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Archives of Treasury Update can be found on the website at [Michigan.gov/Treasury] *under the* ***Reports and Legal Resources*** *tab.*

Treasury Assesses Impact of Federal Tax Reform on CIT Given Additional IRS Guidance

The May 2018 edition of *Treasury Update* highlighted Treasury's preliminary conclusions on the impact of certain components of the federal Tax Cuts and Jobs Act (TCJA) on Michigan's Corporate Income Tax (CIT). At the time the May 2018 edition was issued, the IRS had not yet issued much guidance on the TCJA's impact on corporate federal taxable income. Since the CIT tax base begins with federal taxable income, changes to how federal taxable income is determined may impact a CIT taxpayer's tax base and tax liability. The IRS has since promulgated regulations and other guidance interpreting the TCJA. Consequently, Treasury can now make more definitive conclusions regarding the TCJA's effect on the CIT tax base given the current language in the CIT statute.

The TCJA changes the taxation of income U.S. corporations and their foreign subsidiaries earn internationally. The TCJA moves federal taxation of corporate income from a worldwide to a quasi-territorial basis. Prior to the TCJA, worldwide income earned by U.S. corporations and their foreign subsidiaries was subject to U.S. taxation, but generally not imposed on foreign-sourced income until distributed as dividends (or "repatriated") to the U.S. shareholder. With the TCJA, a U.S. corporation's income from foreign subsidiaries is taxed based on the location where the income is derived regardless if distributed as dividends. The TCJA's provisions regarding foreign-sourced income most relevant to the CIT are: (1) the deemed repatriation of accumulated deferred post-1986 foreign-sourced earnings and profits; (2) the taxation of Global Intangible Low-Tax Income (GILTI); and (3) the taxation of Foreign Derived Intangible Income (FDII).

Deemed Repatriated Income

The TCJA amended IRC 965 to require a U.S. shareholder that owns 10% or more of a specified foreign corporation (generally, a controlled foreign corporation (CFC)) to pay a one-time transition (or deemed repatriation) tax on its pro rata share of previously untaxed post-1986 earnings and profits of the specified foreign corporation. The deemed repatriation

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Recently Issued Guidance from Treasury

Letter Rulings

2019-2: Eligibility for sales and use tax exemption for implantable medical devices sold to for-profit medical facilities. Published August 15, 2019

Revenue Administrative Bulletins (RAB) and Letter Rulings can be found on the website at **Michigan.gov/Treasury** *under the* ***Reports and Legal Resources*** *tab.*

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applies to each applicable specified foreign corporation's taxable year beginning before January 1, 2018, but the U.S shareholder may pay the transition tax over an eight-year period. The deemed repatriated income is includable in the U.S. shareholder's gross income as an increase in subpart F income. In IRS Publication 529, the IRS instructed taxpayers, however, to compute and report their repatriation income separately and to pay the computed amount as a separate tax payment.

Although the deemed repatriated income tax is computed and reported separately, Treasury concludes that the income is included as federal taxable income like subpart F income under IRC 952. Subsection 623(2)(d) of the CIT statute currently provides that a U.S. corporation, in determining its CIT tax base, deducts dividends received from non-U.S. persons and foreign operating entities, including, but not limited to, amounts determined under sections 951 to 964 of the IRC, to the extent such dividends are included in federal taxable income. Sections 951 to 964 govern the federal income tax treatment of subpart F income. The TCJA provides that the deemed repatriated income in IRC 965 is added to subpart F. Therefore, Treasury concludes that such income is within the ambit of the foreign dividends received deduction in subsection 623(2)(d), even though IRC 965 falls outside the range of sections 951 to 964 currently referenced in the statute. Accordingly, a CIT taxpayer subtracts the deemed repatriated income included in its federal taxable income when determining its 2017 CIT tax base.

GILTI

The TCJA also created a new category of income -- global intangible low-taxed income (GILTI). GILTI is effectively a U.S. shareholder's CFC income that exceeds a presumed 10% return on the CFC's tangible personal property. GILTI is included in a taxpayer's federal gross income on a current basis, irrespective of whether the CFC distributed the income to the U.S. shareholder.

