

# HOUSE BILL No. 4735

May 27, 1999, Introduced by Reps. Quarles, Martinez, Hale, Cherry, Daniels, Jamnick, Bovin, Baird, O'Neil, Dennis and Lemmons 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 regulate the importation, stamping, and disposition of certain tobacco products; 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 sections 24 and 31 (MCL 205.24 and 205.31), as amended by 1993 PA 14.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 24. (1) If a taxpayer fails or refuses to file a  
2 return or pay a tax administered under this act within the time

1 specified, the department, as soon as possible, shall assess the  
2 tax against the taxpayer and notify the taxpayer of the amount of  
3 the tax. A liability for a tax administered under this act is  
4 subject to the interest and penalties prescribed in  
5 subsections (2) to (5) AND (7).

6 (2) Except as provided in subsections (3) and (6), if a tax-  
7 payer fails or refuses to file a return or pay a tax within the  
8 time specified, a penalty of \$10.00 or 5% of the tax, whichever  
9 is greater, shall be added if the failure is for not more than 1  
10 month, with an additional 5% penalty for each additional month or  
11 fraction of a month during which the failure continues or the tax  
12 and penalty is not paid, to a maximum of 50%. In addition to the  
13 penalty, interest at the rate provided in section 23 for defi-  
14 ciencies in tax payments shall be added on the tax from the time  
15 the tax was due, until paid. After June 30, 1994, the penalty  
16 prescribed by this subsection shall not be imposed until the  
17 department submits for public hearing pursuant to the administra-  
18 tive procedures act of 1969, ~~Act No. 306 of the Public Acts of~~  
19 ~~1969, being sections 24.201 to 24.328 of the Michigan Compiled~~  
20 ~~Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, a rule defining what  
21 constitutes reasonable cause for waiver of the penalty under sub-  
22 section (4), which definition shall include illustrative  
23 examples.

24 (3) If a person is required to remit tax due pursuant to  
25 section 19(2) and fails or refuses to pay the tax within the time  
26 specified, a penalty of 0.167% of the tax shall be added for each  
27 day during which the failure continues or the tax and penalty are

1 not paid, to a maximum of 50% of the tax. For reporting periods  
2 beginning after August 31, 1991 and before November 1, 1991, the  
3 commissioner shall not impose the penalty under this subsection  
4 if the tax is remitted within 2 banking days of the date speci-  
5 fied and the taxpayer demonstrates that the taxpayer's account at  
6 their financial institution was charged for the tax owed on or  
7 before the date the remittance was due.

8 (4) If a return is filed or remittance is paid after the  
9 time specified and it is shown to the satisfaction of the depart-  
10 ment that the failure was due to reasonable cause and not to  
11 willful neglect, the commissioner or an authorized representative  
12 of the commissioner shall waive the penalty prescribed by  
13 subsection (2).

14 (5) For failure or refusal to file an information return or  
15 other informational report required by a tax statute, within the  
16 time specified, a penalty of \$10.00 per day for each day for each  
17 separate failure or refusal may be added. The total penalty for  
18 each separate failure or refusal shall not exceed \$400.00.

19 (6) If a taxpayer fails to pay an estimated tax payment as  
20 may be required by the income tax act of 1967, ~~Act No. 281 of~~  
21 ~~the Public Acts of 1967, being sections 206.1 to 206.532 of the~~  
22 ~~Michigan Compiled Laws~~ 1967 PA 281, MCL 206.1 TO 206.532, a pen-  
23 alty shall not be imposed if the taxpayer was not required to  
24 make estimated tax payments in the taxpayer's immediately preced-  
25 ing tax year.

26 (7) IN ADDITION TO ANY OTHER INTEREST OR PENALTY PRESCRIBED  
27 UNDER THIS SECTION, A TAXPAYER WHO HAS FAILED TO FILE A RETURN OR

1 PAY A TAX THAT WAS DUE BEFORE JANUARY 1, 1999 DURING A PERIOD FOR  
2 WHICH AMNESTY IS AVAILABLE UNDER SECTION 31(2) IS LIABLE FOR AN  
3 ADDITIONAL PENALTY EQUAL TO 25% OF THE AMOUNT OF TAX DUE.

