

# HOUSE BILL NO. 4513

March 16, 2021, Introduced by Rep. Hornberger and referred to the Committee on Tax Policy.

A bill to amend 1964 PA 284, entitled "City income tax act," by amending sections 2a, 3, 3a, 3b, and 3c of chapter 1 and sections 11, 13, 15, 16, and 51 of chapter 2 (MCL 141.502a, 141.503, 141.503a, 141.503b, 141.503c, 141.611, 141.613, 141.615, 141.616, and 141.651), section 2a of chapter 1 as added by 1995 PA 234, section 3 of chapter 1 as amended by 2012 PA 394, section 3a of chapter 1 as amended and section 3b of chapter 1 as added by 1987 PA 223, section 3c of chapter 1 as amended by 2011 PA 56,

section 11 of chapter 2 as amended by 1995 PA 233, section 13 of chapter 2 as amended by 1988 PA 216, and section 51 of chapter 2 as amended by 2018 PA 456.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 CHAPTER 1

2 Sec. 2a. **(1)** Beginning January 1, 1995, a city shall not  
3 impose an excise tax on income under this act unless at least 1 of  
4 the following applies:

5 (a) The city had in effect on January 1, 1995 an excise tax on  
6 income under this act.

7 (b) The imposition of an excise tax on income under this act  
8 is approved by the qualified and registered electors of the city.

9 **(2) Beginning January 1, 2022, a city shall not impose an**  
10 **excise tax on income under this act on nonresident individuals.**

11 Sec. 3. (1) The governing body of a city, by a lawfully  
12 adopted ordinance that incorporates by reference the uniform city  
13 income tax ordinance set forth in chapter 2, may levy, assess, and  
14 collect an excise tax on income as provided in the ordinance. The  
15 ordinance shall state the rate of the tax which shall be the rate  
16 authorized by 1 of the following:

17 (a) The uniform city income tax ordinance under section 11 of  
18 chapter 2.

19 (b) Subsection (2).

20 (c) Section 3a, 3b, or 3c of this chapter.

21 (2) In a city with a population of more than 600,000, the  
22 governing body may levy and collect a tax at a rate to be  
23 determined from time to time, that rate to be not more than 2% on  
24 corporations and the following maximum tax rates on resident  
25 individuals and nonresident individuals for the following years:

1 (a) Before July 1, 1999, 3.00% on resident individuals and  
2 1.50% on nonresident individuals.

3 (b) Beginning July 1, 1999 and each July 1 after 1999 through  
4 July 1, 2012, except for 2008 and 2009, the maximum tax rate under  
5 this subsection on resident individuals shall be reduced by 0.1  
6 until the rate on resident individuals is 2.0%. The tax rate  
7 imposed on nonresident individuals shall be 50% of the tax rate  
8 imposed on resident individuals each year.

9 (c) Notwithstanding any other provision of this section, for  
10 the 2008 and 2009 calendar years, the city shall impose the same  
11 tax rate on resident individuals and nonresident individuals as the  
12 city had imposed for the 2007 calendar year.

13 (d) Except as otherwise provided under subdivision (e),  
14 beginning January 1, 2013 and each year after 2013, a rate of not  
15 more than 2.40% on resident individuals and, **through December 31,**  
16 **2021,** 1.20% on nonresident individuals.

17 (e) Beginning January 1 of the year immediately succeeding the  
18 year that all bonds, obligations, and other evidence of  
19 indebtedness issued by a lighting authority have been fully paid  
20 and each year thereafter, a rate of not more than 2.20% on resident  
21 individuals and, **through December 31, 2021** 1.10% on nonresident  
22 individuals.

23 (3) Notwithstanding any other provision of law or any  
24 ordinance of the city to the contrary, a city that forms a lighting  
25 authority shall deposit an amount equal to the sum of the revenue  
26 collected from 0.2% of the rate levied on resident individuals  
27 pursuant to subsection (2)(d) and 0.1% of the rate levied on  
28 nonresident individuals pursuant to subsection (2)(d) directly into  
29 the budget of the city's police department and use it exclusively

1 to retain or hire police officers. The transfer and use of the  
2 revenue as provided under this subsection shall continue until all  
3 bonds, obligations, or other evidence of indebtedness issued by a  
4 lighting authority have been fully paid and revenue is no longer  
5 being pledged from taxes levied under the city utility users tax  
6 act, 1990 PA 100, MCL 141.1151 to 141.1177, to the lighting  
7 authority. As used in this subsection, "lighting authority" means a  
8 lighting authority incorporated under the municipal lighting  
9 authority act, **2012 PA 392, MCL 123.1261 to 123.1295.**

