

# HOUSE BILL No. 4555

March 10, 2009, Introduced by Rep. Green and referred to the Committee on Tax Policy.

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,"

(MCL 205.1 to 205.31) by adding section 23a.

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

**SEC. 23A. (1) THE STATE TREASURER, OR AN AUTHORIZED**

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1 REPRESENTATIVE OF THE STATE TREASURER, MAY COMPROMISE ALL OR ANY  
2 PART OF ANY PAYMENT OF A TAX, UNPAID ACCOUNT, OR AMOUNT DUE THE  
3 STATE OR ANY OF ITS DEPARTMENTS, INSTITUTIONS, OR AGENCIES, SUBJECT  
4 TO ADMINISTRATION UNDER THIS ACT INCLUDING ANY RELATED PENALTIES  
5 AND INTEREST IF 1 OR MORE OF THE FOLLOWING GROUNDS EXIST:

6 (A) A DOUBT EXISTS AS TO LIABILITY.

7 (B) A DOUBT EXISTS AS TO COLLECTIBILITY.

8 (C) A SUBSTANTIAL PROBABILITY EXISTS THAT A COMPROMISE WOULD  
9 FURTHER THE FAIR AND EFFICIENT ADMINISTRATION OF THE TAX.

10 (2) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (3), IF THE  
11 STATE TREASURER, OR AN AUTHORIZED REPRESENTATIVE OF THE STATE  
12 TREASURER, COMPROMISES ALL OR ANY PART OF ANY PAYMENT OF A TAX,  
13 UNPAID ACCOUNT, OR AMOUNT DUE THE STATE OR ANY OF ITS DEPARTMENTS,  
14 INSTITUTIONS, OR AGENCIES AS AUTHORIZED UNDER SUBSECTION (1), HE OR  
15 SHE SHALL PLACE ON FILE IN THE OFFICE OF THE STATE TREASURER A  
16 WRITTEN REPORT OUTLINING THE BASIS FOR THE COMPROMISE AND, AT A  
17 MINIMUM, A STATEMENT OF EACH OF THE FOLLOWING:

18 (A) THE AMOUNT OF TAX ASSESSED OR OTHER AMOUNT DUE TO THIS  
19 STATE.

20 (B) THE AMOUNT OF INTEREST, ADDITIONAL AMOUNT, ADDITION TO THE  
21 TAX, OR ASSESSABLE PENALTY IMPOSED BY LAW ON THE PERSON AGAINST  
22 WHOM THE TAX IS ASSESSED.

23 (C) THE AMOUNT ACTUALLY PAID IN ACCORDANCE WITH THE TERMS OF  
24 THE COMPROMISE.

25 (3) THE STATE TREASURER, OR AN AUTHORIZED REPRESENTATIVE OF  
26 THE STATE TREASURER, IS NOT REQUIRED TO FILE A REPORT IF THE  
27 COMPROMISE IS RELATED TO A CIVIL CASE THAT INVOLVES AN UNPAID

1 AMOUNT OF TAX ASSESSED, AN UNPAID ACCOUNT, OR OTHER AMOUNT DUE  
2 INCLUDING ANY INTEREST, ADDITIONAL AMOUNT, ADDITION TO THE TAX, OR  
3 OTHER ASSESSABLE PENALTY THAT IS LESS THAN \$25,000.00.

4 (4) A COMPROMISE UNDER THIS SECTION IS SUBJECT TO CONTINUING  
5 QUALITY REVIEW BY THE STATE TREASURER. THE DEPARTMENT MAY REVOKE  
6 ANY COMPROMISE IF THE COMPROMISE WAS INDUCED BY FRAUD OR PERJURY,  
7 OR IF THE TAXPAYER FAILS TO COMPLY WITH ANY TAX PAYMENT AGREEMENT  
8 WITHIN 5 YEARS AFTER THE DATE THE COMPROMISE IS MADE.

9 (5) THE FACT THAT A TAXPAYER RECEIVED A FEDERAL COMPROMISE OF  
10 TAX IN A TAX YEAR IS PRIMA FACIE EVIDENCE THAT THE SAME TAXPAYER IS  
11 ENTITLED TO A COMPROMISE OF ANY SIMILAR OR COMPARABLE MICHIGAN TAX  
12 LIABILITY THAT EXISTS, AT LEAST IN A PROPORTIONAL AMOUNT, FOR THE  
13 TAX YEAR IN WHICH THE FEDERAL COMPROMISE WAS GRANTED.

14 (6) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY  
15 ACT THAT ADDED THIS SECTION, THE STATE TREASURER SHALL DO ALL OF  
16 THE FOLLOWING:

17 (A) ESTABLISH GUIDELINES FOR THE OFFER-IN-COMPROMISE PROGRAM  
18 AUTHORIZED UNDER THIS SECTION. IF APPROPRIATE, THE GUIDELINES SHALL  
19 BE MODELED AFTER THOSE GUIDELINES PUBLISHED BY THE INTERNAL REVENUE  
20 SERVICE OF THE UNITED STATES DEPARTMENT OF TREASURY IN REGARDS TO  
21 THE FEDERAL OFFER-IN-COMPROMISE PROGRAM ESTABLISHED UNDER SECTION  
22 7122 OF THE INTERNAL REVENUE CODE.

23 (B) ESTABLISH ADMINISTRATIVE GUIDELINES FOR OFFICERS AND  
24 EMPLOYEES WITHIN THE DEPARTMENT TO USE WHEN MAKING DECISIONS ON  
25 WHETHER AN OFFER-IN-COMPROMISE IS APPROPRIATE.

26 (C) ESTABLISH PROCEDURES FOR AN INDEPENDENT ADMINISTRATIVE  
27 REVIEW OF ANY REJECTION OF A PROPOSED OFFER-IN-COMPROMISE MADE BY A

1 TAXPAYER UNDER THIS SECTION BEFORE THE REJECTION IS COMMUNICATED TO  
2 THE TAXPAYER.

3 (D) ESTABLISH PROCEDURES FOR THE APPEAL OF ANY REJECTION OF AN  
4 OFFER-IN-COMPROMISE BY THE TAXPAYER.

5 (E) ESTABLISH APPROPRIATE APPLICATION FEES AND PROCEDURES TO  
6 ALLOW FOR PAYMENT PLANS TO SATISFY A COMPROMISED LIABILITY.

7 (7) THE DEPARTMENT SHALL DISCLOSE RETURN INFORMATION TO  
8 MEMBERS OF THE GENERAL PUBLIC TO THE EXTENT NECESSARY TO PERMIT  
9 INSPECTION OF ANY ACCEPTED OFFER-IN-COMPROMISE UNDER THIS SECTION  
10 RELATING TO THE LIABILITY FOR A TAX IMPOSED BY THIS STATE.