4       Sec. 31. (1) If a taxpayer does not satisfy a tax liability  
5 or makes an excessive claim for a refund as a result of reliance  
6 on erroneous current written information provided by the depart-  
7 ment, the commissioner shall waive all criminal and civil penal-  
8 ties provided by law for failing or refusing to file a return,  
9 for failing to pay a tax, or for making an excessive claim for a  
10 refund for a tax administered by the revenue division of the  
11 department of treasury pursuant to this act if the taxpayer makes  
12 a written request for a waiver, files a return or an amended  
13 return, and makes full payment of the tax and interest.

14       (2) EXCEPT AS PROVIDED IN SUBSECTION (3), THE COMMISSIONER  
15 SHALL WAIVE ALL CRIMINAL AND CIVIL PENALTIES PROVIDED BY LAW FOR  
16 FAILING OR REFUSING TO FILE A RETURN, FOR FAILING TO PAY A TAX,  
17 OR FOR MAKING AN EXCESSIVE CLAIM FOR A REFUND FOR A TAX ADMINIS-  
18 TERED BY THE REVENUE DIVISION OF THE DEPARTMENT OF TREASURY UNDER  
19 THIS ACT FOR TAXES DUE BEFORE JANUARY 1, 1999, IF AFTER JULY 30,  
20 1999 AND BEFORE OCTOBER 1, 1999, THE TAXPAYER MAKES A WRITTEN  
21 REQUEST FOR A WAIVER, FILES A RETURN OR AN AMENDED RETURN, AND  
22 MAKES FULL PAYMENT OF THE TAX AND INTEREST OR A PARTIAL PAYMENT  
23 OF TAX AND INTEREST PURSUANT TO AN INSTALLMENT PLAN EXECUTED BY  
24 THE TAXPAYER AND THE COMMISSIONER OR HIS OR HER DESIGNEE.

25       (3) SUBSECTION (2) APPLIES TO THE NONREPORTING AND UNDERRE-  
26 PORTING OF TAX LIABILITIES OR TO THE NONPAYMENT OF TAXES  
27 PREVIOUSLY DETERMINED TO BE DUE, BUT ONLY TO THE EXTENT OF THE

1 PENALTIES ATTRIBUTABLE TO THE TAXES THAT WERE DUE BEFORE  
2 JANUARY 1, 1999 AND THAT ARE PAID DURING THE TIME PERIOD PROVIDED  
3 FOR IN SUBSECTION (2). SUBSECTION (2) DOES NOT APPLY TO ANY TAX  
4 DUE BY THE TAXPAYER THAT IS UNDER CRIMINAL INVESTIGATION, OR  
5 INVOLVED IN A CIVIL ACTION OR CRIMINAL PROSECUTION.

6 (4) THE COMMISSIONER SHALL ADMINISTER THE TAX AMNESTY PRO-  
7 GRAM DESCRIBED IN SUBSECTION (2). A TAXPAYER WHO PAYS ALL OR A  
8 PORTION OF A TAX SUBJECT TO THE TAX AMNESTY PROGRAM DESCRIBED IN  
9 SUBSECTION (2), IN ADDITION TO ALL OTHER FORMS OF PAYMENT AUTHO-  
10 RIZED UNDER THIS ACT, MAY PAY BY CREDIT CARD OR DEBIT CARD AND  
11 THE COMMISSIONER SHALL ACCEPT PAYMENT BY CREDIT CARD OR DEBIT  
12 CARD. THE COMMISSIONER MAY ENTER INTO AN INSTALLMENT PAYMENT  
13 PLAN FOR TAX PAYMENTS FOR WHICH THE CRIMINAL AND CIVIL PENALTIES  
14 ARE WAIVED UNDER SUBSECTION (2). IF THE TAXPAYER FULLY COMPLIES  
15 WITH THE INSTALLMENT PLAN EXECUTED WITH THE DEPARTMENT OF TREA-  
16 SURY, ALL CRIMINAL AND CIVIL PENALTIES ARE WAIVED. IF THE TAX-  
17 PAYER DOES NOT FULLY COMPLY WITH THE INSTALLMENT PLAN EXECUTED  
18 WITH THE DEPARTMENT OF TREASURY, ALL CRIMINAL AND CIVIL PENALTIES  
19 ARE NOT WAIVED AND THE DEPARTMENT OF TREASURY MAY COLLECT THE TAX  
20 LIABILITY AND IMPOSE ALL CRIMINAL AND CIVIL PENALTIES AS PROVIDED  
21 BY LAW.

