

# HOUSE BILL No. 4475

April 16, 2015, Introduced by Reps. LaVoy, Townsend, Byrd, Schor, Dillon, Brinks, Faris, Glenn, Greimel, Kivela, Howrylak and Driskell 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 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 2014 PA 240.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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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 sections 23a and 30c, the  
24 state treasurer or an employee of the department shall not  
25 compromise or reduce in any manner the taxes due to or claimed by  
26 this state or unpaid accounts or amounts due to any department,  
27 institution, or agency of state government. This subdivision does

1 not prevent a compromise of interest or penalties, or both.

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

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

27 (2) A person who violates subsection (1)(e), (1)(f), or (4) is

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

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

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

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

1 \$5,000.00 per violation.

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

17 (a) Apportioned business income tax base.

18 (b) Apportioned modified gross receipts tax base.

19 (c) Business income tax liability.

20 (d) Use of credits.

21 (e) Modified gross receipts tax liability.

22 (f) Total final liability.

23 (g) Total liability before credits.

24 (7) A person may disclose the following information described  
25 in this subsection:

26 (a) Information required to be reported under section 455 of  
27 the Michigan business tax act, 2007 PA 36, MCL 208.1455.

1 (b) An application to enter into an agreement, a communication  
2 denying an application to enter into an agreement, an agreement, a  
3 postproduction certificate, a communication denying a  
4 postproduction certificate, or the total amount of credits claimed  
5 in a tax year under section 455 of the Michigan business tax act,  
6 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the  
7 Michigan business tax act, 2007 PA 36, MCL 408.1455.

8 (c) An application to enter into an agreement, a communication  
9 denying an application to enter into an agreement, an agreement, an  
10 investment expenditure certificate, a communication denying an  
11 investment expenditure certificate, or the total amount of credits  
12 claimed in a tax year under section 457 of the Michigan business  
13 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)  
14 of the Michigan business tax act, 2007 PA 36, MCL 408.1457.

15 (d) An application to enter into an agreement, a communication  
16 denying an application to enter into an agreement, an agreement, a  
17 qualified job training expenditures certificate, a communication  
18 denying a qualified job training expenditures certificate, or the  
19 total amount of credits claimed in a tax year under section 459 of  
20 the Michigan business tax act, 2007 PA 36, MCL 208.1459,  
21 notwithstanding section 459(6) of the Michigan business tax act,  
22 2007 PA 36, MCL 408.1459.

23 **(E) INFORMATION REGARDING A CERTIFICATED CREDIT UNDER SECTIONS**  
24 **430, 431, 431A, 431B, 431C, 432, 434, AND 450 OF THE MICHIGAN**  
25 **BUSINESS TAX ACT, 2007 PA 36, MCL 208.1430, 208.1431, 208.1431A,**  
26 **208.1431B, 208.1431C, 208.1432, 208.1434, AND 208.1450, TO THE**  
27 **EXTENT NECESSARY TO REPORT THE INFORMATION REQUIRED UNDER**

1 SUBSECTIONS (8) AND (9).

2 (F) INFORMATION REQUIRED TO BE REPORTED BY THE DEPARTMENT OR  
3 THE MICHIGAN ECONOMIC GROWTH AUTHORITY OR ITS SUCCESSOR UNDER  
4 SECTIONS 8(12), 10, AND 11 OF THE MICHIGAN ECONOMIC GROWTH  
5 AUTHORITY ACT, 1995 PA 24, MCL 207.808, 207.810, AND 207.811.

6 (8) THE DEPARTMENT SHALL REPORT THE FOLLOWING INFORMATION TO  
7 THE FOLLOWING INDIVIDUALS AND ENTITIES REGARDING THE CERTIFICATED  
8 CREDITS DESCRIBED IN SUBSECTION (7)(E):

9 (A) ON SEPTEMBER 10 FOR THE IMMEDIATELY PRECEDING 5-MONTH  
10 PERIOD, ON DECEMBER 10 FOR THE IMMEDIATELY PRECEDING 3-MONTH  
11 PERIOD, AND ON APRIL 10 FOR THE IMMEDIATELY PRECEDING 4-MONTH  
12 PERIOD, ALL OF THE FOLLOWING TO THE HOUSE FISCAL AGENCY AND THE  
13 SENATE FISCAL AGENCY:

14 (i) FOR CERTIFICATED CREDITS THAT HAVE BEEN SUBMITTED WITH A  
15 TAX RETURN, THE FOLLOWING:

16 (A) THE NAME OF THE BUSINESS FILING THE RETURN.

