

HOUSE BILL No. 6240

June 21, 2006, Introduced by Rep. Newell 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 the state; to prescribe certain powers and duties of the state treasurer; 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 27a (MCL 205.27a), as amended by 2003 PA 23.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 27a. (1) If a person liable for a tax administered
- 2 under this act sells out his or her business or its stock of
- 3 goods or quits the business, the person shall make a final return

1 within 15 days after the date of selling or quitting the
2 business. The purchaser or succeeding purchasers, if any, who
3 purchase a going or closed business or its stock of goods shall
4 escrow sufficient money to cover the amount of taxes, interest,
5 and penalties as may be due and unpaid until the former owner
6 produces a receipt from the state treasurer or the state
7 treasurer's designated representative showing that the taxes due
8 are paid, or a certificate stating that taxes are not due. Upon
9 the owner's written waiver of confidentiality, the department may
10 release to a purchaser a business's known tax liability for the
11 purposes of establishing an escrow account for the payment of
12 taxes. If the purchaser or succeeding purchasers of a business or
13 its stock of goods fail to comply with the escrow requirements of
14 this subsection, the purchaser is personally liable for the
15 payment of the taxes, interest, and penalties accrued and unpaid
16 by the business of the former owner. The purchaser's or
17 succeeding purchaser's personal liability is limited to the fair
18 market value of the business less the amount of any proceeds that
19 are applied to balances due on secured interests that are
20 superior to the lien provided for in section 29(1).

21 (2) A deficiency, interest, or penalty shall not be assessed
22 after the expiration of ~~4~~ 3 years after the date set for the
23 filing of the required return or after the date the return was
24 filed, whichever is later. The taxpayer shall not claim a refund
25 of any amount paid to the department after the expiration of 4
26 years after the date set for the filing of the original return.
27 ~~A~~ **EXCEPT AS PROVIDED IN SUBSECTION (8),** A person who has failed

1 to file a return is liable for all taxes due for the entire
2 period for which the person would be subject to the taxes. If a
3 person subject to tax fraudulently conceals any liability for the
4 tax or a part of the tax, or fails to notify the department of
5 any alteration in or modification of federal tax liability, the
6 department, within 2 years after discovery of the fraud or the
7 failure to notify, shall assess the tax with penalties and
8 interest as provided by this act, computed from the date on which
9 the tax liability originally accrued. The tax, penalties, and
10 interest are due and payable after notice and hearing as provided
11 by this act.

12 (3) The running of the statute of limitations is suspended
13 for the following:

14 (a) The period pending a final determination of tax,
15 including audit, conference, hearing, and litigation of liability
16 for federal income tax or a tax administered by the department
17 and for 1 year after that period.

18 (b) The period for which the taxpayer and the state
19 treasurer have consented to in writing that the period be
20 extended.

21 (4) The running of the statute of limitations is suspended
22 only as to those items that were the subject of the audit,
23 conference, hearing, or litigation for federal income tax or a
24 tax administered by the department.

25 (5) If a corporation, limited liability company, limited
26 liability partnership, partnership, or limited partnership liable
27 for taxes administered under this act fails for any reason to

1 file the required returns or to pay the tax due, any of its
2 officers, members, managers, or partners who the department
3 determines, based on either an audit or an investigation, have
4 control or supervision of, or responsibility for, making the
5 returns or payments is personally liable for the failure. The
6 signature of any corporate officers, members, managers, or
7 partners on returns or negotiable instruments submitted in
8 payment of taxes is prima facie evidence of their responsibility
9 for making the returns and payments. The dissolution of a
10 corporation, limited liability company, limited liability
11 partnership, partnership, or limited partnership does not
12 discharge an officer's, member's, manager's, or partner's
13 liability for a prior failure of the corporation, limited
14 liability company, limited liability partnership, partnership, or
15 limited partnership to make a return or remit the tax due. The
16 sum due for a liability may be assessed and collected under the
17 related sections of this act.

18 (6) Notwithstanding the provisions of subsection (2), a
19 claim for refund based upon the validity of a tax law based on
20 the laws or constitution of the United States or the state
21 constitution of 1963 shall not be paid unless the claim is filed
22 within 90 days after the date set for filing a return.

23 (7) Subsection (6) does not apply to a claim for the refund
24 of a tax paid for the 1984 tax year or a tax year after the 1984
25 tax year on income received as retirement or pension benefits
26 from a public retirement system of the United States government
27 if the claimant waives any claim for the refund of such a tax

1 paid for a tax year before 1984. Claims for refunds to which this
 2 subsection applies shall be paid in accordance with the following
 3 schedule:

4	Refunds for	Payable on
5	<u>tax year:</u>	<u>or after:</u>
6	1988 and 1987	July 1, 1990
7	1986	July 1, 1991
8	1985	July 1, 1992
9	1984	July 1, 1993

10 (8) A PERSON WHO IS LIABLE FOR TAX LEVIED UNDER THE USE TAX
 11 ACT, 1937 PA 94, MCL 205.91 TO 205.111, BEGINNING AUGUST 1, 2001
 12 AND THROUGH JUNE 30, 2004 AND FILED FOR AN INFORMAL CONFERENCE ON
 13 THAT TAX LIABILITY ON SEPTEMBER 14, 2005 AND WHO IS LIABLE FOR
 14 TAX LEVIED UNDER THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL
 15 208.1 TO 208.145, BEGINNING JULY 1, 1994 AND ENDING JUNE 30,
 16 2004, AND FILED FOR AN INFORMAL CONFERENCE ON THAT TAX LIABILITY
 17 ON SEPTEMBER 20, 2005 AND FILED AMENDMENTS TO HIS OR HER ARTICLES
 18 OF INCORPORATION ON JUNE 20, 1985 IS ONLY LIABLE FOR TAXES LEVIED
 19 UNDER THE USE TAX ACT, 1937 PA 94, MCL 205.91 TO 205.111, AND FOR
 20 TAXES LEVIED UNDER THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL
 21 208.1 TO 208.145, FOR THE IMMEDIATELY PRECEDING 3 YEARS.