

SENATE BILL No. 316

April 16, 2013, Introduced by Senators BRANDENBURG, JONES, HILDENBRAND, ROBERTSON, HANSEN, PAPPAGEORGE, HUNE, SMITH, PROOS, JANSEN, NOFS, ROCCA, COLBECK, CASPERSON, WALKER, EMMONS, MOOLENAAR, MEEKHOF, SCHUITMAKER, MARLEAU, BOOHER, PAVLOV, KOWALL and GREEN 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,"

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
2 administered under this act unless otherwise provided for in the

1 specific tax statute:

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

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

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

11 (d) The state treasurer may request in writing information or
12 records in the possession of any other department, institution, or
13 agency of state government for the performance of duties under this
14 act. Departments, institutions, or agencies of state government
15 shall furnish the information and records upon receipt of the state
16 treasurer's request. Upon request of the state treasurer, any
17 department, institution, or agency of state government shall hold a
18 hearing under the administrative procedures act of 1969, 1969 PA
19 306, MCL 24.201 to 24.328, to consider withholding a license or
20 permit of a person for nonpayment of taxes or accounts collected
21 under this act.

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

1 (f) Except as otherwise provided in this subdivision or in
2 subsection (6) or (7), an employee, authorized ~~representative,~~
3 **REPRESENTATIVES OF THE DEPARTMENT, LEGISLATURE, OR GOVERNOR'S**
4 **OFFICE,** or former employee or authorized representative ~~of the~~
5 ~~department~~ or anyone connected with the department, **LEGISLATURE, OR**
6 **GOVERNOR'S OFFICE** shall not divulge ~~any facts or information~~
7 ~~obtained in connection with the administration of a tax or RETURN~~
8 **OR RETURN** information. ~~or parameters that would enable a person to~~
9 ~~ascertain the audit selection or processing criteria of the~~
10 ~~department for a tax administered by the department. NOTHING IN~~
11 **THIS SUBSECTION SHALL BE CONSTRUED TO REQUIRE THE DISCLOSURE OF**
12 **STANDARDS USED FOR THE SELECTION OF RETURNS FOR EXAMINATION, OR**
13 **DATA USED FOR DETERMINING THOSE STANDARDS, IF, SUBJECT TO THE**
14 **PROCEDURES AND REQUIREMENTS THAT THE DEPARTMENT PRESCRIBES BY**
15 **ADMINISTRATIVE RULE, THE DEPARTMENT SPECIFICALLY DETERMINES THAT**
16 **THE DISCLOSURE WILL SERIOUSLY IMPAIR ASSESSMENT, COLLECTION, OR**
17 **ENFORCEMENT UNDER THE TAX LAWS OF THIS STATE. THE DEPARTMENT SHALL,**
18 **SUBJECT TO THE REQUIREMENTS THE DEPARTMENT PRESCRIBES BY**
19 **ADMINISTRATIVE RULE, DISCLOSE A RETURN AND RETURN INFORMATION WITH**
20 **RESPECT TO A TAXPAYER AND TO ANY PERSON OR PERSONS AS THE TAXPAYER**
21 **MAY DESIGNATE IN A WRITTEN REQUEST OR CONSENT FOR DISCLOSURE, OR TO**
22 **ANY OTHER PERSON AT THE TAXPAYER'S REQUEST TO THE EXTENT NECESSARY**
23 **TO COMPLY WITH A REQUEST FOR INFORMATION OR ASSISTANCE MADE BY THE**
24 **TAXPAYER TO THE OTHER PERSON. THE DEPARTMENT SHALL RESPOND TO THE**
25 **WRITTEN REQUEST OR CONSENT FOR DISCLOSURE FOR A RETURN OR RETURN**
26 **INFORMATION WITHIN 5 BUSINESS DAYS FROM THE DAY THE DEPARTMENT**
27 **RECEIVES THE WRITTEN REQUEST OR CONSENT FOR DISCLOSURE.** An employee

1 or authorized representative shall not willfully inspect any return
2 or information contained in a return unless it is appropriate for
3 the proper administration of a tax law administered under this act.
4 A person may disclose information described in this subdivision if
5 the disclosure is required for the proper administration of a tax
6 law administered under this act or the general property tax act,
7 1893 PA 206, MCL 211.1 to 211.155, pursuant to a judicial order
8 sought by an agency charged with the duty of enforcing or
9 investigating support obligations pursuant to an order of a court
10 in a domestic relations matter as that term is defined in section 2
11 of the friend of the court act, 1982 PA 294, MCL 552.502, or
12 pursuant to a judicial order sought by an agency of the federal,
13 state, or local government charged with the responsibility for the
14 administration or enforcement of criminal law for purposes of
15 investigating or prosecuting criminal matters or for federal or
16 state grand jury proceedings or a judicial order if the taxpayer's
17 liability for a tax administered under this act is to be
18 adjudicated by the court that issued the judicial order. A person
19 required to disclose information under section 10(1)(j) of the
20 Michigan economic growth authority act, 1995 PA 24, MCL 207.810,
21 may disclose the information only to the individuals described in
22 that section. A person may disclose the adjusted gross receipts and
23 the wagering tax paid by a casino licensee licensed under the
24 Michigan gaming control and revenue act, 1996 IL 1, MCL 432.201 to
25 432.226, pursuant to section 18, sections 341, 342, and 386 of the
26 management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and
27 18.1386, or authorization by the executive director of the gaming

