

SENATE BILL NO. 269

April 16, 2019, Introduced by Senators GEISS, HOLLIER, ALEXANDER, BULLOCK, LUCIDO, ANANICH, CHANG and POLEHANKI and referred to the Committee on Finance.

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, 2020, any return or claim
2 for refund prepared by a paid tax preparer shall be signed by the
3 paid tax preparer and shall bear the paid tax preparer's tax
4 identification number.

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

17 (3) A paid tax preparer shall not do any of the following:

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

21 (b) Prepare any return or claim for refund that includes an
22 understatement of a taxpayer's liability due to willful or reckless
23 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 a copy of records.

(v) Fail to file correct information returns.

(vi) Fail to determine eligibility for tax benefits.

(d) Negotiate a check issued to a taxpayer by the department without the permission 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 this section 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 this section and that an injunction prohibiting the conduct would not be sufficient to prevent the person's interference with the proper

1 administration of the tax laws of this state, the court may enjoin
2 the person from acting as a paid tax preparer in this state. The
3 fact that a person has been enjoined from preparing tax returns or
4 claims for refund for the United States or any other state, in the
5 5 years preceding the petition for an injunction, shall establish a
6 prima facie case for an injunction to be issued pursuant to this
7 section.

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

10 (7) As used in this section:

11 (a) "Paid tax preparer" means any person who prepares for
12 compensation, or who employs 1 or more persons to prepare for
13 compensation, any return or claim for refund, or a substantial
14 portion of any return or claim for refund under this act. However,
15 a paid tax preparer does not include any of the following:

16 (i) An individual who is licensed as a certified public
17 accountant under article 7 of the occupational code, 1980 PA 299,
18 MCL 339.720 to 339.736.

19 (ii) An individual whose principal place of business is not in
20 this state and who satisfies the requirements set forth in section
21 727a of the occupational code, 1980 PA 299, MCL 339.727a.

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

28 (iv) An individual who prepares a return as a volunteer through
29 a nonprofit organization or other organization offering tax

1 assistance.

2 (b) "State" means a state of the United States, the District
3 of Columbia, Puerto Rico, the United States Virgin Islands, or any
4 territory or insular possession subject to the jurisdiction of the
5 United States.