

SENATE BILL No. 70

January 27, 2009, Introduced by Senators CASSIS, GILBERT, JANSEN, PAPPAGEORGE and GARCIA and referred to the Committee on Finance.

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 2003 PA 114.

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
3 specific tax statute:

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

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

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

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

24 (e) Except as otherwise provided in section 30c, the state
25 treasurer or an employee of the department shall not compromise or
26 reduce in any manner the taxes due to or claimed by this state or

1 unpaid accounts or amounts due to any department, institution, or
2 agency of state government. This subdivision does not prevent a
3 compromise of interest or penalties, or both.

4 (f) Except as otherwise provided in this subdivision, an
5 employee, authorized representative, or former employee or
6 authorized representative of the department or anyone connected
7 with the department shall not divulge any facts or information
8 obtained in connection with the administration of a tax or
9 information or parameters that would enable a person to ascertain
10 the audit selection or processing criteria of the department for a
11 tax administered by the department. An employee or authorized
12 representative shall not willfully inspect any return or
13 information contained in a return unless it is appropriate for the
14 proper administration of a tax law administered under this act. A
15 person may disclose information described in this subdivision if
16 the disclosure is required for the proper administration of a tax
17 law administered under this act or the general property tax act,
18 1893 PA 206, MCL 211.1 to ~~211.157~~**211.155**, pursuant to a judicial
19 order sought by an agency charged with the duty of enforcing or
20 investigating support obligations pursuant to an order of a court
21 in a domestic relations matter as that term is defined in section 2
22 of the friend of the court act, 1982 PA 294, MCL 552.502, or
23 pursuant to a judicial order sought by an agency of the federal,
24 state, or local government charged with the responsibility for the
25 administration or enforcement of criminal law for purposes of
26 investigating or prosecuting criminal matters or for federal or
27 state grand jury proceedings or a judicial order if the taxpayer's

1 liability for a tax administered under this act is to be
2 adjudicated by the court that issued the judicial order. A person
3 may disclose the adjusted gross receipts and the wagering tax paid
4 by a casino licensee licensed under the Michigan gaming control and
5 revenue act, ~~the Initiated Law of 1996 IL 1~~, MCL 432.201 to
6 432.226, pursuant to section 18, sections 341, 342, and 386 of the
7 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and
8 18.1386, or authorization by the executive director of the gaming
9 control board. However, the state treasurer or a person designated
10 by the state treasurer may divulge information set forth or
11 disclosed in a return or report or by an investigation or audit to
12 any department, institution, or agency of state government upon
13 receipt of a written request from a head of the department,
14 institution, or agency of state government if it is required for
15 the effective administration or enforcement of the laws of this
16 state, to a proper officer of the United States department of
17 treasury, and to a proper officer of another state reciprocating in
18 this privilege. The state treasurer may enter into reciprocal
19 agreements with other departments of state government, the United
20 States department of treasury, local governmental units within this
21 state, or taxing officials of other states for the enforcement,
22 collection, and exchange of data after ascertaining that any
23 information provided will be subject to confidentiality
24 restrictions substantially the same as the provisions of this act.
25 **THE STATE TREASURER SHALL DIVULGE INFORMATION AS DESCRIBED IN THE**
26 **FOLLOWING SENTENCE CONCERNING THE MICHIGAN BUSINESS TAX ACT, 2007**
27 **PA 36, MCL 208.1101 TO 208.1601, THAT IS DERIVED FROM A RETURN, A**

1 REPORT, AN INVESTIGATION, OR AN AUDIT TO THE CHAIRPERSONS OF THE
2 SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES THAT HAVE
3 JURISDICTION OVER MATTERS RELATING TO TAXATION AND FINANCE, THE
4 DIRECTOR OF THE SENATE FISCAL AGENCY, AND THE DIRECTOR OF THE HOUSE
5 FISCAL AGENCY UPON RECEIPT OF A WRITTEN REQUEST FROM THE
6 CHAIRPERSON OR DIRECTOR. THE STATE TREASURER SHALL DIVULGE THE
7 FOLLOWING INFORMATION AS PROVIDED IN THIS SUBDIVISION:

8 (i) APPORTIONED BUSINESS INCOME TAX BASE.

9 (ii) APPORTIONED MODIFIED GROSS RECEIPTS TAX BASE.

10 (iii) BUSINESS INCOME TAX LIABILITY.

11 (iv) ITEMIZATION OF ALL ADDITIONAL CREDITS.

12 (v) MODIFIED GROSS RECEIPTS TAX LIABILITY.

13 (vi) TOTAL ALTERNATIVE CREDITS.

14 (vii) TOTAL FINAL LIABILITY.

15 (viii) TOTAL LIABILITY BEFORE CREDITS.

16 (ix) THE ITEMS DESCRIBED IN SUBPARAGRAPH (i) TO (viii) BROKEN
17 DOWN BY BUSINESS SECTOR AND BY FIRM SIZE.

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

25 (3) A person liable for any tax administered under this act
26 shall keep accurate and complete records necessary for the proper
27 determination of tax liability as required by law or rule of the

1 department.

2 (4) A person who receives information under subsection (1)(f)
3 for the proper administration of the general property tax act, 1893
4 PA 206, MCL 211.1 to ~~211.157~~**211.155**, shall not willfully disclose
5 that information for any purpose other than the administration of
6 the general property tax act, 1893 PA 206, MCL 211.1 to ~~211.157~~
7 **211.155**. A person who violates this subsection is subject to the
8 penalties provided in subsection (2).

9 (5) As used in subsection (1), "adjusted gross receipts" and
10 "wagering tax" mean those terms as described in the Michigan gaming
11 control and revenue act, ~~the Initiated Law of 1996 IL 1~~, MCL
12 432.201 to 432.226.