1 control board. However, the state treasurer or a person designated
2 by the state treasurer may divulge information set forth or
3 disclosed in a return or report or by an investigation or audit to
4 any department, institution, or agency of state government upon
5 receipt of a written request from a head of the department,
6 institution, or agency of state government if it is required for
7 the effective administration or enforcement of the laws of this
8 state, to a proper officer of the United States department of
9 treasury, and to a proper officer of another state reciprocating in
10 this privilege. The state treasurer may enter into reciprocal
11 agreements with other departments of state government, the United
12 States department of treasury, local governmental units within this
13 state, or taxing officials of other states for the enforcement,
14 collection, and exchange of data after ascertaining that any
15 information provided will be subject to confidentiality
16 restrictions substantially the same as the provisions of this act.

17 (2) A person who violates subsection (1)(e), (1)(f), or (4) is
18 guilty of a felony, punishable by a fine of not more than
19 \$5,000.00, or imprisonment for not more than 5 years, or both,
20 together with the costs of prosecution. In addition, if the offense
21 is committed by an employee of this state, the person shall be
22 dismissed from office or discharged from employment upon
23 conviction.

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

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

8 (5) A person identified in section 10(1) of the Michigan
9 economic growth authority act, 1995 PA 24, MCL 207.810, who
10 receives information under section 10(1)(j) of the Michigan
11 economic growth authority act, 1995 PA 24, MCL 207.810, as
12 permitted in subsection (1)(f), shall not willfully disclose that
13 information for any purpose other than the proper administration of
14 his or her legislative duties nor disclose that information to
15 anyone other than an employee of the legislature, who is also bound
16 by the same restrictions. A person who violates this subsection is
17 responsible for and subject to a civil fine of not more than
18 \$5,000.00 per violation.

19 (6) The department shall annually prepare a report containing
20 statistics described in this subsection concerning the Michigan
21 business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, for the
22 most recent tax year for which reliable return data have been
23 processed and cleared in the ordinary course of return processing
24 by the department. A copy of the report shall be provided to the
25 chairpersons of the senate and house of representatives standing
26 committees that have jurisdiction over matters relating to taxation
27 and finance, the director of the senate fiscal agency, and the

1 director of the house fiscal agency. The department shall report
2 the following information broken down by business sector and,
3 provided that no grouping consists of fewer than 10 taxpayers, by
4 firm size in compliance with subsection (1)(f) and in a manner that
5 does not result in the disclosure of information regarding any
6 specific taxpayer:

7 (a) Apportioned business income tax base.

8 (b) Apportioned modified gross receipts tax base.

9 (c) Business income tax liability.

10 (d) Use of credits.

11 (e) Modified gross receipts tax liability.

12 (f) Total final liability.

13 (g) Total liability before credits.

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

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

18 (b) An application to enter into an agreement, a communication
19 denying an application to enter into an agreement, an agreement, a
20 postproduction certificate, a communication denying a
21 postproduction certificate, or the total amount of credits claimed
22 in a tax year under section 455 of the Michigan business tax act,
23 2007 PA 36, MCL 208.1455, notwithstanding section 455(6) of the
24 Michigan business tax act, 2007 PA 36, MCL 408.1455.

25 (c) An application to enter into an agreement, a communication
26 denying an application to enter into an agreement, an agreement, an
27 investment expenditure certificate, a communication denying an

1 investment expenditure certificate, or the total amount of credits
2 claimed in a tax year under section 457 of the Michigan business
3 tax act, 2007 PA 36, MCL 208.1457, notwithstanding section 457(6)
4 of the Michigan business tax act, 2007 PA 36, MCL 408.1457.

5 (d) An application to enter into an agreement, a communication
6 denying an application to enter into an agreement, an agreement, a
7 qualified job training expenditures certificate, a communication
8 denying a qualified job training expenditures certificate, or the
9 total amount of credits claimed in a tax year under section 459 of
10 the Michigan business tax act, 2007 PA 36, MCL 208.1459,
11 notwithstanding section 459(6) of the Michigan business tax act,
12 2007 PA 36, MCL 408.1459.

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

14 (A) "ADJUSTED gross receipts" and "wagering tax" mean those
15 terms as described in the Michigan gaming control and revenue act,
16 1996 IL 1, MCL 432.201 to 432.226.

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