# HOUSE BILL NO. 5138

October 28, 2025, Introduced by Reps. McKinney, Tisdel, Wooden, Kuhn and Roth and referred to Committee on Economic Competitiveness.

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 the title and sections 13, 19, and 30a (MCL 205.13, 205.19, and 205.30a), the title and section 13 as amended by 2006 PA 615, section 19 as amended by 2011 PA 76, and section 30a as amended by 2018 PA 553.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

TITLE

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 prescribe its powers and duties if an agreement to act as agent for a county or local unit of government to administer, collect, and enforce an accommodations tax on behalf of a county or local unit of government is entered into with any**

**county or local unit of government**; 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.

Sec. 13. (1) The department ~~of treasury~~ shall administer and enforce the following laws and ~~shall succeed~~ **succeeds** to and is vested with all of the powers, duties, functions, responsibilities, and jurisdiction now or hereafter conferred ~~upon~~ **on** the following:

(a) State board of tax administration, by the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, and by the use tax act, 1937 PA 94, MCL 205.91 to 205.111.

(b) Auditor general, by 1905 PA 282, MCL 207.1 to 207.21, and by the Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256.

(c) State tax commission, by 1929 PA 48, MCL 205.301 to 205.317.

(d) State tax commission, by section 61524 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61524.

(e) The ~~department shall succeed to and is vested with all powers, duties, functions, responsibilities, and jurisdiction of the~~ attorney general, ~~over~~ **with respect to** the collection of all past due money and accounts that are owing to ~~the~~ **this** state ~~of Michigan~~ or any department, commission, or institution of this state, **as** vested in the attorney general by 1927 PA 375, MCL 14.131 to 14.134.

**(2)** ~~(f) For~~ **With respect to** cities that enter into an agreement with the department ~~of treasury pursuant to~~ **under** section 9 of chapter 1 of the city income tax act, 1964 PA 284, MCL

141.509, the department ~~of treasury~~ is vested with all the powers, duties, functions, responsibilities, and jurisdiction to administer, collect under, and enforce the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, as provided in the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, and the agreement. The department ~~of treasury~~ shall not charge to or collect from a taxpayer any amount not otherwise authorized by law in conjunction with the collection of the tax pursuant to an agreement ~~entered into~~ under section 9 of chapter 1 of the city income tax act, 1964 PA 284, MCL 141.509.

**(3) With respect to counties and local units of government that enter into an agreement with the department as required under section 2d of the essential services tax enabling act, 1974 PA 263, MCL 141.862d, the department is vested with all the powers, duties, functions, responsibilities, and jurisdiction to administer, collect under, and enforce the essential services tax enabling act, 1974 PA 263, MCL 141.861 to 141.867, and the agreement. The department shall not charge to or collect from a taxpayer any amount not otherwise authorized by law in conjunction with the collection of tax pursuant to an agreement under section 2d of the essential services tax enabling act, 1974 PA 263, MCL 141.862d.**

**(4)** ~~(2)~~ The department of **health and** human services and its designees are vested with all of the powers, duties, functions, responsibilities, and jurisdiction of the department ~~of treasury~~ under this act for the enforcement, investigation, and collection of support owed to this state.

**(5)** ~~(3)~~ Except as otherwise provided in this act, each state officer, department, board, commission, or agency from time to time shall forward to the department ~~of treasury~~ statements of all delinquent and past due money, specific taxes, and accounts owing or belonging to this state, or any officer, department, board, commission, or agency of this state together with any information necessary to enable the department to carry out the purposes of this act. The department shall do all of the following:

(a) Keep an accurate record and account of all of the statements.

(b) Enforce payment and collection of the money, specific taxes, or accounts.

(c) Keep an accurate account of all money, specific taxes, or accounts collected.

(d) Report monthly all collections made to the officer, department, board, commission, or agency to which the indebtedness was incurred.

(e) Pay monthly to the state treasurer all money collected unless otherwise provided by law.

**(6)** ~~(4)~~ The department of **health and** human services or its designee authorized under subsection ~~(2)~~ **(4)** to collect support owed to this state may settle and compromise claims and accounts and receive and issue receipts for collections and payments, subject to the authority granted to it by the social security act, 42 USC 301 to ~~1397jj,~~ **1397mm,** the office of child support act, 1971 PA 174, MCL 400.231 to 400.240, and the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

Sec. 19. (1) All remittances of taxes administered by this act shall be made to the department payable to the state of Michigan by bank draft, check, cashier's check, certified check, money order, cash, or electronic funds transfer. The money received ~~shall~~ **must** be credited as provided by law. A remittance other than cash or electronic funds transfer ~~shall~~ **is** not ~~be~~ a final discharge of liability for the tax assessed and levied until the instrument remitted has been honored. The department may accept major credit cards or debit cards, or both, for payment. For taxes paid by credit or debit card, or both, the department may add a processing fee ~~; however, the fee shall~~ **that does** not exceed the charges that ~~the~~ **this** state incurs because of the use of the credit or debit card, or both.

