



## Some unknowns remain but Benton Harbor is on its way to implementing all aspects of new city income tax

By LOUISE WREGG  
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**BENTON HARBOR** — With the first year of the Benton Harbor city income tax complete, the picture is still unfolding of how much money the tax is generating and how many roads can be repaired annually.

But there are still many unknowns about the tax, which was approved by voters in November 2017 and went into effect Jan. 1, 2018.

City Manager Darwin Watson said a little over \$1 million was collected in 2018, mostly from businesses that withhold money from affected workers and pay monthly. He said there are still many workers and businesses that will start making quarterly estimated payments this year.

Because it was the first year, he said taxpayers who are required to pay quarterly are allowed by law to pay what they owe for 2018 by April 30, with no penalty for not paying quarterly. But moving forward, he said they will be penalized for not paying quarterly if what they owe is more than \$100 for the year.

People in that category include workers who don't live or have an office in the city and residents who work outside the city for a company that has no connection to Benton Harbor and isn't voluntarily withholding the city income tax for the residents.

Some city officials have estimated that once all the money is in, revenue from the city income tax in 2018 will be more than \$2 million.

### Number of refunds unknown

In addition, the final total is a question mark because city officials don't know how many refunds they will have to pay to people and companies that overpaid in 2018.

"We won't know until we get the actual tax returns," he said.

Watson said the city has set aside 30 percent of the money collected for possible refunds, to be on the conservative side.

He said the city income tax money is being kept at Edgewater Bank in St. Joseph, with the rest of the city's money handled by Fifth Third Bank in St. Joseph.

"We did that for purposes of providing a level of confidence that this money is not being comingled with other money," he said. "It's a separate bank with a separate bank account."



**ABOVE:** Benton Harbor City Manager Darwin Watson discusses the condition of the city's streets recently in his office at City Hall. Louise Wregg / HP staff

**TOP:** A car passes a pothole at May Street and Broadway in Benton Harbor last week. Revenue from Benton Harbor's city income tax, now a year old, will be used to fix the city's roads, sidewalks and alleys. Don Campbell / HP staff

### Income tax recap

The Benton Harbor city income tax was approved by voters in November 2017 and went into effect Jan. 1, 2018.

It requires city residents to pay a 1 percent tax on their income no matter where they earn it. Nonresidents who work in the city are required to pay a 0.5 percent tax on the portion of the income they earn in the city.

Businesses are required to pay a 1 percent tax on the net profits they earn from doing business in the city, even if they have no offices in the city.

Retirement, unemployment and welfare benefits, compensation for military service and gifts are not subject to the tax.

Keeping the money separate is important. City commissioners passed a resolution in July 2017 stating that if the city income tax was approved by voters, all money would go to fix roads, sidewalks and alleys, as well as for emergencies.

### Developing plan to fix streets

A nine-member Benton Harbor City Income Tax Oversight Committee was set up to advise city commissioners on how the city income tax revenue should be spent. Committee members are developing a three-year plan on how to spend the money, with guidance from officials at Abonmarche, the city's engineering firm.

Chris Cook, president and CEO of Abonmarche, estimated at the Jan. 8 oversight committee meeting that the city would have about \$1 million a year to spend on fixing roads, sidewalks and alleys, starting this summer.

That may seem like a drop in the bucket when compared to the estimated \$50 million needed to repair all of the city's roads. And that figure doesn't include the amount of work that needs to be done under the streets, which has been estimated to cost another \$50 million.

But city officials said it's better than nothing.

Cook said that the city's 64.7 miles of streets includes 22.8 miles of major roads that qualify for federal funding, and 34.1 miles of local roads. The rest are state roads, with maintenance costs shared between the city and state.

Cook said 53 percent of the major roads and 79 percent of the local roads are in poor condition, meaning it will cost about \$880,000 per mile to fix them if they are asphalt and \$925,000 per mile to fix if they are concrete.

Only 13 percent of the major roads and 6 percent of the local roads are in good condition, and it's important to spend a little money to keep them that way, Cook said. The \$3,000 per mile spent to seal cracks in the good asphalt roads adds life to them by keeping water out, which helps reduce the freeze-thaw cycle that leads to potholes.

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## INCOME TAX

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Based on directions from members of the oversight committee, Cook is recommending that 10 percent (\$100,000) of the \$1 million be set aside for emergencies. Of the remaining \$900,000, 80 percent (\$720,000) would be split 50/50 between major and local streets, leaving \$90,000 to repair alleys and \$90,000 to repair sidewalks.

He said those dollar amounts will change if the revenue from city income tax is more or less than \$1 million.

Cook didn't go into details during the meeting about exactly which streets he recommends fixing first.

Watson said he expects Abonmarche officials to give the same presentation to city commissioners at a future meeting.

### Income tax administrator

Watson said an income tax administrator needs to be hired to handle the tax returns. That person would preferably not be the city's financial director because by law, he said records need to be kept separate and under double locks to keep the information on the tax returns confidential.

One option, he said, is to partner with Grand Rapids, which is already collecting a city income tax.

