

# HOUSE BILL No. 5786

April 29, 1992, Introduced by Reps. Kosteva, DeBeaussaert, Gubow, Baade, Olshove, Gire and Byrum and referred to the Committee on Taxation.

A bill to amend sections 21, 22, 23, 24, and 30 of Act No. 122 of the Public Acts of 1941, entitled as amended

"An act to establish a revenue division 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 create the position and to define the powers and duties of the state commissioner of revenue; 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 provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as amended by Act No. 58 of the Public Acts of 1986, being sections 205.21, 205.22, 205.23, 205.24, and 205.30 of the Michigan Compiled Laws; and to add sections 1a, 4, 5, 7, and 8.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 21, 22, 23, 24, and 30 of Act No. 122  
2 of the Public Acts of 1941, as amended by Act No. 58 of the

1 Public Acts of 1986, being sections 205.21, 205.22, 205.23,  
2 205.24, and 205.30 of the Michigan Compiled Laws, are amended and  
3 sections 1a, 4, 5, 7, and 8 are added to read as follows:

4 SEC. 1A. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE  
5 "STATE REVENUE ADMINISTRATION ACT".

6 SEC. 4. (1) NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE  
7 OF THIS SECTION, THE DEPARTMENT OF TREASURY SHALL SUBMIT RULES  
8 FOR A PUBLIC HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES  
9 ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SEC-  
10 TIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, THAT PRO-  
11 VIDE FOR ALL OF THE FOLLOWING:

12 (A) STANDARDS TO BE FOLLOWED BY REVENUE DIVISION OFFICERS  
13 AND EMPLOYEES FOR THE FAIR AND COURTEOUS TREATMENT OF THE PUBLIC,  
14 AND A SYSTEM FOR MONITORING COMPLIANCE WITH THOSE STANDARDS.

15 (B) DEFINITIONS OF WHAT CONSTITUTES NEGLIGENCE BY THE  
16 DEPARTMENT.

17 (C) THE PROCEDURES GOVERNING AN INFORMAL CONFERENCE HELD  
18 UNDER SECTION 21. THESE PROCEDURES SHALL INCLUDE AT LEAST ALL OF  
19 THE FOLLOWING:

20 (i) A METHOD BY WHICH THE DEPARTMENT ATTEMPTS TO SCHEDULE  
21 THE CONFERENCE AT A MUTUALLY CONVENIENT TIME AND PLACE.

22 (ii) A REQUIREMENT THAT THE DEPARTMENT INCLUDE IN THE NOTICE  
23 FOR THE CONFERENCE THE SCOPE AND NATURE OF THE SUBJECT OF THE  
24 CONFERENCE.

25 (iii) AUTHORIZATION FOR THE TAXPAYER AT WHOSE REQUEST THE  
26 CONFERENCE IS BEING HELD TO MAKE A SOUND RECORDING OF THE

1 CONFERENCE WITH PRIOR NOTICE TO THE DEPARTMENT AND FOR THE  
2 DEPARTMENT TO DO THE SAME WITH PRIOR NOTICE TO THE TAXPAYER.

3 (2) THE DEPARTMENT SHALL DEVELOP GUIDELINES TO GOVERN  
4 DEPARTMENTAL EMPLOYEE RESPONSES TO INQUIRIES FROM THE PUBLIC AND  
5 STANDARDS FOR TAX AUDIT ACTIVITIES. THE GUIDELINES SHALL EXPLIC-  
6 ITLY EXCLUDE THE USE OF A COLLECTION GOAL OR QUOTA FOR EVALUATING  
7 AN EMPLOYEE. THE DEPARTMENT SHALL ASSEMBLE THE GUIDELINES  
8 REQUIRED BY THIS SUBSECTION INTO AN EMPLOYEE HANDBOOK. THE  
9 DEPARTMENT SHALL DISTRIBUTE THE HANDBOOK TO ALL DEPARTMENTAL  
10 EMPLOYEES INVOLVED IN THE COLLECTION OR AUDITING OF TAXES AND  
11 SHALL MAKE THE HANDBOOK AVAILABLE TO THE PUBLIC.

12 SEC. 5. (1) THE DEPARTMENT SHALL PREPARE A BROCHURE THAT  
13 LISTS AND EXPLAINS, IN SIMPLE AND NONTECHNICAL TERMS, A  
14 TAXPAYER'S PROTECTIONS AND RECOURSES IN REGARD TO A DEPARTMENTAL  
15 ACTION ADMINISTERING OR ENFORCING A TAX STATUTE, INCLUDING AT  
16 LEAST ALL OF THE FOLLOWING:

17 (A) A TAXPAYER'S PROTECTIONS AND THE DEPARTMENT'S OBLIGA-  
18 TIONS DURING AN AUDIT.