(2) ~~For reporting periods beginning after August 31, 1991, a~~ **A** taxpayer other than a city or a county who paid in the immediately preceding calendar year an average of $40,000.00 or more per month in income tax withholding pursuant to the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.713,~~ **206.847,** shall deposit Michigan income tax withholding either in the same manner and according to the same schedule as deposits of federal income tax withholding or in another manner that has been approved by the department.

(3) For failure to remit a tax administered by this act with a negotiable remittance, the ~~following penalty~~ **department** may ~~be added~~ **add**, in addition to any other penalties imposed by this act, ~~:~~

~~(a) For notices of intent to assess issued on or before February 28, 2003, 25% of the tax due.~~

~~(b) For notices of intent to assess issued after February 28, 2003,~~ **a penalty of** $50.00.

(4) The department may require that all money collected by the taxpayer for taxes administered by this act that has not been paid to the department is public money and the property of this state, and ~~shall~~ **must** be held in trust in a separate account and fund for the sole use and benefit of this state until paid over to the

department.

(5) For tax years ~~after the 1995 tax year~~ for which taxes are collected ~~under~~ **pursuant to** an agreement ~~entered into pursuant to~~ **under** section 9 of chapter 1 of the city income tax act, 1964 PA 284, MCL 141.509, if a taxpayer pays, when filing ~~his or her~~ **an** annual return, an amount less than the sum of the declared tax liability under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, and the declared tax liability under the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.713,~~ **206.847,** and ~~if there is no indication of the allocation of~~ **does not indicate how to allocate the** payment between ~~the~~ **these** tax liabilities, ~~against which the payment should be applied,~~ **the department shall first apply** the amount paid ~~shall first be applied~~ against the taxpayer's tax liability under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, and **shall apply** any remaining amount ~~of the payment shall be applied~~ to the taxpayer's tax liability under the income tax act of 1967, 1967 PA 281, MCL 206.1 to ~~206.713.~~ **206.847.** The taxpayer's designation of a payee on a payment is not a dispositive determination of the allocation of that payment under this subsection.

**(6) For tax years for which taxes are collected pursuant to an agreement under section 2d of the essential services tax enabling act, 1974 PA 263, MCL 141.862d, if the taxpayer pays, when filing a return, an amount less than the sum of the declared tax liability under the essential services tax enabling act, 1974 PA 263, MCL 141.861 to 141.867, and the declared tax liability under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and does not indicate how to allocate the payment between these tax liabilities, the department shall first apply the amount paid against the taxpayer's**

**tax liability under the essential services tax enabling act, 1974 PA 263, MCL 141.861 to 141.867, and shall apply any remaining amount to the taxpayer's tax liability under the use tax act, 1937 PA 94, MCL 205.91 to 205.111. The taxpayer's designation of a payee on a payment is not a dispositive determination of the allocation of that payment under this subsection.**

Sec. 30a. (1) If a taxpayer claims a refund that the department determines is valid as provided in section 30(2), and the department identifies a liability of the taxpayer described in subsection (2), the department shall first apply the amount of the refund as provided in subsections (2) and (3), and the excess, if any, ~~shall~~ **must** be refunded or credited as provided in section 30.

(2) The amount of a refund described in subsection (1) ~~shall~~ **must** be applied to the following in the order of priority stated:

(a) Any other known tax liability of the taxpayer to this state.

(b) Any other known liability of the taxpayer to this state, including a liability to pay support if the right to receive the support has been assigned to ~~the~~ **this** state and the liability is the basis of a request for tax refund offset from the office of child support.

(c) Any of the following in the order of priority received, unless otherwise provided by law:

(*i*) A support liability of the taxpayer that is the basis of a request for tax refund offset from the office of child support, other than as provided by subdivision (b).

(*ii*) A writ of garnishment or other valid court order issued by a court of competent jurisdiction and directed to this state or the state treasurer to satisfy a liability of the taxpayer.

(*iii*) A known city income tax liability for a tax administered by the department ~~through~~ **pursuant to** an agreement ~~entered into~~ under section 9 of chapter 1 of the city income tax act, 1964 PA 284, MCL 141.509.

(*iv*) A levy of the ~~internal revenue service~~ **Internal Revenue Service** to satisfy a liability of the taxpayer.

(*v*) A liability to repay benefits obtained under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, to which the taxpayer was not entitled, ~~upon~~ **on** a request for tax refund offset from the Michigan unemployment insurance agency.

**(*vi*) A known excise tax liability for an excise tax administered by the department pursuant to an agreement under section 2d of the essential services tax enabling act, 1974 PA 263, MCL 141.862d.**

(3) If the claim for refund is reflected on a joint tax return, the department shall allocate to each joint taxpayer ~~his or her~~ **that taxpayer's** share of the refund. The amount allocated to each taxpayer ~~shall~~ **must** be applied to ~~his or her~~ **that taxpayer's** respective liabilities in the order of priority stated in subsection (2).