10 (4) The governing body of a city may adopt the uniform city  
11 income tax ordinance with the alternative sections as set forth in  
12 chapter 3 instead of the similarly numbered sections as set forth  
13 in chapter 2. The uniform city income tax ordinance may be lawfully  
14 adopted or rescinded by the governing body at any time. The  
15 adoption of an ordinance is effective on and after January 1 or  
16 July 1 following adoption of the ordinance, as specified in the  
17 ordinance, but an ordinance shall not become effective earlier than  
18 45 days after adoption or until approved by the electors if a  
19 referendum petition is filed as authorized in this act or a  
20 referendum is otherwise required. The rescission of an ordinance  
21 shall become effective on the following December 31. The ordinance  
22 may be rescinded at any time by the governing body in the same  
23 manner in which it was adopted and with appropriate enforcement,  
24 collection, and refund provisions with respect to liabilities  
25 incurred prior to the effective date of the rescission of the  
26 ordinance. The ordinance shall not be amended except as provided by  
27 the legislature. A city may amend the ordinance to change the tax  
28 rate to a rate authorized by this act.

29 (5) Petitions for a referendum election on the question of

1 adopting an ordinance adopted by the governing body may be filed  
2 with the city clerk not later than the sixth Monday following the  
3 adoption of the ordinance. The petitions shall be signed by a  
4 number of registered electors of the city equal to at least 10%,  
5 but not more than 20%, of the registered electors of the city  
6 voting in the last general municipal election prior to the adoption  
7 of the ordinance by the governing body. If proper petitions are  
8 filed, the question of adopting the ordinance shall be submitted by  
9 the governing body to the city electors at the next primary or  
10 general election or at a special election called for the purpose,  
11 in any case held not less than 45 days nor more than 90 days after  
12 the clerk has reported the filing of the referendum petition to the  
13 city's governing body. The checking of names on the petitions, the  
14 counting, canvassing, and return of the votes on the question, and  
15 other procedures for the election shall be as provided by law or  
16 charter. Upon a favorable vote of the city electors, the ordinance  
17 shall be effective as specified in the ordinance which may be  
18 amended by the governing body of the city following the election to  
19 specify July 1 or January 1 as the effective date of the ordinance,  
20 if the effective date originally specified in the ordinance is  
21 considered impractical or inconvenient for any reason. The  
22 provisions in this section for a referendum election, and for  
23 delaying the effective date of the ordinance if petitions for a  
24 referendum are filed, are not applicable to a city that on January  
25 1, 1964 had in effect a valid ordinance levying and imposing an  
26 excise tax levied on or measured by income. Notwithstanding any  
27 other provision of this act, if an ordinance becomes effective on  
28 any date other than January 1, each tax year shall end on December  
29 31, and the provisions of the ordinance based on a full tax year

1 are modified accordingly to be applicable to the partial tax year.

2       Sec. 3a. (1) The specific rates to be levied by a city on  
3 corporations, resident individuals, and, **through December 31, 2021,**  
4 nonresident individuals shall be established within the applicable  
5 limitations allowed under this section and section 3 of this  
6 chapter in the ordinance which otherwise incorporates by reference  
7 the uniform city income tax ordinance set forth in chapter 2.

8       (2) The governing body of a city with a population of less  
9 than 1,000,000 persons may levy, assess, and collect an excise tax  
10 on income earned and received at a rate of not more than 2% on  
11 corporations, not more than 2% on resident individuals, and,  
12 **through December 31, 2021,** not more than 50% of the rate imposed on  
13 resident individuals on nonresident individuals if approved by a  
14 majority of the qualified electors of the city voting thereon  
15 before November 15, 1988, and if all of the following occurred in  
16 the calendar year immediately preceding the calendar year in which  
17 the increased rates allowed by this subsection initially would  
18 apply:

19       (a) The city levied more than 22 mills for city purposes and  
20 for payment of judgments ordered by a court of competent  
21 jurisdiction.

22       (b) More than 65 mills were levied in the city for all  
23 purposes.

24       (c) The city levied a tax pursuant to this act.

