

Taxation: administration; calculation of interest and penalties related to the issuance of certain refunds; provide for.
Taxation: administration; Individual income tax: refunds; State agencies (existing): treasury;

SENATE BILL NO. _____

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 30 (MCL 205.30), as amended by 2016 PA 267.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30. (1) The department shall credit or refund an
2 overpayment of taxes; taxes, penalties, and interest erroneously
3 assessed and collected; and taxes, penalties, and interest that are
4 found unjustly assessed, excessive in amount, or wrongfully
5 collected with interest at the rate calculated under section 23 for
6 deficiencies in tax payments.

7 (2) A taxpayer who paid a tax that the taxpayer claims is not
8 due may petition the department for refund of the amount paid
9 within the time period specified as the statute of limitations in
10 section 27a. If a tax return reflects an overpayment or credits in
11 excess of the tax, the declaration of that fact on the return
12 constitutes a claim for refund. If the department agrees the claim
13 is valid, the amount of overpayment, penalties, and interest shall
14 be first applied to any known liability as provided in section 30a,
15 and the excess, if any, shall be refunded to the taxpayer or
16 credited, at the taxpayer's request, against any current or
17 subsequent tax liability. Except claims for refunds, other than
18 those made under part 1 of the income tax act of 1967, 1967 PA 281,
19 MCL 206.1 to 206.532, that have not been approved, denied, or
20 adjusted within 1 year of the date received may be treated as
21 denied at the election of the taxpayer, and may be appealed by the
22 taxpayer in accordance with section 22.

23 (3) The department shall certify a refund to the state



1 disbursing authority who shall pay the amount out of the proceeds
 2 of the tax in accordance with the accounting laws of the state.
 3 Interest at the rate calculated under section 23 for deficiencies
 4 in tax payments regarding those refunds shall be added to the
 5 refund commencing ~~45~~**30** days after the claim is filed or ~~45~~**30** days
 6 after the date established by law for the filing of the return,
 7 whichever is later. Interest on refunds intercepted and applied as
 8 provided in section 30a shall cease as of the date of interception.
 9 Refunds for amounts of less than \$1.00 shall not be paid.

10 (4) Beginning January 1, 2014 **through December 31, 2024**, in
 11 addition to and separate from the interest added to a refund under
 12 subsection (3), for refunds for taxes imposed under part 1 of the
 13 income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the
 14 state disbursing authority shall add interest to refunds that are
 15 not paid within 1 of the following dates for the applicable tax
 16 year:

17 (a) May 1, for returns received by the department on or before
 18 March 1 of the applicable tax year.

19 (b) Sixty days from the date the return was received by the
 20 department for returns received by the department after March 1 of
 21 the applicable tax year.

22 (5) Interest described in subsection (4) shall be paid at a
 23 rate of 3% per annum, calculated from the date the original return
 24 was due under section 315(1) of the income tax act of 1967, 1967 PA
 25 281, MCL 206.315, and until a date preceding the date of the refund
 26 by not more than 7 days, if all of the following conditions are
 27 met:

28 (a) The refund is due on an original return which was timely
 29 filed under section 315(1) of the income tax act of 1967, 1967 PA



1 281, MCL 206.315.

2 (b) The refund is not adjusted by the department.

3 (c) The return is not subject to section 27a(3) or (4) except
4 for audit by the department.

5 (d) The return is complete for processing purposes with no
6 calculation errors and contains all required information as
7 prescribed by the department under section 315(1)(d) of the income
8 tax act of 1967, 1967 PA 281, MCL 206.315, including any state and
9 federal returns, forms, or schedules necessary to process the
10 return.

11 (e) The taxpayer who has filed a complete return under
12 subdivision (d) has complied with the department's request, if any,
13 for additional documentation or information within 30 days of that
14 request.

15 (f) No portion of the refund is subject to interception under
16 section 30a.

17 (g) The amount to be refunded is more than \$1.00.

18 **(6) Beginning January 1, 2025 and subject to subsection (7),**
19 **in addition to and separate from the interest added to a refund**
20 **under subsection (3), for refunds for taxes imposed under part 1 of**
21 **the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the**
22 **state disbursing authority shall add interest to refunds that are**
23 **not paid as follows in the following circumstances:**

24 (a) Within 30 days from the date the return was received by
25 the department, interest must be paid at 1 percentage point above
26 the adjusted prime rate per annum calculated from day 31, until a
27 date preceding the date of the refund but for not more than 30
28 days.

