

**SUBSTITUTE FOR
SENATE BILL NO. 888**

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 sections 24 and 30 (MCL 205.24 and 205.30), section 24
 as amended by 2003 PA 201 and section 30 as amended by 2016 PA 267.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 24. (1) If a taxpayer fails or refuses to file a return
 2 or pay a tax administered under this act within the time specified,
 3 the department, as soon as possible, shall assess the tax against
 4 the taxpayer and notify the taxpayer of the amount of the tax. A
 5 liability for a tax administered under this act is subject to the
 6 interest and penalties prescribed in subsections (2) to (5).

7 (2) Except as provided in subsections (3), (6), and (7), if a
 8 taxpayer fails or refuses to file a return or pay a tax within the
 9 time specified for notices of intent to assess issued on or before
 10 February 28, 2003, a penalty of \$10.00 or 5% of the tax, whichever
 11 is greater, shall be added if the failure is for not more than 1
 12 month, with an additional 5% penalty for each additional month or
 13 fraction of a month during which the failure continues or the tax
 14 and penalty is not paid, to a maximum of 50%. Except as provided in
 15 subsections (3), (6), ~~and (7)~~, **and (8)**, if a taxpayer fails or
 16 refuses to file a return or pay a tax within the time specified for
 17 notices of intent to assess issued after February 28, 2003, a
 18 penalty of 5% of the tax shall be added if the failure is for not
 19 more than 2 months, with an additional 5% penalty for each
 20 additional month or fraction of a month during which the failure
 21 continues or the tax and penalty is not paid, to a maximum of 25%.
 22 In addition to the penalty, interest at the rate provided in
 23 section 23 for deficiencies in tax payments shall be added on the
 24 tax from the time the tax was due, until paid. After June 30, 1994,
 25 the penalty prescribed by this subsection shall not be imposed



1 until the department submits for public hearing pursuant to the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328, a rule defining what constitutes reasonable cause for
4 waiver of the penalty under subsection (4), which definition shall
5 include illustrative examples.

6 (3) If a person is required to remit tax due pursuant to
7 section 19(2) and fails or refuses to pay the tax within the time
8 specified, a penalty of 0.167% of the tax shall be added for each
9 day during which the failure continues or the tax and penalty are
10 not paid as follows:

11 (a) For notices of intent to assess issued on or before
12 February 28, 2003, to a maximum of 50% of the tax.

13 (b) For notices of intent to assess issued after February 28,
14 2003, to a maximum of 25% of the tax.

15 (4) If a return is filed or remittance is paid after the time
16 specified and it is shown to the satisfaction of the department
17 that the failure was due to reasonable cause and not to willful
18 neglect, the state treasurer or an authorized representative of the
19 state treasurer shall waive the penalty prescribed by subsection
20 (2).

21 (5) For failure or refusal to file an information return or
22 other informational report required by a tax statute, within the
23 time specified, a penalty of \$10.00 per day for each day for each
24 separate failure or refusal may be added. The total penalty for
25 each separate failure or refusal shall not exceed \$400.00.

26 (6) If a taxpayer fails to pay an estimated tax payment as may
27 be required by the income tax act of 1967, 1967 PA 281, MCL 206.1
28 to ~~206.532~~, **206.713**, a penalty shall not be imposed if the taxpayer
29 was not required to make estimated tax payments in the taxpayer's



1 immediately preceding tax year.

2 (7) Notwithstanding any other provision of this act, for any
3 return or tax remittance due on August 15, 2003 that was filed or
4 remitted not later than August 22, 2003, the department shall waive
5 all interest and penalty for the failure to file or remit for the
6 period of August 15, 2003 through August 22, 2003.

7 (8) Notwithstanding any other provision of this act, for any
8 return or tax remittance that was originally due on April 15 or
9 April 30, 2020 for the 2019 tax year under the income tax act of
10 1967, 1967 PA 281, MCL 206.1 to 206.713, or the city income tax
11 act, 1964 PA 284, MCL 141.501 to 141.787, and that is subsequently
12 filed or remitted not later than July 15 or July 31, 2020,
13 whichever is applicable, the department shall waive all interest
14 and penalties for the failure to file or remit for the period of
15 April 15 or April 30, 2020 through July 15 or July 31, 2020,
16 whichever is applicable. Any applicable penalties and interest for
17 failure to file a return or pay a tax will not begin to accrue
18 until July 16, 2020 for any remaining unpaid balances due on July
19 15, 2020 and will not begin to accrue until August 1, 2020 for any
20 remaining unpaid balances due on July 31, 2020. Accordingly, if the
21 Internal Revenue Service extends the federal income tax filing or
22 payment due date, or both, for federal taxpayers after the
23 effective date of the amendatory act that added this subsection due
24 to a declared national emergency, then a person required to make
25 and file an annual return or to file and pay an installment of
26 estimated tax under either the income tax act of 1967, 1967 PA 281,
27 MCL 206.1 to 206.713, or the city income tax act, 1964 PA 284, MCL
28 141.501 to 141.787, shall automatically receive an extension to
29 file those returns, and that extension must coincide with that



1 extended due date established by the Internal Revenue Service for
2 that same tax year and the department shall waive all interest and
3 penalties for the failure to file or remit during that extended
4 period for that same tax year. Any applicable penalties and
5 interest for failure to file a return or pay tax will not begin to
6 accrue for any remaining unpaid balances until the first day after
7 that extended due date.

