

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1446

[A bill to amend 1941 PA 122, entitled

"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 regulate the importation, stamping, and disposition of certain tobacco products; 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 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 the title and sections 1, 3, 4, 12, 19, 21, 24, 25, 26, 27a, 28, and 31 (MCL 205.1, 205.3, 205.4, 205.12, 205.19, 205.21, 205.24, 205.25, 205.26, 205.27a, 205.28, and 205.31), the title as amended by 1999 PA 182, sections 3, 12,

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25, and 26 as amended by 1986 PA 58, section 4 as added and section 27a as amended by 1993 PA 14, section 19 as amended by 1996 PA 479, section 21 as amended by 1993 PA 13, sections 24 and 31 as amended by 2001 PA 168, and section 28 as amended by 2000 PA 308; and to repeal acts and parts of acts.]

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

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An act to establish ~~a~~ THE revenue ~~division~~ COLLECTION

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DUTIES of the department of treasury; to prescribe its powers and

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duties as the revenue collection agency of the state; to pre-

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scribe certain powers and duties of the state treasurer; to regu-

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late the importation, stamping, and disposition of certain

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tobacco products; ~~to create the position and to define the~~

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~~powers and duties of the state commissioner of revenue;~~ to pro-

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vide for the transfer of powers and duties now vested in certain

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other state boards, commissions, departments and offices; to pre-

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scribe certain duties of and require certain reports from the

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department of treasury; to provide procedures for the payment,

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administration, audit, assessment, levy of interests or penalties

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on, and appeals of taxes and tax liability; to prescribe its

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powers and duties if an agreement to act as agent for a city to

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administer, collect, and enforce the city income tax act on

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behalf of a city is entered into with any city; to provide an

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appropriation; to abolish the state board of tax administration;

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to prescribe penalties and provide remedies; and to declare the

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effect of this act.

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1 Sec. 1. (1) ~~A tax collection agency is created, to be~~
2 ~~known as the revenue division of the~~ THE department of treasury
3 ~~of the state, for the following purposes:~~ IS THE AGENCY OF THIS
4 STATE RESPONSIBLE FOR THE COLLECTION OF TAXES AND IS RESPONSIBLE
5 FOR ALL OF THE FOLLOWING:

6 (a) Coordinated collection of ~~such~~ state taxes, assess-
7 ments, licenses, fees, and other ~~moneys~~ MONEY as may be desig-
8 nated by law. ~~, either herein or hereafter.~~

9 (b) Specialized service for tax enforcement, through estab-
10 lishment and maintenance of uniformity in definition, regulation,
11 return, and payment.

12 (c) Avoidance of duplication in state facilities for tax
13 collections that involve seasonal or occasional increases of
14 staff, duplication of audits, and wasteful travel expenses.

15 (d) Safeguarding tax and other collections wherever received
16 until duly deposited in the state treasury.

17 (e) Providing an advisory service on fiscal status,
18 processes, and needs of state government, including periodic
19 reports on payments, receipts, and debts.

20 (f) Development of a state revenue enforcement service by
21 means of a staff that is permanent, qualified by training and
22 experience, protected by merit system procedure, and so organized
23 as to serve the public with efficiency, economy, consistency, and
24 equity.

25 (2) Any reference to the department of revenue in this act
26 or any other act shall mean the ~~revenue division of the~~
27 ~~department of treasury~~ STATE TREASURER. ANY REFERENCE TO THE

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1 STATE COMMISSIONER OF REVENUE IN THIS ACT OR ANY OTHER ACT SHALL
2 MEAN THE STATE TREASURER.

3 (3) AS USED IN THIS ACT, "DEPARTMENT" MEANS THE DEPARTMENT
4 OF TREASURY.

5 Sec. 3. The ~~commissioner~~ DEPARTMENT shall have all the
6 powers and perform the duties formerly vested in any department,
7 board, commission, or other agency, in connection with taxes due
8 to or claimed by the state and in connection with unpaid accounts
9 or amounts due to the state or any of its departments, institu-
10 tions, or agencies which may be made payable to or collectible by
11 the department created by this act, and the power and authority
12 incidental to the performance of the following acts, duties, and
13 services:

14 (a) The ~~commissioner~~ STATE TREASURER or any of the duly
15 appointed agents of the ~~commissioner~~ STATE TREASURER may
16 examine the books, records, and papers touching the matter at
17 issue of any person or taxpayer subject to any tax, unpaid
18 account, or amount the collection of which is charged to the
19 department. The ~~commissioner~~ STATE TREASURER or any of the
20 duly appointed agents of the ~~commissioner~~ STATE TREASURER may
21 issue a subpoena requiring a person to appear and be examined
22 with reference to a matter within the scope of the inquiry or
23 investigation being conducted by the department and to produce
24 any books, records, or papers. The ~~commissioner~~ STATE
25 TREASURER or any of the duly appointed agents, referees, or exam-
26 iners of the ~~commissioner~~, STATE TREASURER may administer an
27 oath to a witness in any matter before the department. The