19 (B) BOTH THE ADMINISTRATIVE AND JUDICIAL PROCEDURES FOR  
20 APPEALING A DEPARTMENTAL DECISION.

21 (C) THE PROCEDURES FOR CLAIMING REFUNDS AND FILING  
22 COMPLAINTS.

23 (D) THE MEANS BY WHICH THE DEPARTMENT MAY ENFORCE A TAX  
24 STATUTE, INCLUDING ASSESSMENT, JEOPARDY ASSESSMENT, AND ENFORCE-  
25 MENT OF A LIEN.

26 (2) THE DEPARTMENT SHALL INCLUDE THE BROCHURE PREPARED AS  
27 REQUIRED UNDER SUBSECTION (1) WITH A COMMUNICATION TO A TAXPAYER

1 CONCERNING THE DETERMINATION OR COLLECTION OF A TAX ADMINISTERED  
2 UNDER THIS ACT. THE DEPARTMENT MAY TAKE THE ACTIONS NECESSARY TO  
3 PREVENT SENDING MULTIPLE BROCHURES TO THE SAME TAXPAYER.

4 SEC. 7. IN AN ADMINISTRATIVE OR JUDICIAL PROCEEDING THAT IS  
5 BROUGHT BY OR AGAINST THIS STATE IN CONNECTION WITH THE DETERMI-  
6 NATION, COLLECTION, OR REFUND OF A TAX, INTEREST, OR PENALTY  
7 UNDER THIS ACT OR A TAX ADMINISTERED UNDER THIS ACT, A TAXPAYER  
8 MAY BE AWARDED THE REASONABLE AND NECESSARY EXPENSES AND  
9 ATTORNEY'S FEES OF THE PROCEEDING. AN AWARD SHALL BE MADE UNDER  
10 THIS SECTION ONLY IF THE DEPARTMENTAL POSITION IN THE PROCEEDING  
11 WAS TAKEN WITHOUT SUBSTANTIAL JUSTIFICATION IN LAW OR IN FACT.

12 SEC. 8. IF A TAXPAYER FILES WITH THE DEPARTMENT A WRITTEN  
13 REQUEST THAT COPIES OF LETTERS AND NOTICES REGARDING A DISPUTE  
14 WITH THAT TAXPAYER BE SENT TO AN ATTORNEY, THE DEPARTMENT SHALL  
15 SEND THE ATTORNEY, AT THE ADDRESS DESIGNATED BY THE TAXPAYER IN  
16 THE WRITTEN REQUEST, A COPY OF EACH LETTER OR NOTICE SENT TO THAT  
17 TAXPAYER. A TAXPAYER SHALL NOT DESIGNATE MORE THAN 1 ATTORNEY  
18 UNDER THIS SECTION.

19 Sec. 21. (1) If a ~~person~~ TAXPAYER fails or refuses to  
20 make a return as required, in whole or in part, or if the depart-  
21 ment has reason to believe that a return made does not supply  
22 sufficient information for an accurate determination of the  
23 amount of tax due, the department may obtain information on which  
24 to base an assessment of the tax. ~~The department, by~~ BY its  
25 duly authorized agents, THE DEPARTMENT may examine the books,  
26 records, and papers and audit the accounts of a ~~person~~ TAXPAYER  
27 or any other records pertaining to the tax. ~~As soon as possible~~

1 ~~after procuring information, the department shall assess the tax~~  
2 ~~determined to be due and shall notify the taxpayer of the~~  
3 ~~assessed amount and the specific reasons for the assessment.~~

4 (2) In carrying out this section, the department ~~after~~  
5 ~~determining the amount of tax due from a taxpayer,~~ shall COMPLY  
6 WITH THE FOLLOWING PROCEDURE:

7 (A) THE DEPARTMENT SHALL SEND TO THE TAXPAYER A LETTER OF  
8 INQUIRY STATING, IN A COURTEOUS AND UNINTIMIDATING MANNER, THE  
9 DEPARTMENT'S OPINION THAT THE TAXPAYER NEEDS TO FURNISH FURTHER  
10 INFORMATION OR OWES TAXES TO THE STATE, AND THE REASON FOR THAT  
11 OPINION.

