

SENATE BILL No. 244

March 15, 2017, Introduced by Senators BIEDA, STAMAS, SCHMIDT, HORN, HANSEN, KOWALL, KNEZEK, HILDENBRAND and MEEKHOF and referred to the Committee on Economic Development and International Investment.

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 2015 PA 10.

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~~**MUST** be given either by
3 personal service or by certified mail addressed to the last known
4 address of the taxpayer. Service upon the department may be made in
5 the same 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 sections 23a and 30c, the
23 state treasurer or an employee of the department shall not
24 compromise or reduce in any manner the taxes due to or claimed by
25 this state or unpaid accounts or amounts due to any department,
26 institution, or agency of state government. This subdivision does
27 not prevent a compromise of interest or penalties, or both.

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

1 section 10(1)(j) of the Michigan economic growth authority act,
2 1995 PA 24, MCL 207.810, may disclose the information only to the
3 individuals described in that section. **A PERSON MAY DISCLOSE THE**
4 **INFORMATION REQUIRED FOR THE REPORT DESCRIBED IN SECTION 9 OF THE**
5 **MICHIGAN STRATEGIC FUND ACT, 1984 PA 270, MCL 125.2009, FOR**
6 **PROGRAMS WITH NEW WRITTEN AGREEMENTS ENTERED INTO AFTER THE**
7 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE FOR**
8 **PROGRAMS OPERATED UNDER THE MICHIGAN STRATEGIC FUND ACT, 1984 PA**
9 **270, MCL 125.2001 TO 125.2094.** A person may disclose the adjusted
10 gross receipts and the wagering tax paid by a casino licensee
11 licensed under the Michigan gaming control and revenue act, 1996 IL
12 1, MCL 432.201 to 432.226, pursuant to section 18, sections 341,
13 342, and 386 of the management and budget act, 1984 PA 431, MCL
14 18.1341, 18.1342, and 18.1386, or ~~authorization~~ **AS AUTHORIZED** by
15 the executive director of the gaming control board. However, the
16 state treasurer or a person designated by the state treasurer may
17 divulge information set forth or disclosed in a return or report or
18 by an investigation or audit to any department, institution, or
19 agency of state government upon receipt of a written request from a
20 head of the department, institution, or agency of state government
21 if it is required for the effective administration or enforcement
22 of the laws of this state, to a proper officer of the United States
23 department of treasury, and to a proper officer of another state
24 reciprocating in this privilege. The state treasurer may enter into
25 reciprocal agreements with other departments of state government,
26 the United States department of treasury, local governmental units
27 within this state, or taxing officials of other states for the

1 enforcement, collection, and exchange of data after ascertaining
2 that any information provided will be subject to confidentiality
3 restrictions substantially the same as the provisions of this act.
4 The state treasurer or a person designated by the state treasurer
5 may disclose the address of each housing unit that is part of a
6 housing project exempt from ad valorem taxes under section 15a of
7 the state housing development authority act of 1966, 1966 PA 346,
8 MCL 125.1415a, or under section 11a of 1933 (Ex Sess) PA 18, MCL
9 125.661a, and whether the unit is subject to a service charge in
10 lieu of ad valorem taxes. The state treasurer or a person
11 designated by the state treasurer may also disclose the millage
12 rates of property taxes as defined in section 512a of the income
13 tax act of 1967, 1967 PA 281, MCL 206.512a.

14 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
15 guilty of a felony, punishable by a fine of not more than
16 \$5,000.00, or imprisonment for not more than 5 years, or both,
17 together with the costs of prosecution. In addition, if the offense
18 is committed by an employee of this state, the person shall be
19 dismissed from office or discharged from employment upon
20 conviction.

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

25 (4) A person who receives information under subsection (1)(f)
26 for the proper administration of the general property tax act, 1893
27 PA 206, MCL 211.1 to 211.155, shall not willfully disclose that

1 information for any purpose other than the administration of the
2 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. A
3 person who violates this subsection is subject to the penalties
4 provided in subsection (2).

5 (5) A person identified in section 10(1) of the Michigan
6 economic growth authority act, 1995 PA 24, MCL 207.810, who
7 receives information under section 10(1)(j) of the Michigan
8 economic growth authority act, 1995 PA 24, MCL 207.810, as
9 permitted in subsection (1)(f), shall not willfully disclose that
10 information for any purpose other than the proper administration of
11 his or her legislative duties nor disclose that information to
12 anyone other than an employee of the legislature, who is also bound
13 by the same restrictions. A person who violates this subsection is
14 responsible for and subject to a civil fine of not more than
15 \$5,000.00 per violation.

16 (6) The department shall annually prepare a report containing
17 statistics described in this subsection concerning the Michigan
18 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the
19 most recent tax year for which reliable return data have been
20 processed and cleared in the ordinary course of return processing
21 by the department. A copy of the report ~~shall~~**MUST** be provided to
22 the chairpersons of the senate and house of representatives
23 standing committees that have jurisdiction over matters relating to
24 taxation and finance, the director of the senate fiscal agency, and
25 the director of the house fiscal agency. The department shall
26 report the following information broken down by business sector
27 and, provided that no grouping consists of fewer than 10 taxpayers,

1 by firm size in compliance with subsection (1)(f) and in a manner
2 that does not result in the disclosure of information regarding any
3 specific taxpayer:

4 (a) Apportioned business income tax base.

5 (b) Apportioned modified gross receipts tax base.

6 (c) Business income tax liability.

7 (d) Use of credits.

8 (e) Modified gross receipts tax liability.

9 (f) Total final liability.

10 (g) Total liability before credits.

11 (7) A person may disclose the following information described
12 in this subsection:

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

15 (b) An application to enter into an agreement, a communication
16 denying an application to enter into an agreement, an agreement, a
17 postproduction certificate, a communication denying a
18 postproduction certificate, or the total amount of credits claimed
19 in a tax year under section 455 of the Michigan business tax act,
20 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the
21 Michigan business tax act, 2007 PA 36, MCL ~~408.1455~~**208.1455**.

22 (c) An application to enter into an agreement, a communication
23 denying an application to enter into an agreement, an agreement, an
24 investment expenditure certificate, a communication denying an
25 investment expenditure certificate, or the total amount of credits
26 claimed in a tax year under section 457 of the Michigan business
27 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)

1 of the Michigan business tax act, 2007 PA 36, MCL
2 ~~408.1457~~.208.1457.

3 (d) An application to enter into an agreement, a communication
4 denying an application to enter into an agreement, an agreement, a
5 qualified job training expenditures certificate, a communication
6 denying a qualified job training expenditures certificate, or the
7 total amount of credits claimed in a tax year under section 459 of
8 the Michigan business tax act, 2007 PA 36, MCL 208.1459,
9 notwithstanding section 459(6) of the Michigan business tax act,
10 2007 PA 36, MCL ~~408.1459~~.208.1459.

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

14 Enacting section 1. This amendatory act takes effect 180 days
15 after the date it is enacted into law.