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1 department may invoke the aid of the circuit court of this state
2 in requiring the attendance and testimony of witnesses and the
3 producing of books, papers, and documents. The circuit court of
4 the state within the jurisdiction of which an inquiry is carried
5 on, in case of contumacy or refusal to obey a subpoena, may issue
6 an order requiring the person to appear before the department and
7 produce books and papers if so ordered and any evidence touching
8 the matter in question, and failure to obey the order of the
9 court may be punished by the court as a contempt. A person shall
10 not be excused from testifying or from producing any books,
11 papers, records, or memoranda in any investigation, or upon any
12 hearing when ordered to do so by the ~~commissioner~~ STATE
13 TREASURER, upon the ground that the testimony or evidence, docu-
14 mentary or otherwise, may tend to incriminate or subject him or
15 her to a criminal penalty, however, a person shall not be prose-
16 cuted or subjected to any criminal penalty for or on account of
17 any transaction made or thing concerning which he or she may tes-
18 tify or produce evidence, documentary or otherwise, before the
19 board or its agent. A person so testifying shall not be exempt
20 from prosecution and punishment for perjury committed while
21 testifying.

22 (b) After reasonable notice and public hearing to promulgate
23 rules consistent with this act in accordance with ~~Act No. 306 of~~
24 ~~the Public Acts of 1969, as amended, being sections 24.201 to~~
25 ~~24.328 of the Michigan Compiled Laws~~ THE ADMINISTRATIVE PROCE-
26 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, as may be
27 necessary to the enforcement of the provisions of tax and other

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1 revenue measures which are administered by the ~~commissioner~~
2 DEPARTMENT.

3 (c) Consult with the governor and the legislature upon the
4 subject of taxation, revenue, and the administration of the laws
5 in relation to taxation and revenue, and the progress of the work
6 of the department, including the furnishing of reports, informa-
7 tion, and other assistance as the governor may require.

8 (d) Investigate and study all matters of taxation and reve-
9 nue as the basis of recommending to the governor and the legisla-
10 ture those changes and alterations in the tax laws of the state
11 as in the ~~commissioner's~~ STATE TREASURER'S judgment may bring
12 about a more adequate and just system of state and local
13 taxation.

14 (e) Formulate a standard procedure whereby the departments,
15 commissions, boards, institutions, and the agencies of ~~the~~ THIS
16 state which collect taxes, fees, or accounts for ~~the~~ THIS state
17 shall report all sums of money due and uncollected and those
18 uncollected items as may be prescribed by law and by the
19 ~~commissioner~~ STATE TREASURER. The procedure prescribed in this
20 subdivision shall include a standard practice for receiving,
21 receipting, safeguarding, and periodically reporting all state
22 revenue receipts, whether current, delinquent, penalty, interest,
23 or otherwise, and the amounts, kinds, and terms of items either
24 collected, compromised, or still outstanding, to be summarized,
25 studied, and reported upon as the ~~commissioner~~ STATE TREASURER
26 considers advisable.

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1 (f) The department may periodically issue bulletins that
2 index and explain current department interpretations of current
3 state tax laws. The department may charge a reasonable fee for
4 subscriptions to this service not to exceed the cost of
5 printing. The money received from the sale of such subscription
6 shall revert to the department and be placed in the taxation
7 manual revolving fund.

8 Sec. 4. (1) Not later than 1 year after the effective date
9 of this section, the department of treasury shall submit rules
10 for a public hearing pursuant to the administrative procedures
11 act of 1969, ~~Act No. 306 of the Public Acts of 1969, being sec-~~
12 ~~tions 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969
13 PA 306, MCL 24.201 TO 24.328, that provide for all of the
14 following:

15 (a) Standards to be followed by ~~revenue division~~
16 DEPARTMENT officers and employees for the fair and courteous
17 treatment of the public, and a system for monitoring compliance
18 with those standards.

19 (b) The procedures governing an informal conference held
20 under section 21. These procedures shall include at least all of
21 the following:

22 (i) A method by which the department attempts to schedule
23 the informal conference at a mutually convenient time and place.

24 (ii) A requirement that the department include in the notice
25 for the informal conference the scope and nature of the subject
26 of the informal conference.

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1 (iii) Authorization for the taxpayer at whose request the
2 informal conference is being held to make a sound recording of
3 the informal conference with prior notice to the department and
4 for the department to do the same with prior notice to the
5 taxpayer.

6 (2) Not later than 1 year after the effective date of this
7 section, the department shall develop guidelines to govern
8 departmental employee responses to inquiries from the public and
9 standards for tax audit activities. The guidelines shall explic-
10 itly exclude the use of a collection goal or quota for evaluating
11 an employee. The department shall assemble the guidelines
12 required by this subsection into an employee handbook. However,
13 the handbook shall not disclose information or parameters
14 excluded from disclosure under section 28(1)(f). The department
15 shall distribute the handbook to all departmental employees
16 involved in the collection or auditing of taxes and shall make
17 the handbook available to the public.

18 (3) ~~Not later than 1 year after the effective date of this~~
19 ~~section, the~~ THE department shall publish a handbook for taxpay-
20 ers and tax preparers. The handbook shall be made available at a
21 reasonable cost, not to exceed the actual cost of publication,
22 and shall contain all of the following:

23 (a) The audit and collection procedures used by the
24 department.

25 (b) The procedures governing departmental communications
26 with taxpayers in the audit and collection process.