Although not specifically defined as subpart F income, GILTI is intended to further the same policy that underlies the taxation of subpart F income -- limiting the use of low-tax jurisdictions to indefinitely defer U.S. tax on certain foreign-sourced earnings. Accordingly, while not defined as subpart F income, GILTI is treated like subpart F income for certain federal tax purposes. For tax years beginning after December 31, 2017, a U.S. shareholder must include its GILTI in gross income regardless if distributed as dividends. Therefore, Treasury concludes that like subpart F income, a CIT taxpayer's GILTI income is subtracted from federal taxable income when determining CIT tax base.

GILTI is subjected to a lower effective tax rate than the 21% rate on other corporate income. The lower effective tax rate is derived indirectly through a 50% deduction of the calculated GILTI income determined

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under IRC 250. Since GILTI is excluded from the CIT tax base "to the extent included in federal taxable income" under subsection 623(2)(d) of the CIT, it is the ***net*** amount of a CIT taxpayer's GILTI reflected in its federal taxable income that is deducted when determining CIT tax base. A CIT taxpayer's net GILTI income for CIT purposes is its calculated GILTI income less its calculated GILTI deduction under IRC 250. Instructions for the CIT return and upcoming Treasury guidance will describe in more detail how to deduct net GILTI in calculating CIT tax base.

FDII

The TCJA also provides special tax treatment of so-called foreign-derived intangible income (FDII). FDII is deemed intangible income of a U.S. corporation derived from property sold to non-U.S. persons and services provided to property located outside the U.S. Like the GILTI deduction, the FDII deduction is also governed under IRC 250, and is similarly designed to derive a lower rate of taxation on such income.

While GILTI is the "stick" devised to discourage shifting investment abroad, FDII is the "carrot" aimed at encouraging sales of goods and services to foreign customers directly through U.S. operations. GILTI and FDII may be considered complementary components of the TCJA's underlying policy regarding taxation of income from international operations. However, unlike GILTI, which is effectively foreign-sourced income attributed to a U.S. shareholder, FDII is income earned directly by the U.S. corporation for sales outside the U.S. Therefore, the FDII deduction is not governed by the foreign dividends received deduction under subsection 623(2)(d), and there is currently no provision in the CIT statute that requires a taxpayer's FDII deduction to be added back when calculating CIT tax base.

Treasury will issue further guidance explaining how taxpayers should reflect changes in federal tax base into their Michigan income tax liabilities and will continue to monitor federal guidance and other developments to provide supplemental information to taxpayers on its impact.

Drafting Administrative Rules Regulating Taxation of Adult-Use and Medical Marihuana

On November 6, 2018, Michigan voters approved a ballot initiative that legalized the recreational use and possession of marihuana for adults 21 years of age and older and enacted a 10 percent excise tax on retail marihuana sales. The law is called the Michigan Regulation and Taxation of Marihuana Act (MRTMA). The 10 percent excise tax will be administered by Treasury.

To implement the excise tax, Treasury drafted 2 proposed rules identified as the "Taxation of Adult-Use (Recreational) Marihuana Rules." The proposed rules define the term "sales price" and clarify the tax treatment of retail marihuana sales made in violation of the no-bundling provision, which states that taxable marihuana "[m]ay not be bundled in a single transaction with a product or service" that is not subject to the 10% excise tax.

Treasury has also drafted a rule to be added to the General Sales and Use Tax Rules that clarifies that retail sales of recreational and medical marihuana are not exempt from taxation under the General Sales Tax Act or the Use Tax Act as food or prescription drugs.

A public hearing regarding these rules has been scheduled for Wednesday, September 25, from 1:30 to 3:30, in the State Treasurer's Board Room, Austin Building, 430 W. Allegan St., Lansing, MI 48922.

Information on these proposed rules can be found on the Michigan Office of Administrative Hearings and Rules (MOAHR) website: https://dtmb.state.mi.us

Treasury Reviewing Sales and Use Tax Administrative Rules

Treasury has over 80 sales and use tax rules in the Michigan Administrative Code. Some of those rules are in need of rescission due to changes in the law from either court cases or statutes. Others need to be updated in whole or in part for the same reasons. Therefore, in 2018, Treasury began a comprehensive review of all the sales and use tax rules, proposing rescissions and revisions along the way. Treasury expects to share drafts of a leaner and more current sales and use tax rule set with its stakeholders in the first half of 2020.

