

**SUBSTITUTE FOR
SENATE BILL NO. 889**

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 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,"

by amending section 28 (MCL 205.28), as amended by 2009 PA 124.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 28. (1) The following conditions apply to all taxes

1 administered under this act unless otherwise provided for in the
2 specific tax statute:

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

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

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

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

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

1 compromise of interest or penalties, or both.

2 (f) Except as otherwise provided in this subdivision or in
3 subsection (6) **OR (7)**, an employee, authorized representative, or
4 former employee or authorized representative of the department or
5 anyone connected with the department shall not divulge any facts or
6 information obtained in connection with the administration of a tax
7 or information or parameters that would enable a person to
8 ascertain the audit selection or processing criteria of the
9 department for a tax administered by the department. An employee or
10 authorized representative shall not willfully inspect any return or
11 information contained in a return unless it is appropriate for the
12 proper administration of a tax law administered under this act. A
13 person may disclose information described in this subdivision if
14 the disclosure is required for the proper administration of a tax
15 law administered under this act or the general property tax act,
16 1893 PA 206, MCL 211.1 to 211.155, pursuant to a judicial order
17 sought by an agency charged with the duty of enforcing or
18 investigating support obligations pursuant to an order of a court
19 in a domestic relations matter as that term is defined in section 2
20 of the friend of the court act, 1982 PA 294, MCL 552.502, or
21 pursuant to a judicial order sought by an agency of the federal,
22 state, or local government charged with the responsibility for the
23 administration or enforcement of criminal law for purposes of
24 investigating or prosecuting criminal matters or for federal or
25 state grand jury proceedings or a judicial order if the taxpayer's
26 liability for a tax administered under this act is to be
27 adjudicated by the court that issued the judicial order. A person

1 required to disclose information under section 10(1)(j) of the
2 Michigan economic growth authority act, 1995 PA 24, MCL 207.810,
3 may disclose the information only to the individuals described in
4 that section. A person may disclose the adjusted gross receipts and
5 the wagering tax paid by a casino licensee licensed under the
6 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to
7 432.226, pursuant to section 18, sections 341, 342, and 386 of the
8 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and
9 18.1386, or authorization by the executive director of the gaming
10 control board. However, the state treasurer or a person designated
11 by the state treasurer may divulge information set forth or
12 disclosed in a return or report or by an investigation or audit to
13 any department, institution, or agency of state government upon
14 receipt of a written request from a head of the department,
15 institution, or agency of state government if it is required for
16 the effective administration or enforcement of the laws of this
17 state, to a proper officer of the United States department of
18 treasury, and to a proper officer of another state reciprocating in
19 this privilege. The state treasurer may enter into reciprocal
20 agreements with other departments of state government, the United
21 States department of treasury, local governmental units within this
22 state, or taxing officials of other states for the enforcement,
23 collection, and exchange of data after ascertaining that any
24 information provided will be subject to confidentiality
25 restrictions substantially the same as the provisions of this act.

26 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
27 guilty of a felony, punishable by a fine of not more than

1 \$5,000.00, or imprisonment for not more than 5 years, or both,
2 together with the costs of prosecution. In addition, if the offense
3 is committed by an employee of this state, the person shall be
4 dismissed from office or discharged from employment upon
5 conviction.

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

10 (4) A person who receives information under subsection (1)(f)
11 for the proper administration of the general property tax act, 1893
12 PA 206, MCL 211.1 to 211.155, shall not willfully disclose that
13 information for any purpose other than the administration of the
14 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. A
15 person who violates this subsection is subject to the penalties
16 provided in subsection (2).

17 (5) A person identified in section 10(1) of the Michigan
18 economic growth authority act, 1995 PA 24, MCL 207.810, who
19 receives information under section 10(1)(j) of the Michigan
20 economic growth authority act, 1995 PA 24, MCL 207.810, as
21 permitted in subsection (1)(f), shall not willfully disclose that
22 information for any purpose other than the proper administration of
23 his or her legislative duties nor disclose that information to
24 anyone other than an employee of the legislature, who is also bound
25 by the same restrictions. A person who violates this subsection is
26 responsible for and subject to a civil fine of not more than
27 \$5,000.00 per violation.

1 (6) The department shall annually prepare a report containing
2 statistics described in this subsection concerning the Michigan
3 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the
4 most recent tax year for which reliable return data have been
5 processed and cleared in the ordinary course of return processing
6 by the department. A copy of the report shall be provided to the
7 chairpersons of the senate and house of representatives standing
8 committees that have jurisdiction over matters relating to taxation
9 and finance, the director of the senate fiscal agency, and the
10 director of the house fiscal agency. The department shall report
11 the following information broken down by business sector and,
12 provided that no grouping consists of fewer than 10 taxpayers, by
13 firm size in compliance with subsection (1)(f) and in a manner that
14 does not result in the disclosure of information regarding any
15 specific taxpayer:

- 16 (a) Apportioned business income tax base.
- 17 (b) Apportioned modified gross receipts tax base.
- 18 (c) Business income tax liability.
- 19 (d) Use of credits.
- 20 (e) Modified gross receipts tax liability.
- 21 (f) Total final liability.
- 22 (g) Total liability before credits.

23 **(7) THE STATE TREASURER SHALL DIVULGE THE INFORMATION**
24 **CONTAINED IN A POSTPRODUCTION CERTIFICATE OF COMPLETION AND OTHER**
25 **INFORMATION AS REQUIRED UNDER SECTION 455 OF THE MICHIGAN BUSINESS**
26 **TAX ACT, 2007 PA 36, MCL 208.1455.**

27 (8) ~~(7)~~—As used in subsection (1), "adjusted gross receipts"

1 and "wagering tax" mean those terms as described in the Michigan
2 gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.