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1 Sec. 12. ~~The commissioner shall select an official seal of~~
2 ~~the department and file a facsimile thereof in the office of the~~
3 ~~secretary of state.~~ All orders, certificates, JEOPARDY
4 ASSESSMENTS, and subpoenas made or issued by the department shall
5 be signed by the ~~commissioner~~ STATE TREASURER or ~~a deputy rev-~~
6 ~~enue commissioner~~ THE STATE TREASURER'S DESIGNEE. ~~The commis-~~
7 ~~sioner may authorize designated representatives to sign only doc-~~
8 ~~uments relating to jeopardy assessments issued under section 26~~
9 ~~of this act. The seal of the department shall be affixed~~
10 ~~thereto.~~

11 Sec. 19. (1) All remittances of taxes administered by this
12 act shall be made to the department payable to the state of
13 Michigan by bank draft, check, cashier's check, certified check,
14 money order, cash, or electronic funds transfer. The money
15 received shall be credited as provided by law. A remittance
16 other than cash or electronic funds transfer shall not be a final
17 discharge of liability for the tax assessed and levied until the
18 instrument remitted has been honored.

19 (2) For reporting periods beginning after August 31, 1991, a
20 taxpayer other than a city or a county who paid in the immedi-
21 ately preceding calendar year an average of \$40,000.00 or more
22 per month in income tax withholding pursuant to the income tax
23 act of 1967, ~~Act No. 281 of the Public Acts of 1967, being sec-~~
24 ~~tions 206.1 to 206.532 of the Michigan Compiled Laws 1967~~
25 PA 281, MCL 206.1 TO 206.532, shall deposit Michigan income tax
26 withholding either in the same manner and according to the same
27 schedule as deposits of federal income tax withholding or in

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1 another manner that has been approved by the ~~commissioner~~
2 DEPARTMENT.

3 (3) For failure to remit a tax administered by this act with
4 a negotiable remittance, ~~a~~ THE FOLLOWING penalty ~~of 25% of the~~
5 ~~tax due~~ may be added in addition to any other penalties imposed
6 by this act: ~~—~~.

7 (A) FOR NOTICES OF INTENT TO ASSESS ISSUED ON OR BEFORE
8 FEBRUARY 28, 2003, 25% OF THE TAX DUE.

9 (B) FOR NOTICES OF INTENT TO ASSESS ISSUED AFTER FEBRUARY
10 28, 2003, \$50.00.

11 (4) The ~~commissioner~~ DEPARTMENT may require that all money
12 collected by the taxpayer for taxes administered by this act that
13 has not been paid to the department of treasury is public money
14 and the property of this state, and shall be held in trust in a
15 separate account and fund for the sole use and benefit of this
16 state until paid over to the department of treasury.

17 (5) For tax years after the 1995 tax year for which taxes
18 are collected under an agreement entered into pursuant to section
19 9 of the city income tax act, ~~Act No. 284 of the Public Acts of~~
20 ~~1964, being section 141.509 of the Michigan Compiled Laws~~ 1964
21 PA 284, MCL 141.509, if a taxpayer pays, when filing his or her
22 annual return, an amount less than the sum of the declared tax
23 liability under ~~Act No. 284 of the Public Acts of 1964, being~~
24 ~~sections 141.501 to 141.787 of the Michigan Compiled Laws~~ THE
25 CITY INCOME TAX ACT, 1964 PA 284, MCL 141.501 TO 141.787, and the
26 declared tax liability under the income tax act of 1967, ~~Act~~
27 ~~No. 281 of the Public Acts of 1967, being sections 206.1 to~~

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1 ~~206.532 of the Michigan Compiled Laws~~ 1967 PA 281, MCL 206.1 TO
2 206.532, and if there is no indication of the allocation of pay-
3 ment between the tax liabilities against which the payment should
4 be applied, the amount paid shall first be applied against the
5 taxpayer's tax liability under ~~Act No. 284 of the Public Acts of~~
6 ~~1964~~ THE CITY INCOME TAX ACT, 1964 PA 284, MCL 141.501 TO
7 141.787, and any remaining amount of the payment shall be applied
8 to the taxpayer's tax liability under ~~Act No. 281 of the Public~~
9 ~~Acts of 1967~~ THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.1
10 TO 206.532. The taxpayer's designation of a payee on a payment
11 is not a dispositive determination of the allocation of that pay-
12 ment under this subsection.

13 Sec. 21. (1) If a taxpayer fails or refuses to make a
14 return or payment as required, in whole or in part, or if the
15 department has reason to believe that a return made or payment
16 does not supply sufficient information for an accurate determina-
17 tion of the amount of tax due, the department may obtain informa-
18 tion on which to base an assessment of the tax. By its duly
19 authorized agents, the department may examine the books, records,
20 and papers and audit the accounts of a person or any other
21 records pertaining to the tax.

22 (2) In carrying out this section, the department and the
23 taxpayer shall comply with the following procedure:

24 (a) The department shall send to the taxpayer a letter of
25 inquiry stating, in a courteous and ~~unintimidating~~
26 NONINTIMIDATING manner, the department's opinion that the
27 taxpayer needs to furnish further information or owes taxes to

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1 the state, and the reason for that opinion. A letter of inquiry
2 shall also explain the procedure by which the person may initiate
3 communication with the department to resolve any dispute. This
4 subdivision does not apply in any of the following
5 circumstances:

6 (i) The taxpayer files a return showing a tax due and fails
7 to pay that tax.

