

HOUSE BILL No. 5922

June 9, 1998, Introduced by Rep. Profit and referred to the Committee on Tax Policy.

A bill to amend 1941 PA 122, entitled

"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,"

by amending section 27a (MCL 205.27a), as amended by 1993 PA 14.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 27a. (1) If a person liable for a tax administered
- 2 under this act sells out his or her business or its stock of
- 3 goods or quits the business, the person shall make a final return

1 within 15 days after the date of selling or quitting the
2 business. The purchaser or succeeding purchasers, if any, who
3 purchase a going or closed business or its stock of goods shall
4 escrow sufficient money to cover the amount of taxes, interest,
5 and penalties as may be due and unpaid until the former owner
6 produces a receipt from the commissioner or the commissioner's
7 designated representative showing that the taxes due are paid, or
8 a certificate stating that taxes are not due. Upon the owner's
9 written waiver of confidentiality, the commissioner may release
10 to a purchaser a business' known tax liability for the purposes
11 of establishing an escrow account for the payment of taxes. If
12 the purchaser or succeeding purchasers of a business or its stock
13 of goods fail to comply with the escrow requirements of this sub-
14 section, the purchaser is personally liable for the payment of
15 the taxes, interest, and penalties accrued and unpaid by the
16 business of the former owner. The purchaser's or succeeding
17 purchaser's personal liability is limited to the fair market
18 value of the business less the amount of any proceeds that are
19 applied to balances due on secured interests that are superior to
20 the lien provided for in section 29(1).

21 (2) A deficiency, interest, or penalty shall not be assessed
22 after the expiration of 4 years after the date set for the filing
23 of the required return or after the date the return was filed,
24 whichever is later. ~~The~~ EXCEPT AS OTHERWISE PROVIDED IN THIS
25 SECTION, THE taxpayer shall not claim a refund of any amount paid
26 to the department after the expiration of 4 years after the date
27 set for the filing of the original return. A person who has

1 failed to file a return is liable for all taxes due for the
2 entire period for which the person would be subject to the
3 taxes. If a person subject to tax fraudulently conceals any
4 liability for the tax or a part of the tax, or fails to notify
5 the department of any alteration in or modification of federal
6 tax liability, the department, within 2 years after discovery of
7 the fraud or the failure to notify, shall assess the tax with
8 penalties and interest as provided by this act, computed from the
9 date on which the tax liability originally accrued. The tax,
10 penalties, and interest are due and payable after notice and
11 hearing as provided by this act.

12 (3) The running of the statute of limitations is suspended
13 for the following:

14 (a) The period pending a final determination of tax, includ-
15 ing audit, conference, hearing, and litigation of liability for
16 federal income tax or a tax administered by the department and
17 for 1 year after that period.

18 (b) The period for which the taxpayer and the commissioner
19 have consented to in writing that the period be extended.

20 (4) The running of the statute of limitations is suspended
21 only as to those items that were the subject of the audit, con-
22 ference, hearing, or litigation for federal income tax or a tax
23 administered by the department.

24 (5) If a corporation liable for taxes administered under
25 this act fails for any reason to file the required returns or to
26 pay the tax due, any of its officers having control or
27 supervision of, or charged with the responsibility for, making

1 the returns or payments is personally liable for the failure.
2 The signature of any corporate officers on returns or negotiable
3 instruments submitted in payment of taxes is prima facie evidence
4 of their responsibility for making the returns and payments. The
5 dissolution of a corporation does not discharge an officer's
6 liability for a prior failure of the corporation to make a return
7 or remit the tax due. The sum due for a liability may be
8 assessed and collected under the related sections of this act.

9 (6) Notwithstanding the provisions of subsection (2), a
10 claim for refund based upon the validity of a tax law based on
11 the laws or constitution of the United States or the state con-
12 stitution of 1963 shall not be paid unless the claim is filed
13 within 90 days after the date set for filing a return.

14 (7) Subsection (6) does not apply to a claim for the refund
15 of a tax paid for the 1984 tax year or a tax year after the 1984
16 tax year on income received as retirement or pension benefits
17 from a public retirement system of the United States government
18 if the claimant waives any claim for the refund of such a tax
19 paid for a tax year before 1984. Claims for refunds to which
20 this subsection applies shall be paid in accordance with the fol-
21 lowing schedule:

1	Refunds for	Payable on
2	<u>tax year:</u>	<u>or after:</u>
3		
4	1988 and 1987	July 1, 1990
5	1986	July 1, 1991
6	1985	July 1, 1992
7	1984	July 1, 1993

8 (8) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2), A TAX-
9 PAYER MAY CLAIM A REFUND BASED ON SECTION 265 OF THE INCOME TAX
10 ACT OF 1967, 1967 PA 281, MCL 206.265, FOR THE 1989 TAX YEAR AND
11 ANY TAX YEAR AFTER THE 1989 TAX YEAR.