12 (B) NOT LESS THAN 14 DAYS AFTER SENDING A TAXPAYER A LETTER  
13 OF INQUIRY, THE DEPARTMENT SHALL give notice to the taxpayer of  
14 its intent to levy the tax. The notice shall include THE AMOUNT  
15 OF THE TAX THE DEPARTMENT BELIEVES THE TAXPAYER OWES AND a state-  
16 ment advising the taxpayer of a right to an informal conference.

17 (C) If ~~the~~ A taxpayer serves written notice upon the  
18 department within ~~20~~ 45 days after ~~receipt of~~ the TAXPAYER  
19 RECEIVES A notice ~~to the taxpayer and remits the uncontested~~  
20 ~~portion of the liability~~ OF INTENT TO LEVY, the taxpayer ~~may~~  
21 ~~request~~ IS ENTITLED TO an informal conference on the question of  
22 liability for the assessment.

23 (D) Upon receipt of ~~the~~ A TAXPAYER'S written notice, the  
24 department shall set a time and place for the conference and  
25 shall give the taxpayer reasonable notice not less than 20 days  
26 before the conference. The INFORMAL conference provided for by  
27 this ~~subsection shall~~ SECTION IS not ~~be~~ subject to the

1 administrative procedures act of 1969, Act No. 306 of the Public  
2 Acts of 1969, as amended, being sections 24.201 to 24.328 of the  
3 Michigan Compiled Laws, BUT IS SUBJECT TO RULES PROMULGATED UNDER  
4 ACT NO. 306 OF THE PUBLIC ACTS OF 1969 THAT GOVERN INFORMAL  
5 CONFERENCES. ~~The~~ A taxpayer may appear or be represented  
6 before the department AT AN INFORMAL CONFERENCE, and MAY present  
7 testimony and argument.

8 (E) After the conference, the commissioner shall render a  
9 decision and order in writing, setting forth the reasons and  
10 authority, and SHALL levy ~~any~~ THE tax, interest, and penalty  
11 found to be due and payable. ~~The assessments shall be~~

12 (F) IF THE DEPARTMENT SERVES A NOTICE OF INTENT TO LEVY ON A  
13 TAXPAYER AND THE TAXPAYER DOES NOT PROTEST THAT NOTICE WITHIN THE  
14 TIME PROVIDED IN SUBDIVISION (C), THE DEPARTMENT MAY LEVY THE  
15 TAX, AND THE INTEREST AND PENALTY ON THE TAX, THAT THE DEPARTMENT  
16 BELIEVES ARE DUE AND PAYABLE. AN ASSESSMENT UNDER THIS SUBDIVI-  
17 SION OR SUBDIVISION (E) IS final and subject to appeal as pro-  
18 vided in section 22. The final notice of assessment shall  
19 include a statement advising the taxpayer of a right to appeal.

20 (3) If a protest to the notice of intent to levy the tax is  
21 determined by the commissioner to be a frivolous protest or a  
22 desire by the taxpayer to delay or impede the administration of  
23 taxes imposed by this act, a penalty of \$25.00 or 25% of the  
24 amount of tax under protest, whichever is greater, shall be added  
25 to the tax.

26 Sec. 22. (1) A ~~person~~ TAXPAYER aggrieved by an  
27 assessment, decision, or order of the department may appeal the

1 contested portion of an assessment, decision, or order to the tax  
2 tribunal within ~~30~~ 45 days, or to the court of claims within 90  
3 days after the assessment, decision, or order. The uncontested  
4 portion of an assessment, order, or decision ~~must~~ SHALL be paid  
5 as a prerequisite to appeal. However, an action shall be com-  
6 menced in the court of claims within 6 months after payment of  
7 the tax or an adverse determination of the taxpayer's claim for  
8 refund, whichever is later, if the payment of the tax or adverse  
9 determination of the claim for refund occurred under THE SINGLE  
10 BUSINESS TAX ACT, Act No. 228 of the Public Acts of 1975, being  
11 sections 208.1 to 208.145 of the Michigan Compiled Laws, and  
12 before ~~the effective date of section 27a. The~~ MAY 1, 1986.