8 (ii) The deficiency resulted from an audit of the taxpayer's
9 books and records by this state.

10 (iii) The taxpayer otherwise affirmatively admits that a tax
11 is due and owing.

12 (b) If the dispute is not resolved within 30 days after the
13 department sends the taxpayer a letter of inquiry or if a letter
14 of inquiry is not required pursuant to subdivision (a), the
15 department, after determining the amount of tax due from a tax-
16 payer, shall give notice to the taxpayer of its intent to assess
17 the tax. The notice shall include the amount of the tax the
18 department believes the taxpayer owes, the reason for that defi-
19 ciency, and a statement advising the taxpayer of a right to an
20 informal conference, the requirement of a written request by the
21 taxpayer for the informal conference that includes the taxpayer's
22 statement of the contested amounts and an explanation of the dis-
23 pute, and the 30-day time limit for that request.

24 (c) If the taxpayer serves written notice upon the depart-
25 ment within 30 days after the taxpayer receives a notice of
26 intent to assess, remits the uncontested portion of the
27 liability, and provides a statement of the contested amounts and

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1 an explanation of the dispute, the taxpayer is entitled to an
2 informal conference on the question of liability for the
3 assessment.

4 (d) Upon receipt of a taxpayer's written notice, the depart-
5 ment shall set a mutually agreed upon or reasonable time and
6 place for the informal conference and shall give the taxpayer
7 reasonable written notice not less than 20 days before the infor-
8 mal conference. The notice shall specify the intent to assess,
9 type of tax, and tax year that is the subject of the informal
10 conference. The informal conference provided for by this subdi-
11 vision is not subject to the administrative procedures act of
12 1969, ~~Act No. 306 of the Public Acts of 1969, as amended, being~~
13 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws~~ 1969
14 PA 306, MCL 24.201 TO 24.328, but is subject to the rules govern-
15 ing informal conferences as promulgated by the department in
16 accordance with ~~Act No. 306 of the Public Acts of 1969~~ THE
17 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
18 24.328. The taxpayer may appear or be represented by any person
19 before the department at an informal conference, and may present
20 testimony and argument. At the party's own expense and with
21 advance notice to the other party, a taxpayer or the department,
22 or both, may make an audio recording of an informal conference.

23 (e) After the informal conference, the ~~commissioner~~
24 DEPARTMENT shall render a decision and order in writing, setting
25 forth the reasons and authority, and shall assess the tax, inter-
26 est, and penalty found to be due and payable. The decision and

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1 order are limited to the subject of the informal conference as
2 included in the notice under subdivision (d).

3 (f) If the taxpayer does not protest the notice of intent to
4 assess within the time provided in subdivision (c), the depart-
5 ment may assess the tax and the interest and penalty on the tax
6 that the department believes are due and payable. An assessment
7 under this subdivision or subdivision (e) is final and subject to
8 appeal as provided in section 22. The final notice of assessment
9 shall include a statement advising the person of a right to
10 appeal.

11 (3) If a protest to the notice of intent to assess the tax
12 is determined by the ~~commissioner~~ DEPARTMENT to be a frivolous
13 protest or a desire by the taxpayer to delay or impede the admin-
14 istration of taxes administered under this act, a penalty of
15 \$25.00 or 25% of the amount of tax under protest, whichever is
16 greater, shall be added to the tax.

17 Sec. 24. (1) If a taxpayer fails or refuses to file a
18 return or pay a tax administered under this act within the time
19 specified, the department, as soon as possible, shall assess the
20 tax against the taxpayer and notify the taxpayer of the amount of
21 the tax. A liability for a tax administered under this act is
22 subject to the interest and penalties prescribed in
23 subsections (2) to (5).

24 (2) Except as provided in subsections (3) and (6), if a tax-
25 payer fails or refuses to file a return or pay a tax within the
26 time specified FOR NOTICES OF INTENT TO ASSESS ISSUED ON OR
27 BEFORE FEBRUARY 28, 2003, a penalty of \$10.00 or 5% of the tax,

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1 whichever is greater, shall be added if the failure is for not
2 more than 1 month, with an additional 5% penalty for each addi-
3 tional month or fraction of a month during which the failure con-
4 tinues or the tax and penalty is not paid, to a maximum of 50%.
5 EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND (6), IF A TAXPAYER
6 FAILS OR REFUSES TO FILE A RETURN OR PAY A TAX WITHIN THE TIME
7 SPECIFIED FOR NOTICES OF INTENT TO ASSESS ISSUED AFTER FEBRUARY
8 28, 2003, A PENALTY OF 5% OF THE TAX SHALL BE ADDED IF THE FAIL-
9 URE IS FOR NOT MORE THAN 2 MONTHS, WITH AN ADDITIONAL 5% PENALTY
10 FOR EACH ADDITIONAL MONTH OR FRACTION OF A MONTH DURING WHICH THE
11 FAILURE CONTINUES OR THE TAX AND PENALTY IS NOT PAID, TO A MAXI-
12 MUM OF 25%. In addition to the penalty, interest at the rate pro-
13 vided in section 23 for deficiencies in tax payments shall be
14 added on the tax from the time the tax was due, until paid.
15 After June 30, 1994, the penalty prescribed by this subsection
16 shall not be imposed until the department submits for public
17 hearing pursuant to the administrative procedures act of 1969,
18 1969 PA 306, MCL 24.201 to 24.328, a rule defining what consti-
19 tutes reasonable cause for waiver of the penalty under subsection
20 (4), which definition shall include illustrative examples.

