

# HOUSE BILL No. 5191

December 17, 2015, Introduced by Reps. Lauwers, Brett Roberts, Glardon, Johnson, Rendon, Victory, Hughes, Jenkins, Garcia, Pagel, Cole, Leutheuser, Barrett, Brunner, Lyons, Vaupel, Kelly, Aaron Miller, Canfield, LaFontaine, Smiley, LaVoy, McBroom, Franz, Outman, Sheppard, Price, Potvin and Lucido and referred to the Committee on Agriculture.

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 30 (MCL 205.30), as amended by 2014 PA 424.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 30. (1) The department shall credit or refund an  
2 overpayment of taxes; taxes, penalties, and interest erroneously

1 assessed and collected; and taxes, penalties, and interest that are  
2 found unjustly assessed, excessive in amount, or wrongfully  
3 collected with interest at the rate calculated under section 23 for  
4 deficiencies in tax payments.

5 (2) A taxpayer who paid a tax that the taxpayer claims is not  
6 due may petition the department for refund of the amount paid  
7 within the time period specified as the statute of limitations in  
8 section 27a. If a tax return reflects an overpayment or credits in  
9 excess of the tax, the declaration of that fact on the return  
10 constitutes a claim for refund. If the department agrees the claim  
11 is valid, the amount of overpayment, penalties, and interest shall  
12 be first applied to any known liability as provided in section 30a,  
13 and the excess, if any, shall be refunded to the taxpayer or  
14 credited, at the taxpayer's request, against any current or  
15 subsequent tax liability. Claims for refunds, other than those made  
16 under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1  
17 to 206.532, that have not been approved, denied, or adjusted within  
18 1 year of the date received may be treated as denied at the  
19 election of the taxpayer, and may be appealed by the taxpayer in  
20 accordance with section 22.

21 (3) ~~The~~ **FOR REFUNDS APPROVED BEFORE JANUARY 1, 2016, THE**  
22 department shall certify a refund to the state disbursing authority  
23 who shall pay the amount out of the proceeds of the tax in  
24 accordance with the accounting laws of the state. Interest at the  
25 rate calculated under section 23 for deficiencies in tax payments  
26 **REGARDING THOSE REFUNDS** shall be added to the refund commencing 45  
27 days after the claim is filed or 45 days after the date established

1 by law for the filing of the return, whichever is later. FOR  
2 REFUNDS APPROVED AFTER DECEMBER 31, 2015, THE DEPARTMENT SHALL  
3 NOTIFY THE STATE DISBURSING AUTHORITY OF THE AMOUNT OF A REFUND TO  
4 BE ISSUED AND THE STATE DISBURSING AUTHORITY SHALL PAY THE AMOUNT  
5 OUT OF THE PROCEEDS OF THE TAX IN ACCORDANCE WITH THE ACCOUNTING  
6 LAWS OF THIS STATE. INTEREST AT THE RATE CALCULATED UNDER SECTION  
7 23 FOR DEFICIENCIES IN TAX PAYMENTS FOR REFUNDS APPROVED AFTER  
8 DECEMBER 31, 2015 SHALL BE ADDED TO THE REFUND COMMENCING FROM THE  
9 DATE ESTABLISHED BY LAW FOR FILING AN ORIGINAL RETURN, REGARDLESS  
10 OF ANY EXTENSIONS, OR THE DATE OF OVERPAYMENT, WHICHEVER IS LATER,  
11 UNTIL A DATE PRECEDING THE DATE OF THE REFUND BY NOT MORE THAN 7  
12 DAYS. NO INTEREST SHALL BE PAID UPON ANY REFUND IF THE OVERPAYMENT  
13 OF TAX IS REFUNDED WITHIN 45 DAYS FROM THE DATE THE ORIGINAL RETURN  
14 IS FILED OR 45 DAYS FROM THE DATE OF OVERPAYMENT, WHICHEVER IS  
15 LATER. FOR PURPOSES OF THIS SUBSECTION, "DATE OF OVERPAYMENT" MEANS  
16 THE DATE THAT THE TAX PAYMENT TO BE REFUNDED WAS RECEIVED BY THE  
17 DEPARTMENT. Interest on refunds intercepted and applied as provided  
18 in section 30a shall cease as of the date of interception. Refunds  
19 for amounts of less than \$1.00 shall not be paid.

