

HOUSE BILL No. 4406

March 26, 2015, Introduced by Reps. Banks, Neeley, Dillon, Geiss, Garrett, Talabi, Gay-Dagnogo, Byrd, Faris, Hovey-Wright, Zemke, Singh, Townsend and Guerra 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 2014 PA 240.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) The following conditions apply to all taxes

1 administered under this act unless otherwise provided for in the
2 specific tax statute:

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

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

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

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

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

1 not prevent a compromise of interest or penalties, or both.

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

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

1 **TAXPAYERS TO THE EXTENT REQUIRED UNDER SECTION 1310B OF THE REVISED**
2 **JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.1310B.**

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

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

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

21 (5) A person identified in section 10(1) of the Michigan
22 economic growth authority act, 1995 PA 24, MCL 207.810, who
23 receives information under section 10(1)(j) of the Michigan
24 economic growth authority act, 1995 PA 24, MCL 207.810, as
25 permitted in subsection (1)(f), shall not willfully disclose that
26 information for any purpose other than the proper administration of
27 his or her legislative duties nor disclose that information to

1 anyone other than an employee of the legislature, who is also bound
2 by the same restrictions. A person who violates this subsection is
3 responsible for and subject to a civil fine of not more than
4 \$5,000.00 per violation.

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

20 (a) Apportioned business income tax base.

21 (b) Apportioned modified gross receipts tax base.

22 (c) Business income tax liability.

23 (d) Use of credits.

24 (e) Modified gross receipts tax liability.

25 (f) Total final liability.

26 (g) Total liability before credits.

27 (7) A person may disclose the following information described

1 in this subsection:

2 (a) Information required to be reported under section 455 of
3 the Michigan business tax act, 2007 PA 36, MCL 208.1455.

4 (b) An application to enter into an agreement, a communication
5 denying an application to enter into an agreement, an agreement, a
6 postproduction certificate, a communication denying a
7 postproduction certificate, or the total amount of credits claimed
8 in a tax year under section 455 of the Michigan business tax act,
9 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the
10 Michigan business tax act, 2007 PA 36, MCL 408.1455.

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

18 (d) An application to enter into an agreement, a communication
19 denying an application to enter into an agreement, an agreement, a
20 qualified job training expenditures certificate, a communication
21 denying a qualified job training expenditures certificate, or the
22 total amount of credits claimed in a tax year under section 459 of
23 the Michigan business tax act, 2007 PA 36, MCL 208.1459,
24 notwithstanding section 459(6) of the Michigan business tax act,
25 2007 PA 36, MCL 408.1459.

26 (8) As used in subsection (1), "adjusted gross receipts" and
27 "wagering tax" mean those terms as described in the Michigan gaming

1 control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 2. This amendatory act does not take effect
5 unless Senate Bill No. ____ or House Bill No. 4407 (request no.
6 02170'15) of the 98th Legislature is enacted into law.