

# HOUSE BILL No. 4730

May 14, 2013, Introduced by Rep. Foster and referred to the Committee on Government Operations.

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 2010 PA 313.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

1   compromise of interest or penalties, or both.

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

1 required to disclose information under section 10(1)(j) of the  
2 Michigan economic growth authority act, 1995 PA 24, MCL 207.810,  
3 may disclose the information only to the individuals described in  
4 that section. A person may disclose the adjusted gross receipts and  
5 the wagering tax paid by a casino licensee licensed under the  
6 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to  
7 432.226, pursuant to section 18, sections 341, 342, and 386 of the  
8 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and  
9 18.1386, or authorization by the executive director of the gaming  
10 control board. ~~However, the~~ **THE** state treasurer or a person  
11 designated by the state treasurer ~~may divulge~~ **SHALL DISCLOSE**  
12 **REVENUE ESTIMATING METHODOLOGIES, DATA, AND INFORMATION, RETURN**  
13 **INFORMATION,** information set forth ~~or disclosed in a return or~~  
14 report or by an investigation or audit to any department,  
15 institution, or agency of state government, **INCLUDING THE HOUSE TAX**  
16 **POLICY COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE AND**  
17 **SENATE FISCAL AGENCIES, AND THE GOVERNOR'S OFFICE,** upon receipt of  
18 a written request from a head of the department, institution,  
19 **COMMITTEE, OFFICE,** or agency of state government if ~~it~~ **THE**  
20 **INFORMATION** is required for the effective administration or  
21 enforcement of the laws of this state, **AND TO THE EXTENT THAT THE**  
22 **INFORMATION CANNOT BE ASSOCIATED WITH, OR OTHERWISE IDENTIFY**  
23 **DIRECTLY OR INDIRECTLY A PARTICULAR TAXPAYER UNLESS THE DEPARTMENT,**  
24 **INSTITUTION, AGENCY, OFFICE, OR COMMITTEE IS SITTING IN CLOSED**  
25 **EXECUTIVE SESSION OR OTHERWISE RESTRICTS PUBLIC ACCESS TO**  
26 **IDENTIFYING INFORMATION,** to a proper officer of the United States  
27 department of treasury, and to a proper officer of another state

1 reciprocating in this privilege. THE DEPARTMENT SHALL RESPOND TO  
2 THE WRITTEN REQUEST OR CONSENT FOR DISCLOSURE FOR A RETURN OR  
3 RETURN INFORMATION WITHIN 5 BUSINESS DAYS FROM THE DAY THE  
4 DEPARTMENT RECEIVES THE WRITTEN REQUEST OR CONSENT FOR DISCLOSURE.

5 The state treasurer may enter into reciprocal agreements with other  
6 departments of state government, the United States department of  
7 treasury, local governmental units within this state, or taxing  
8 officials of other states for the enforcement, collection, and  
9 exchange of data after ascertaining that any information provided  
10 will be subject to confidentiality restrictions substantially the  
11 same as the provisions of this act.

12 (2) A person who violates subsection (1)(e), (1)(f), or (4) is  
13 guilty of a felony, punishable by a fine of not more than  
14 \$5,000.00, or imprisonment for not more than 5 years, or both,  
15 together with the costs of prosecution. In addition, if the offense  
16 is committed by an employee of this state, the person shall be  
17 dismissed from office or discharged from employment upon  
18 conviction.

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

23 (4) A person who receives information under subsection (1)(f)  
24 for the proper administration of the general property tax act, 1893  
25 PA 206, MCL 211.1 to 211.155, shall not willfully disclose that  
26 information for any purpose other than the administration of the  
27 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. A

1 person who violates this subsection is subject to the penalties  
2 provided in subsection (2).

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

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

1 specific taxpayer:

2 (a) Apportioned business income tax base.

3 (b) Apportioned modified gross receipts tax base.

4 (c) Business income tax liability.

5 (d) Use of credits.

6 (e) Modified gross receipts tax liability.

7 (f) Total final liability.

8 (g) Total liability before credits.

9 (7) A person may disclose the following information described  
10 in this subsection:

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

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

20 (c) An application to enter into an agreement, a communication  
21 denying an application to enter into an agreement, an agreement, an  
22 investment expenditure certificate, a communication denying an  
23 investment expenditure certificate, or the total amount of credits  
24 claimed in a tax year under section 457 of the Michigan business  
25 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)  
26 of the Michigan business tax act, 2007 PA 36, MCL 408.1457.

27 (d) An application to enter into an agreement, a communication

1 denying an application to enter into an agreement, an agreement, a  
2 qualified job training expenditures certificate, a communication  
3 denying a qualified job training expenditures certificate, or the  
4 total amount of credits claimed in a tax year under section 459 of  
5 the Michigan business tax act, 2007 PA 36, MCL 208.1459,  
6 notwithstanding section 459(6) of the Michigan business tax act,  
7 2007 PA 36, MCL 408.1459.

8 (8) As used in subsection (1): ~~,"adjusted~~

9 (A) **"ADJUSTED** gross receipts" and "wagering tax" mean those  
10 terms as described in the Michigan gaming control and revenue act,  
11 1996 IL 1, MCL 432.201 to 432.226.

12 (B) **"RETURN INFORMATION" DOES NOT INCLUDE DATA THAT ARE**  
13 **CONTAINED IN A FORM WHICH DOES NOT IDENTIFY, DIRECTLY OR**  
14 **INDIRECTLY, A PARTICULAR TAXPAYER, SUCH AS STATISTICAL AND ECONOMIC**  
15 **INFORMATION, OR DATA THAT ARE REQUIRED BY THE LAWS OF THIS STATE TO**  
16 **BE DISCLOSED TO THE PUBLIC WITHOUT DIRECT IDENTIFICATION OF A**  
17 **TAXPAYER.**