

# HOUSE BILL No. 4488

April 15, 1999, Introduced by Reps. Law, Green, Richner and Rocca 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 regulate the importation, stamping, and disposition of certain tobacco products; 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 28 (MCL 205.28), as amended by 1998 PA 221.

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

- 1       Sec. 28. (1) The following conditions apply to all taxes
- 2 administered under this act unless otherwise provided for in the
- 3 specific tax statute:

1 (a) Notice, if required, shall be given either by personal  
2 service or by certified mail addressed to the last known address  
3 of the taxpayer. Service upon the commissioner may be made in  
4 the same manner.

5 (b) An injunction shall not issue to stay proceedings for  
6 the assessment and collection of a tax.

7 (c) In addition to the mode of collection provided in this  
8 act, the department may institute an action at law in any county  
9 in which the taxpayer resides or transacts business.

10 (d) The commissioner may request in writing information or  
11 records in the possession of any other department, institution,  
12 or agency of state government for the performance of duties under  
13 this act. Departments, institutions, or agencies of state gov-  
14 ernment shall furnish the information and records upon receipt of  
15 the commissioner's request. Upon request of the commissioner,  
16 any department, institution, or agency of state government shall  
17 hold a hearing under the administrative procedures act of 1969,  
18 1969 PA 306, MCL 24.201 to 24.328, to consider withholding a  
19 license or permit of a person for nonpayment of taxes or accounts  
20 collected under this act.

21 (e) Except as otherwise provided in section 30c, the commis-  
22 sioner or an employee of the department shall not compromise or  
23 reduce in any manner the taxes due to or claimed by the state or  
24 unpaid accounts or amounts due to any department, institution, or  
25 agency of state government. This subdivision does not ~~prevent~~  
26 PROHIBIT a compromise of interest or penalties, or both.

1 (f) Except as otherwise provided in this subdivision, an  
2 employee, authorized representative, or former employee or  
3 authorized representative of the department or anyone connected  
4 with the department shall not divulge any facts or information  
5 obtained in connection with the administration of a tax or infor-  
6 mation or parameters that would enable a person to ascertain the  
7 audit selection or processing criteria of the department for a  
8 tax administered by the department. A person may disclose infor-  
9 mation described in this subdivision if the disclosure is  
10 required for the proper administration of a tax law administered  
11 under this act, pursuant to a judicial order sought by an agency  
12 charged with the duty of enforcing or investigating support obli-  
13 gations pursuant to an order of a court in a domestic relations  
14 matter as that term is defined in section ~~31~~ 2 of the friend of  
15 the court act, 1982 PA 294, MCL ~~552.531~~ 552.502, ~~or~~ pursuant  
16 to a judicial order sought by an agency of the federal, state, or  
17 local government charged with the responsibility for the adminis-  
18 tration or enforcement of criminal law for purposes of investi-  
19 gating or prosecuting criminal matters or for federal or state  
20 grand jury proceedings, or PURSUANT TO a judicial order if the  
21 taxpayer's liability for a tax administered under this act is to  
22 be adjudicated by the court that issued the judicial order.  
23 However, the commissioner or a person designated by the commis-  
24 sioner may divulge information set forth or disclosed in a return  
25 or report or by an investigation or audit to any department,  
26 institution, or agency of state government upon receipt of a  
27 written request from a head of the department, institution, or

1 agency of state government if it is required for the effective  
2 administration or enforcement of the laws of this state, to a  
3 proper officer of the United States department of treasury, and  
4 to a proper officer of another state reciprocating in this  
5 privilege. The commissioner may enter into reciprocal agreements  
6 with other departments of state government, the United States  
7 department of treasury, local governmental units within this  
8 state, or taxing officials of other states for the enforcement,  
9 collection, and exchange of data after ascertaining that any  
10 information provided will be subject to confidentiality restric-  
11 tions substantially the same as the provisions of this act.

12 (2) A person who violates subsection (1)(e) or (1)(f) is  
13 guilty of a felony, punishable by a fine of not more than  
14 \$5,000.00, or imprisonment for not more than 5 years, or both,  
15 together with the costs of prosecution. In addition, if the  
16 offense is committed by an employee of this state, the person  
17 shall be dismissed from office or discharged from employment upon  
18 conviction.

19 (3) A person liable for any tax administered under this act  
20 shall keep accurate and complete records necessary for the proper  
21 determination of tax liability as required by law or rule of the  
22 department.

23 (4) IF TAXPAYERS FILE A JOINT RETURN UNDER THE INCOME TAX  
24 ACT OF 1967, 1967 PA 281, MCL 206.1 TO 206.532, THE DEPARTMENT  
25 SHALL WAIVE AGAINST 1 JOINT FILER PENALTIES OR INTEREST THAT  
26 RESULTS FROM THE FRAUD OR MISTAKE OF THE OTHER JOINT FILER IF THE  
27 1 JOINT FILER PROVES TO THE DEPARTMENT THAT HE OR SHE IS INNOCENT

1 OF THE FRAUD OR MISTAKE. THE SPOUSE WHO CLAIMS THAT HE OR SHE IS  
2 INNOCENT OF THE FRAUD OR MISTAKE SHALL FILE AN INNOCENT SPOUSE  
3 ALLOCATION FORM WITH THE DEPARTMENT. THE INNOCENT SPOUSE ALLOCA-  
4 TION FORM SHALL BE IN A FORM SPECIFIED BY THE DEPARTMENT.