21 (3) If a person is required to remit tax due pursuant to
22 section 19(2) and fails or refuses to pay the tax within the time
23 specified, a penalty of 0.167% of the tax shall be added for each
24 day during which the failure continues or the tax and penalty are
25 not paid ~~—, to a maximum of 50% of the tax.—~~ AS FOLLOWS:

26 (A) FOR NOTICES OF INTENT TO ASSESS ISSUED ON OR BEFORE
27 FEBRUARY 28, 2003, TO A MAXIMUM OF 50% OF THE TAX.

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1 (B) FOR NOTICES OF INTENT TO ASSESS ISSUED AFTER FEBRUARY
2 28, 2003, TO A MAXIMUM OF 25% OF THE TAX.

3 (4) If a return is filed or remittance is paid after the
4 time specified and it is shown to the satisfaction of the depart-
5 ment that the failure was due to reasonable cause and not to
6 willful neglect, the ~~commissioner~~ STATE TREASURER or an autho-
7 rized representative of the ~~commissioner~~ STATE TREASURER shall
8 waive the penalty prescribed by subsection (2).

9 (5) For failure or refusal to file an information return or
10 other informational report required by a tax statute, within the
11 time specified, a penalty of \$10.00 per day for each day for each
12 separate failure or refusal may be added. The total penalty for
13 each separate failure or refusal shall not exceed \$400.00.

14 (6) If a taxpayer fails to pay an estimated tax payment as
15 may be required by the income tax act of 1967, 1967 PA 281,
16 MCL 206.1 to 206.532, a penalty shall not be imposed if the tax-
17 payer was not required to make estimated tax payments in the
18 taxpayer's immediately preceding tax year.

19 ~~(7) In addition to any other interest or penalty prescribed~~
20 ~~under this section, a taxpayer who has failed to file a return or~~
21 ~~pay a tax that was due before June 1, 2001, during a period for~~
22 ~~which amnesty is available under section 31(2), is liable for an~~
23 ~~additional penalty equal to 25% of the amount of tax due.~~

24 Sec. 25. (1) The ~~commissioner~~ STATE TREASURER, or an
25 authorized representative of the ~~commissioner~~ STATE TREASURER,
26 may cause a demand to be made on a taxpayer for the payment of a
27 tax, unpaid account, or amount due the state or any of its

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1 departments, institutions, or agencies, subject to administration
2 under this act. If the liability remains unpaid for 10 days
3 after the demand and proceedings are not taken to review the
4 liability, the ~~commissioner~~ STATE TREASURER or an authorized
5 representative of the ~~commissioner~~ STATE TREASURER may issue a
6 warrant under the official seal of that office. Except as pro-
7 vided in subsection (5), the ~~commissioner~~ STATE TREASURER or an
8 authorized representative of the ~~commissioner~~ STATE TREASURER,
9 through any state officer authorized to serve process or through
10 his or her authorized employees, may levy on all property and
11 rights to property, real and personal, tangible and intangible,
12 belonging to the taxpayer or on which a lien is provided by law
13 for the amount of the deficiency, and sell the real and personal
14 property of the taxpayer found within the state for the payment
15 of the amount due, the cost of executing the warrant, and the
16 additional penalties and interest. Except as provided in subsec-
17 tion (6), the officer or agent serving the warrant shall proceed
18 upon the warrant in all respects and in the same manner as pre-
19 scribed by law in respect to executions issued against property
20 upon judgments by a court of record. The state, through the
21 ~~commissioner~~ STATE TREASURER or an authorized representative of
22 the ~~commissioner~~ STATE TREASURER, may bid for and purchase any
23 property sold pursuant to this section.

24 (2) A person who refuses or fails to surrender any property
25 or rights to property subject to levy, upon demand by the
26 ~~commissioner~~ STATE TREASURER or an authorized representative of
27 the ~~commissioner~~ STATE TREASURER, is personally liable to the

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1 state in a sum equal to the value of the property or rights not
2 surrendered, but not exceeding the amount due for which the levy
3 was made, together with costs and interest on the sum at the rate
4 provided in section 23(2) from the date of the levy. Any amount,
5 other than costs, recovered under this subsection shall be cred-
6 ited against the liability for the collection of which the levy
7 was made.

8 (3) In addition to the personal liability imposed by subsec-
9 tion (2), if a person required to surrender property or rights to
10 property fails or refuses to surrender the property or rights to
11 property without reasonable cause, the person shall be liable for
12 a penalty equal to 50% of the amount recoverable under subsection
13 (2), none of which penalty shall be credited against the liabil-
14 ity for the collection of which the levy was made.

