

HOUSE BILL No. 5061

October 4, 2017, Introduced by Reps. Reilly, Runestad, Johnson, Rabhi, LaGrand, Robinson, Howrylak, Dianda, Hornberger, Noble, Howell, Glenn, Hernandez, Theis, Lucido, LaFave, Frederick, Canfield and Bellino 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 2015 PA 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

24 (e) Except as otherwise provided in sections 23a and 30c, the
25 state treasurer or an employee of the department shall not
26 compromise or reduce in any manner the taxes due to or claimed by
27 this state or unpaid accounts or amounts due to any department,

1 institution, or agency of state government. This subdivision does
2 not prevent a compromise of interest or penalties, or both.

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

1 under this act is to be adjudicated by the court that issued the
2 judicial order. ~~A person required to disclose information under~~
3 ~~section 10(1)(j) of the Michigan economic growth authority act,~~
4 ~~1995 PA 24, MCL 207.810, may disclose the information only to the~~
5 ~~individuals described in that section.~~ **A PERSON MAY DISCLOSE THE**
6 **INFORMATION REQUIRED FOR THE REPORT DESCRIBED IN SECTION 10 OF THE**
7 **MICHIGAN ECONOMIC GROWTH AUTHORITY ACT, 1995 PA 24, MCL 207.810,**
8 **AND MAY DISCLOSE THAT SAME INFORMATION TO ANY PERSON UNDER A**
9 **REQUEST UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL**
10 **15.231 TO 15.246.** A person may disclose the adjusted gross receipts
11 and the wagering tax paid by a casino licensee licensed under the
12 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to
13 432.226, pursuant to section 18, sections 341, 342, and 386 of the
14 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and
15 18.1386, or ~~authorization~~ **AS AUTHORIZED** by the executive director
16 of the gaming control board. However, the state treasurer or a
17 person designated by the state treasurer may divulge information
18 set forth or disclosed in a return or report or by an investigation
19 or audit to any department, institution, or agency of state
20 government upon receipt of a written request from a head of the
21 department, institution, or agency of state government if it is
22 required for the effective administration or enforcement of the
23 laws of this state, to a proper officer of the United States
24 ~~department of treasury,~~ **DEPARTMENT OF TREASURY**, and to a proper
25 officer of another state reciprocating in this privilege. The state
26 treasurer may enter into reciprocal agreements with other
27 departments of state government, the United States ~~department of~~

1 ~~treasury,~~ **DEPARTMENT OF TREASURY**, local governmental units within
2 this state, or taxing officials of other states for the
3 enforcement, collection, and exchange of data after ascertaining
4 that any information provided will be subject to confidentiality
5 restrictions substantially the same as the provisions of this act.
6 The state treasurer or a person designated by the state treasurer
7 may disclose the address of each housing unit that is part of a
8 housing project exempt from ad valorem taxes under section 15a of
9 the state housing development authority act of 1966, 1966 PA 346,
10 MCL 125.1415a, or under section 11a of 1933 (Ex Sess) PA 18, MCL
11 125.661a, and whether the unit is subject to a service charge in
12 lieu of ad valorem taxes. The state treasurer or a person
13 designated by the state treasurer may also disclose the millage
14 rates of property taxes as defined in section 512a of the income
15 tax act of 1967, 1967 PA 281, MCL 206.512a.

16 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
17 guilty of a felony, punishable by a fine of not more than
18 \$5,000.00, or imprisonment for not more than 5 years, or both,
19 together with the costs of prosecution. In addition, if the offense
20 is committed by an employee of this state, the person shall be
21 dismissed from office or discharged from employment upon
22 conviction.

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

27 (4) A person who receives information under subsection (1)(f)

1 for the proper administration of the general property tax act, 1893
2 PA 206, MCL 211.1 to 211.155, shall not willfully disclose that
3 information for any purpose other than the administration of the
4 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. A
5 person who violates this subsection is subject to the penalties
6 provided in subsection (2).

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

18 (6) The department shall annually prepare a report containing
19 statistics described in this subsection concerning the Michigan
20 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the
21 most recent tax year for which reliable return data have been
22 processed and cleared in the ordinary course of return processing
23 by the department. A copy of the report ~~shall~~**MUST** be provided to
24 the chairpersons of the senate and house of representatives
25 standing committees that have jurisdiction over matters relating to
26 taxation and finance, the director of the senate fiscal agency, and
27 the director of the house fiscal agency. The department shall

1 report the following information broken down by business sector
2 and, provided that no grouping consists of fewer than 10 taxpayers,
3 by firm size in compliance with subsection (1)(f) and in a manner
4 that does not result in the disclosure of information regarding any
5 specific taxpayer:

6 (a) Apportioned business income tax base.

7 (b) Apportioned modified gross receipts tax base.

8 (c) Business income tax liability.

9 (d) Use of credits.

10 (e) Modified gross receipts tax liability.

11 (f) Total final liability.

12 (g) Total liability before credits.

13 (7) A person may disclose the following information described
14 in this subsection:

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

17 (b) An application to enter into an agreement, a communication
18 denying an application to enter into an agreement, an agreement, a
19 postproduction certificate, a communication denying a
20 postproduction certificate, or the total amount of credits claimed
21 in a tax year under section 455 of the Michigan business tax act,
22 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the
23 Michigan business tax act, 2007 PA 36, MCL ~~408.1455~~.**208.1455**.

24 (c) An application to enter into an agreement, a communication
25 denying an application to enter into an agreement, an agreement, an
26 investment expenditure certificate, a communication denying an
27 investment expenditure certificate, or the total amount of credits

1 claimed in a tax year under section 457 of the Michigan business
2 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)
3 of the Michigan business tax act, 2007 PA 36, MCL
4 ~~408.1457~~.**208.1457.**

5 (d) An application to enter into an agreement, a communication
6 denying an application to enter into an agreement, an agreement, a
7 qualified job training expenditures certificate, a communication
8 denying a qualified job training expenditures certificate, or the
9 total amount of credits claimed in a tax year under section 459 of
10 the Michigan business tax act, 2007 PA 36, MCL 208.1459,
11 notwithstanding section 459(6) of the Michigan business tax act,
12 2007 PA 36, MCL ~~408.1459~~.**208.1459.**

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

16 Enacting section 1. This amendatory act takes effect 180 days
17 after the date it is enacted into law.