

Property tax; appeals; provision relating to requirement to pay tax before appeal; eliminate.

PROPERTY TAX: Appeals

A bill to amend 1941 PA 122, entitled

"An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to create the position and to define the powers and duties of the state commissioner of revenue; 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 22 (MCL 205.22), as amended by 1993 PA 13.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) A taxpayer aggrieved by an assessment,
2 decision, or order of the department may appeal the contested

1 portion of the assessment, decision, or order to the tax tribunal
2 within 35 days, or to the court of claims within 90 days after
3 the assessment, decision, or order. The uncontested portion of
4 an assessment, order, or decision shall be paid as a prerequisite
5 to appeal. However, an action shall be commenced in the court of
6 claims within 6 months after payment of the tax or an adverse
7 determination of the taxpayer's claim for refund, whichever is
8 later, if the payment of the tax or adverse determination of the
9 claim for refund occurred under the single business tax act, ~~Act~~
10 ~~No. 228 of the Public Acts of 1975, being sections 208.1 to~~
11 ~~208.145 of the Michigan Compiled Laws~~ 1975 PA 228, MCL 208.1 TO
12 208.145, and before May 1, 1986.

13 (2) An appeal under this section shall be perfected as pro-
14 vided under the tax tribunal act, ~~Act No. 186 of the Public Acts~~
15 ~~of 1973, as amended, being sections 205.701 to 205.779 of the~~
16 ~~Michigan Compiled Laws~~ 1973 PA 186, MCL 205.701 TO 205.779, and
17 rules promulgated under that act for the tax tribunal, or chapter
18 64 of the revised judicature act of 1961, ~~Act No. 236 of the~~
19 ~~Public Acts of 1961, as amended, being sections 600.6401 to~~
20 ~~600.6475 of the Michigan Compiled Laws~~ 1961 PA 236, MCL 600.6401
21 TO 600.6475, and rules adopted under that chapter for the court
22 of claims. ~~In an appeal to the court of claims, the appellant~~
23 ~~shall first pay the tax, including any applicable penalties and~~
24 ~~interest, under protest and claim a refund as part of the~~
25 ~~appeal.~~

26 (3) A taxpayer or the department may take an appeal by right
27 from a decision of the tax tribunal or the court of claims to the

1 court of appeals. The appeal shall be taken on the record made
2 before the tax tribunal or the court of claims. The taxpayer or
3 department may take further appeal to the supreme court in
4 accordance with the court rules provided for appeals to the
5 supreme court.

6 (4) The assessment, decision, or order of the department, if
7 not appealed in accordance with this section, is final and is not
8 reviewable in any court by mandamus, appeal, or other method of
9 direct or collateral attack.

10 (5) An assessment is final, conclusive, and not subject to
11 further challenge after 90 days after the issuance of the assess-
12 ment, decision, or order of the department, and a person is not
13 entitled to a refund of any tax, interest, or penalty paid pursu-
14 ant to an assessment unless the aggrieved person has appealed the
15 assessment in the manner provided by this section.