Court of Appeals Upholds Audit in *Jim's Body Shop, Inc v Department of Treasury*

In *Jim's Body Shop, Inc v Department of Treasury*, a published decision of the Court of Appeals issued on May 14, 2019, the court upheld an assessment of tax, penalty, and interest against Jim's Body Shop (JBS) and reaffirmed that an assessment arising from a sales or use tax audit is entitled to a presumption of correctness when taxpayers fail to maintain adequate records.

JBS is an auto body shop that primarily provides auto body and collision repair services for insurance companies. During the use tax audit at issue, Treasury determined that JBS failed to preserve fundamental tax records, JBS failed to file complete sales, use, and withholding tax returns reporting its taxable activity, and failed to retain purchase invoices and other records that would substantiate activity taxable under the Use Tax Act (UTA). With only limited information available, Treasury therefore calculated total taxable activity by estimating the markup that JBS applied to all of its purchases. The markup, which was computed using all purchase invoices that JBS could produce, was subsequently used to estimate the taxable purchases consumed by JBS in rendering auto repair services.

Although sales and use tax audits are entitled to a presumption of correctness under the plain language of Section 14a(4) of the UTA, JBS argued that Treasury had the burden of showing reasonableness before any such presumption could apply. In rejecting this argument, the Court of Appeals first noted that MCL 205.104a(4) allocates the burden of proof in a way that requires the taxpayer to prove actual inaccuracy in the audit. While that section requires reasonableness in the *performance* of the audit, the court held that the requirement is not a prerequisite to applying the presumption of correctness to the audit conclusion. In other words, a claim that an audit method was unreasonable, unsupported by proof that such unreasonableness resulted in actual inaccuracy, is not sufficient as a matter of law to meet the statutory burden in challenging an indirect audit conducted in accordance with MCL 205.104a(4).

Within this context, the Court of Appeals examined the factual allegations and concluded that JBS failed to prove that the audit was actually inaccurate. Indeed, although JBS cited to certain instructions related to statistical sampling to claim impropriety in the sample that was used, the court noted that Treasury did not rely on a traditional sample; rather, it used the limited – and only – information that JBS could produce from its own records. And, while JBS produced competing computations of the markup and the resulting tax liability, they were not any more reliable since those computations were simply alternative methods rather than proof of actual inaccuracies in Treasury's calculation. Because JBS could not prove any inaccuracy due to the limited records it had actually retained, the Court of Appeals agreed that JBS could not rebut the presumption of correctness applied to Treasury's assesssment.

In reaching that conclusion, the Court of Appeals also agreed with the denial of an industrial processing exemption claim for purchases of equipment and other materials used by JBS in its auto body repair operations. The court noted that, by definition, the industrial processing exemption requires an ultimate sale of tangible personal property at retail. However, applying the test of *Catalina Marketing Sales Corp v Department of Treasury,* 470 Mich 13 (2004), JBS was determined to be a servicer, rather than a retailer of tangible personal property, when it performed auto body and collision repairs for customers and insurance companies. JBS was accordingly not eligible for the industrial processing exemption under the UTA for any of its purchases.

Finally, given the absence of even basic financial and tax records, Treasury imposed a negligence penalty under MCL 205.23(3) for the failure to exercise ordinary care. The owner of JBS testified that he was not aware of any of the company's tax reporting procedures and could not state whether returns for the tax periods at issue had actually been filed. Combined with the failure to retain basic financial documentation and otherwise file accurate returns, the Court of Appeals agreed that JBS exhibited a lack of ordinary due care sufficient to justify the imposition of the negligence penalty.

Consequently, the Court of Appeals affirmed the decision of the Court of Claims upholding the assessment of tax, penalty, and interest against JBS as a result of the use tax audit performed by Treasury.

About *Treasury Update*

Treasury Update is a periodic publication of the Tax Policy Division of the Michigan Department of Treasury.

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Statement of Acquiescence/ Non-Acquiescence Regarding Certain Court Decisions

In each issue of the quarterly Treasury Update, Treasury will publish a list of final (unappealed), non-binding, adverse decisions issued by the Court of Appeals, the Court of Claims and the Michigan Tax Tribunal, and state its acquiescence or non-acquiescence with respect to each. "Acquiescence" means that Treasury accepts the holding of the court in that case and will follow it in similar cases with the same controlling facts. However, "acquiescence" does not necessarily indicate Treasury's approval of the reasoning used by the court in that decision. "Non-acquiescence" means that Treasury disagrees with the holding of the court and will not follow the decision in similar matters involving other taxpayers.

