

# SENATE BILL No. 449

May 3, 2005, Introduced by Senators JACOBS, BERNERO, GOSCHKA, GARCIA, LELAND and THOMAS and referred to the Committee on Finance.

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 2003 PA 201.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 24. (1) If a taxpayer fails or refuses to file a return

1 or pay a tax administered under this act within the time specified,  
2 the department, as soon as possible, shall assess the tax against  
3 the taxpayer and notify the taxpayer of the amount of the tax. A  
4 liability for a tax administered under this act is subject to the  
5 interest and penalties prescribed in subsections (2) to ~~(5)~~ (8).

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

1 waiver of the penalty under subsection (4), which definition shall  
2 include illustrative 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 the  
16 state treasurer shall waive the penalty prescribed by subsection  
17 (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 may  
24 be required by the income tax act of 1967, 1967 PA 281, MCL 206.1  
25 to 206.532, a penalty shall not be imposed if the taxpayer was not  
26 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 waive  
4 all interest and penalty for the failure to file or remit for the  
5 period of August 15, 2003 through August 22, 2003.

6           (8) IF A TAXPAYER FAILS TO PAY AN ESTIMATED TAX PAYMENT AS MAY  
7 BE REQUIRED UNDER THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL  
8 208.1 TO 208.145, A PENALTY OF 2% OF THE ESTIMATED TAX SHALL BE  
9 ADDED TO THE ESTIMATED TAX EACH MONTH UNTIL PAID, TO A MAXIMUM OF  
10 6%.