

HOUSE BILL No. 5133

October 7, 2003, Introduced by Reps. Acciavatti, Wenke, Taub, Meyer, Sheen, Howell, Stakoe, Stahl, Casperson, Ward, Hummel, Milosch, Tabor, Brandenburg, Palmer, LaJoy, Bradstreet, Drolet, Amos, Caswell, Robertson, Farhat, Hager, Nofs and Emmons and referred to the Committee on Tax Policy.

A bill to amend 1941 PA 122, entitled

"An act to establish the revenue collection duties 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 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 2002 PA 657.

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
3 specified, the department, as soon as possible, shall assess the

1 tax against the taxpayer and notify the taxpayer of the amount of
2 the tax. A liability for a tax administered under this act is
3 subject to the interest and penalties prescribed in subsections
4 (2) to (5).

5 (2) Except as provided in subsections (3), ~~and~~ (6), and
6 (7), if a taxpayer fails or refuses to file a return or pay a tax
7 within the time specified for notices of intent to assess issued
8 on or before February 28, 2003, a penalty of \$10.00 or 5% of the
9 tax, whichever is greater, shall be added if the failure is for
10 not more than 1 month, with an additional 5% penalty for each
11 additional month or fraction of a month during which the failure
12 continues or the tax and penalty is not paid, to a maximum of
13 50%. Except as provided in subsections (3) and (6), if a
14 taxpayer fails or refuses to file a return or pay a tax within
15 the time specified for notices of intent to assess issued after
16 February 28, 2003, a penalty of 5% of the tax shall be added if
17 the failure is for not more than 2 months, with an additional 5%
18 penalty for each additional month or fraction of a month during
19 which the failure continues or the tax and penalty is not paid,
20 to a maximum of 25%. In addition to the penalty, interest at the
21 rate provided in section 23 for deficiencies in tax payments
22 shall be added on the tax from the time the tax was due, until
23 paid. After June 30, 1994, the penalty prescribed by this
24 subsection shall not be imposed until the department submits for
25 public hearing pursuant to the administrative procedures act of
26 1969, 1969 PA 306, MCL 24.201 to 24.328, a rule defining what
27 constitutes reasonable cause for waiver of the penalty under

1 subsection (4), which definition shall include illustrative
2 examples.

3 (3) If a person is required to remit tax due pursuant to
4 section 19(2) and fails or refuses to pay the tax within the time
5 specified, a penalty of 0.167% of the tax shall be added for each
6 day during which the failure continues or the tax and penalty are
7 not paid as follows:

8 (a) For notices of intent to assess issued on or before
9 February 28, 2003, to a maximum of 50% of the tax.

10 (b) For notices of intent to assess issued after February 28,
11 2003, to a maximum of 25% of the tax.

12 (4) If a return is filed or remittance is paid after the time
13 specified and it is shown to the satisfaction of the department
14 that the failure was due to reasonable cause and not to willful
15 neglect, the state treasurer or an authorized representative of
16 the state treasurer shall waive the penalty prescribed by
17 subsection (2).

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

23 (6) If a taxpayer fails to pay an estimated tax payment as
24 may be required by the income tax act of 1967, 1967 PA 281, MCL
25 206.1 to 206.532, a penalty shall not be imposed if the taxpayer
26 was not required to make estimated tax payments in the taxpayer's
27 immediately preceding tax year.

1 (7) Notwithstanding any other provision of this act, for any
2 return or tax remittance due on August 15, 2003 that was filed or
3 remitted not later than August 22, 2003, the department shall
4 waive all interest and penalty for the failure to file or remit
5 for the period of August 15, 2003 through August 22, 2003.