15 (4) A person in possession of, or obligated with respect to,
16 property or property rights subject to levy and upon which a levy
17 has been made who, upon demand of the ~~commissioner~~ STATE
18 TREASURER or an authorized representative of the ~~commissioner~~
19 STATE TREASURER, surrenders the property or rights to property or
20 discharges the obligation to the ~~commissioner~~ STATE TREASURER
21 or an authorized representative of the ~~commissioner~~ STATE
22 TREASURER or who pays a liability under subsection (1) shall have
23 his or her obligation to a person delinquent in payment of a tax
24 or other account reduced in an amount equal to the property or
25 rights to property surrendered or amounts paid to the state.

26 (5) There shall be exempt from levy under this section:

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1 (a) For an unpaid tax, the type of property and the amount
2 of that property as provided in section 6334 of the internal
3 revenue code OF 1986.

4 (b) For an unpaid account, or amount due the state or any of
5 its departments other than an unpaid tax, disposable earnings to
6 the extent provided in section 303 OF TITLE III of the consumer
7 credit protection act, 82 STAT. 163, 15 U.S.C. 1673.

8 (c) The effect of a levy on salary or wages shall be contin-
9 uous from the date the levy is first made until the liability out
10 of which the levy arose is satisfied.

11 (6) A warrant-notice of levy may be served by certified
12 mail, return receipt requested, on any person in possession of,
13 or obligated with respect to, property and rights to property,
14 real and personal, tangible and intangible, belonging to the tax-
15 payer or on which a lien is provided by law. The date of deliv-
16 ery on the receipt shall be the date the levy is made. A person
17 may, upon written notice to the ~~commissioner~~ STATE TREASURER,
18 have all notices of levy by mail sent to 1 designated office.

19 Sec. 26. If the ~~commissioner~~ STATE TREASURER or the
20 ~~commissioner's~~ STATE TREASURER'S designated representative
21 finds that a person liable for a tax administered under this act
22 intends quickly to depart from the state or to remove property
23 from this state, to conceal the person or the person's property
24 in this state, or to do any other act tending to render wholly or
25 partly ineffectual proceedings to collect the tax unless proceed-
26 ings are brought without delay, the ~~commissioner~~ STATE
27 TREASURER or the ~~commissioner's~~ STATE TREASURER'S designated

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1 representative shall give notice of the findings to the person,
2 together with a demand for an immediate return and immediate pay-
3 ment of the tax. A warrant or warrant-notice of levy may issue
4 immediately upon issuance of a jeopardy assessment. ~~Thereupon~~
5 IN THAT INSTANCE, the tax shall become immediately due and
6 payable. If the person is not in default in making a return or
7 paying a tax prescribed by this act, and furnishes evidence sat-
8 isfactory to the ~~commissioner~~ STATE TREASURER or the
9 ~~commissioner's~~ STATE TREASURER'S designated representative
10 under rules promulgated by the department that the return will be
11 filed and the tax to which the ~~commissioner's~~ STATE TREASURER'S
12 or the ~~commissioner's~~ STATE TREASURER'S designated
13 representative's finding relates will be paid, then the tax shall
14 not be payable before the time otherwise fixed for payment.

15 Sec. 27a. (1) If a person liable for a tax administered
16 under this act sells out his or her business or its stock of
17 goods or quits the business, the person shall make a final return
18 within 15 days after the date of selling or quitting the
19 business. The purchaser or succeeding purchasers, if any, who
20 purchase a going or closed business or its stock of goods shall
21 escrow sufficient money to cover the amount of taxes, interest,
22 and penalties as may be due and unpaid until the former owner
23 produces a receipt from the ~~commissioner~~ STATE TREASURER or the
24 ~~commissioner's~~ STATE TREASURER'S designated representative
25 showing that the taxes due are paid, or a certificate stating
26 that taxes are not due. Upon the owner's written waiver of
27 confidentiality, the ~~commissioner~~ DEPARTMENT may release to a

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1 purchaser a ~~business~~ BUSINESS'S known tax liability for the
2 purposes of establishing an escrow account for the payment of
3 taxes. If the purchaser or succeeding purchasers of a business
4 or its stock of goods fail to comply with the escrow requirements
5 of this subsection, the purchaser is personally liable for the
6 payment of the taxes, interest, and penalties accrued and unpaid
7 by the business of the former owner. The purchaser's or succeed-
8 ing purchaser's personal liability is limited to the fair market
9 value of the business less the amount of any proceeds that are
10 applied to balances due on secured interests that are superior to
11 the lien provided for in section 29(1).

12 (2) A deficiency, interest, or penalty shall not be assessed
13 after the expiration of 4 years after the date set for the filing
14 of the required return or after the date the return was filed,
15 whichever is later. The taxpayer shall not claim a refund of any
16 amount paid to the department after the expiration of 4 years
17 after the date set for the filing of the original return. A
18 person who has failed to file a return is liable for all taxes
19 due for the entire period for which the person would be subject
20 to the taxes. If a person subject to tax fraudulently conceals
21 any liability for the tax or a part of the tax, or fails to
22 notify the department of any alteration in or modification of
23 federal tax liability, the department, within 2 years after dis-
24 covery of the fraud or the failure to notify, shall assess the
25 tax with penalties and interest as provided by this act, computed
26 from the date on which the tax liability originally accrued. The

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1 tax, penalties, and interest are due and payable after notice and
2 hearing as provided by this act.

