

HOUSE BILL No. 6031

September 15, 1998, Introduced by Rep. Brackenridge and referred to the Committee on Tax Policy.

A bill to amend 1941 PA 122, entitled

"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 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; and to declare the effect of this act,"

by amending section 28 (MCL 205.28), as amended by 1998 PA 221.

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
- 3 specific tax statute:

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

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

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

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

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

1 (f) Except as otherwise provided in this subdivision, an
2 employee, authorized representative, or former employee or
3 authorized representative of the department or anyone connected
4 with the department shall not divulge any facts or information
5 obtained in connection with the administration of a tax or infor-
6 mation or parameters that would enable a person to ascertain the
7 audit selection or processing criteria of the department for a
8 tax administered by the department. A person may disclose infor-
9 mation described in this subdivision if the disclosure is
10 required for the proper administration of a tax law administered
11 under this act, pursuant to a judicial order sought by an agency
12 charged with the duty of enforcing or investigating support obli-
13 gations pursuant to an order of a court in a domestic relations
14 matter as that term is defined in section ~~31~~ 2 of the friend of
15 the court act, 1982 PA 294, MCL ~~552.531~~ 552.502, or pursuant to
16 a judicial order sought by an agency of the federal, state, or
17 local government charged with the responsibility for the adminis-
18 tration or enforcement of criminal law for purposes of investi-
19 gating or prosecuting criminal matters or for federal or state
20 grand jury proceedings or a judicial order if the taxpayer's
21 liability for a tax administered under this act is to be adjudi-
22 cated by the court that issued the judicial order. However, the
23 commissioner or a person designated by the commissioner may
24 divulge information set forth or disclosed in a return or report
25 or by an investigation or audit to any department, institution,
26 or agency of state government upon receipt of a written request
27 from a head of the department, institution, or agency of state

1 government if it is required for the effective administration or
2 enforcement of the laws of this state, to a proper officer of the
3 United States department of treasury, and to a proper officer of
4 another state reciprocating in this privilege. The commissioner
5 may enter into reciprocal agreements with other departments of
6 state government, the United States department of treasury, local
7 governmental units within this state, or taxing officials of
8 other states for the enforcement, collection, and exchange of
9 data after ascertaining that any information provided will be
10 subject to confidentiality restrictions substantially the same as
11 the provisions of this act.

12 (2) A person who violates subsection (1)(e) or (1)(f) 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
16 offense is committed by an employee of this state, the person
17 shall be 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) IF THE DIVORCE OF TAXPAYERS IS FINAL IN A TAX YEAR IN
24 WHICH THE TAXPAYERS FILE A JOINT RETURN UNDER THE INCOME TAX ACT
25 OF 1967, 1967 PA 281, MCL 206.1 TO 206.532, THE DEPARTMENT SHALL
26 NOT IMPOSE PENALTIES OR INTEREST AGAINST 1 JOINT FILER THAT
27 RESULTS FROM THE FRAUD OF THE OTHER FILER. THE DEPARTMENT SHALL

1 INCLUDE IN THE INSTRUCTION BOOK THAT ACCOMPANIES THE ANNUAL
2 RETURN REQUIRED UNDER THE INCOME TAX ACT OF 1967, 1967 PA 281,
3 MCL 206.1 TO 206.532, INFORMATION ABOUT THE WAIVER OF PENALTIES
4 AND INTEREST IF 1 JOINT FILER CAN PROVE TO THE DEPARTMENT THAT HE
5 OR SHE IS INNOCENT OF THE FRAUD THAT RESULTED IN THE IMPOSITION
6 OF THE PENALTIES OR INTEREST. THE SPOUSE WHO CLAIMS THAT HE OR
7 SHE IS INNOCENT OF ANY FRAUD SHALL FILE AN AFFIDAVIT WITH THE
8 DEPARTMENT STATING THE NATURE OF THE FRAUD AND PROOF THAT SUP-
9 PORTS HIS OR HER POSITION THAT HE OR SHE IS INNOCENT OF THE FRAUD
10 AND HAD NO AFFIRMATIVE KNOWLEDGE OF THE FRAUD.