

INCOME TAX ACT OF 1967 (EXCERPT)
Act 281 of 1967

***** 206.703.added THIS ADDED SECTION IS EFFECTIVE JANUARY 1, 2012; THIS ADDED SECTION IS AMENDED EFFECTIVE JANUARY 1, 2012: See 206.703.amended *****

206.703.added Tax withholding; deduction; amount; computation; employer; flow-through entity; casino licensee; racing licensee or track licensee; eligible production company; exemption certificate.

Sec. 703. (1) A person who disburses pension or annuity payments is subject to income tax withholding on the taxable part of payments from an employer pension, annuity, profit-sharing, stock bonus, or other deferred compensation plan as well as from an individual retirement arrangement, an annuity, an endowment, or a life insurance contract issued by a life insurance company. Withholding is not required on any part of a distribution that is not expected to be includable in the recipient's gross income.

(2) Every employer in this state required under the provisions of the internal revenue code to withhold a tax on the compensation of an individual, except as otherwise provided, shall deduct and withhold a tax in an amount computed by applying, except as provided by subsection (13), the rate prescribed in section 51 to the remainder of the compensation after deducting from compensation the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act that the period of time covered by the compensation is of 1 year. The department may prescribe withholding tables that may be used by employers to compute the amount of tax required to be withheld.

(3) Every flow-through entity in this state shall withhold a tax in an amount computed by applying the rate prescribed in section 51 to the distributive share of taxable income after allocation and apportionment under chapter 3 of each nonresident member who is an individual after deducting from that distributive income the same proportion of the total amount of personal and dependency exemptions of the individual allowed under this act.

(4) Every flow-through entity with business activity in this state that has more than \$200,000.00 of business income in the tax year after allocation or apportionment under chapter 14 shall withhold a tax in an amount computed by applying the rate prescribed in section 623 to the distributive share of the business income of each member that is a corporation or that is a flow-through entity. As used in this subsection, "business income" means that term as defined in section 603(2).

(5) If a flow-through entity is subject to the withholding requirements of subsection (4) then a member of that flow-through entity that is itself a flow-through entity shall withhold a tax on the distributive share of business income as described in subsection (4) of each of its members. The department shall apply tax withheld by a flow-through entity on the distributive share of business income of a member flow-through entity to the withholding required of that member flow-through entity.

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

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

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

(9) Every eligible production company shall, to the extent not withheld by a professional services corporation or professional employer organization, deduct and withhold a tax in an amount computed by applying the rate prescribed in section 51 to the remainder of the payments made to the professional services corporation or professional employer organization for the services of a performing artist or crew member after deducting from those payments the same proportion of the total amount of personal and dependency exemptions of the individuals allowed under this part.

(10) Except as otherwise provided under this subsection, all of the taxes withheld under this section shall accrue to the state on the last day of the month in which the taxes are withheld but shall be returned and paid to the department by the employer, flow-through entity, eligible production company, casino licensee, or race meeting licensee or track licensee within 15 days after the end of any month or as provided in section 355. For an employer or flow-through entity that has entered into an agreement with a community college pursuant to chapter 13 of the community college act of 1966, 1966 PA 331, MCL 389.161 to 389.166, a portion of the taxes withheld under this section that are attributable to each employee in a new job created pursuant to the

agreement shall accrue to the community college on the last day of the month in which the taxes are withheld but shall be returned and paid to the community college by the employer or flow-through entity within 15 days after the end of any month or as provided in section 355 for as long as the agreement remains in effect. For purposes of this act and 1941 PA 122, MCL 205.1 to 205.31, payments made by an employer or flow-through entity to a community college under this subsection shall be considered income taxes paid to this state.

(11) An employer, flow-through entity, eligible production company, casino licensee, or race meeting licensee or track licensee required by this section to deduct and withhold taxes on compensation, a share of income available for distribution on which withholding is required under subsection (3), (4), or (5), winnings on which withholding is required under subsection (6), or a payoff price on which withholding is required under subsection (7) holds the amount of tax withheld as a trustee for this state and is liable for the payment of the tax to this state or, if applicable, to the community college and is not liable to any individual for the amount of the payment.

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

(13) An employer, flow-through entity, eligible production company, casino licensee, or race meeting licensee or track licensee required to withhold a tax under this act, by the fifteenth day of the following month, shall provide the department with a copy of any exemption certificate on which the employee, member, or person subject to withholding under subsection (6) or (7) claims more than 9 personal or dependency exemptions, claims a status that exempts the employee, member, or person subject to withholding under subsection (6) or (7) from withholding under this section, or elects to pay the tax imposed by this part calculated under section 51a.

(14) An employer shall deduct and withhold the tax imposed by this act calculated under section 51a for a resident who files an exemption certificate under subsection (13) to elect to pay the tax calculated under section 51a.

(15) The exemption certificate required by this section shall include the following statement, "Electing to file using the no-form option may not be for everyone who is eligible. If a taxpayer chooses the no-form option, he or she may not be eligible for some of the credits allowed under this act including the property tax credit allowed under sections 520 and 522.".

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

Compiler's note: This section as added by Act 38 of 2011 was assigned the compilation number "206.703". To avoid a conflict with another section previously numbered "206.703", Sec. 703 of 2006 PA 513 has been renumbered as 206.903.