20 (4) Beginning January 1, 2014, in addition to and separate  
21 from the interest added to a refund under subsection (3), for  
22 refunds for taxes imposed under part 1 of the income tax act of  
23 1967, 1967 PA 281, MCL 206.1 to 206.532, the state disbursing  
24 authority shall add interest to refunds that are not paid within 1  
25 of the following dates for the applicable tax year:

26 (a) May 1, for returns received by the department on or before  
27 March 1 of the applicable tax year.

1 (b) Sixty days from the date the return was received by the  
2 department for returns received by the department after March 1 of  
3 the applicable tax year.

4 (5) Interest described in subsection (4) shall be paid at a  
5 rate of 3% per annum, calculated from the date the original return  
6 was due under section 315(1) of the income tax act of 1967, 1967 PA  
7 281, MCL 206.315, and until ~~the refund is paid,~~ **A DATE PRECEDING**  
8 **THE DATE OF THE REFUND BY NOT MORE THAN 7 DAYS,** if all of the  
9 following conditions are met:

10 (a) The refund is due on an original return which was timely  
11 filed under section 315(1) of the income tax act of 1967, 1967 PA  
12 281, MCL 206.315.

13 (b) The refund is not adjusted by the department.

14 (c) The return is not subject to section 27a(3) or (4) except  
15 for audit by the department.

16 (d) The return is complete for processing purposes with no  
17 calculation errors and contains all required information as  
18 prescribed by the department under section 315(1)(d) of the income  
19 tax act of 1967, 1967 PA 281, MCL 206.315, including any state and  
20 federal returns, forms, or schedules necessary to process the  
21 return.

22 (e) The taxpayer who has filed a complete return under  
23 subdivision (d) has complied with the department's request, if any,  
24 for additional documentation or information within 30 days of that  
25 request.

26 (f) No portion of the refund is subject to interception under  
27 section 30a.

1 (g) The amount to be refunded is more than \$1.00.

2 (6) Beginning January 1, 2015, in addition to and separate  
3 from the interest added to a refund under subsection (3), for  
4 refunds for taxes imposed under the Michigan business tax act, 2007  
5 PA 36, MCL 208.1101 to 208.1601, the state disbursing authority  
6 shall add interest to refunds that are not paid within 90 days  
7 after the claim is approved or 90 days after the date established  
8 by law for filing the return, whichever is later. Interest  
9 described in this subsection shall be paid at a rate of 3% per  
10 annum for each day the refund is not issued within the time frame  
11 required in this subsection if all of the following conditions are  
12 met:

13 (a) The refund is claimed on an original return which was  
14 timely filed under section 505(1) of the Michigan business tax act,  
15 2007 PA 36, MCL 208.1505.

16 (b) The refund is not adjusted by the department.

17 (c) The refund is not claimed by a taxpayer filing as a  
18 unitary business group.

19 (d) The return is not subject to section 27a(3) or (4) except  
20 for audit by the department.

21 (e) The return is complete for processing purposes with no  
22 calculation errors and contains all required information as  
23 prescribed by the department under section 507 or 509 of the  
24 Michigan business tax act, 2007 PA 36, MCL 208.1507 and 208.1509,  
25 including any state and federal returns, forms, or schedules  
26 necessary to process the return.

27 (f) The taxpayer who has filed a complete return under

1 subdivision (e) has complied with the department's request, if any,  
2 for additional documentation or information within 30 days of that  
3 request.

4 (g) No portion of the refund is subject to interception under  
5 section 30a.

6 (h) The amount to be refunded is more than \$10.00.

7 **(7) BEGINNING JANUARY 1, 2016, THE INTEREST CALCULATIONS IN**  
8 **SUBSECTIONS (3), (4), AND (5) ALSO APPLY TO REFUNDS OF CREDITS**  
9 **AUTHORIZED UNDER SECTION 36109 OF THE NATURAL RESOURCES AND**  
10 **ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.36109.**