2009 Michigan Income Tax Withholding Guide

Calendar Year 2009 Information:
Withholding Rate: 4.35%
Personal Exemption Amount: $3,600

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- The MI-W4 *Employee's Michigan Withholding Exemption Certificate*, and *New Hire Reporting Form* (Form 3281). Michigan employers may file the MI-W4 with the New Hire Operations Center as a means of meeting their obligation to report their newly hired employees.
- *Power of Attorney* (Form 151).
- *Statement of Michigan Income Tax Withheld for Nonresidents From Flow-Through Entities* (Form 4119).

CHOOSE THE CONVENIENCE OF ELECTRONIC FUNDS TRANSFER (EFT)

If you choose to make all your payments by EFT, Treasury waives the monthly or quarterly requirement for a paper return. You simply transmit your payment each month or quarter and eliminate the paper return. This guide includes information on remitting your tax payments by using EFT.

CONTACT INFORMATION

Michigan Department of Treasury
P.O. Box 30427
Lansing, MI 48909
(517) 636-4730

Telephone help is available using TTY equipment by calling (517) 636-4999. Printed material in an alternate format may be obtained by calling 1-800-827-4000.

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Important Information

Purpose

This guide provides instructions, general information, and a summary of the employer's responsibilities for withholding Michigan income tax from compensation paid to employees (see Compensation, page 3).

Who Must Withhold?

Every employer in this State who is required to withhold federal income tax under the Internal Revenue Code (IRC) must withhold Michigan income tax.

Who Is an Employer?

An employer is defined in the *Federal Employer's Tax Guide, Circular E*, as any person or organization for whom an individual performs any service as an employee. This includes any person or organization paying compensation to a former employee after termination of his or her employment.

Nonprofit organizations that are exempt from income tax, such as charitable, religious, and government organizations, must withhold tax from compensation paid to their employees.

Employers located outside Michigan who have employees working in Michigan must register with Treasury and withhold Michigan income tax from all employees working in Michigan. This applies to both Michigan residents and nonresidents (see Reciprocal Agreements, page 4).

Employers located in Michigan assigning a Michigan resident employee to work temporarily in another state must withhold Michigan income tax from compensation paid to the employee for work done in another state.

Who Is an Employee?

An employee is an individual who performs services for an employer who controls what will be done and how it will be done. It does not matter that the employer permits the employee considerable discretion and freedom of action, as long as the employer has the legal right to control both the method and the result of the services.

For further clarification of the term "employee," see the *Federal Employer's Tax Guide, Circular E*.

Choose Electronic Funds Transfer (EFT)

Using EFT to submit your Sales, Use and Withholding tax payments eliminates the requirement to file monthly or quarterly paper returns, with the exception of the *Annual Return for Sales, Use and Withholding Taxes* (Form 165). An EFT application (Form 2248 or 2328) must be completed and signed by an officer and returned to Treasury. To find out more about the EFT process, contact the Sales, Use and Withholding Taxes EFT Unit at (517) 636-4730; or visit **www.michigan.gov/biztaxpayments.**

Withholding on Nonresident Gambling Winnings

Michigan withholding is required on all reportable winnings by nonresidents at Michigan casinos, racetracks, or off-track betting facilities. Reportable winnings are those winnings required to be reported to the Internal Revenue Service (IRS) under the IRC. To calculate Michigan withholding, multiply the amount of reportable winnings by 4.35 percent. Include the amount withheld on the recipient's Form W-2G.

Flow-Through Entities

Flow-through entities (S-corporations, partnerships, limited partnerships, limited liability companies, and limited liability partnerships) are required to withhold Michigan income tax on the taxable income available for distribution to nonresident members. The amount of withholding is calculated and remitted on a quarterly basis by multiplying the share of taxable income allocable to each member, adjusted for the allowable exemption amount for a quarter, times 4.35 percent.

A flow-through entity is also required to withhold Michigan income tax when one or more of the entity's members is a nonresident flow-through entity. The flow-through entity in Michigan shall withhold Michigan income tax from any such nonresident flow-through entity on behalf of all of the nonresident members.

