

HOUSE BILL No. 5766

February 28, 2002, Introduced by Reps. Woronchak, Richardville, Ruth Johnson, Pappageorge, Howell, Shackleton, Newell, Vander Veen, Drolet, Gosselin, Hager, Koetje, DeRossett, Tabor, Mortimer, Hummel, Meyer, Julian, Gilbert, Toy, Birkholz, Voorhees and Scranton 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; to prescribe penalties and provide remedies; and to declare the effect of this act,"

by amending section 24 (MCL 205.24), as amended by 2001 PA 168.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 24. (1) If a taxpayer fails or refuses to file a
2 return or pay a tax administered under this act within the time

1 specified, the department, as soon as possible, shall assess the
2 tax against the taxpayer and notify the taxpayer of the amount of
3 the tax. ~~—A—~~ EXCEPT AS PROVIDED IN SUBSECTION (8), A liability
4 for a tax administered under this act is subject to the interest
5 and penalties prescribed in subsections (2) to ~~—(5)—~~ (7).

6 (2) Except as provided in subsections (3) and (6), if a tax-
7 payer fails or refuses to file a return or pay a tax within the
8 time specified, a penalty of \$10.00 or 5% of the tax, whichever
9 is greater, shall be added if the failure is for not more than 1
10 month, with an additional 5% penalty for each additional month or
11 fraction of a month during which the failure continues or the tax
12 and penalty is not paid, to a maximum of 50%. In addition to the
13 penalty, interest at the rate provided in section 23 for defi-
14 ciencies in tax payments shall be added on the tax from the time
15 the tax was due, until paid. After June 30, 1994, the penalty
16 prescribed by this subsection shall not be imposed until the
17 department submits for public hearing pursuant to the administra-
18 tive procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, a
19 rule defining what constitutes reasonable cause for waiver of the
20 penalty under subsection (4), which definition shall include
21 illustrative examples.

22 (3) If a person is required to remit tax due pursuant to
23 section 19(2) and fails or refuses to pay the tax within the time
24 specified, a penalty of 0.167% of the tax shall be added for each
25 day during which the failure continues or the tax and penalty are
26 not paid, to a maximum of 50% of the tax.

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1 (4) If a return is filed or remittance is paid after the
2 time specified and it is shown to the satisfaction of the
3 department that the failure was due to reasonable cause and not
4 to willful neglect, the commissioner or an authorized representa-
5 tive of the commissioner shall waive the penalty prescribed by
6 subsection (2).

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

12 (6) If a taxpayer fails to pay an estimated tax payment as
13 may be required by the income tax act of 1967, 1967 PA 281,
14 MCL 206.1 to 206.532, a penalty shall not be imposed if the tax-
15 payer was not required to make estimated tax payments in the
16 taxpayer's immediately preceding tax year.

17 (7) In addition to any other interest or penalty prescribed
18 under this section, a taxpayer who has failed to file a return or
19 pay a tax that was due before June 1, 2001, during a period for
20 which amnesty is available under section 31(2), is liable for an
21 additional penalty equal to 25% of the amount of tax due.

22 (8) IF A TAXPAYER IS AN UNEMPLOYED INDIVIDUAL AND FILES A
23 RETURN AND DOES NOT FULLY PAY THE TAX IMPOSED UNDER THE INCOME
24 TAX ACT OF 1967, 1967 PA 281, MCL 206.1 TO 206.532, THEN PENAL-
25 TIES AND INTEREST DESCRIBED IN THIS SECTION SHALL BE WAIVED FOR A
26 PERIOD OF 6 MONTHS BEGINNING ON THE DATE THE RETURN IS DUE. AS
27 USED IN THIS SUBSECTION, "UNEMPLOYED INDIVIDUAL" MEANS A

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1 QUALIFIED TAXPAYER AS THAT TERM IS DEFINED IN SECTION 2(E)(i) AND
2 (ii) OF THE WORKER FINANCIAL SECURITY ACCOUNT ACT.