

# HOUSE BILL No. 5819

September 17, 2014, Introduced by Reps. Banks, Barnett, Singh, Talabi, Durhal, Zemke, Stallworth, Tlaib, Faris, Darany, Schor, Lamonte, Knezek, Townsend, Kosowski, Oakes and Nathan and referred to the Committee on Judiciary.

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 28 (MCL 205.28), as amended by 2010 PA 313.

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

1           Sec. 28. (1) The following conditions apply to all taxes  
2 administered under this act unless otherwise provided for in the

1 specific tax statute:

2 (a) Notice, if required, shall be given either by personal  
3 service or by certified mail addressed to the last known address of  
4 the taxpayer. Service upon the department may be made in the same  
5 manner.

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

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

11 (d) The state treasurer may request in writing information or  
12 records in the possession of any other department, institution, or  
13 agency of state government for the performance of duties under this  
14 act. Departments, institutions, or agencies of state government  
15 shall furnish the information and records upon receipt of the state  
16 treasurer's request. Upon request of the state treasurer, any  
17 department, institution, or agency of state government shall hold a  
18 hearing under the administrative procedures act of 1969, 1969 PA  
19 306, MCL 24.201 to 24.328, to consider withholding a license or  
20 permit of a person for nonpayment of taxes or accounts collected  
21 under this act.

22 (e) Except as otherwise provided in section 30c, the state  
23 treasurer or an employee of the department shall not compromise or  
24 reduce in any manner the taxes due to or claimed by this state or  
25 unpaid accounts or amounts due to any department, institution, or  
26 agency of state government. This subdivision does not prevent a  
27 compromise of interest or penalties, or both.

1 (f) Except as otherwise provided in this subdivision or in  
2 subsection (6) or (7), an employee, authorized representative, or  
3 former employee or authorized representative of the department or  
4 anyone connected with the department shall not divulge any facts or  
5 information obtained in connection with the administration of a tax  
6 or information or parameters that would enable a person to  
7 ascertain the audit selection or processing criteria of the  
8 department for a tax administered by the department. An employee or  
9 authorized representative shall not willfully inspect any return or  
10 information contained in a return unless it is appropriate for the  
11 proper administration of a tax law administered under this act. A  
12 person may disclose information described in this subdivision if  
13 the disclosure is required for the proper administration of a tax  
14 law administered under this act or the general property tax act,  
15 1893 PA 206, MCL 211.1 to 211.155, ~~pursuant to~~ **UNDER** a judicial  
16 order sought by an agency charged with the duty of enforcing or  
17 investigating support obligations ~~pursuant to~~ **UNDER** an order of a  
18 court in a domestic relations matter as that term is defined in  
19 section 2 of the friend of the court act, 1982 PA 294, MCL 552.502,  
20 or ~~pursuant to~~ **UNDER** a judicial order sought by an agency of the  
21 federal, state, or local government charged with the responsibility  
22 for the administration or enforcement of criminal law for purposes  
23 of investigating or prosecuting criminal matters or for federal or  
24 state grand jury proceedings or a judicial order if the taxpayer's  
25 liability for a tax administered under this act is to be  
26 adjudicated by the court that issued the judicial order. A person  
27 required to disclose information under section 10(1)(j) of the

1 Michigan economic growth authority act, 1995 PA 24, MCL 207.810,  
2 may disclose the information only to the individuals described in  
3 that section. A person may disclose the adjusted gross receipts and  
4 the wagering tax paid by a casino licensee licensed under the  
5 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to  
6 432.226, ~~pursuant to~~ **UNDER** section 18 **OF THIS ACT**, sections 341,  
7 342, and 386 of the management and budget act, 1984 PA 431, MCL  
8 18.1341, 18.1342, and 18.1386, or authorization by the executive  
9 director of the gaming control board. However, the state treasurer  
10 or a person designated by the state treasurer may divulge  
11 information set forth or disclosed in a return or report or by an  
12 investigation or audit to any department, institution, or agency of  
13 state government upon receipt of a written request from a head of  
14 the department, institution, or agency of state government if it is  
15 required for the effective administration or enforcement of the  
16 laws of this state, to a proper officer of the United States  
17 department of treasury, and to a proper officer of another state  
18 reciprocating in this privilege. The state treasurer may enter into  
19 reciprocal agreements with other departments of state government,  
20 the United States department of treasury, local governmental units  
21 within this state, or taxing officials of other states for the  
22 enforcement, collection, and exchange of data after ascertaining  
23 that any information provided will be subject to confidentiality  
24 restrictions substantially the same as the provisions of this act.  
25 **THE STATE TREASURER MAY DISCLOSE THE NAMES AND ADDRESSES OF**  
26 **TAXPAYERS TO THE EXTENT REQUIRED UNDER SECTION 1310B OF THE REVISED**  
27 **JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1310B.**

