TAXPAYER'S OFFER TO COMPROMISE WAS INTENDED TO DELAY COLLECTION OF
22 THE TAX OR A JEOPARDY ASSESSMENT HAS BEEN ISSUED UNDER SECTION 87.

23 (8) A TAXPAYER THAT SUBMITS AN OFFER TO COMPROMISE A TAX,
24 PENALTY, OR INTEREST SHALL REMIT WITH ITS OFFER \$100.00 OR 20% OF
25 THE OFFER, WHICHEVER IS GREATER, TO THE DEPARTMENT. THE AMOUNT
26 REMITTED WITH THE OFFER MUST BE APPLIED TO THE OUTSTANDING BALANCE
27 OF THAT TAXPAYER'S LIABILITY AND MUST NOT BE REFUNDED IF THE OFFER

1 TO COMPROMISE IS REJECTED OR REDUCED.

2 (9) EXCEPT FOR THE INDEPENDENT ADMINISTRATIVE REVIEW AVAILABLE
3 AS PROVIDED UNDER SUBSECTION (4) (C), A REJECTION OF AN OFFER TO
4 COMPROMISE, IN WHOLE OR IN PART, IS FINAL AND IS NOT SUBJECT TO
5 FURTHER CHALLENGE OR APPEAL UNDER THIS ORDINANCE.

6 CHAPTER 3

7 Sec. 60. (1) Except as provided in subsection (2) **OR (3)**, an
8 employer shall file a return, furnished by or obtainable on request
9 from the city, and pay to the city the full amount of the tax
10 withheld on or before the last day of the month following the close
11 of each calendar quarter, except that if during any calendar month
12 other than the last month of a calendar quarter the amount withheld
13 exceeds \$100.00, the employer shall deposit the amount withheld
14 with the city treasurer before the end of the next calendar month.

15 (2) For tax years after the 1996 tax year **AND BEFORE THE 2017**
16 **TAX YEAR** and for which a city has entered into an agreement
17 pursuant to section 9 of chapter 1, an employer shall file a return
18 and pay the tax withheld for each calendar month on or before the
19 fifteenth day of the month to the department following the close of
20 each calendar month by means of an electronic funds transfer method
21 approved by the state commissioner of revenue.

22 (3) **FOR TAX YEARS AFTER THE 2016 TAX YEAR AND FOR WHICH A CITY**
23 **HAS ENTERED INTO AN AGREEMENT PURSUANT TO SECTION 9 OF CHAPTER 1,**
24 **EVERY PERSON REQUIRED BY THIS PART TO DEDUCT OR WITHHOLD TAXES**
25 **SHALL MAKE A REPORT IN FORM AND CONTENT AND AT TIMES AS PRESCRIBED**
26 **BY THE DEPARTMENT, TO PROVIDE A MORE EFFICIENT ADMINISTRATION, THE**
27 **DEPARTMENT MAY REQUIRE THAT PERSON TO MAKE THE RETURN AND PAY TO**

1 THE DEPARTMENT THE TAX DEDUCTED AND WITHHELD AT OTHER THAN MONTHLY
2 PERIODS.

3 Enacting section 1. This amendatory act is retroactive and
4 effective for tax years that begin on and after January 1, 2017.