22 (5) THERE IS APPROPRIATED FROM THE REVENUES GENERATED BY  
23 THIS ACT THE SUM OF \$5,000,000.00 TO THE DEPARTMENT OF TREASURY  
24 FOR ADMINISTRATION. THIS APPROPRIATION IS ALLOTTED FOR EXPENDI-  
25 TURE ON THE EFFECTIVE DATE OF THIS AMENDATORY ACT. ANY UNENCUM-  
26 BERED FUNDS MAY BE CARRIED OVER INTO THE 1999-2000 FISCAL YEAR.  
27 ONLY GENERAL PURPOSE REVENUE GENERATED BY THE AMNESTY PROGRAM

1 PROVIDED FOR IN SUBSECTION (2) MAY BE USED TO FINANCE THIS  
2 APPROPRIATION.

3 (6) REVENUES RECEIVED AS A RESULT OF THE TAX AMNESTY PROGRAM  
4 DESCRIBED IN SUBSECTION (2), EXCEPT THOSE OTHERWISE DEDICATED BY  
5 LAW, SHALL BE CREDITED TO A SEPARATE ACCOUNT IN THE STATE SCHOOL  
6 AID FUND ESTABLISHED UNDER SECTION 11 OF ARTICLE IX OF THE STATE  
7 CONSTITUTION OF 1963, TO BE USED ONLY FOR ELEMENTARY AND SECOND-  
8 ARY SCHOOL SUPPORT SERVICES, SCHOOL NURSES, SCHOOL SOCIAL WORK-  
9 ERS, AND SCHOOL PSYCHOLOGISTS.

10 (7) NOT LATER THAN 7 DAYS BEFORE THE TAX AMNESTY PERIOD  
11 DESCRIBED IN SUBSECTION (2) BEGINS, THE DEPARTMENT OF TREASURY  
12 SHALL NOTIFY, IN WRITING, ALL TAXPAYERS WHO COULD BENEFIT FROM  
13 THE TAX AMNESTY PROGRAM DESCRIBED IN THIS SECTION. THE NOTIFICA-  
14 TION SHALL INCLUDE A COMPLETE DESCRIPTION OF THE TAX AMNESTY PRO-  
15 GRAM AND ITS REQUIREMENTS AND BENEFITS.

16 (8) NOT LATER THAN 7 DAYS BEFORE THE TAX AMNESTY PERIOD  
17 DESCRIBED IN SUBSECTION (2) BEGINS, THE DEPARTMENT OF TREASURY  
18 SHALL ESTABLISH A TOLL-FREE TELEPHONE SERVICE TO ANSWER QUESTIONS  
19 ABOUT THE TAX AMNESTY PROGRAM AND ITS REQUIREMENTS AND BENEFITS.

20 (9) A STATE ELECTED OFFICIAL SERVING AFTER JUNE 27, 1999  
21 SHALL NOT UTILIZE THE TAX AMNESTY PROGRAM DESCRIBED IN THIS ACT.

22 (10) THE COMMISSIONER SHALL NOT WAIVE CRIMINAL AND CIVIL  
23 PENALTIES UNDER SUBSECTION (2) FOR TAXES ATTRIBUTABLE TO INCOME  
24 DERIVED FROM A CRIMINAL ACT OR FOR A PERSON WHO HAS BEEN CON-  
25 VICTED OF A FELONY UNDER THIS ACT OR THE INTERNAL REVENUE CODE OF  
26 1986.