1           (2) A person who violates subsection (1)(e), (1)(f), or (4) is  
2 guilty of a felony, punishable by a fine of not more than  
3 \$5,000.00, or imprisonment for not more than 5 years, or both,  
4 together with the costs of prosecution. In addition, if the offense  
5 is committed by an employee of this state, the person shall be  
6 dismissed from office or discharged from employment upon  
7 conviction.

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

12           (4) A person who receives information under subsection (1)(f)  
13 for the proper administration of the general property tax act, 1893  
14 PA 206, MCL 211.1 to 211.155, shall not willfully disclose that  
15 information for any purpose other than the administration of the  
16 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. A  
17 person who violates this subsection is subject to the penalties  
18 provided in subsection (2).

19           (5) A person identified in section 10(1) of the Michigan  
20 economic growth authority act, 1995 PA 24, MCL 207.810, who  
21 receives information under section 10(1)(j) of the Michigan  
22 economic growth authority act, 1995 PA 24, MCL 207.810, as  
23 permitted in subsection (1)(f), shall not willfully disclose that  
24 information for any purpose other than the proper administration of  
25 his or her legislative duties nor disclose that information to  
26 anyone other than an employee of the legislature, who is also bound  
27 by the same restrictions. A person who violates this subsection is

1 responsible for and subject to a civil fine of not more than  
2 \$5,000.00 per violation.

3 (6) The department shall annually prepare a report containing  
4 statistics described in this subsection concerning the Michigan  
5 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the  
6 most recent tax year for which reliable return data have been  
7 processed and cleared in the ordinary course of return processing  
8 by the department. A copy of the report shall be provided to the  
9 chairpersons of the senate and house of representatives standing  
10 committees that have jurisdiction over matters relating to taxation  
11 and finance, the director of the senate fiscal agency, and the  
12 director of the house fiscal agency. The department shall report  
13 the following information broken down by business sector and,  
14 provided that no grouping consists of fewer than 10 taxpayers, by  
15 firm size in compliance with subsection (1)(f) and in a manner that  
16 does not result in the disclosure of information regarding any  
17 specific taxpayer:

- 18 (a) Apportioned business income tax base.
- 19 (b) Apportioned modified gross receipts tax base.
- 20 (c) Business income tax liability.
- 21 (d) Use of credits.
- 22 (e) Modified gross receipts tax liability.
- 23 (f) Total final liability.
- 24 (g) Total liability before credits.

25 (7) A person may disclose the following information described  
26 in this subsection:

- 27 (a) Information required to be reported under section 455 of

1 the Michigan business tax act, 2007 PA 36, MCL 208.1455.

2 (b) An application to enter into an agreement, a communication  
3 denying an application to enter into an agreement, an agreement, a  
4 postproduction certificate, a communication denying a  
5 postproduction certificate, or the total amount of credits claimed  
6 in a tax year under section 455 of the Michigan business tax act,  
7 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the  
8 Michigan business tax act, 2007 PA 36, MCL 408.1455.

9 (c) An application to enter into an agreement, a communication  
10 denying an application to enter into an agreement, an agreement, an  
11 investment expenditure certificate, a communication denying an  
12 investment expenditure certificate, or the total amount of credits  
13 claimed in a tax year under section 457 of the Michigan business  
14 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)  
15 of the Michigan business tax act, 2007 PA 36, MCL 408.1457.

16 (d) An application to enter into an agreement, a communication  
17 denying an application to enter into an agreement, an agreement, a  
18 qualified job training expenditures certificate, a communication  
19 denying a qualified job training expenditures certificate, or the  
20 total amount of credits claimed in a tax year under section 459 of  
21 the Michigan business tax act, 2007 PA 36, MCL 208.1459,  
22 notwithstanding section 459(6) of the Michigan business tax act,  
23 2007 PA 36, MCL 408.1459.

24 (8) As used in subsection (1), "adjusted gross receipts" and  
25 "wagering tax" mean those terms as described in the Michigan gaming  
26 control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

27 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. \_\_\_\_ or House Bill No. 5820 (request no.  
2 05640'14) of the 97th Legislature is enacted into law.