13 (2) AN appeal UNDER THIS SECTION shall be perfected as pro-  
14 vided under THE TAX TRIBUNAL ACT, Act No. 186 of the Public Acts  
15 of 1973, as amended, being sections 205.701 to 205.779 of the  
16 Michigan Compiled Laws, and rules ~~established~~ PROMULGATED under  
17 that act for the tax tribunal, or chapter 64 of THE REVISED  
18 JUDICATURE ACT OF 1961, Act No. 236 of the Public Acts of 1961,  
19 as amended, being sections 600.6401 to 600.6475 of the Michigan  
20 Compiled Laws, and rules adopted under that chapter for the court  
21 of claims. ~~In an appeal to the court of claims, the appellant~~  
22 ~~shall first pay the tax, including any applicable penalties and~~  
23 ~~interest, under protest and claim a refund as part of the~~  
24 ~~appeal. An~~

25 (3) A TAXPAYER OR THE DEPARTMENT MAY TAKE AN appeal by right  
26 from a decision of the tax tribunal or the court of claims ~~may~~  
27 ~~be taken by the taxpayer or the department~~ to the court of

1 appeals. The appeal shall be taken on the record made before the  
2 tax tribunal or the court of claims. ~~Further~~ THE TAXPAYER OR  
3 DEPARTMENT MAY TAKE FURTHER appeal to the supreme court ~~may be~~  
4 ~~taken by the taxpayer or the department~~ in accordance with the  
5 court rules provided for appeals to the supreme court.

6 (4) ~~(2)~~ The assessment, decision, or order of the depart-  
7 ment, if not appealed in accordance with this section, ~~shall be~~  
8 IS final and ~~shall~~ IS not ~~be~~ reviewable in any court by man-  
9 damus, appeal, or other method of direct or collateral attack.

10 (5) ~~(3)~~ An assessment ~~shall be~~ IS final, conclusive, and  
11 not subject to further challenge after 90 days ~~from~~ AFTER the  
12 issuance of the assessment, decision, or order of the department,  
13 and a person ~~shall~~ IS not ~~be~~ entitled to a refund of any tax,  
14 interest, or penalty paid pursuant to an assessment unless the  
15 aggrieved person has appealed the assessment in the manner pro-  
16 vided by this section.

17 (6) WITHIN 90 DAYS AFTER AN ASSESSMENT, DECISION, OR ORDER  
18 OF THE DEPARTMENT IS FINAL OR IF THE DEPARTMENT DOES NOT ISSUE AN  
19 ASSESSMENT, DECISION, OR ORDER, A TAXPAYER WHO INCURS EXPENSES AS  
20 A RESULT OF A TAX COLLECTION ACTION BY THE DEPARTMENT THAT IS  
21 WITHOUT SUBSTANTIAL JUSTIFICATION IN LAW OR FACT MAY COMMENCE AN  
22 ACTION IN THE COURT OF CLAIMS TO RECOVER THE ACTUAL COSTS RELA-  
23 TIVE TO THE EXPENSES INCURRED BY THE TAXPAYER, PLUS REASONABLE  
24 ATTORNEY FEES INCURRED AS A RESULT OF THE ACTION IN THE COURT OF  
25 CLAIMS.

26 Sec. 23. (1) If the department believes, based upon either  
27 the examination of a tax return or an audit authorized by this



1 act, that a taxpayer has not satisfied a tax liability or that a  
2 claim was excessive, THE DEPARTMENT SHALL DETERMINE the tax  
3 liability ~~shall be determined by the department~~ and NOTIFY the  
4 taxpayer ~~shall be notified~~ of that determination. A LIABILITY  
5 FOR A TAX ADMINISTERED UNDER THIS ACT IS SUBJECT TO THE INTEREST  
6 AND PENALTIES PRESCRIBED IN SUBSECTIONS (2) TO (5).

7 (2) If the amount OF A TAX paid is less than the amount  
8 ~~which~~ THAT should have been paid or an excessive claim has been  
9 made, the deficiency ~~, together with~~ AND interest ON THE  
10 DEFICIENCY at the current monthly INTEREST rate ~~of 1 percentage~~  
11 ~~point above the adjusted prime rate per annum~~ from the time the  
12 tax was due, and until paid, ~~shall become~~ ARE due and payable  
13 after notice and conference as provided in this act. A defi-  
14 ciency in an estimated payment as may be required by a tax stat-  
15 ute administered under this act shall be treated in the same  
16 manner as a tax due and shall be subject to the same current  
17 monthly interest rate of 1 percentage point above the adjusted  
18 prime rate PER ANNUM from the time the payment was due, until  
19 paid. ~~The term~~ AS USED IN THIS SECTION, "adjusted prime rate"  
20 ~~charged by banks~~ means the average predominant prime rate  
21 quoted by not less than 3 commercial banks to large businesses,  
22 as determined by the department of treasury. The adjusted prime  
23 rate is to be based on the average prime rate charged by not less  
24 than 3 commercial banks during the 6-month period ending on  
25 March 31 and the 6-month period ending on September 30. One per-  
26 centage point shall be added to the adjusted prime rate, and the  
27 resulting sum shall be divided by 12 to establish the current