25       (3) Any increase in the tax rate permitted by this section  
26 shall not become effective until the governing body of the city, by  
27 resolution, provides for securing the services of a financial  
28 management consultant. The financial management consultant shall be  
29 selected by the mayor with the approval of the local emergency

1 financial assistance loan board created under ~~Act No. 243 of the~~  
2 ~~Public Acts of 1980, as amended, being sections 141.931 to 141.942~~  
3 ~~of the Michigan Compiled Laws.~~ **the emergency municipal loan act,**  
4 **1980 PA 243, MCL 141.931 to 141.942.** The resolution shall further  
5 provide that the financial management consultant shall be paid from  
6 city funds. The duties of the financial management consultant shall  
7 be to monitor the fiscal condition of the city, to report the  
8 findings of this monitoring to the local governing body, the mayor,  
9 and the local emergency financial assistance loan board, and to  
10 provide financial management technical assistance to the city. The  
11 local emergency financial assistance loan board shall determine the  
12 form of monitoring and the frequency of reporting. The financial  
13 management consultant shall have full access to all fiscal and  
14 other records of the city. The services of a financial management  
15 consultant may be terminated subject to the approval of the local  
16 emergency financial assistance loan board at such time as  
17 improvement in the financial condition of the city warrants this  
18 action. The local emergency financial assistance loan board may  
19 make recommendations to the legislature that will assist in the  
20 attainment of further fiscal improvement for the city.

21       Sec. 3b. A city that levied the tax authorized by this act  
22 before ~~the effective date of this section~~ **December 28, 1987** may  
23 amend the ordinance to increase the rate to an annual tax of not  
24 more than 1.4% on corporations and resident individuals and,  
25 **through December 31, 2021,** not more than 0.7% on nonresident  
26 individuals. The increase in the tax authorized by this section  
27 shall be levied for not longer than 13 years as provided in the  
28 ballot proposal submitted to the electors. An amendment to the city  
29 income tax ordinance under this section is not effective unless the

1 amendment is approved before July 1, 1988 by a majority vote of the  
2 registered and qualified electors of that city voting on the  
3 proposition. This section applies only to a city that has a  
4 population of more than 50,000 and that, within 6 years before the  
5 approval of the amendment authorized by this section, annexes to  
6 the city an area containing more than 20 square miles.

7         Sec. 3c. A city that levied the tax authorized by this act  
8 before March 30, 1989 may amend the ordinance to increase the rate  
9 to an annual tax of not more than 1-1/2% on corporations and  
10 resident individuals and, **through December 31, 2021**, not more than  
11 3/4% on nonresident individuals, but not more than 1/2 of the tax  
12 rate imposed on resident individuals. An amendment to the city  
13 income tax ordinance under this section is not effective unless the  
14 amendment is approved by a majority of the qualified electors  
15 voting on the question. Before November 10, 1989, an amendment  
16 under this section shall not be placed before the voters for  
17 approval more than once in any 12-month period. This section  
18 applies only to a city with a population of more than 140,000 and  
19 less than 600,000 or a city with a population of more than 65,000  
20 and less than 100,000 in a county with a population less than  
21 300,000.

## 22   CHAPTER 2

23         Sec. 11. Subject to the exclusions, adjustments, exemptions,  
24 and deductions ~~herein~~ provided **in this chapter**, an annual tax of 1%  
25 on corporations and resident individuals and, **through December 31,**  
26 **2021**, of 1/2% on nonresident individuals for general revenue  
27 purposes and the purposes provided for in sections 11a and 11b is  
28 ~~hereby~~ imposed as an excise on income earned and received on and  
29 after the effective date of this ordinance. However, if the



1 governing body of the city adopts a resolution to impose the tax at  
2 a lower rate, the tax is hereby imposed at that lower rate. If the  
3 tax is imposed at a lower rate, the rate on nonresident individuals  
4 shall not exceed 1/2 of the rate on corporations and resident  
5 individuals.

6 Sec. 13. ~~The~~ **Through December 31, 2021, the** tax shall apply on  
7 the following types of income of a nonresident individual to the  
8 same extent and on the same basis that the income is subject to  
9 taxation under the federal internal revenue code:

10 (a) On a salary, bonus, wage, commission, and other  
11 compensation for services rendered as an employee for work done or  
12 services performed in the city. Income that the nonresident  
13 taxpayer receives as the result of disability and after exhausting  
14 all vacation pay, holiday pay, and sick pay is not compensation for  
15 services rendered as an employee for work done or services  
16 performed in the city. Vacation pay, holiday pay, sick pay and a  
17 bonus paid by the employer are considered to have the same tax  
18 situs as the work assignment or work location and are taxable on  
19 the same ratio as the normal earnings of the employee for work  
20 actually done or services actually performed.

21 (b) On a distributive share of the net profits of a  
22 nonresident owner of an unincorporated business, profession,  
23 enterprise, undertaking, or other activity, as a result of work  
24 done, services rendered, and other business activities conducted in  
25 the city.