ACQUIESCENCE:
No cases this quarter

NON-ACQUIESCENCE:
No cases this quarter

Tips for Using Treasury's Power of Attorney Form 151

Recently, Treasury released a revised and simplified Authorized Representative Declaration (Power of Attorney) form (Form 151). The new form incorporated a number of user-friendly changes, which included separating the Taxpayer Name/Address into two separate fields. Like older versions of the form, the updated Form 151 is intended to be used by taxpayers to authorize Treasury to communicate with a named individual or entity who has authority to act on the taxpayer's behalf. Although the simplified form is a single page and largely self-explanatory, it is important that taxpayers fill it out completely and correctly. Following are a few useful completion tips to ensure that the Form 151, as submitted to Treasury, reflects the taxpayer's intentions.

1. Read the instructions. While a page of instructions may seem unnecessary for a one-page form, authorizing someone to act as a representative is an important matter, and subtleties exist between the different types of authorization that can be elected. The instructions explain parts of the form that are commonly overlooked or misunderstood. In addition, Frequently Asked Questions regarding Form 151, a helpful video, and examples of completed forms can be found on Treasury's website at https://www.michigan.gov/taxes/0,1607,7-238-43549-156184--,00.html.

2. Required information is required. Certain boxes on Form 151 include the word "required." Typically, information is "required" because Treasury needs it in order to communicate effectively with the taxpayer. For example, a daytime phone number for the taxpayer is "required" information. If a box includes the word "required," the indicated information must be provided. If a box does not contain the required information, the form will be considered invalid, it will be rejected by Treasury, and the taxpayer will be notified of the rejection by letter.

3. Designation of an entity versus an individual. Form 151 permits a taxpayer to appoint either a specific individual or an entity (such as an accounting or law firm) as its authorized representative. If an entity's name is filled in as the "Authorized Representative" in Part 3 of the form, any individual within that firm is authorized to act on the taxpayer's behalf. For example, if XYZ Law Firm is appointed as the representative, any attorney or paralegal from that firm is authorized to represent the taxpayer. If an entity is appointed as the representative, a "contact person" associated with that entity must also be named. While the entity itself is the taxpayer's authorized representative, identifying a contact person ensures that information sent by Treasury to the entity is directed to the person overseeing the taxpayer's representation. To appoint an entity, the name and address box should be filled in as follows (for example)

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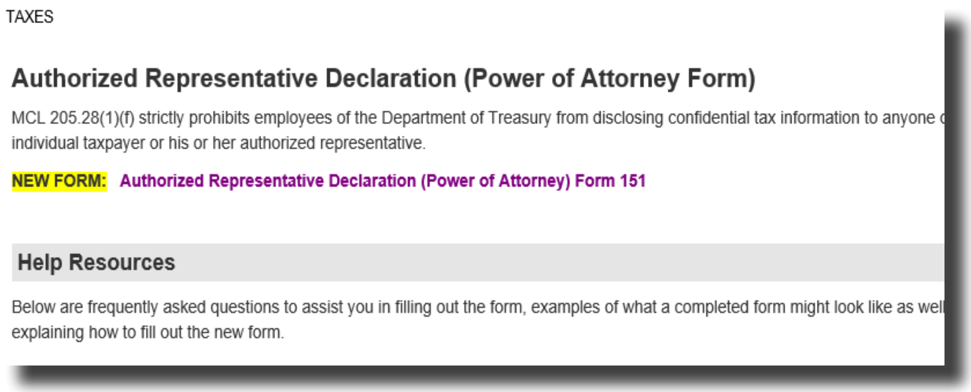
XYZ Law Firm
1234 Street
City, State, ZIP Code

If a specific individual's name is filled in as the "Authorized Representative" in Part 3 of the form, then only that individual is authorized to act on the taxpayer's behalf. This means that Treasury will not discuss with or disclose information to any other person at that firm. It also means that that individual remains the appointed representative, even if that individual leaves the firm identified in the form. Should that occur, the taxpayer should submit an updated Form 151 as soon as possible, with the individual representative's new address and other contact information. To appoint an individual, the name and address box should be filled in as follows (for example):

