

SENATE BILL No. 1040

September 10, 2014, Introduced by Senator CASWELL and referred to the Committee on Finance.

A bill to amend 1941 PA 122, entitled

"An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; to regulate the importation, stamping, and disposition of certain tobacco products; 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 prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act,"

by amending section 22 (MCL 205.22), as amended by 2007 PA 194.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) A taxpayer aggrieved by an assessment, decision,

1 or order of the department may appeal the contested portion of the
2 assessment, decision, or order to the tax tribunal within ~~35-60~~
3 days, or to the court of claims within 90 days after the
4 assessment, decision, or order. The uncontested portion of an
5 assessment, order, or decision shall be paid as a prerequisite to
6 appeal. However, an action shall be commenced in the court of
7 claims within 6 months after payment of the tax or an adverse
8 determination of the taxpayer's claim for refund, whichever is
9 later, if the payment of the tax or adverse determination of the
10 claim for refund occurred under the former single business tax act,
11 1975 PA 228, and before May 1, 1986.

12 (2) An appeal under this section shall be perfected as
13 provided under the tax tribunal act, 1973 PA 186, MCL 205.701 to
14 205.779, and rules promulgated under that act for the tax tribunal,
15 or chapter 64 of the revised judicature act of 1961, 1961 PA 236,
16 MCL 600.6401 to 600.6475, and rules adopted under that chapter for
17 the court of claims. ~~In an appeal to the court of claims, the~~
18 ~~appellant shall first pay the tax, including any applicable~~
19 ~~penalties and interest, under protest and claim a refund as part of~~
20 ~~the appeal.~~

21 (3) A taxpayer or the department may take an appeal by right
22 from a decision of the tax tribunal or the court of claims to the
23 court of appeals. The appeal shall be taken on the record made
24 before the tax tribunal or the court of claims. The taxpayer or
25 department may take further appeal to the supreme court in
26 accordance with the court rules provided for appeals to the supreme
27 court.

1 (4) The assessment, decision, or order of the department, if
2 not appealed in accordance with this section, is final and is not
3 reviewable in any court by mandamus, appeal, or other method of
4 direct or collateral attack.

5 (5) An assessment is final, conclusive, and not subject to
6 further challenge after 90 days after the issuance of the
7 assessment, decision, or order of the department, and a person is
8 not entitled to a refund of any tax, interest, or penalty paid
9 pursuant to an assessment unless the aggrieved person has appealed
10 the assessment in the manner provided by this section.

11 Enacting section 1. This amendatory act does not take effect
12 unless all of the following bills of the 97th Legislature are
13 enacted into law:

14 (a) Senate Bill No.1038

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16 (b) Senate Bill No.1039

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