

Act No. 615
Public Acts of 2006
Approved by the Governor
January 3, 2007
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senators Hardiman, Jacobs and Scott

ENROLLED SENATE BILL No. 891

AN ACT 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 the title and sections 1, 3, 13, and 28 (MCL 205.1, 205.3, 205.13, and 205.28), the title and section 1 as amended by 2002 PA 657, section 3 as amended by 2003 PA 92, section 13 as amended by 1996 PA 479, and section 28 as amended by 2003 PA 114.

The People of the State of Michigan enact:

TITLE

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 this state; to prescribe certain powers and duties of the state treasurer; to establish the collection duties of certain other state departments for money or accounts owed to this state; 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.

Sec. 1. (1) The department is the agency of this state responsible for the collection of taxes and is responsible for all of the following:

- (a) Coordinated collection of state taxes, assessments, licenses, fees, and other money as may be designated by law.
- (b) Specialized service for tax enforcement, through establishment and maintenance of uniformity in definition, regulation, return, and payment.
- (c) Avoidance of duplication in state facilities for tax collections that involve seasonal or occasional increases of staff, duplication of audits, and wasteful travel expenses.
- (d) Safeguarding tax and other collections wherever received until duly deposited in the state treasury.

(e) Providing an advisory service on fiscal status, processes, and needs of state government, including periodic reports on payments, receipts, and debts.

(f) Development of a state revenue enforcement service by means of a staff that is permanent, qualified by training and experience, protected by merit system procedure, and so organized as to serve the public with efficiency, economy, consistency, and equity.

(g) Except as otherwise provided in this act, supervise and control the collection of all past due money and accounts owed to this state or to any officer, department, commission, board, or agency of this state.

(2) Any reference to the department of revenue in this act or any other act shall mean the state treasurer. Any reference to the state commissioner of revenue in this act or any other act shall mean the state treasurer.

(3) As used in this act:

(a) "Department" means the department of treasury.

(b) "Support" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

Sec. 3. Except as otherwise provided in this act, the department shall have all the powers and perform the duties formerly vested in a department, board, commission, or other agency, in connection with taxes due to or claimed by this state and in connection with unpaid accounts or money due to this state or any of its departments, institutions, or agencies that may be made payable to or collectible by the department created by this act. The department has the power and authority incidental to the performance of the following acts, duties, and services:

(a) The state treasurer or a duly appointed agent of the state treasurer may examine the books, records, and papers touching the matter at issue of any person or taxpayer subject to any tax, unpaid account, or money the collection of which is charged to the department. The state treasurer or a duly appointed agent of the state treasurer may issue a subpoena requiring a person to appear and be examined with reference to a matter within the scope of the inquiry or investigation being conducted by the department and to produce any books, records, or papers. The state treasurer or a duly appointed agent, referee, or examiner of the state treasurer may administer an oath to a witness in any matter before the department. The department may invoke the aid of the circuit court of this state in requiring the attendance and testimony of witnesses and the producing of books, papers, and documents. The circuit court of this state within the jurisdiction of which an inquiry is carried on, in case of contumacy or refusal to obey a subpoena, may issue an order requiring the person to appear before the department and produce books and papers if so ordered and any evidence touching the matter in question, and failure to obey the order of the court may be punished by the court as a contempt. A person shall not be excused from testifying or from producing any books, papers, records, or memoranda in any investigation, or upon any hearing when ordered to do so by the state treasurer, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate or subject him or her to a criminal penalty, however, a person shall not be prosecuted or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he or she may testify or produce evidence, documentary or otherwise, before the department or its agent. A person testifying is not exempt from prosecution and punishment for perjury committed while testifying.

(b) After reasonable notice and public hearing, the department may promulgate rules consistent with this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to the enforcement of the provisions of tax and other revenue measures that are administered by the department.

(c) The department may consult with the governor and the legislature on the subject of taxation, revenue, and the administration of the laws in relation to taxation and revenue, and the progress of the work of the department, including the furnishing of reports, information, and other assistance as the governor may require.

(d) The department may investigate and study all matters of taxation and revenue as the basis of recommending to the governor and the legislature those changes and alterations in the tax laws of this state, as in the state treasurer's judgment may bring about a more adequate and just system of state and local taxation.

(e) The department may formulate a standard procedure that requires the departments, commissions, boards, institutions, and the agencies of this state that collect taxes, fees, or accounts for this state to report all sums of money due and uncollected and those uncollected items as prescribed by law and by the state treasurer. The procedure prescribed in this subdivision shall include a standard practice for receiving, receipting, safeguarding, and periodically reporting all state revenue receipts, whether current, delinquent, penalty, interest, or otherwise, and the amounts, kinds, and terms of items either collected, compromised, or still outstanding, to be summarized, studied, and reported upon as the state treasurer considers advisable.

(f) The department may periodically issue bulletins that index and explain current department interpretations of current state tax laws. Beginning October 22, 2003, each bulletin or letter ruling issued by the department on or after August 18, 2000 shall be published and made available to the public in printed and electronic formats. The department may charge a reasonable fee for subscriptions to this service not to exceed the cost of printing. The money received from the sale of subscriptions shall revert to the department and be placed in the taxation manual revolving fund.

Sec. 13. (1) The department of treasury shall administer and enforce the following laws and shall succeed to and is vested with all of the powers, duties, functions, responsibilities, and jurisdiction now or hereafter conferred upon the following:

(a) State board of tax administration, by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, and by the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(b) Auditor general, by 1905 PA 282, MCL 207.1 to 207.21, and by the Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256.