(4) If the department determines that all or a portion of a refund claimed on a joint tax return is subject to application to a liability of an obligated spouse, the department shall notify the joint taxpayers by first class mail sent to the address shown on the joint return. The notice ~~shall~~ **must** be accompanied by a nonobligated spouse allocation form. The notice ~~shall~~ **must** state all of the following:

(a) That all or a portion of the refund claimed by the joint taxpayers is subject to interception to satisfy a liability or liabilities of 1 or both spouses.

(b) The nature of the other liability or liabilities and the name of the obligated spouse or spouses.

(c) That a nonobligated spouse may claim ~~his or her~~ **that spouse's** share of the refund by filing a nonobligated spouse allocation form with the department ~~of treasury~~ not ~~more~~ **later** than 30 days after the date the notice was mailed.

(d) A statement of the penalties under subsection (7).

(5) A nonobligated spouse who wishes to claim ~~his or her~~ **that spouse's** share of a tax refund shall file with the department a nonobligated spouse allocation form. The nonobligated spouse allocation form ~~shall~~ **must** be in a form specified by the department and ~~shall~~ **must** require the spouses to state the amount of income or other tax base and all adjustments to the income or other tax base, including all subtractions, additions, deductions, credits, and exemptions, stated on their joint income tax return or other joint tax return that is the basis for the claimed refund, and an allocation of those amounts between the obligated and nonobligated spouse. In allocating these amounts, all of the following apply:

(a) A federal deduction for 2-income married persons ~~shall~~ **must** be allocated to the spouse with the lower income who claims the deduction.

(b) Individual income ~~shall~~ **must** be allocated to the spouse who earned the income. Joint income ~~shall~~ **must** be allocated equally between the spouses. The tax base appropriate to tax other than income tax ~~shall~~ **must** be similarly allocated.

(c) Each spouse ~~shall~~ **must** be allocated the personal exemptions ~~he or she~~ **that spouse** would be entitled to claim if separate federal returns had been filed, except that dependency exemptions ~~shall~~ **must** be prorated according to the relative income of the spouses.

(d) Adjustments resulting from a business ~~shall~~ **must** be allocated to the spouse who claimed income from the business.

(e) A homestead property tax credit ~~shall~~ **must** be allocated to the spouse who owned the title or held the leasehold interest in the property claimed as a homestead. A homestead property tax credit for property jointly owned or leased ~~shall~~ **must** be allocated jointly between the spouses.

(f) Ownership of other assets relevant to the allocation ~~shall~~ **must** be disclosed ~~upon~~ **on** request of the department.

(6) A nonobligated spouse allocation form ~~shall~~ **must** be signed by both joint taxpayers. However, the form may be submitted without the signature of the obligated spouse if ~~his or her~~ **that spouse's** signature cannot be obtained. The nonobligated spouse shall certify that ~~he or she~~ **the nonobligated spouse** has made a ~~good faith~~ **good-faith** effort to obtain the signature and shall state the reason that the signature was not obtained.

(7) A person who knowingly makes a false statement on a nonobligated spouse allocation form ~~shall be~~ **is** subject to a penalty of $25.00 or 25% of the excessive claim for ~~his or her~~ **that person's** share of the refund, whichever is greater, and other penalties as provided in this act.

(8) A nonobligated spouse to whom the department has sent a notice under subsection (4), who fails to file a nonobligated spouse allocation form within 30 days after the date the notice was mailed, ~~shall be~~ **is** barred from commencing any action against this state or the state treasurer to recover an amount withheld to satisfy a liability of the obligated spouse to which a joint tax

refund is applied under this section. The payment by this state of any amount applied to a liability of a taxpayer under this section ~~shall release~~ **releases** this state and the state treasurer from all liability to the obligated spouse, the nonobligated spouse, and any other person having or claiming any interest in the amount paid.

(9) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement this section. The rules ~~shall~~ **must** include a procedure for assuring that a taxpayer subject to application of a refund under this section and section 30 has received or will receive notice and an opportunity for a hearing with respect to the liability to which the refund is to be applied.

(10) As used in this section:

(a) "Nonobligated spouse" means ~~a person~~ **an individual** who has filed a joint income tax return or other joint state tax return and who is not liable for an obligation of ~~his or her~~ **the individual's** spouse described in subsection (2).

(b) "Obligated spouse" means ~~a person~~ **an individual** who has filed a joint income tax return or other joint state tax return and who is liable for an obligation described in subsection (2) for which ~~his or her~~ **the individual's** spouse is not liable.

(c) "Office of child support" means the agency created in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) House Bill No. 5139 (request no. H04186'25).

(b) House Bill No. 5140 (request no. H04187'25).