

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 269**

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,"

(MCL 205.1 to 205.31) by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4a. (1) Beginning January 1, 2021, any return or claim
2 for refund filed pursuant to part 1 of the income tax act of 1967
3 PA 281, MCL 206.1 to 206.532, and prepared by a paid tax preparer
4 shall be signed by the paid tax preparer and shall bear the paid
5 tax preparer's tax identification number.

6 (2) In addition to any other penalty provided by law, any
7 person who is a paid tax preparer with respect to any return or
8 claim for refund who fails to sign that return or claim for refund
9 filed pursuant to part 1 of the income tax act of 1967 PA 281, MCL
10 206.1 to 206.532, and to provide their preparer tax identification
11 number as required by this section shall pay a civil penalty of
12 \$50.00 for each failure, unless it can be shown that the failure
13 was due to reasonable cause as determined by the department. The
14 civil penalty imposed on any paid tax preparer with respect to
15 returns or claims for refund filed during any calendar year shall
16 not exceed \$25,000.00. The department may use an amount equal to
17 the total penalties collected under this section to regulate paid
18 tax preparers.

19 (3) A paid tax preparer shall not knowingly do any of the
20 following:

21 (a) Prepare any return or claim for refund that includes an
22 understatement of a taxpayer's liability due to an unreasonable
23 position.

24 (b) Prepare any return or claim for refund that includes an
25 understatement of a taxpayer's liability due to willful or reckless
26 conduct.



(c) Where required, do any of the following:

(i) Fail to furnish a copy of a return or claim for refund.

(ii) Fail to sign a return or claim for refund.

(iii) Fail to furnish an identifying number.

(iv) Fail to retain accurate and complete records, workpapers, and other documents necessary for the proper determination of tax liability.

(v) Fail to determine eligibility for tax benefits.

(d) Negotiate a warrant, draft, or check issued by the department or receive a refund or credit by electronic payment into the paid tax preparer's account without the actual knowledge of the taxpayer.

(e) Engage in any conduct subject to any criminal penalty provided in this act.

(f) Misrepresent the paid tax preparer's eligibility to practice before the department or otherwise misrepresent the paid tax preparer's experience or education.

(g) Guarantee the payment of any tax refund or the allowance of any tax credit.

(h) Engage in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the tax laws of this state.

(4) In a court of competent jurisdiction, the department may commence suit to enjoin any paid tax preparer from further engaging in any conduct described in subsection (3) or from further acting as a paid tax preparer. If the court issues an injunction under this section, the paid tax preparer shall reimburse the department for all costs and fees incurred in prosecuting the case.

(5) If the court finds that a paid tax preparer has



continually or repeatedly engaged in any conduct prohibited in subsection (3) and that an injunction prohibiting the conduct would not be sufficient to prevent the person's interference with the proper administration of part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the court may enjoin the person from acting as a paid tax preparer in this state. The fact that a person has been enjoined from preparing tax returns or claims for refund for the United States or any other state, in the 5 years preceding the petition for an injunction, shall establish a prima facie case for an injunction to be issued pursuant to this section.

(6) In addition to the requirements under part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, for the 2021 tax year and each tax year after 2021, the department shall post on the department's website and include in the instruction booklet that accompanies the annual return both of the following:

(a) A clear and concise statement informing the taxpayer that the taxpayer protection act requires a paid tax preparer to sign a return and provide his or her preparer tax identification number.

(b) Contact information for the department's fraud unit.

(7) This section shall be known and may be cited as the "taxpayer protection act".

(8) As used in this section:

(a) "Paid tax preparer" means any person who prepares for compensation, or who employs 1 or more persons to prepare for compensation, any return or claim for refund, or a substantial portion of any return or claim for refund under part 1 of the income tax act of 1967 PA 281, MCL 206.1 to 206.532. However, a paid tax preparer does not include any of the following:

(i) An individual who is licensed as a certified public



1 accountant under article 7 of the occupational code, 1980 PA 299,
2 MCL 339.720 to 339.736.

3 (ii) An individual whose principal place of business is not in
4 this state and who satisfies the requirements set forth in section
5 727a of the occupational code, 1980 PA 299, MCL 339.727a.

6 (iii) An individual who is employed by a firm that is licensed
7 under article 7 of the occupational code, 1980 PA 299, MCL 339.720
8 to 339.736, or exempt from licensure under section 728(4) or (5) of
9 the occupational code, 1980 PA 299, MCL 339.728, and who prepares a
10 return under the supervision of an individual described in
11 subparagraph (i) or (ii).

12 (iv) An individual who prepares a return as a volunteer through
13 a nonprofit organization or other organization offering tax
14 assistance.

15 (b) "State" means a state of the United States, the District
16 of Columbia, Puerto Rico, the United States Virgin Islands, or any
17 territory or insular possession subject to the jurisdiction of the
18 United States.