26 (c) On capital gains less capital losses from sales of, and on  
27 the net profits from rentals of, real and tangible personal  
28 property, if the capital gains arise from property located in the  
29 city.

1           Sec. 15. An unincorporated business, profession or other  
 2 activity conducted by 1 or more persons subject to the tax as  
 3 either a sole proprietorship or partnership shall not be taxable as  
 4 such. The persons carrying on the unincorporated business,  
 5 profession or other activity are liable for income tax only in  
 6 their separate and individual capacities and on the following  
 7 bases:

8           (a) A resident proprietor or partner is taxable upon his **or**  
 9 **her** entire distributive share of the net profits of the activity  
 10 regardless of where the activity is conducted.

11           (b) ~~A—Through December 31, 2021, a~~ nonresident proprietor or  
 12 partner is taxable only upon his **or her** distributive share of the  
 13 portion of the net profits of the activity which is attributable to  
 14 the city under the allocation methods provided in this ordinance.

15           (c) In the hands of a proprietor or partner of an  
 16 unincorporated activity, the character of any item of income  
 17 taxable under this ordinance is determined as if such item were  
 18 realized by the individual proprietor or partner directly from the  
 19 source from which it is realized by the unincorporated activity. In  
 20 computing ~~his~~ taxable income for a taxable year, a person who is  
 21 required to file a return shall include ~~therein~~ his **or her** taxable  
 22 distributive share of the net profits for any partnership year  
 23 ending within or with his **or her** taxable year **in the return.**

24           Sec. 16. An unincorporated business, profession or other  
 25 activity owned by 2 or more persons shall file an annual  
 26 information return setting forth:

27           (a) The entire net profit for the period covered by the return  
 28 and the taxable portion of the net profit attributable to the city.

29           (b) The names and addresses of the owners of the

1 unincorporated activity and each owner's taxable distributive share  
2 of the total net profit and each nonresident owner's share of the  
3 ~~taxable~~ net profit attributable to the city.

4 Sec. 51. (1) An employer doing business or maintaining an  
5 establishment within the city shall withhold from each payment to  
6 the employer's employees on and after the effective date of this  
7 ordinance the tax on their compensation subject to the tax, after  
8 giving effect to exemptions, as follows:

9 (a) Residents.

10 (i) At a rate equal to the rate set by ordinance to be levied  
11 against resident individuals under this ordinance, but not to  
12 exceed 3%, of all compensation paid to the employee who is a  
13 resident of the city, if the employee is not subject to withholding  
14 in any other city levying the tax.

15 (ii) At a rate equal to the difference in the percentage rate  
16 of tax on resident individuals as set by ordinance to be levied  
17 under this ordinance less the percentage rate of tax levied by any  
18 other city in which the employee works, on all compensation earned  
19 by the resident in another city.

20 (b) ~~Nonresidents.~~ **Through December 31, 2021, nonresidents.** At  
21 a rate equal to the rate set by ordinance to be levied under this  
22 ordinance on nonresidents but not to exceed 50% of the percentage  
23 rate imposed on resident individuals of the compensation paid to  
24 the employee for work done or services performed in the city  
25 designated by the employee as the employee's predominant place of  
26 employment. The withholding rate shall be applied to the percentage  
27 of the employee's total compensation equal to the employee's  
28 estimated percentage of work to be done or services to be performed  
29 in the city for that employer, but no withholding shall be required

1 if the estimated percentage of work is less than 25%.

2 (2) An employer withholding the tax is deemed to hold the tax  
3 as a trustee for the city.

4 (3) An employer who is required to withhold and who fails or  
5 refuses to deduct and withhold is liable for the payment of the  
6 amount required to be withheld. The liability shall be discharged  
7 upon payment of the tax by the employee but the employer is not  
8 relieved of penalties and interest provided in this ordinance for  
9 this failure or refusal.

10 (4) An employer that voluntarily registers to withhold taxes  
11 in accordance with section 6 of chapter 1 shall withhold from all  
12 employees who are residents of that city based on the form required  
13 to be filed by each employee under section 54 on their compensation  
14 subject to tax, after giving effect to exemptions as provided under  
15 subsection (1)(a). If an employer no longer wishes to voluntarily  
16 withhold taxes under section 6 of chapter 1, the employer shall  
17 file a written notice with the city, and with the administrator if  
18 the administrator is not the city, indicating that the employer  
19 will no longer voluntarily withhold taxes from employees who are  
20 residents of that city.