

REVENUE DIVISION OF DEPARTMENT OF TREASURY (EXCERPT)
Act 122 of 1941

***** 205.28.amended THIS AMENDED SECTION IS EFFECTIVE AUGUST 25, 2017 *****

205.28.amended Conditions applicable to administration of taxes; violation; penalties; records required; disclosure of information; report containing statistics concerning Michigan business tax act; disclosure of certain information; "adjusted gross receipts" and "wagering tax" defined.

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

(a) Notice, if required, must be given either by personal service or by certified mail addressed to the last known address of the taxpayer. Service upon the department may be made in the same manner.

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

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

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

(e) Except as otherwise provided in sections 23a and 30c, the state treasurer or an employee of the department shall not compromise or reduce in any manner the taxes due to or claimed by this state or unpaid accounts or amounts due to any department, institution, or agency of state government. This subdivision does not prevent a compromise of interest or penalties, or both.

(f) Except as otherwise provided in this subdivision, in subsection (6) or (7), or in section 23a, an employee, authorized representative, former employee or authorized representative of the department, or anyone connected with the department shall not divulge any facts or information obtained in connection with the administration of a tax or information or parameters that would enable a person to ascertain the audit selection or processing criteria of the department for a tax administered by the department. An employee or authorized representative shall not willfully inspect any return or information contained in a return unless it is appropriate for the proper administration of a tax law administered under this act. A person may disclose information described in this subdivision if the disclosure is required for the proper administration of a tax law administered under this act or the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, pursuant to a judicial order sought by an agency charged with the duty of enforcing or investigating support obligations pursuant to an order of a court in a domestic relations matter as that term is defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, pursuant to a judicial order sought by an agency of the federal, state, or local government charged with the responsibility for the administration or enforcement of criminal law for purposes of investigating or prosecuting criminal matters or for federal or state grand jury proceedings, or pursuant to a judicial order if the taxpayer's liability for a tax administered under this act is to be adjudicated by the court that issued the judicial order. A person required to disclose information under section 10(1)(j) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.810, may disclose the information only to the individuals described in that section. A person may disclose the information required for the report described in section 9 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2009, for programs with new written agreements entered into after the effective date of the amendatory act that added this sentence for programs operated under the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2094. A person may disclose the adjusted gross receipts and the wagering tax paid by a casino licensee licensed under the Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to 432.226, pursuant to section 18, sections 341, 342, and 386 of the management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and 18.1386, or as authorized by the executive director of the gaming control board. However, the state treasurer or a person designated by the state treasurer may divulge information set forth or disclosed in a return or report or by an investigation or audit to any department, institution, or agency of state government upon receipt of a written request from a head of the department, institution, or agency of state government if it is required for the effective administration or enforcement of the laws of this state, to a proper officer of the United States department of treasury, and to a proper officer of another state reciprocating in this privilege. The state treasurer may enter into reciprocal agreements with other departments of state government, the

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

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

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

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

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

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

- (a) Apportioned business income tax base.
- (b) Apportioned modified gross receipts tax base.
- (c) Business income tax liability.
- (d) Use of credits.
- (e) Modified gross receipts tax liability.
- (f) Total final liability.
- (g) Total liability before credits.

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

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

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

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

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

the Michigan business tax act, 2007 PA 36, MCL 208.1459.

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

History: Add. 1980, Act 162, Eff. Sept. 17, 1980;—Am. 1982, Act 514, Eff. Mar. 30, 1983;—Am. 1986, Act 58, Eff. May 1, 1986;—Am. 1993, Act 13, Imd. Eff. Apr. 1, 1993;—Am. 1998, Act 221, Imd. Eff. July 1, 1998;—Am. 2000, Act 308, Imd. Eff. Oct. 16, 2000;—Am. 2002, Act 657, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 114, Imd. Eff. July 24, 2003;—Am. 2009, Act 124, Imd. Eff. Oct. 27, 2009;—Am. 2010, Act 313, Imd. Eff. Dec. 21, 2010;—Am. 2014, Act 240, Imd. Eff. June 27, 2014;—Am. 2015, Act 10, Imd. Eff. Apr. 9, 2015;—Am. 2017, Act 111, Eff. Aug. 25, 2017.

Compiler's note: Enacting section 4 of Act 162 of 1980 provides:

"Section 4. This amendatory act shall take effect 90 days after signature by the Governor. All new appeals from an assessment, decision or order of the department shall be made to the tax tribunal effective with the effective date of this act. An appeal to the state board of tax appeals filed prior to the effective date of this act shall proceed as follows:

"(a) A matter which has not been heard on or before January 1, 1981, shall be transferred to the tax tribunal as of January 1, 1981.

"(b) A matter which has been heard on or before January 1, 1981 shall be completed by the board and a decision issued before December 31, 1981.

"(c) An appeal having been filed in any court of record in this state prior to January 1, 1981 shall proceed in those courts until a decision is rendered. Appeals filed after January 1, 1981 shall be in accordance with this amendatory act."

Act 138 of 1981 purported to amend enacting sections 3 and 4 of Act 162 of 1980 to read as follows:

"Section 3. Sections 7, 8, and 9 of Act No. 122 of the Public Acts of 1941, as amended, being sections 205.7, 205.8, and 205.9 of the Compiled Laws of 1970, are repealed effective September 30, 1982.

"Section 4. (1) This amendatory act shall take effect September 16, 1980. All new appeals from an assessment, decision or order of the department shall be made to the tax tribunal effective September 16, 1980. An appeal to the state board of tax appeals filed prior to September 16, 1980 shall proceed as follows:

"(a) A matter which has not been heard, and submitted to the board for decision, on or before January 1, 1982 shall be transferred to the tax tribunal as of January 1, 1982.

"(b) A matter which has been heard, and submitted to the board for decision, on or before January 1, 1982 shall be completed and a decision issued before September 30, 1982.

"(2) An appeal having been filed in any court of record in this state prior to January 1, 1981 shall proceed in those courts until a decision is rendered. Appeals filed after January 1, 1981 shall be in accordance with this amendatory act."

However, the provisions of Act 162 of 1980 had already taken effect prior to October 29, 1981, the effective date of Act 138 of 1981.

Enacting sections 2 and 3 of Act 58 of 1986 provide:

"Section 2. The changes in penalties and interest affected by this amendatory act shall take effect July 1, 1986.

"Section 3. Except for section 31 and the provisions of enacting section 2, this amendatory act shall take effect May 1, 1986."

The title to 2006 PA 615, which purported to amend MCL 205.28, was not amended and should not have appeared in the title as an amended section.

Popular name: Revenue Act