Registration and Account Identification

Every person or organization becoming an employer must register with the Michigan Department of Treasury by completing *Michigan Business Taxes Registration* (Form 518).

If you already have a Federal Employer Identification Number (FEIN), you may electronically submit your registration information. To register online, go to the joint Unemployment Insurance Agency (UIA)/Treasury e-Registration site which can be found at **www.michigan.gov/businesstax**. If you are unable to complete your registration online, you will need to complete and mail Form 518 which you can obtain at **www.michigan.gov/taxes.**

If you do not have an FEIN, you must either apply for one at the IRS Web site **www.irs.gov** or by contacting IRS at 1-800-829-4933. The Michigan employer identification number is usually the same as the FEIN assigned by the IRS. When acquiring a business, do not use the number assigned to the previous employer.

W-2 Reporting on Magnetic Media

Employers with 250 or more Michigan employees are required to file MI-W-2 information on magnetic media.

Do not enclose your annual return with your W-2 report. Mail your annual return to the address on that form. Do not duplicate on paper forms any information filed on magnetic media.

For W-2 reporting, the State of Michigan accepts the federal EFW2 format for magnetic media. You must be sure that the Code RS State Record (optional for federal reporting) is filled in. For more information, contact the Magnetic Media Unit at (517) 636-4456.

For W-2G and 1099 reporting specifications, see *Transmittal for Magnetic Media Reporting* (Form 447) at **www.michigan.gov/businesstax**.

Employee Exemptions

MI-W4 Withholding Exemption Certificate

Every employer must obtain a *Withholding Exemption Certificate* (MI-W4) from each employee. The federal W-4 cannot be used in place of the MI-W4.

The 2009 exemption amount is $3,600 per year times the number of personal and dependency exemptions allowed under the IRC. An employee may not claim more exemptions on the MI-W4 than can be claimed on the employee's federal income tax return.

Michigan has additional special exemptions that are claimed on a taxpayer's Michigan income tax return, not on an MI-W4. The exemptions on the MI-W4 are limited to the number of federal exemptions.

The MI-W4 enables employees to claim exemption from Michigan income tax withholding. Employees may claim exemption from withholding only if they do not anticipate a Michigan income tax liability for the current year because their employment is less than full-time and the personal and dependency exemptions exceed their annual compensation.

Any changes made to an MI-W4 makes the form invalid. Any writing on the certificate other than entries required is considered a change.

If you receive an invalid certificate, do not consider it to compute withholding. You must inform the employee who submitted the certificate that it is invalid and require the employee to submit a corrected MI-W4. If the employee does not comply, withhold from the employee's total compensation based on zero exemptions. If a prior valid certificate is in effect, continue to withhold in accordance with the prior valid certificate.

Sending Certain MI-W4 Certificates

Under Public Act 169 of 1982, employers must submit to Treasury a copy of any MI-W4 received from employees who:

- Claim ten or more exemptions, or
- Claim exempt from withholding tax.

Employers must also submit the MI-W4s for employees who change their withholding status to exempt.

Employers should not send copies of exemption certificates filed by:

- Part-time or student employees whose expected earnings will be less than their exemption allowance.
- Employees who claim exempt because they live in a reciprocal state, or
- Employees who claim exempt for a stated time (e.g., two pay periods).

Use the official MI-W4 only; do not send copies of the federal W-4. **Mail MI-W4s only to:**

New Hire Operations Center
P.O. Box 85010
Lansing, MI 48908-5010

If you report your New Hire information magnetically or electronically, also send a paper copy of the MI-W4 for these employees to the New Hire Operations Center. Do not attach MI-W4 forms to the Sales, Use and Withholding tax return. Include copies of any written statement or explanation from the employee supporting the claim made on the MI-W4. See page 5, **"Reporting Newly-Hired Employees".**

Compensation

The term "compensation," as used in this guide, covers all types of employee compensation including salaries, wages, vacation allowances, bonuses, and commissions (as defined in the *Federal Employer's Tax Guide, Circular E*, "Taxable Wages").

Fringe Benefits

Reporting and withholding on fringe benefits follows federal guidelines as provided in the *Federal Employer's Tax Guide, Circular E*. Examples of fringe benefits include 401(k) plans, deferred compensation, profit sharing, and cafeteria benefit plans.