(c) State tax commission, by 1929 PA 48, MCL 205.301 to 205.317.

(d) State tax commission, by section 61524 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61524.

(e) The department shall succeed to and is vested with all powers, duties, functions, responsibilities, and jurisdiction of the attorney general over the collection of all past due money and accounts that are owing to the state of Michigan or any department, commission, or institution of this state, vested in the attorney general by 1927 PA 375, MCL 14.131 to 14.134.

(f) For cities that enter into an agreement with the department of treasury pursuant to section 9 of chapter 1 of the city income tax act, 1964 PA 284, MCL 141.509, the department of treasury is vested with all the powers, duties, functions, responsibilities, and jurisdiction to administer, collect under, and enforce the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, as provided in the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, and the agreement. The department of treasury shall not charge to or collect from a taxpayer any amount not otherwise authorized by law in conjunction with the collection of the tax pursuant to an agreement entered into under section 9 of chapter 1 of the city income tax act, 1964 PA 284, MCL 141.509.

(2) The department of human services and its designees are vested with all of the powers, duties, functions, responsibilities, and jurisdiction of the department of treasury under this act for the enforcement, investigation, and collection of support owed to this state.

(3) Except as otherwise provided in this act, each state officer, department, board, commission, or agency from time to time shall forward to the department of treasury statements of all delinquent and past due money, specific taxes, and accounts owing or belonging to this state, or any officer, department, board, commission, or agency of this state together with any information necessary to enable the department to carry out the purposes of this act. The department shall do all of the following:

(a) Keep an accurate record and account of all of the statements.

(b) Enforce payment and collection of the money, specific taxes, or accounts.

(c) Keep an accurate account of all money, specific taxes, or accounts collected.

(d) Report monthly all collections made to the officer, department, board, commission, or agency to which the indebtedness was incurred.

(e) Pay monthly to the state treasurer all money collected unless otherwise provided by law.

(4) The department of human services or its designee authorized under subsection (2) to collect support owed to this state may settle and compromise claims and accounts and receive and issue receipts for collections and payments, subject to the authority granted to it by the social security act, 42 USC 301 to 1397jj, the office of child support act, 1971 PA 174, MCL 400.231 to 400.240, and the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

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

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

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

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

(d) The state treasurer may request in writing information or records in the possession of any other department, institution, or agency of state government for the performance of duties under this act. Departments, institutions, or agencies of state government shall furnish the information and records upon receipt of the state treasurer's request. Upon request of the state treasurer, any department, institution, or agency of state government shall hold a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to consider withholding a license or permit of a person for nonpayment of taxes or accounts collected under this act.

(e) Except as otherwise provided in section 30c, the state treasurer or an employee of the department shall not compromise or reduce in any manner the taxes due to or claimed by this state or unpaid accounts or amounts due to any department, institution, or agency of state government. This subdivision does not prevent a compromise of interest or penalties, or both.

(f) Except as otherwise provided in this subdivision, an employee, authorized representative, or former employee or authorized representative of the department or anyone connected with the department shall not divulge any facts or information obtained in connection with the administration of a tax or information or parameters that would enable a person to ascertain the audit selection or processing criteria of the department for a tax administered by the department. An employee or authorized representative shall not willfully inspect any return or information contained in a return unless it is appropriate for the proper administration of a tax law administered under this act. A person may disclose information described in this subdivision if the disclosure is required for the proper administration of a tax law administered under this act or the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, pursuant to a judicial order sought by an agency charged with the duty of enforcing or investigating support obligations pursuant to an order of a court in a domestic relations matter as that term is defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, or pursuant to a judicial order sought by an agency of the federal, state, or local government charged with the responsibility for the administration or enforcement of criminal law for purposes of investigating or prosecuting criminal matters or for federal or state grand jury proceedings or a judicial order if the taxpayer's liability for a tax administered under this act is to be adjudicated by the court that issued the judicial order. A person may disclose the adjusted gross receipts and the wagering tax paid by a casino licensee licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, pursuant to section 18, sections 341, 342, and 386 of the management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and 18.1386, or authorization by the executive director of the gaming control board. However, the state treasurer or a person designated by the state treasurer may divulge information set forth or disclosed in a return or report or by an investigation or audit to any department, institution, or agency of state government upon receipt of a written request from a head of the department, institution, or agency of state government if it is required for the effective administration or enforcement of the laws of this state, to a proper officer of the United States department of treasury, and to a proper officer of another state reciprocating in this privilege. The state treasurer may enter into reciprocal agreements with other departments of state government, the United States department of treasury, local governmental units within this state, or taxing officials of other states for the enforcement, collection, and exchange of data after ascertaining that any information provided will be subject to confidentiality restrictions substantially the same as the provisions of this act.

(2) A person who violates subsection (1)(e), (1)(f), or (4) is guilty of a felony, punishable by a fine of not more than \$5,000.00, or imprisonment for not more than 5 years, or both, together with the costs of prosecution. In addition, if the offense is committed by an employee of this state, the person shall be dismissed from office or discharged from employment upon conviction.

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

(4) A person who receives information under subsection (1)(f) for the proper administration of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, shall not willfully disclose that information for any purpose other than the administration of the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. A person who violates this subsection is subject to the penalties provided in subsection (2).

(5) As used in subsection (1), "adjusted gross receipts" and "wagering tax" mean those terms as described in the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Ray E. Randall

Clerk of the House of Representatives

Approved

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Governor