

Legislative Analysis



CITY INCOME TAX ACT COLLECTION PROCEDURES

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House Bill 4992 (H-1)
Sponsor: Rep. Felicia Brabec
Committee: Appropriations
Complete to 9-20-23

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

SUMMARY:

House Bill 4992 would modify the City Income Tax Act (“Act”) to provide new and modified city income tax collection procedures and expand certain conditions to all cities who enter into an agreement with the Department of Treasury (“department”) to administer, enforce, and collect the city income tax.

The bill would authorize an employer that does not do business in or maintain an establishment in a city that has entered into an agreement with the department to administer, enforce, and collect the city income tax to voluntarily register to withhold taxes on compensation of employees that are residents of that city. Current law limits this registration to employers with employees who are residents of the city of Detroit.

Under current law, for a city that has entered into an agreement with the department as noted above, a taxpayer or employer has 30 days after receipt of a notice of intent to assess to file a written protest with the department whereby the taxpayer or employer or duly authorized representative is given an opportunity to be heard and present evidence and arguments on their behalf. The bill would modify this to allow a taxpayer or employer 60 days after receipt of a notice of intent to assess to file a written request for an *informal conference* to dispute the assessment, in whole or in part. The department would be required to conduct the informal conference in accordance with Section 21 of the Revenue Act, 1941 PA 122, MCL 205.21, except as otherwise provided in Chapter 2 of the Act. A taxpayer or employer would not be able to file an appeal under Section 92a of the Act unless an informal conference was requested and conducted.

Currently, if the protest to the notice of intent to assess is determined to be frivolous or to delay or impede the administration of the tax, a penalty of \$25 or 25% of the amount of tax under protest, whichever is greater, is added to the tax. The penalty would be retained for the notice of intent to assess, but the bill would expand the penalty to a protest to the proposed assessment for a city who has not entered into an agreement with the department if it was found to be frivolous or to delay or impede the administration of the tax.

Under the bill, the informal conference would be subject to the final assessment requirements under the Act. Moreover, for a city that has entered into an agreement with the department, the bill would establish a new appeals process (Section 92a) for a final assessment, decision, or order of the department whereby the taxpayer or employer may appeal the contested portion of the assessment, decision, or order to the tax tribunal within 35 days of receipt of the final assessment, decision, or order of the department. As a

prerequisite to appeal, the uncontested portion must be paid. The appeal would be required to be conducted in accordance with the Tax Tribunal Act, 1973 PA 186. A taxpayer or employer that failed to request or participate in an informal conference would be prohibited from appealing a final assessment, decision, or order of the department.

Provisions of the Act dealing with the authority to impose a lien for taxes (Section 86a); demand for payment, warrants, levies on property, refusal to surrender property, personal liability, the effect of a levy on salary or wages, and service of a warrant-notice levy (Section 86b); and recording release of a lien or levy (Section 86c) would be expanded to include any city that has entered into an agreement with the department. Currently they are only applicable to the city of Detroit.

The provisions limiting a city's authority to impose a lien or to cause a demand for payment to property owned by a natural person and wages, or other income, that are reported on a federal W-2 or 1099 form would be removed.

Lastly, the bill would limit the provisions of the Act related to the establishment of an income tax board of review (Section 91); income tax board of review processes (Section 92); and appeals of income tax board of review decisions (Section 93) to cities that have not entered into an agreement with the department and decisions by an administrator. Decisions by the department would be appealed through a newly established process.

MCL 141.506 et seq.

FISCAL IMPACT:

The bill would have an unknown impact on Department of Treasury administrative costs related to the City Income Tax Act. While the provisions of the bill could impose certain costs on the department related to the revised procedures under the bill, the department has the ability to capture sufficient city income tax revenue to accommodate the necessary expenses.

While the bill amends certain processes to accommodate any city that has entered into an agreement with the department (not just the city of Detroit), a city must first elect to enter into an agreement. The Act does not require a city to enter into an agreement with the department.

The FY 2023-24 appropriations act, 2023 PA 119, included approximately \$17.9 million intended for the expansion of the state's city income tax collection service system to accommodate additional cities should they elect to enter into an agreement with the department to administer city income tax collection.

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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.