Supplemental Unemployment Benefits

Any employer required to withhold federal income tax from supplemental unemployment compensation benefits must also withhold Michigan income tax. Michigan follows the federal procedure regarding employee withholding exemption certificates.

How Much to Withhold

Determine the amount of tax withheld using a direct percentage computation or the withholding tables in this book.

The withholding rate is 4.35 percent of compensation after deducting the personal and dependency exemption allowance. If you prefer to compute a direct percentage, refer to the formula below.

Payroll Period	Allowance per Exemption
Weekly	$69.23
Bi-weekly (every two weeks)	$138.46
Semi-monthly (twice per month)	$150.00
Monthly	$300.00
Quarterly	$900.00
Semi-Annually	$1,800.00
Annually	$3,600.00
Per Day	$9.86

Withholding Formula

Withholding = [Compensation - (Allowance per Exemption x Number of Exemptions)] x 4.35%

Example: A worker earning $600/week with 3 exemptions would have the following withholding:

[$600 - (69.23 x 3)] x 4.35%

($600 - $207.69) x .0435 = $17.07

Reciprocal Agreements

Employers located in Michigan must withhold Michigan income tax from all compensation paid to nonresident employees for work done in Michigan, unless covered by a reciprocal agreement.

Michigan has entered into reciprocal agreements with the states of Illinois, Indiana, Kentucky, Minnesota, Ohio, and Wisconsin. This means that a Michigan employer will not withhold Michigan income tax from residents of these states who work in Michigan. Employers in Illinois, Indiana, Kentucky, Minnesota, Ohio, and Wisconsin will not withhold their state income tax from Michigan residents who work in their state. However, such employers may voluntarily register with Treasury to withhold Michigan income tax from Michigan residents who work in their states.

Certificate of Nonresidency

Treasury does not furnish nonresidency certificates. The employer may develop a form or obtain a letter from the employee. The form or letter should contain the employee's name, legal address, Social Security number, and a statement signed and dated by the employee that this is his or her legal address. The employer keeps the form as its authority not to withhold Michigan income tax.

Reporting and Paying Amounts Withheld

Treasury mails personalized returns with instructions to all registered taxpayers. The return is a combined Sales, Use and Withholding Taxes return. Do not use returns personalized for another taxpayer to report and pay your tax.

Employers not liable for Sales or Use Tax should complete only the Withholding Tax section on the return. Follow the filing instructions enclosed with the personalized returns.

Employers averaging more than $40,000 a month in Income Tax withholding will be notified of a requirement to pay on an accelerated schedule. Taxpayers meeting this threshold must make their payments using EFT.

If you need tax forms, contact Treasury at (517) 636-4730 or go to Treasury's Web site.

Bonuses and Other Payments

Bonuses and other payments of taxable employee compensation made separately from regular payroll payments are subject to Michigan income tax withholding. The withholding amount equals the payment amount multiplied by 4.35 percent (.0435). Do not make any adjustment for exemptions.

Statement of Wages & Taxes Withheld (Form W-2)

Every employer must furnish to each employee before January 31 of the succeeding tax year an annual W-2, Wage and Tax Statement giving name, address, Social Security number, gross earnings, and Michigan income tax withheld.

Employers may use one of the IRS-approved combined W-2 forms available commercially.

Annual Return

You must reconcile your income tax withheld every year by filing Form 165. Employers not liable for sales or use tax should complete only the withholding tax section of the return. A copy of the combined W-2 and third-party sick pay W-2 furnished to each employee and MI-1099 (for miscellaneous services performed in Michigan) must accompany the annual return. Do not send other 1099 forms unless they include Michigan withholding tax information.

If, after reasonable effort, you are unable to deliver the W-2s to an employee, follow the instructions in the *Federal Employer's Tax Guide, Circular E*.

Employer Discontinuance

If you go out of business or permanently stop being an employer, you must do all of the following:

- File a final monthly or quarterly return and pay all money due within 15 days after you discontinue business.
- Complete and file Form 165 with Treasury by February 28. Also include the State of Michigan copy of the combined W-2 as furnished to each employee.
- Give a combined W-2 to the employee no later than 30 days after the last payment of compensation.