3 (3) The running of the statute of limitations is suspended
4 for the following:

5 (a) The period pending a final determination of tax, includ-
6 ing audit, conference, hearing, and litigation of liability for
7 federal income tax or a tax administered by the department and
8 for 1 year after that period.

9 (b) The period for which the taxpayer and the ~~commissioner~~
10 STATE TREASURER have consented to in writing that the period be
11 extended.

12 (4) The running of the statute of limitations is suspended
13 only as to those items that were the subject of the audit, con-
14 ference, hearing, or litigation for federal income tax or a tax
15 administered by the department.

16 (5) If a corporation liable for taxes administered under
17 this act fails for any reason to file the required returns or to
18 pay the tax due, any of its officers having control or supervi-
19 sion of, or charged with the responsibility for, making the
20 returns or payments is personally liable for the failure. The
21 signature of any corporate officers on returns or negotiable
22 instruments submitted in payment of taxes is prima facie evidence
23 of their responsibility for making the returns and payments. The
24 dissolution of a corporation does not discharge an officer's
25 liability for a prior failure of the corporation to make a return
26 or remit the tax due. The sum due for a liability may be
27 assessed and collected under the related sections of this act.

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1 (6) Notwithstanding the provisions of subsection (2), a
2 claim for refund based upon the validity of a tax law based on
3 the laws or constitution of the United States or the state con-
4 stitution of 1963 shall not be paid unless the claim is filed
5 within 90 days after the date set for filing a return.

6 (7) Subsection (6) does not apply to a claim for the refund
7 of a tax paid for the 1984 tax year or a tax year after the 1984
8 tax year on income received as retirement or pension benefits
9 from a public retirement system of the United States government
10 if the claimant waives any claim for the refund of such a tax
11 paid for a tax year before 1984. Claims for refunds to which
12 this subsection applies shall be paid in accordance with the fol-
13 lowing schedule:

14	Refunds for	Payable on
15	<u>tax year:</u>	<u>or after:</u>
16		
17	1988 and 1987	July 1, 1990
18	1986	July 1, 1991
19	1985	July 1, 1992
20	1984	July 1, 1993

21 Sec. 28. (1) The following conditions apply to all taxes
22 administered under this act unless otherwise provided for in the
23 specific tax statute:

24 (a) Notice, if required, shall be given either by personal
25 service or by certified mail addressed to the last known address
26 of the taxpayer. Service upon the ~~commissioner~~ DEPARTMENT may
27 be made in the same manner.

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

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

6 (d) The ~~commissioner~~ STATE TREASURER may request in writ-
7 ing information or records in the possession of any other depart-
8 ment, institution, or agency of state government for the per-
9 formance of duties under this act. Departments, institutions, or
10 agencies of state government shall furnish the information and
11 records upon receipt of the ~~commissioner's~~ STATE TREASURER'S
12 request. Upon request of the ~~commissioner~~ STATE TREASURER, any
13 department, institution, or agency of state government shall hold
14 a hearing under the administrative procedures act of 1969, 1969
15 PA 306, MCL 24.201 to 24.328, to consider withholding a license
16 or permit of a person for nonpayment of taxes or accounts col-
17 lected under this act.

18 (e) Except as otherwise provided in section 30c, the
19 ~~commissioner~~ STATE TREASURER or an employee of the department
20 shall not compromise or reduce in any manner the taxes due to or
21 claimed by this state or unpaid accounts or amounts due to any
22 department, institution, or agency of state government. This
23 subdivision does not prevent a compromise of interest or penal-
24 ties, or both.

25 (f) Except as otherwise provided in this subdivision, an
26 employee, authorized representative, or former employee or
27 authorized representative of the department or anyone connected

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1 with the department shall not divulge any facts or information
2 obtained in connection with the administration of a tax or infor-
3 mation or parameters that would enable a person to ascertain the
4 audit selection or processing criteria of the department for a
5 tax administered by the department. An employee or authorized
6 representative shall not willfully inspect any return or informa-
7 tion contained in a return unless it is appropriate for the
8 proper administration of a tax law administered under this act.
9 A person may disclose information described in this subdivision
10 if the disclosure is required for the proper administration of a
11 tax law administered under this act, pursuant to a judicial order
12 sought by an agency charged with the duty of enforcing or inves-
13 tigating support obligations pursuant to an order of a court in a
14 domestic relations matter as that term is defined in section 2 of
15 the friend of the court act, 1982 PA 294, 552.502, or pursuant to
16 a judicial order sought by an agency of the federal, state, or
17 local government charged with the responsibility for the adminis-
18 tration or enforcement of criminal law for purposes of investi-
19 gating or prosecuting criminal matters or for federal or state
20 grand jury proceedings or a judicial order if the taxpayer's
21 liability for a tax administered under this act is to be adjudi-
22 cated by the court that issued the judicial order. A person may
23 disclose the adjusted gross receipts and the wagering tax paid by
24 a casino licensee licensed under the Michigan gaming control and
25 revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226,
26 pursuant to section 18, sections 341, 342, and 386 of the
27 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and

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1 18.1386, or authorization by the executive director of the gaming
2 control board. However, the ~~commissioner~~ STATE TREASURER or a
3 person designated by the ~~commissioner~~ STATE TREASURER may
4 divulge information set forth or disclosed in a return or report
5 or by an investigation or audit to any department, institution,
6 or agency of state government upon receipt of a written request
7 from a head of the department, institution, or agency of state
8 government if it is required for the effective administration or
9 enforcement of the laws of this state, to a proper officer of the
10 United States department of treasury, and to a proper officer of
11 another state reciprocating in this privilege. The
12 ~~commissioner~~ STATE TREASURER may enter into reciprocal agree-
13 ments with other departments of state government, the United
14 States department of treasury, local governmental units within
15 this state, or taxing officials of other states for the enforce-
16 ment, collection, and exchange of data after ascertaining that
17 any information provided will be subject to confidentiality
18 restrictions substantially the same as the provisions of this
19 act.

