



# HOUSE BILL No. 5758

April 17, 1996, Introduced by Reps. Whyman, Walberg, Goschka, Horton, McManus, Dalman, Voorhees, Law, Jellema and Perricone and referred to the Committee on Tax Policy.

A bill to amend section 28 of Act No. 122 of the Public Acts of 1941, entitled as amended

"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 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 provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as amended by Act No. 13 of the Public Acts of 1993, being section 205.28 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 28 of Act No. 122 of the Public Acts of  
2 1941, as amended by Act No. 13 of the Public Acts of 1993, being

1 section 205.28 of the Michigan Compiled Laws, is amended to read  
2 as follows:

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

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

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

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

15       (d) The commissioner may request in writing information or  
16 records in the possession of any other department, institution,  
17 or agency of state government for the performance of duties under  
18 this act. Departments, institutions, or agencies of state gov-  
19 ernment shall furnish the information and records upon receipt of  
20 the commissioner's request. Upon request of the commissioner,  
21 any department, institution, or agency of state government shall  
22 hold a hearing under the administrative procedures act of 1969,  
23 Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being sec-  
24 tions 24.201 to 24.328 of the Michigan Compiled Laws, to consider  
25 withholding a license or permit of a person for nonpayment of  
26 taxes or accounts collected under this act.

1 (e) The commissioner or an employee of the department shall  
2 not compromise or reduce in any manner the taxes due to or  
3 claimed by the state or unpaid accounts or amounts due to any  
4 department, institution, or agency of state government. This  
5 subdivision does not prevent a compromise of interest or penal-  
6 ties, or both.

7 (f) Except as otherwise provided in this subdivision, an  
8 employee, authorized representative, or former employee or autho-  
9 rized representative of the department or anyone connected with  
10 the department shall not divulge any facts or information  
11 obtained in connection with the administration of a tax or infor-  
12 mation or parameters that would enable a person to ascertain the  
13 audit selection or processing criteria of the department for a  
14 tax administered by the department. A person may disclose infor-  
15 mation described in this subdivision if the disclosure is  
16 required for the proper administration of a tax law administered  
17 under this act, pursuant to a judicial order sought by an agency  
18 charged with the duty of enforcing or investigating support obli-  
19 gations pursuant to an order of a court in a domestic relations  
20 matter as that term is defined in section 31 of the friend of the  
21 court act, Act No. 294 of the Public Acts of 1982, being section  
22 552.531 of the Michigan Compiled Laws, or pursuant to a judicial  
23 order sought by an agency of the federal, state, or local govern-  
24 ment charged with the responsibility for the administration or  
25 enforcement of criminal law for purposes of investigating or  
26 prosecuting criminal matters or for federal or state grand jury  
27 proceedings or a judicial order if the taxpayer's liability for a

1 tax administered under this act is to be adjudicated by the court  
2 that issued the judicial order. However, the commissioner or a  
3 person designated by the commissioner may divulge information set  
4 forth or disclosed in a return or report or by an investigation  
5 or audit to any department, institution, or agency of state gov-  
6 ernment upon receipt of a written request from a head of the  
7 department, institution, or agency of state government if it is  
8 required for the effective administration or enforcement of the  
9 laws of this state, to a proper officer of the United States  
10 department of treasury, and to a proper officer of another state  
11 reciprocating in this privilege. The commissioner may enter into  
12 reciprocal agreements with other departments of state government,  
13 the United States department of treasury, local governmental  
14 units within this state, or taxing officials of other states for  
15 the enforcement, collection, and exchange of data after ascer-  
16 taining that any information provided will be subject to confi-  
17 dentiality restrictions substantially the same as the provisions  
18 of this act.

19 (G) THE DEPARTMENT OR A PERSON EMPLOYED BY THE DEPARTMENT  
20 MAY DIVULGE FACTS AND INFORMATION REGARDING THE ADMINISTRATION OF  
21 A TAX TO A THIRD PARTY ONLY IF THAT THIRD PARTY HAS A WRITTEN  
22 CONTRACT WITH THE DEPARTMENT TO PROCESS INFORMATION AND RETURNS  
23 FOR THE DEPARTMENT AND ONLY TO THE EXTENT PROVIDED IN THAT WRIT-  
24 TEN CONTRACT.

25 (2) A person who violates subsection (1)(e) or ~~(1)(f)~~ (F)  
26 is guilty of a felony, punishable by a fine of not more than  
27 \$5,000.00, or imprisonment for not more than 5 years, or both,

1 together with the costs of prosecution. In addition, if the  
2 offense is committed by an employee of this state, the person  
3 shall be dismissed from office or discharged from employment upon  
4 conviction.

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

9 Section 2. This amendatory act shall not take effect unless  
10 Senate Bill No. \_\_\_\_\_ or House Bill No. 5757 (request  
11 no. 06548'95 \*) of the 88th Legislature is enacted into law.