1 monthly interest rate. The resulting current monthly interest  
2 rate based on the 6-month period ending March 31 ~~will become~~  
3 BECOMES effective on the following July 1, and the resulting cur-  
4 rent monthly interest rate based on the 6-month period ending  
5 September 30 ~~will become~~ BECOMES effective on January 1 of the  
6 following year.

7       (3) ~~If~~ EXCEPT AS PROVIDED IN SUBSECTION (4), IF any part  
8 of the deficiency or an excessive claim for credit is due to neg-  
9 ligence, but without intent to defraud, a penalty of \$10.00 or  
10 10% of the total amount of the deficiency in the tax, whichever  
11 is greater, plus interest as provided in subsection (2), shall be  
12 added. ~~Interest and~~ THE penalty ~~shall become~~ BECOMES due and  
13 payable after notice and conference as provided in this act. IF  
14 THE DEPARTMENT RECEIVES PAYMENT OF A TAX BEFORE SENDING A LETTER  
15 OR NOTICE TO THE TAXPAYER REGARDING THAT TAX, THE PENALTY UNDER  
16 THIS SUBSECTION IS REDUCED TO \$10.00 OR 5%, WHICHEVER IS  
17 GREATER. IF A TAXPAYER SUBJECT TO A PENALTY UNDER THIS SUBSEC-  
18 TION DEMONSTRATES TO THE SATISFACTION OF THE DEPARTMENT THAT  
19 ADDING THE PENALTY IS SUBSTANTIALLY UNJUST, THE PENALTY SHALL NOT  
20 BE ADDED.

21       (4) If any part of the deficiency or an excessive claim for  
22 credit is due to intentional disregard of the law or of the rules  
23 promulgated by the department, but without intent to defraud, a  
24 penalty of \$25.00 or 25% of the total amount of the deficiency in  
25 the tax, whichever is greater, plus interest as provided in sub-  
26 section (2), shall be added. ~~Interest and~~ THE penalty ~~shall~~  
27 ~~become~~ BECOMES due and payable after notice and conference as

1 provided in this act. IF A PENALTY IS IMPOSED UNDER THIS  
2 SUBSECTION AND THE TAXPAYER SUBJECT TO THE PENALTY SUCCESSFULLY  
3 DISPUTES THE PENALTY, THE DEPARTMENT SHALL NOT IMPOSE A PENALTY  
4 PRESCRIBED BY SUBSECTION (3) TO THE TAX OTHERWISE DUE.

5 (5) If any part of the deficiency or an excessive claim for  
6 credit is due to fraudulent intent to evade a tax, or to obtain a  
7 refund for a fraudulent claim, a penalty of 100% of the deficien-  
8 cy, plus interest as provided in subsection (2), shall be added.  
9 The ~~whole amount of the unpaid tax, together with the penalty,~~  
10 ~~shall become~~ PENALTY BECOMES due and payable ~~—~~ after notice  
11 and conference as provided in this act.

12 Sec. 24. (1) If a ~~person~~ TAXPAYER fails or refuses to  
13 file a return or pay a tax administered under this act within the  
14 time specified, the department, as soon as possible, shall assess  
15 the tax against the ~~person~~ TAXPAYER and notify the ~~person~~  
16 TAXPAYER of the amount of the tax. A LIABILITY FOR A TAX ADMIN-  
17 ISTERED UNDER THIS ACT IS SUBJECT TO THE INTEREST AND PENALTIES  
18 PRESCRIBED IN SUBSECTIONS (2) TO (5).