17 (B) THE CERTIFICATE NUMBER.

18 (C) THE TAX YEAR TO WHICH THE CERTIFICATE APPLIES.

19 (D) THE NET LIABILITY OF THE TAXPAYER AS FILED IN THE RETURN.

20 (E) THE DATE THE CERTIFICATE WAS FILED WITH THE DEPARTMENT.

21 (ii) FOR CERTIFICATED CREDITS THAT HAVE BEEN SUBMITTED AND  
22 PROCESSED BY THE DEPARTMENT, THE FOLLOWING:

23 (A) THE NAME OF THE BUSINESS FILING THE RETURN.

24 (B) THE CERTIFICATE NUMBER.

25 (C) THE TAX YEAR TO WHICH THE CERTIFICATE APPLIES.

26 (D) THE NET LIABILITY OF THE TAXPAYER AS FILED IN THE RETURN.

27 (E) THE NET LIABILITY OF THE TAXPAYER AS PROCESSED BY THE



1 DEPARTMENT.

2 (F) THE DATE THE CERTIFICATE WAS PROCESSED BY THE DEPARTMENT.

3 (G) THE FISCAL YEAR TO WHICH THE RETURN CONTAINING THE  
4 CERTIFICATE APPLIES.

5 (iii) ANY OTHER INFORMATION REQUIRED BY THE HOUSE FISCAL  
6 AGENCY AND SENATE FISCAL AGENCY PERTAINING TO A CERTIFICATED CREDIT  
7 NECESSARY FOR FORECASTING REVENUES AND EXPENSES UNDER SECTIONS 367A  
8 TO 367F OF THE MANAGEMENT AND BUDGET ACT, 1984 PA 431, 18.1367A TO  
9 18.1367F.

10 (B) AT THE SAME TIME AND FOR THE SAME REPORTING PERIODS  
11 DESCRIBED IN SUBDIVISION (A), FOR CERTIFICATED CREDITS THAT HAVE  
12 BEEN SUBMITTED TO AND PROCESSED BY THE DEPARTMENT, ALL OF THE  
13 FOLLOWING TO THE GOVERNOR AND TO EACH MEMBER OF THE LEGISLATURE:

14 (i) THE AGGREGATE NUMBER OF CERTIFICATES, BROKEN OUT BY TYPE  
15 OF CERTIFICATED CREDIT AND THE FISCAL YEAR TO WHICH THEY APPLY,  
16 THAT HAVE BEEN PROCESSED BY THE DEPARTMENT IN THE REPORTING PERIOD.

17 (ii) THE AGGREGATE AMOUNT OF THE CERTIFICATES, BROKEN OUT BY  
18 TYPE OF CERTIFICATED CREDIT AND THE FISCAL YEAR TO WHICH THEY  
19 APPLY, THAT HAVE BEEN PROCESSED BY THE DEPARTMENT IN THE REPORTING  
20 PERIOD.

21 (iii) THE AGGREGATE NET MICHIGAN BUSINESS TAX LIABILITY OF THE  
22 TAX RETURNS CONTAINING CERTIFICATED CREDITS THAT HAVE BEEN  
23 PROCESSED BY THE DEPARTMENT FOR THE REPORTING PERIOD.

24 (9) THE DEPARTMENT'S FIRST REPORTS DESCRIBED IN SUBSECTION (8)  
25 SHALL CONTAIN THE INFORMATION RELATED TO PROCESSED RETURNS FOR  
26 CERTIFICATED CREDITS DESCRIBED IN SUBSECTION (7) (E) THAT WERE  
27 CLAIMED AFTER DECEMBER 31, 2007.

1           (10) ~~(8)~~As used in subsection (1), "adjusted gross receipts"  
2   and "wagering tax" mean those terms as described in the Michigan  
3   gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226.