

SENATE BILL No. 404

April 24, 2003, Introduced by Senator EMERSON and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
 "Income tax act of 1967,"
 by amending section 351 (MCL 206.351), as amended by 1996
 PA 264.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 withholding tables that may be used by employers to compute the
2 amount of tax required to be withheld.

3 (2) Every flow-through entity in this state shall withhold a
4 tax in an amount computed by applying the rate prescribed in
5 section 51 to the share of taxable income available for
6 distribution of each nonresident member after deducting from that
7 distributive income the same proportion of the total amount of
8 personal and dependency exemptions of the individual allowed
9 under this act that the period of time covered by the
10 distributive income is of 1 year. If a flow-through entity is a
11 nonresident member of a separate flow-through entity in this
12 state, the flow-through entity in this state of which it is a
13 member shall withhold the tax as required by this subsection on
14 behalf of the flow-through entity that is a nonresident member
15 and all nonresident members of that flow-through entity that is a
16 nonresident member.

17 (3) Every casino licensee shall withhold a tax in an amount
18 computed by applying the rate prescribed in section 51 to the
19 winnings reportable by the casino licensee under the internal
20 revenue code.

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

27 (5) ~~-(2)-~~ The taxes withheld under this section shall accrue

1 to the state on the last day of the month in which the taxes are
2 withheld but shall be returned and paid to the department by the
3 employer, **flow-through entity, casino licensee, or race meeting**
4 **licensee or track licensee** within 15 days after the end of any
5 month or as provided in section 355, except prior to July 1,
6 1993, taxes deposited pursuant to section 19(2) of ~~Act No. 122~~
7 ~~of the Public Acts of 1941, being section 205.19 of the Michigan~~
8 ~~Compiled Laws— 1941 PA 122, MCL 205.19~~, are accrued on the last
9 day of the filing period.

10 (6) ~~(3)~~ An employer, **flow-through entity, casino licensee,**
11 **or race meeting licensee or track licensee** required by this
12 section to deduct and withhold taxes on compensation, **a share of**
13 **income available for distribution on which withholding is**
14 **required under subsection (2), winning on which withholding is**
15 **required under subsection (3), or a payoff price on which**
16 **withholding is required under subsection (4)** holds the amount of
17 tax withheld as a trustee for the state, is liable for the
18 payment of the tax to the state, and is not liable to any
19 individual for the amount of the payment.

20 (7) ~~(4)~~ An employer in this state is not required to deduct
21 and withhold a tax on the compensation paid to a nonresident
22 individual employee, who, under section 256, may claim a tax
23 credit equal to or in excess of the tax estimated to be due for
24 the tax year or is exempted from liability for the tax imposed by
25 this act. In each tax year, the nonresident individual shall
26 furnish to the employer, on a form approved by the department, a
27 verified statement of nonresidence.

1 ~~(5) If an employer is a corporation and does not for any~~
2 ~~reason file the returns or pay the tax due under this act, any of~~
3 ~~the officers of the corporation having control, supervision of,~~
4 ~~or charged with the responsibility for making the returns or~~
5 ~~payments shall be personally liable for a failure to file or~~
6 ~~pay. The dissolution of a corporation does not discharge a~~
7 ~~corporate officer's liability for the failure of the corporation~~
8 ~~to file a return or remit the tax that was due before~~
9 ~~dissolution. The sum due for any liability imposed upon a~~
10 ~~corporate officer under this subsection may be assessed and~~
11 ~~collected as provided in sections 23 and 24 of Act No. 122 of the~~
12 ~~Public Acts of 1941, being sections 205.23 and 205.24 of the~~
13 ~~Michigan Compiled Laws.~~

14 **(8) —(6)—** An employer, **flow-through entity, casino licensee,**
15 **or race meeting licensee or track licensee** required to withhold a
16 tax under this act, by the fifteenth day of the following month,
17 shall provide the department with a copy of any exemption
18 certificate on which the employee, **nonresident member, or person**
19 **subject to withholding under subsection (3) or (4)** claims more
20 than 9 personal or dependency exemptions, claims a status that
21 exempts the employee, **nonresident member, or person subject to**
22 **withholding under subsection (3) or (4)** from withholding under
23 this section, or elects to pay the tax imposed by this act
24 calculated under section 51a.

25 **(9) —(7)—** An employer shall deduct and withhold the tax
26 imposed by this act calculated under section 51a for a resident
27 who files an exemption certificate under subsection ~~—(6)—~~ **(8)** to

1 elect to pay the tax calculated under section 51a.

2 **(10) —(8)—** The exemption certificate required by this section
3 shall include the following statement, "Electing to file using
4 the no-form option may not be for everyone who is eligible. If a
5 taxpayer chooses the no-form option, he or she may not be
6 eligible for some of the credits allowed under this act including
7 the property tax credit allowed under sections 520 and 522, the
8 tuition tax credit allowed under section 274, and the city income
9 tax credit allowed under section 257."

10 **(11) As used in this section:**

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

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

15 **(c) "Race meeting licensee" and "track licensee" mean a**
16 **person to whom a race meeting license or track license is issued**
17 **pursuant to section 8 of the horse racing law of 1995, 1995**
18 **PA 279, MCL 431.308.**

19 Enacting section 1. This amendatory act takes effect
20 October 1, 2003.