29 (b) Within 60 days from the date the return was received by



1 the department, in addition to the interest added under subdivision
2 (a), interest must be paid at 3 percentage points above the
3 adjusted prime rate per annum calculated from day 61, until a date
4 preceding the date of the refund but for not more than 30 days.

5 (c) Within 90 days from the date the return was received by
6 the department, in addition to the interest added under
7 subdivisions (a) and (b), \$100.00 must be added to the refund.

8 (7) Interest described under subsection (6) must not be
9 applied beginning on day 31 following the date the return was
10 received by the department if the delay is a result of the
11 department investigating a suspected fraudulent claim, needing to
12 verify identification, or finding material errors in the return, or
13 the return was not filed in a timely manner under section 315(1) of
14 the income tax act of 1967, 1967 PA 281, MCL 206.315, and the
15 department has sent a written notice to the taxpayer before day 31
16 specifying the reason for the delay. Except as otherwise provided
17 under this subsection, interest must be paid as provided under
18 subsection (6) if all of the following conditions are met:

19 (a) The refund is due on an original return which was timely
20 filed under section 315(1) of the income tax act of 1967, 1967 PA
21 281, MCL 206.315.

22 (b) The refund is not adjusted by the department.

23 (c) The return is complete for processing purposes with no
24 calculation errors and contains all required information as
25 prescribed by the department under section 315(1)(d) of the income
26 tax act of 1967, 1967 PA 281, MCL 206.315, including any state and
27 federal returns, forms, or schedules necessary to process the
28 return.

29 (d) The taxpayer who has filed a complete return under

1 subdivision (c) has complied with the department's request, if any,
2 for additional documentation or information within 30 days of that
3 request.

4 (e) The amount to be refunded is more than \$1.00.

5 (8) ~~(6) Beginning January 1, 2015, in~~ In addition to and
6 separate from the interest added to a refund under subsection (3),
7 for refunds for taxes imposed under the Michigan business tax act,
8 2007 PA 36, MCL 208.1101 to ~~208.1601,~~ **208.1519**, the state
9 disbursing authority shall add interest to refunds that are not
10 paid within 90 days after the claim is approved or 90 days after
11 the date established by law for filing the return, whichever is
12 later. Interest described in this subsection ~~shall~~ **must** be paid at
13 a rate of 3% per annum for each day the refund is not issued within
14 the time frame required in this subsection if all of the following
15 conditions are met:

16 (a) The refund is claimed on an original return which was
17 timely filed under section 505(1) of the Michigan business tax act,
18 2007 PA 36, MCL 208.1505.

19 (b) The refund is not adjusted by the department.

20 (c) The refund is not claimed by a taxpayer filing as a
21 unitary business group.

22 (d) The return is not subject to section 27a(3) or (4) except
23 for audit by the department.

24 (e) The return is complete for processing purposes with no
25 calculation errors and contains all required information as
26 prescribed by the department under section 507 or 509 of the
27 Michigan business tax act, 2007 PA 36, MCL 208.1507 and 208.1509,
28 including any state and federal returns, forms, or schedules
29 necessary to process the return.



1 (f) The taxpayer who has filed a complete return under
2 subdivision (e) has complied with the department's request, if any,
3 for additional documentation or information within 30 days of that
4 request.

5 (g) No portion of the refund is subject to interception under
6 section 30a.

7 (h) The amount to be refunded is more than \$10.00.

8 **(9)** ~~(7) Beginning January 1, 2017, the~~ **The** interest
9 calculations ~~in subsections (3), (4), (5), and (6) under this~~
10 **section** also apply to refunds of credits authorized under section
11 36109 of the natural resources and environmental protection act,
12 1994 PA 451, MCL 324.36109, for contracts that have been approved
13 and processed by the department of agriculture and rural
14 development and forwarded to the department. If the state
15 disbursing authority does not pay or refund a credit described in
16 this subsection within 45 days from the date the return was
17 received by the department, the department shall notify the
18 taxpayer of the status of the return and whether the taxpayer has
19 filed a complete return.

20 **(10) Beginning 30 days after the effective date of the**
21 **amendatory act that added this subsection, the department shall**
22 **submit a monthly report to the legislature detailing refund**
23 **processing times, backlog volumes, and the number of returns for**
24 **which additional interest and payments were required under this**
25 **section for the failure to process and issue the refund within the**
26 **specified time frames.**

27 **(11) As used in this section, "adjusted prime rate" means that**
28 **term as defined in section 23.**