Successor Liability

If you sell your business, your successor must hold enough of the purchase money to satisfy the amount of sales, use or withholding tax that may be due until you produce a receipt for payment of the tax from Treasury or a certificate from Treasury stating no tax is due. If the successor fails to withhold sufficient funds, he or she may be held liable for unpaid taxes.

Officer Liability

Officers, members, managers, or partners of a corporation, limited liability company, limited liability partnership, partnership, or limited partnership who have responsibility for filing returns and of making payments are personally liable for failure to file or for unpaid taxes, penalty, and interest under Public Act 169 of 1982.

Voluntary Withholding on Pension, Annuity, and Third-Party Payments

Michigan permits voluntary income tax withholding from certain pension, annuity, and third-party sick pay payments if the payee requests it on a form provided by the payer. (Treasury does not provide a form for this.) The amount requested to be withheld from the annuity payment must be a whole dollar amount of at least $5 per month, which does not reduce the net amount of any annuity payment received by the payee below $10. The payments must be payable over a period longer than one year.

A recipient may not request withholding on payments that are not subject to Michigan income tax. This includes any retirement or pension benefits received from a public retirement system created by the State of Michigan or any of its political

subdivisions. It also includes any retirement or pension benefits received from Michigan public schools or from the federal government.

Correcting W-2 Errors

If you find an error in a W-2 after it has been issued to the employee, do not issue a corrected W-2 for less withholding than was on the original W-2. This type of correction must be handled between the employer and the employee or by the employee on the *Michigan Individual Income Tax Return* (MI-1040). Refund requests for this error should not be submitted using Form 165.

If the error was for more withholding than was on the original W-2, issue a corrected W-2 and send a copy to Treasury. The corrected form should be clearly marked "Corrected by Employer."

If a withholding error is discovered in the same calendar year as the error was made, adjust a later paycheck and make the same adjustment in the next payment due Treasury.

If an issued W-2 is lost or destroyed, give the employee a substitute copy clearly marked "Reissued by Employer."

Records You Must Keep

You must keep all records pertinent to this tax available for inspection by Treasury. The records are similar to those necessary for federal income tax withholding as shown in the *Federal Employer's Tax Guide, Circular E*.

Records must show the amounts and dates of all compensation payments subject to this tax. Include employee name, address, Social Security number, MI-W4, occupation, and period of employment. Include records that show periods an employee was paid by the employer while absent from work due to sickness or personal injury. Show the amount and weekly rate of such payments. Keep duplicates of all returns filed.

These records must be kept at least six years after the date the tax to which they relate becomes due or the date the tax is paid, whichever is later.

Penalties

If you do not file a return or pay withheld taxes on time, you will be assessed statutory penalties and interest.

Reporting Newly-Hired Employees

The Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires all employers to report newly-hired employees. You must report the employee's name, address, and Social Security number, and the employer's name, address, and FEIN. This information must be reported within 20 days after the employee is hired (i.e., the date the employee starts work).

To simplify New Hire reporting, Treasury encourages employers to take advantage of the online Internet reporting available at **www.mi-newhire.com**

Employers using online reporting will have access to a secure Web site, receive e-mail confirmations for new hire submissions, be able to view reporting history online, and have access to the *New Hire Reporting Form* (Form 3281).

Employers may also report using an MI-W4, magnetic tape, computer reports or paper lists. Employers are encouraged to report electronically whenever possible. The New Hire Operations Center will work (free of charge) with any employer wishing to provide data electronically. Multi-state employers may choose to report all new hires to only one state, but they must report electronically and notify the U.S. Department of Health and Human Services.

For more information on New Hire reporting, call 1-800-524-9846. If you choose to report on paper, send the reports to:

New Hire Operations Center
P.O. Box 85010
Lansing, MI 48908-5010

Form MI-W4. MI-W4 includes an exemption for renaissance zone residents. If you need a form for your employees, go to **www.michigan.gov/taxes** [redacted]. For a list of cities that have income taxes, go to **www.michigan.gov/businesstax** and click on "Register for Michigan Taxes." The list appears at the bottom of the page.