Jennifer Woodard, income tax administrator for Grand Rapids, has traveled to Benton Harbor several times before and after voters approved the tax in November 2017, to help explain how the tax works. Watson said someone from Grand Rapids or another city that collects city income taxes could



Louise Wrege / HP staff

**Chris Cook, center, president and CEO of Abonmarche in Benton Harbor, speaks Jan. 8 during the Benton Harbor City Tax Oversight Committee meeting. With him is Tim Drews, vice president of Abonmarche, which provides the city with engineering services. They presented a three-year plan on which roads could be repaired first with money from the city income tax. In the background is City Manager Darwin Watson.**

be hired to work with the city for a couple of years to work out the logistics.

"We need that for the initial two years as they train us as well as help guide us ... to make sure we do things the right way," he said.

Other options include hiring a contractor, the state or someone in-house to handle the city income tax returns.

Watson said he expects city commissioners to decide by the beginning of March who will be the city income tax administrator. That will give the administrator time to process the city income tax returns, which are due April 30.

### Confidentiality vital

City commissioners approved spending \$16,350 in May 2018 to hire Roggow Construction to modify the finance department's office area in preparation to keep the city income tax returns separate from the rest of the city's information.

"We remodeled that office suite to allow it to be utilized for the tax collection

and storage of information, making it more secure," Watson said.

That's vital because the law requires that city income tax information be kept confidential and not be used by other city departments, such as for economic development, he said.

When contacted by phone, Woodard said she can't talk about Benton Harbor specifically, but can answer general questions about city income taxes.

Woodard said that in some cities, the finance director is also the city income tax administrator. To keep information confidential, she said the finance director has to have separate offices and computers for both jobs.

The penalty for sharing information is stiff. She said people who share confidential information not only lose their jobs immediately, but are fined \$500 and can spend up to 90 days in jail. And the penalties increase if there is more than one infraction.

"I can give totals," she said.

"I can say, 'Today, the income tax department brought in \$1 million.' But I can't say, 'The income tax department received \$500,000 from John Smith today.' Because that is saying that that person filed something with the income tax department and that breaches the confidentiality."

Because of the confidentiality rules, she said most cities have separate people handling the city's finances and income taxes.

"We all have to take a test through the state of Michigan to make sure we meet the confidentiality rules," she said.

### Compliance

Once the collection process for the city income tax is set in place, it's time to look at enforcement, she said.

Woodard said that the city income tax office in Grand Rapids has 17 full-time employees who work on compliance and daily processes. In addition, she said the office hires six to 10 seasonal employees to work on processing during peak tax season.

She said compliance work includes comparing the people who filed state income taxes to who filed city income taxes within the city's limits. People who live in the city who filed a state income tax return but not a city income tax return will be sent a notification that they need to pay city income taxes.

"If they don't file, we use the state of Michigan information to create an estimated or substitute return," she said. "Then the taxpayer has 30 days to come in with other information if they disagree with what we have. Otherwise, the return becomes final."

She said the compli-

ance workers will also make sure that people who work in the city but don't live or have an office in the city, pay the city income tax on the portion of work they do in the city.

"It's important with compliance (that) you're watching who is in the city and what they're doing – what contractors or different events are going on," she said. "That's so important to watch throughout the year to make sure that the people that you're seeing in the city are actually filing tax returns."

She said compliance work usually starts happening in the summer months after all of the returns have been processed.

The compliance work includes taking people who refuse to pay city income taxes to court, she said.

"We only take people to court if they ignore us for a very long time," she said. "If they are trying to make payments or have a financial hardship, we work with them."

### Other costs

City commissioners also approved spending \$65,440 in February 2018 to buy City Tax Software from Innovative Software Services to handle the city's income tax payments.

Watson said the collection of the city income taxes has gone smoothly so far. He said a city income tax administrator wasn't needed because so far, no confidential information has been shared with the city. That will happen when people and companies start sending their tax returns to the city.

Forms needed to file for the city income tax are available at City Hall. In addition

they will soon be available on the city's website.

For more information, contact Lisa Golliday, assistant to the city manager/human resources coordinator, by calling 927-8457 or emailing lgolliday@cityofbentonharbormi.gov.

More information can also be found on the city's website at <https://bhcity.us/>.

Benton Harbor was the first city in more than 10 years to levy an income tax. There are 22 other cities in Michigan that levy the tax.

### Lawsuit in progress

Not everyone is happy with the city income tax.

Residents of the Fairways at Harbor Shores neighborhood association filed a lawsuit in June at the Berrien County Courthouse against the cities of Benton Harbor and St. Joseph, saying the city income tax is taxation without representation. Two motions for summary disposition are expected to be heard at 10 a.m. Tuesday in front of Berrien County Trial Court Judge Dennis Wiley.

The residents, who live on Golden Bear Court, vote in St. Joseph but pay property taxes temporarily to Benton Harbor due to an agreement made between the cities and Harbor Shores in 2005 using Public Act 425 of 1984.

The pact, which expires in 2025, allows Harbor Shores to capture property tax growth for infrastructure work that was done. Other properties that are part of the 425 agreement include the Inn at Harbor Shores and Harbor Village.

If the case is not resolved, a bench trial is scheduled to start at 9 a.m. Jan. 29 in front of Wiley.

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