20 (2) A person who violates subsection (1)(e) or (1)(f) is
21 guilty of a felony, punishable by a fine of not more than
22 \$5,000.00, or imprisonment for not more than 5 years, or both,
23 together with the costs of prosecution. In addition, if the
24 offense is committed by an employee of this state, the person
25 shall be dismissed from office or discharged from employment upon
26 conviction.

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

5 (4) As used in subsection (1), "adjusted gross receipts" and
6 "wagering tax" mean those terms as described in the Michigan
7 gaming control and revenue act, the Initiated Law of 1996,
8 MCL 432.201 to 432.226.

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25 Sec. 31. (1) If a taxpayer does not satisfy a tax liability
26 or makes an excessive claim for a refund as a result of reliance
27 on erroneous current written information provided by the

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1 department, the ~~commissioner~~ STATE TREASURER shall waive all
2 criminal and civil penalties provided by law for failing or
3 refusing to file a return, for failing to pay a tax, or for
4 making an excessive claim for a refund for a tax administered by
5 the ~~revenue division of the~~ department of treasury pursuant to
6 this act if the taxpayer makes a written request for a waiver,
7 files a return or an amended return, and makes full payment of
8 the tax and interest.

9 (2) For a period to be designated by the state treasurer of
10 not less than 30 days and not more than 60 days, and ending
11 before September 30, 2002, there shall be an amnesty period
12 during which the ~~commissioner~~ STATE TREASURER shall waive all
13 criminal and civil penalties provided by law for failing or
14 refusing to file a return, for failing to pay a tax, or for
15 making an excessive claim for a refund for a tax administered by
16 the revenue division of the department of treasury under this act
17 if the taxpayer makes a written request for a waiver, files a
18 return or an amended return, and makes full payment in either a
19 lump sum or installments as provided under subsection (9), of the
20 tax and interest due for any prior tax year.

21 (3) This section applies to the nonreporting and underre-
22 porting of tax liabilities and to the nonpayment of taxes previ-
23 ously determined to be due, but only to the extent of the penal-
24 ties attributable to the taxes that were previously due and that
25 are paid during the amnesty period provided for in subsection
26 (2).

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1 (4) The ~~commissioner~~ DEPARTMENT shall administer this
2 section.

3 (5) Subsection (2) does not apply to taxes due after June 1,
4 2001.

5 (6) There is appropriated from the revenues generated by
6 taxes paid under subsection (2) the sum of \$1,500,000.00 to the
7 department of treasury for administration of the amnesty program
8 created by the amendatory act that added this subsection. This
9 appropriation is allotted for expenditure on and after October 1,
10 2001. Only general purpose revenue generated by the amendatory
11 act that added this subsection may be used to finance this
12 appropriation.

13 (7) The ~~commissioner~~ STATE TREASURER shall not waive crim-
14 inal and civil penalties applicable to a tax under subsection (2)
15 if 1 or more of the following circumstances apply:

16 (a) If the taxpayer is eligible to enter into a voluntary
17 disclosure agreement under section 30c for that tax.

18 (b) If the tax is attributable to income derived from a
19 criminal act, if the taxpayer is under criminal investigation or
20 involved in a civil action or criminal prosecution for that tax,
21 or if the taxpayer has been convicted of a felony under this act
22 or the internal revenue code of 1986.

23 (8) The department shall provide reasonable notice to tax-
24 payers that may be eligible for the amnesty program at least 30
25 days before the start of the designated amnesty period.
26 Notification shall include, but is not limited to, a description

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1 of the amnesty program on appropriate tax instruction forms and
2 on the internet.

3 (9) Under the amnesty program described in subsection (2), a
4 taxpayer may pay tax and interest due in installments if the tax-
5 payer meets 1 of the following:

6 (a) The taxpayer is an individual and submits the greater of
7 \$10,000.00 or 50% of the tax and interest due with the request
8 for waiver under subsection (2) and pays the remaining tax and
9 interest due in 2 equal installments, the first installment due
10 no later than August 15, 2002 and the second installment due no
11 later than September 15, 2002.

12 (b) A taxpayer that is not an individual submits the greater
13 of \$100,000.00 or 50% of the tax and interest due with the
14 request for waiver under subsection (2) and pays the remaining
15 tax and interest due in 2 equal installments, the first install-
16 ment due no later than August 15, 2002 and the second installment
17 due no later than September 15, 2002.

18 Enacting section 1. Section 2 of 1941 PA 122, MCL 205.2, is
19 repealed.