

Act No. 114
Public Acts of 2003
Approved by the Governor
July 24, 2003
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July 24, 2003
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2003**

Introduced by Senator Brown

ENROLLED SENATE BILL No. 586

AN ACT 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 the state; to prescribe certain powers and duties of the state treasurer; 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 2002 PA 657.

The People of the State of Michigan enact:

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, shall 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 section 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, an employee, authorized representative, or 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 211.157, 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, or 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 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 may disclose the adjusted gross receipts and the wagering tax paid by a casino licensee licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, 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 authorization 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.

(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 211.157, 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 211.157. A person who violates this subsection is subject to the penalties provided in subsection (2).

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor