

SENATE BILL No. 327

April 23, 2013, Introduced by Senators ROBERTSON, MOOLENAAR, PROOS, MARLEAU, BRANDENBURG and PAVLOV 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 4 (MCL 205.4), as amended by 2002 PA 657.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) Not later than ~~1 year after the effective date of~~
2 ~~this section,~~ **DECEMBER 23, 2003**, the department of treasury shall

1 submit rules for a public hearing pursuant to the administrative
2 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that
3 provide for all of the following:

4 (a) Standards to be followed by department officers and
5 employees for the fair and courteous treatment of the public, and a
6 system for monitoring compliance with those standards.

7 (b) The procedures governing an informal conference held under
8 section 21. These procedures shall include at least all of the
9 following:

10 (i) A method by which the department attempts to schedule the
11 informal conference at a mutually convenient time and place.

12 (ii) A requirement that the department include in the notice
13 for the informal conference the scope and nature of the subject of
14 the informal conference.

15 (iii) Authorization for the taxpayer at whose request the
16 informal conference is being held to make a sound recording of the
17 informal conference with prior notice to the department and for the
18 department to do the same with prior notice to the taxpayer.

19 (2) Not later than ~~1 year after the effective date of this~~
20 ~~section,~~ **DECEMBER 23, 2003**, the department shall develop guidelines
21 to govern departmental employee responses to inquiries from the
22 public and standards for tax audit activities. The guidelines shall
23 explicitly exclude the use of a collection goal or quota for
24 evaluating an employee. The department shall assemble the
25 guidelines required by this subsection into an employee handbook.
26 However, the handbook shall not disclose information or parameters
27 excluded from disclosure under section 28(1)(f). The department

1 shall distribute the handbook to all departmental employees
2 involved in the collection or auditing of taxes and shall make the
3 handbook available to the public.

4 (3) BEGINNING OCTOBER 1, 2013, THE DEPARTMENT OF TREASURY,
5 EMPLOYEES OF THE DEPARTMENT OF TREASURY, AND THIRD-PARTY
6 CONSULTANTS, CONTRACTORS, AND AGENTS AND THEIR EMPLOYEES OR THOSE
7 UNDER THEIR DIRECTION OR CONTROL INVOLVED IN THE ADMINISTRATION,
8 COLLECTION, OR AUDITING OF TAXES OR OTHER MONEY OR FEES, INCLUDING
9 UNCLAIMED PROPERTY, ADMINISTERED BY THE DEPARTMENT OF TREASURY ARE
10 SUBJECT TO BOTH OF THE FOLLOWING:

11 (A) ARE PROHIBITED FROM USING COLLECTION GOALS, BUDGETS, OR
12 QUOTAS IN ACTIONS OR DECISIONS RELATING TO THE ADMINISTRATION,
13 AUDIT, ASSESSMENT, OR COLLECTION OF MONEY OR FEES ADMINISTERED BY
14 THE DEPARTMENT OF TREASURY.

15 (B) SHALL BE INDEPENDENT AND CARRY OUT THEIR DUTIES AND
16 RESPONSIBILITIES WITHOUT BIAS AS TO THE APPLICATION OF THE
17 GOVERNING STATUTES AND RULES WHICH SHALL BE APPLIED. ALL STATUTES
18 AND RULES SHALL BE FAIRLY, CONSISTENTLY, AND EQUALLY APPLIED TO ALL
19 TAXPAYERS.

20 (4) IF IT IS DETERMINED THAT ANY EMPLOYEE, CONSULTANT,
21 CONTRACTOR, AGENT, OR THEIR EMPLOYEES TOOK AN ACTION OR MADE A
22 DECISION IMPACTING A TAXPAYER BASED ON TARGETED COLLECTION GOALS,
23 BUDGETS, OR QUOTAS, INCLUDING THE POTENTIAL FOR REVENUE LOSS TO THE
24 STATE NOT SUPPORTED BY STATUTE OR LAW, THAT ACTION OR DECISION
25 SHALL BE SUBJECT TO REVIEW AS PROVIDED FOR IN SECTION 21. IN
26 ADDITION TO THE REVIEW PROVIDED FOR IN SECTION 21, AN EMPLOYEE MAY
27 BE SUBJECT TO DISCIPLINARY ACTIONS AS DESCRIBED IN SECTION 28(2).

1 COSTS AND FEES, INCLUDING ATTORNEY FEES, MAY BE ORDERED TO BE PAID
2 BY THE DEPARTMENT OF TREASURY TO REIMBURSE A TAXPAYER FOR
3 CONTESTING THE UNAUTHORIZED ACTION DESCRIBED IN THIS SUBSECTION.

4 (5) ~~(3)~~—The department shall publish a handbook for taxpayers
5 and tax preparers. The handbook shall be made available at a
6 reasonable cost, not to exceed the actual cost of publication, and
7 shall contain all of the following:

8 (a) The audit and collection procedures used by the
9 department.

10 (b) The procedures governing departmental communications with
11 taxpayers in the audit and collection process.