19 (2) In case of failure or refusal to file a return or pay a  
20 tax within the time specified, a penalty of \$10.00 or 5% of the  
21 tax, whichever is greater, shall be added if the failure is for  
22 not more than 1 month, with an additional 5% penalty for each  
23 additional month or fraction of a month during which the failure  
24 continues or the tax and penalty is not paid, to a maximum of  
25 50%. In addition to the penalty, interest at the rate provided  
26 in section ~~23(2)~~ 23 FOR DEFICIENCIES IN TAX PAYMENTS shall be  
27 added on the tax from the time the tax was due, until paid. THE

1 PENALTY PRESCRIBED BY THIS SUBSECTION SHALL NOT BE IMPOSED IF THE  
 2 DEPARTMENT DOES NOT SUBMIT, BY AUGUST 16, 1992, FOR A PUBLIC  
 3 HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
 4 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
 5 24.328 OF THE MICHIGAN COMPILED LAWS, A RULE DEFINING WHAT CON-  
 6 STITUTES REASONABLE CAUSE FOR WAIVER OF THE PENALTY UNDER SUBSEC-  
 7 TION (3), WHICH DEFINITION SHALL INCLUDE ILLUSTRATIVE EXAMPLES.

8 (3) If a return is filed or remittance is paid after the  
 9 time specified and it is shown to the satisfaction of the depart-  
 10 ment that the failure was due to reasonable cause and not to  
 11 willful neglect, ~~the penalty may be waived at the discretion of~~  
 12 the commissioner or an authorized representative of the commis-  
 13 sioner SHALL WAIVE THE PENALTY PRESCRIBED BY SUBSECTION (2).

14 (4) For failure or refusal to file an information return or  
 15 other informational report required by a tax statute, within the  
 16 time specified, a penalty of \$10.00 per day for each day for each  
 17 separate failure or refusal may be added. The total penalty for  
 18 each separate failure or refusal shall not exceed \$400.00.

19 (5) For a taxpayer who has failed to file a return during  
 20 any previous tax period for which amnesty is available under  
 21 section 31 during the amnesty period, a penalty of 50% of any tax  
 22 delinquency discovered after the amnesty period shall be added to  
 23 the tax.

24 Sec. 30. (1) The department shall credit or refund ~~all~~ AN  
 25 overpayment of taxes; ~~all~~ taxes, penalties, and interest  
 26 erroneously assessed and collected; ~~and~~ and ~~all~~ taxes,  
 27 penalties, and interest that are found unjustly assessed,

1 excessive in amount, or wrongfully collected with interest at the  
2 rate ~~of 3/4 of 1% per month~~ CALCULATED UNDER SECTION 23 FOR  
3 DEFICIENCIES IN TAX PAYMENTS.

4 (2) A taxpayer who paid a tax ~~claimed not to be~~ THAT THE  
5 TAXPAYER CLAIMS IS NOT due may petition the department for refund  
6 of the amount paid within the time period specified as the stat-  
7 ute of limitations in section 27a. If a tax return reflects an  
8 overpayment or credits in excess of the tax, the declaration of  
9 that fact on the return constitutes a claim for refund. If the  
10 department agrees the claim is valid, the amount of overpayment,  
11 penalties, and interest shall be first applied to any known  
12 liability as provided in section 30a, and the excess, if any,  
13 shall be refunded to the taxpayer ~~—~~ or credited, at THE  
14 taxpayer's request, against any current or subsequent tax  
15 liability.

16 (3) ~~A refund shall be certified~~ THE DEPARTMENT SHALL CER-  
17 TIFY A REFUND to the state disbursing authority who shall pay the  
18 amount out of the proceeds of the tax in accordance with the  
19 accounting laws of the state. Interest at the rate ~~of 3/4 of 1%~~  
20 ~~per month~~ CALCULATED UNDER SECTION 23 FOR DEFICIENCIES IN TAX  
21 PAYMENTS shall be added to the refund commencing 45 days after  
22 the claim is filed ~~—~~ or 45 days after the date established by  
23 law for the filing of the return, whichever is later. ~~—except~~  
24 ~~that interest~~ INTEREST on refunds intercepted and applied as  
25 provided in section 30a shall cease as of the date of  
26 interception. ~~(4)~~ Refunds for amounts of less than \$1.00 shall  
27 not be paid.

1       (4) IF AN OVERPAYMENT, A TAX, A PENALTY, OR INTEREST IS  
2 UNJUSTLY ASSESSED, EXCESSIVE IN AMOUNT, OR WRONGFULLY COLLECTED  
3 DUE TO THE DEPARTMENT'S NEGLIGENCE, A PENALTY OF \$25.00 OR 25% OF  
4 THE TOTAL AMOUNT OF THE OVERPAYMENT, TAX, PENALTY, AND INTEREST,  
5 WHICHEVER IS GREATER, PLUS INTEREST AS PROVIDED IN SUBSECTION  
6 (1), SHALL BE ADDED TO THE REFUND.