

## CITY INCOME TAX COLLECTION PROCEDURES

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**House Bill 4618 (proposed substitute H-2)**  
**House Bill 5025 as reported from committee**  
**Sponsor: Rep. Wendell Byrd**  
**Committee: Tax Policy**  
**Complete to 12-6-18**

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

### SUMMARY:

House Bills 4618 and 5025 would 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 would authorize an employer outside a city with a population of 600,000 or more that imposes a city income tax (i.e., City of Detroit) to voluntarily register to withhold taxes of employees that are residents of the City. An employee of the employer who elected to withhold city income taxes for the City could not opt out. An employer who elected to withhold city income taxes for the City would have to withhold city income taxes from all employees who are residents of the City.

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

The bill would authorize 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 would attach to the property for seven years after the date of attachment and could be extended for another seven years by refiling within six months of the initial lien’s expiration.

The lien would take precedence over all other liens and encumbrances, except bona fide liens recorded before the date a lien filed under this bill was recorded. Bona fide liens would only take precedence to the extent of disbursements made under a financing arrangement before the 46<sup>th</sup> 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 was earlier.

A purchaser or succeeding purchaser of property upon which a lien executed under this bill was attached would be personally liable for the unpaid taxes due. The liability would be 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 would permit the City to cause a demand to be made on a taxpayer for payment of city income taxes due. The demand would apply to property owned and wages, or other income, reported on a Federal W-2 or 1099. If not paid within ten days of the demand and proceedings are not taken to review the liability, a warrant could be issued. The City could 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 refused or failed to surrender any property subject to levy, upon demand by the City, would be 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 would be 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 would be required to file a release of the lien within 20 business days of payment. If the City filed for a lien and, upon request, determined that the taxpayer named on the lien had no interest in certain properties owned by another person, the City would have to 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 determined that a tax liability was satisfied, it would have to 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 determined that the property was not subject to levy, the City would have to serve a release of levy with all due haste but not more than five business days after the determination.

The City would have to 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 was satisfied and the City subsequently filed a lien, warrant, or warrant-notice of levy determined to be in error, the City would be required to 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 was made.

House Bill 5025 would add “a known city income tax liability for a [city income] tax administered by the department” to the list of liabilities the department could apply a state income tax refund to. 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.<sup>1</sup>

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.<sup>2</sup> 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.

## **POSITIONS:**

Representatives from the City of Detroit testified in support of the bills. (12-4-18)

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■ 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.

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

<sup>2</sup> 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](http://www.michigan.gov/documents/taxes/CITA_Press_Release_505696_7.pdf)