

HOUSE BILL No. 4338

February 28, 2007, Introduced by Reps. Sheltrown, Sheen, Ball, Rick Jones and Mayes and referred to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
by amending section 351 (MCL 206.351), as amended by 2003 PA 22.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 351. (1) Every employer in this state required under the
2 provisions of the internal revenue code to withhold a tax on the
3 compensation of an individual, except as otherwise provided, shall
4 deduct and withhold a tax in an amount computed by applying, except
5 as provided by subsection (9), the rate prescribed in section 51 to
6 the remainder of the compensation after deducting from compensation
7 the same proportion of the total amount of personal and dependency
8 exemptions of the individual allowed under this act that the period
9 of time covered by the compensation is of 1 year. The commissioner
10 may prescribe withholding tables that may be used by employers to

1 compute the amount of tax required to be withheld.

2 (2) Every flow-through entity in this state shall withhold a
3 tax in an amount computed by applying the rate prescribed in
4 section 51 to the share of taxable income available for
5 distribution of each nonresident member after deducting from that
6 distributive income the same proportion of the total amount of
7 personal and dependency exemptions of the individual allowed under
8 this act that the period of time covered by the distributive income
9 is of 1 year. If a flow-through entity is a nonresident member of a
10 separate flow-through entity in this state, the flow-through entity
11 in this state of which it is a member shall withhold the tax as
12 required by this subsection on behalf of the flow-through entity
13 that is a nonresident member and all nonresident members of that
14 flow-through entity that is a nonresident member. **FOR PURPOSES OF**
15 **THIS SUBSECTION, "SHARE OF TAXABLE INCOME AVAILABLE FOR**
16 **DISTRIBUTION OF EACH NONRESIDENT MEMBER" AND "DISTRIBUTIVE INCOME"**
17 **MEAN, FOR A FLOW-THROUGH ENTITY THAT HAS A REGULATORY AGREEMENT**
18 **WITH THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, THE UNITED**
19 **STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, OR THE UNITED**
20 **STATES DEPARTMENT OF AGRICULTURE UNDER WHICH APPROVAL IS REQUIRED**
21 **FOR CASH DISTRIBUTIONS TO MEMBERS, CASH DISTRIBUTIONS APPROVED**
22 **UNDER ITS AGREEMENT AND ACTUALLY MADE DURING THE TAX YEAR.**

23 (3) Every casino licensee shall withhold a tax in an amount
24 computed by applying the rate prescribed in section 51 to the
25 winnings of a nonresident reportable by the casino licensee under
26 the internal revenue code.

27 (4) Every race meeting licensee or track licensee shall

1 withhold a tax in an amount computed by applying the rate
2 prescribed in section 51 to a payoff price on a winning ticket of a
3 nonresident reportable by the race meeting licensee or track
4 licensee under the internal revenue code that is the result of
5 pari-mutuel wagering at a licensed race meeting.

6 (5) Every casino licensee or race meeting licensee or track
7 licensee shall report winnings of a resident reportable by the
8 casino licensee or race meeting licensee or track licensee under
9 the internal revenue code to the department in the same manner and
10 format as required under the internal revenue code.

11 (6) The taxes withheld under this section shall accrue to the
12 state on the last day of the month in which the taxes are withheld
13 but shall be returned and paid to the department by the employer,
14 flow-through entity, casino licensee, or race meeting licensee or
15 track licensee within 15 days after the end of any month or as
16 provided in section 355, except prior to July 1, 1993, taxes
17 deposited pursuant to section 19(2) of 1941 PA 122, MCL 205.19, are
18 accrued on the last day of the filing period.

19 (7) An employer, flow-through entity, casino licensee, or race
20 meeting licensee or track licensee required by this section to
21 deduct and withhold taxes on compensation, a share of income
22 available for distribution on which withholding is required under
23 subsection (2), winning on which withholding is required under
24 subsection (3), or a payoff price on which withholding is required
25 under subsection (4) holds the amount of tax withheld as a trustee
26 for the state, is liable for the payment of the tax to the state,
27 and is not liable to any individual for the amount of the payment.

1 (8) An employer in this state is not required to deduct and
2 withhold a tax on the compensation paid to a nonresident individual
3 employee, who, under section 256, may claim a tax credit equal to
4 or in excess of the tax estimated to be due for the tax year or is
5 exempted from liability for the tax imposed by this act. In each
6 tax year, the nonresident individual shall furnish to the employer,
7 on a form approved by the department, a verified statement of
8 nonresidence.

9 (9) An employer, flow-through entity, casino licensee, or race
10 meeting licensee or track licensee required to withhold a tax under
11 this act, by the fifteenth day of the following month, shall
12 provide the department with a copy of any exemption certificate on
13 which the employee, nonresident member, or person subject to
14 withholding under subsection (3) or (4) claims more than 9 personal
15 or dependency exemptions, claims a status that exempts the
16 employee, nonresident member, or person subject to withholding
17 under subsection (3) or (4) from withholding under this section, or
18 elects to pay the tax imposed by this act calculated under section
19 51a.

20 (10) An employer shall deduct and withhold the tax imposed by
21 this act calculated under section 51a for a resident who files an
22 exemption certificate under subsection (9) to elect to pay the tax
23 calculated under section 51a.

24 (11) The exemption certificate required by this section shall
25 include the following statement, "Electing to file using the no-
26 form option may not be for everyone who is eligible. If a taxpayer
27 chooses the no-form option, he or she may not be eligible for some

1 of the credits allowed under this act including the property tax
2 credit allowed under sections 520 and 522, the tuition tax credit
3 allowed under section 274, and the city income tax credit allowed
4 under section 257."

5 (12) As used in this section:

6 (a) "Casino" means that term as defined in section 110.

7 (b) "Casino licensee" means a person licensed to operate a
8 casino under the Michigan gaming control and revenue act, the
9 Initiated Law of 1996, MCL 432.201 to 432.226.

10 (c) "Race meeting licensee" and "track licensee" mean a person
11 to whom a race meeting license or track license is issued pursuant
12 to section 8 of the horse racing law of 1995, 1995 PA 279, MCL
13 431.308.