

SENATE BILL No. 473

May 23, 1989, Introduced by Senators SHINKLE, CARL, POSTHUMUS, KELLY, DI NELLO, EHLERS, DINGELL, SCHWARZ, WELBORN, CROPSEY, SEDERBURG, GEAKE, CRUCE, FESSLER, ARTHURHULTZ, BINSFELD, NICHOLS, ENGLER and DILLINGHAM and referred to the Committee on Finance.

A bill to amend section 27a of Act No. 122 of the Public Acts of 1941, entitled as amended

"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 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 provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

as added by Act No. 58 of the Public Acts of 1986, being section 205.27a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 27a of Act No. 122 of the Public Acts of
2 1941, as added by Act No. 58 of the Public Acts of 1986, being

1 section 205.27a of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 27a. (1) If a person liable for a tax administered
4 under this act sells out his or her business or its stock of
5 goods or quits the business, the person shall make a final return
6 within 15 days after the date of selling or quitting the
7 business. The purchaser or succeeding purchasers, if any, who
8 purchase a going or closed business or its stock of goods shall
9 ~~be required to develop and~~ escrow sufficient money to cover the
10 amount of taxes, interest, and penalties as may be due and unpaid
11 until the former owner produces a receipt from the commissioner
12 or the commissioner's designated representative showing that the
13 taxes due are paid, or a certificate stating that taxes are not
14 due. Upon the owner's written waiver of confidentiality, the
15 commissioner may release to a purchaser a business' known tax
16 liability for the purposes of establishing an escrow account for
17 the payment of taxes. If the purchaser or succeeding purchasers
18 of a business or its stock of goods fail to comply with the
19 escrow requirements of this subsection, the purchaser ~~shall be~~
20 IS personally liable for the payment of the taxes, interest, and
21 penalties accrued and unpaid by the business of the former
22 owner. The purchaser's or succeeding purchaser's personal
23 liability ~~shall be~~ IS limited to the fair market value of the
24 business less the amount of any proceeds ~~which~~ THAT are applied
25 to balances due on secured interests ~~which~~ THAT are superior to
26 the lien provided for in section 29(1).

1 (2) A deficiency, interest, or penalty shall not be assessed
2 after the expiration of 4 years after the date set for the filing
3 of the required return or after the date the return was filed,
4 whichever is later. The taxpayer shall not claim a refund of any
5 amount paid to the department after the expiration of 4 years
6 after the date set for the filing of the original return. A
7 person who has failed to file a return is liable for all taxes
8 due for the entire period for which the person would be subject
9 to the taxes. If a person subject to tax fraudulently conceals
10 any liability for the tax or a part of the tax, or fails to
11 notify the department of any alteration in or modification of
12 federal tax liability, the department, within 2 years after dis-
13 covery of the fraud or the failure to notify, shall ~~proceed to~~
14 assess the tax with penalties and interest as provided by this
15 act, computed from the date on which the tax liability originally
16 accrued. The tax, penalties, and interest ~~shall become~~ ARE due
17 and payable after notice and hearing as provided by this act.

18 (3) The running of the statute of limitations ~~shall be~~ IS
19 suspended for the following:

20 (a) The period pending a final determination of tax, includ-
21 ing audit, conference, hearing, and litigation of liability for
22 federal income tax or a tax administered by the department.

23 (b) The period FOR which the taxpayer and the commissioner
24 have consented to in writing that the period be extended.

25 (4) The running of the statute of limitations ~~shall be~~ IS
26 suspended only as to those items ~~which~~ THAT were the subject of

1 the audit, conference, hearing, or litigation for federal income
2 tax or a tax administered by the department.

3 (5) If a corporation liable for taxes administered under
4 this act fails for any reason to file the required returns or to
5 pay the tax due, any of its officers having control ~~—~~ or super-
6 vision of, or charged with the responsibility for, making the
7 returns or payments ~~shall be~~ IS personally liable for the
8 failure. The signature of any corporate officers on returns or
9 negotiable instruments submitted in payment of taxes ~~shall be~~
10 IS prima facie evidence of their responsibility for making the
11 returns and payments. The dissolution of a corporation ~~shall~~
12 DOES not discharge an officer's liability for a prior failure of
13 the corporation to make a return or remit the tax due. The sum
14 due for a liability may be assessed and collected under the
15 related sections of this act.

16 (6) Notwithstanding the provisions of subsection (2), a
17 claim for refund based upon the validity of a tax law based on
18 the laws or constitution of the United States or the state con-
19 stitution of 1963 shall not be paid unless the claim is filed
20 within 90 days after the date set for filing a return or when
21 ordered pursuant to an appeal under section 22. THIS SUBSECTION
22 DOES NOT APPLY TO A CLAIM FOR REFUND OF A TAX PAID ON INCOME
23 RECEIVED AS RETIREMENT OR PENSION BENEFITS FROM A PUBLIC RETIRE-
24 MENT SYSTEM OF THE UNITED STATES GOVERNMENT.