

# HOUSE BILL No. 5293

October 24, 1991, Introduced by Reps. Martin, Dalman, Strand, Pitoniak and Jaye and referred to the Committee on Taxation.

A bill to amend section 28 of Act No. 122 of the Public Acts of 1941, entitled as amended

"An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as amended by Act No. 58 of the Public Acts of 1986, being section 205.28 of the Michigan Compiled Laws.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Section 28 of Act No. 122 of the Public Acts of  
2 1941, as amended by Act No. 58 of the Public Acts of 1986, being

1 section 205.28 of the Michigan Compiled Laws, is amended to read  
2 as follows:

3       Sec. 28. (1) The following conditions ~~are applicable~~  
4 APPLY to all taxes administered under this act unless otherwise  
5 provided for in the specific tax statute:

6       (a) If notice is required, it shall be given either by per-  
7 sonal service or by certified mail addressed to the last known  
8 address of the taxpayer. Service upon the commissioner may be  
9 made in the same manner.

10       (b) An injunction shall not issue to stay proceedings for  
11 the assessment and collection of a tax.

12       (c) In addition to the mode of collection provided in this  
13 act, the department may institute an action at law in any county  
14 in which the taxpayer resides or transacts business.

15       (d) The commissioner may request in writing information or  
16 records in possession of any other department, institution, or  
17 agency of state government for the performance of duties under  
18 this act. Departments, institutions, or agencies of state gov-  
19 ernment shall furnish the information and records upon receipt of  
20 the commissioner's request. Upon request of the commissioner,  
21 any department, institution, or agency of state government shall  
22 hold a hearing under THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
23 Act No. 306 of the Public Acts of 1969, as amended, being sec-  
24 tions 24.201 to 24.328 of the Michigan Compiled Laws, to consider  
25 withholding a license or permit of a person for nonpayment of  
26 taxes or accounts collected under this act.

1 (e) Neither the commissioner nor an employee of the  
2 department shall compromise or reduce in any manner the taxes due  
3 to or claimed by the state or unpaid accounts or amounts due to  
4 any of its departments, institutions, or agencies. This subdivi-  
5 sion shall not be construed to prevent a compromise of interest  
6 or penalties, or both.

7 (f) Except in accordance with a judicial order, or as shall  
8 be required in the proper administration of a tax law adminis-  
9 tered under this act, an employee or an authorized representative  
10 or former employee or authorized representative or anyone con-  
11 nected with the department shall not divulge any facts or infor-  
12 mation obtained in connection with the administration of a tax or  
13 information or parameters that would enable a person to ascertain  
14 the audit selection or processing criteria of the department for  
15 a tax administered by the department. However, the commissioner  
16 or persons designated by the commissioner may divulge information  
17 set forth or disclosed in a return or report or by an investiga-  
18 tion or audit to an institution, agency, or department of state  
19 government upon receipt of a written request from a head of an  
20 institution, agency, or department of state government when it is  
21 required for the effective administration or enforcement of the  
22 laws of this state, to a proper officer of the United States  
23 department of treasury, and to a proper officer of another state  
24 reciprocating in this privilege. The commissioner may enter into  
25 reciprocal agreements with other departments of state government,  
26 the United States department of treasury, local governmental  
27 units within this state, or taxing officials of other states for

1 the enforcement, collection, and exchange of data after  
2 ascertaining that any information provided will be subject to  
3 confidentiality restrictions substantially equal to the provi-  
4 sions of this act. IN ADDITION, UPON REQUEST THE COMMISSIONER OR  
5 PERSONS DESIGNATED BY THE COMMISSIONER SHALL DIVULGE INFORMATION  
6 DISCLOSED IN A RETURN TO A STATE LEGISLATOR IF THE INFORMATION IS  
7 OF A NONMONETARY NATURE.

8 (2) A person who violates subsection (1)(e) or (1)(f) is  
9 guilty of a felony, punishable by a fine of not more than  
10 \$5,000.00, or imprisonment for not more than 5 years, or both,  
11 together with the costs of prosecution. In addition, if the  
12 offense is committed by an employee of this state, the person  
13 shall be dismissed from office or discharged from employment upon  
14 conviction.

15 (3) A person liable for any tax administered under this act  
16 shall keep accurate and complete records necessary for the proper  
17 determination of tax liability, as required by law or rule of the  
18 department.