8 Sec. 30. (1) The department shall credit or refund an
9 overpayment of taxes; taxes, penalties, and interest erroneously
10 assessed and collected; and taxes, penalties, and interest that are
11 found unjustly assessed, excessive in amount, or wrongfully
12 collected with interest at the rate calculated under section 23 for
13 deficiencies in tax payments.

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



1 (3) The department shall certify a refund to the state
 2 disbursing authority who shall pay the amount out of the proceeds
 3 of the tax in accordance with the accounting laws of the state.
 4 ~~Interest~~ **Except as otherwise provided under subsection (8),**
 5 **interest** at the rate calculated under section 23 for deficiencies
 6 in tax payments regarding those refunds shall be added to the
 7 refund commencing 45 days after the claim is filed or 45 days after
 8 the date established by law for the filing of the return, whichever
 9 is later. Interest on refunds intercepted and applied as provided
 10 in section 30a shall cease as of the date of interception. Refunds
 11 for amounts of less than \$1.00 shall not be paid.

12 (4) ~~Beginning~~ **Except as otherwise provided under subsection**
 13 **(8), beginning** January 1, 2014, in addition to and separate from
 14 the interest added to a refund under subsection (3), for refunds
 15 for taxes imposed under part 1 of the income tax act of 1967, 1967
 16 PA 281, MCL 206.1 to 206.532, the state disbursing authority shall
 17 add interest to refunds that are not paid within 1 of the following
 18 dates for the applicable tax year:

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

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

24 (5) ~~Interest~~ **Subject to subsection (8), interest** described in
 25 subsection (4) shall be paid at a rate of 3% per annum, calculated
 26 from the date the original return was due under section 315(1) of
 27 the income tax act of 1967, 1967 PA 281, MCL 206.315, and until a
 28 date preceding the date of the refund by not more than 7 days, if
 29 all of the following conditions are met:



1 (a) The refund is due on an original return which was timely
2 filed under section 315(1) of the income tax act of 1967, 1967 PA
3 281, MCL 206.315.

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

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

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

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

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

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

20 (6) Beginning January 1, 2015, in addition to and separate
21 from the interest added to a refund under subsection (3), for
22 refunds for taxes imposed under the Michigan business tax act, 2007
23 PA 36, MCL 208.1101 to 208.1601, the state disbursing authority
24 shall add interest to refunds that are not paid within 90 days
25 after the claim is approved or 90 days after the date established
26 by law for filing the return, whichever is later. Interest
27 described in this subsection shall be paid at a rate of 3% per
28 annum for each day the refund is not issued within the time frame
29 required in this subsection if all of the following conditions are



1 met:

2 (a) The refund is claimed on an original return which was
3 timely filed under section 505(1) of the Michigan business tax act,
4 2007 PA 36, MCL 208.1505.

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

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

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

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

16 (f) The taxpayer who has filed a complete return under
17 subdivision (e) has complied with the department's request, if any,
18 for additional documentation or information within 30 days of that
19 request.

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

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

23 (7) Beginning January 1, 2017, the interest calculations in
24 subsections (3), (4), (5), and (6) also apply to refunds of credits
25 authorized under section 36109 of the natural resources and
26 environmental protection act, 1994 PA 451, MCL 324.36109, for
27 contracts that have been approved and processed by the department
28 of agriculture and rural development and forwarded to the
29 department. If the state disbursing authority does not pay or



1 refund a credit described in this subsection within 45 days from
2 the date the return was received by the department, the department
3 shall notify the taxpayer of the status of the return and whether
4 the taxpayer has filed a complete return.

5 **(8) For the 2019 tax year only, interest at the rate provided**
6 **under subsection (3) will be added to a refund for amounts paid**
7 **beginning 45 days after the claim for the refund is filed, 45 days**
8 **after July 15 or July 31, 2020, or 45 days after a subsequent**
9 **filing date if extended by the Internal Revenue Service after the**
10 **effective date of the amendatory act that added this subsection due**
11 **to a declared national emergency for that same tax year, whichever**
12 **is latest. Additional interest under subsection (4) or (5) does not**
13 **apply to an income tax return filed for the 2019 tax year.**

14 Enacting section 1. This amendatory act does not take effect
15 unless all of the following bills of the 100th Legislature are
16 enacted into law:

17 (a) Senate Bill No. 887.

18 (b) Senate Bill No. 889.

