

Act No. 479
Public Acts of 1996
Approved by the Governor
December 23, 1996
Filed with the Secretary of State
December 26, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Rep. Gilmer

ENROLLED HOUSE BILL No. 6233

AN ACT to amend the title and sections 13 and 19 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," section 13 as amended by Act No. 50 of the Public Acts of 1996 and section 19 as amended by Act No. 83 of the Public Acts of 1991, being sections 205.13 and 205.19 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. The title and sections 13 and 19 of Act No. 122 of the Public Acts of 1941, section 13 as amended by Act No. 50 of the Public Acts of 1996 and section 19 as amended by Act No. 83 of the Public Acts of 1991, being sections 205.13 and 205.19 of the Michigan Compiled Laws, are amended to read as follows:

TITLE

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 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; and to declare the effect of this act.

Sec. 13. The department of treasury shall administer and enforce the following laws and shall succeed to and is vested with all of the powers, duties, functions, responsibilities, and jurisdiction now or hereafter conferred upon the following:

(a) State board of tax administration, by the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws, and by the use tax act, Act No. 94 of the Public Acts of 1937, being sections 205.91 to 205.111 of the Michigan Compiled Laws.

(b) Auditor general, by Act No. 282 of the Public Acts of 1905, being sections 207.1 to 207.21 of the Michigan Compiled Laws, and by the Michigan estate tax act, Act No. 188 of the Public Acts of 1899, being sections 205.201 to 205.256 of the Michigan Compiled Laws.

(c) State tax commission, by Act No. 48 of the Public Acts of 1929, being sections 205.301 to 205.317 of the Michigan Compiled Laws, and by Act No. 301 of the Public Acts of 1939, being sections 205.131 to 205.147 of the Michigan Compiled Laws.

(d) State tax commission, by section 61524 of part 615 (supervisor of wells) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being section 324.61524 of the Michigan Compiled Laws.

(e) The commission shall also succeed to and is vested with all of the powers, duties, functions, responsibilities, and jurisdiction of the corporation and securities commission over the enforcement, investigation, and collection of past due and delinquent corporate privilege and franchise fees and license fees of any nature. The corporation and securities commission shall, whenever requested by the department, report to the department the names of all delinquent corporations and delinquent licensees, and the department shall be charged with the collection of all fees and licenses covered in the reports.

(f) The department shall succeed to and is vested with all powers, duties, functions, responsibilities, and jurisdiction of the attorney general over the collection of all past due money and accounts that are owing to the state of Michigan or any department, commission, or institution of this state, vested in the attorney general by Act No. 375 of the Public Acts of 1927, being sections 14.131 to 14.134 of the Michigan Compiled Laws.

(g) For cities that enter into an agreement with the department of treasury pursuant to section 9 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.509 of the Michigan Compiled Laws, the department of treasury is vested with all the powers, duties, functions, responsibilities, and jurisdiction to administer, collect under, and enforce Act No. 284 of the Public Acts of 1964 as provided in Act No. 284 of the Public Acts of 1964 and the agreement. The department of treasury shall not charge to or collect from a taxpayer any amount not otherwise authorized by law in conjunction with the collection of the tax pursuant to an agreement entered into under section 9 of chapter 1 of Act No. 284 of the Public Acts of 1964.

Sec. 19. (1) All remittances of taxes administered by this act shall be made to the department payable to the state of Michigan by bank draft, check, cashier's check, certified check, money order, cash, or electronic funds transfer. The money received shall be credited as provided by law. A remittance other than cash or electronic funds transfer shall not be a final discharge of liability for the tax assessed and levied until the instrument remitted has been honored.

(2) For reporting periods beginning after August 31, 1991, a taxpayer other than a city or a county who paid in the immediately preceding calendar year an average of \$40,000.00 or more per month in income tax withholding pursuant to the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being sections 206.1 to 206.532 of the Michigan Compiled Laws, shall deposit Michigan income tax withholding either in the same manner and according to the same schedule as deposits of federal income tax withholding or in another manner that has been approved by the commissioner.

(3) For failure to remit a tax administered by this act with a negotiable remittance, a penalty of 25% of the tax due may be added in addition to any other penalties imposed by this act.

(4) The commissioner may require that all money collected by the taxpayer for taxes administered by this act that has not been paid to the department of treasury is public money and the property of this state, and shall be held in trust in a separate account and fund for the sole use and benefit of this state until paid over to the department of treasury.

(5) For tax years after the 1995 tax year for which taxes are collected under an agreement entered into pursuant to section 9 of the city income tax act, Act No. 284 of the Public Acts of 1964, being section 141.509 of the Michigan Compiled Laws, if a taxpayer pays, when filing his or her annual return, an amount less than the sum of the declared tax liability under Act No. 284 of the Public Acts of 1964, being sections 141.501 to 141.787 of the Michigan Compiled Laws, and the declared tax liability under the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being sections 206.1 to 206.532 of the Michigan Compiled Laws, and if there is no indication of the allocation of payment between the tax liabilities against which the payment should be applied, the amount paid shall first be applied against the taxpayer's tax liability under Act No. 284 of the Public Acts of 1964 and any remaining amount of the payment shall be applied to the taxpayer's tax liability under Act No. 281 of the Public Acts of 1967. The taxpayer's designation of a payee on a payment is not a dispositive determination of the allocation of that payment under this subsection.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.