Lynn Lee
XYZ Law Firm
1234 Street
City, State, ZIP Code

4. Revocation of authority. Section 2 of the updated Form 151 permits a taxpayer to revoke the authority of any representative that the taxpayer may previously have appointed. It is important to understand, however, that the submission of Form 151 does not automatically revoke the authority of a previously appointed representative, unless Section 2 has been completed. If a taxpayer has an existing Form 151 on file, then names a new representative by submitting a new Form 151 but leaves Part 2 of that form blank, both persons or entities named are authorized to represent the taxpayer. The information from the new Form 151 will be added to the taxpayer's account, in addition to the information from the existing Form 151.

Treasury wants to ensure that the Forms 151 submitted by taxpayers accurately reflect their intentions regarding representation. If you have additional questions about completing Form 151, please direct them to the Office of the Taxpayer Advocate at **taxpayeradvocate@michigan.gov.**


TAXES

Authorized Representative Declaration (Power of Attorney Form)

MCL 205.28(1)(f) strictly prohibits employees of the Department of Treasury from disclosing confidential tax information to anyone o
individual taxpayer or his or her authorized representative.

NEW FORM: Authorized Representative Declaration (Power of Attorney) Form 151

Help Resources

Below are frequently asked questions to assist you in filling out the form, examples of what a completed form might look like as well
explaining how to fill out the new form.

Vehicle Transfers May Be Subject to Equalization Tax

Use tax is imposed for the privilege of using, storing or consuming tangible personal property in Michigan. MCL 205.93(1). Therefore, when a used vehicle, off-road vehicle (ORV), manufactured home, aircraft, snowmobile, or watercraft is transferred between non-dealers, absent a valid exemption, the transferee or purchaser owes use tax based on 6% of the purchase price.

Unfamiliar to many taxpayers is a potential additional tax under the Streamlined Sales and Use Tax Revenue Equalization Act (the "equalization tax"). MCL 205.171 et seq. Section 9 of that act, MCL 205.197, imposes a tax on the privilege of storing, registering, or transferring ownership in Michigan of any vehicle (other than a vehicle stored, registered, or transferred by a licensed dealer), ORV, manufactured home, snowmobile, watercraft or certain aircraft. Tax is levied on the transferee at a rate of 6% of the retail dollar value at the time of acquisition as determined by Treasury. In addition, the act provides a credit for any use tax paid on the same property. As a result, use tax is imposed on the actual purchase price and, to the extent the retail dollar value of property exceeds the purchase price, equalization tax is imposed effectively on the difference.

Although use and equalization taxes are sometimes collected by other state agencies, Treasury is responsible for administering them. If Treasury determines that tax was not paid on the appropriate value, it may send a letter to a buyer to obtain more information about a vehicle purchase and its value. For more information about how Treasury establishes the retail dollar value and how a taxpayer can rebut that determination, see Revenue Administrative Bulletin 2017-26.

State Tax Liens - Everything You Wanted to Know, but Were Afraid to Ask

A lien is a charge against or interest in specific property that is taken as security for the satisfaction of a debt. A lien may be voluntarily created by agreement of the parties, or it may arise by operation of statute. An example of a voluntary lien is the interest that a mortgage creates upon a homeowner's house in favor of the mortgage lender. Tax liens, on the other hand, generally arise by operation of law, and that is the case with state tax liens in Michigan.

Notices of state tax liens are filed for public recording by the Michigan Department of Treasury. The reason that Michigan law provides for the creation of liens with respect to tax debts is to protect the State's interest as a creditor – in other words, to ensure that legitimate tax debts are paid. The filing of a state tax lien does not mean that Treasury will immediately seize a taxpayer's property. Rather, a state tax lien gives Treasury a legal right or interest in a debtor's property, typically lasting until the underlying tax debt is fully paid. If the liened property is sold before the tax debt has been satisfied, the proceeds otherwise due the debtor from the sale will be applied first to pay off the tax debt. Tax liens may be filed against property that is owned by either individual or business taxpayers.

A lien is different from a levy or a warrant. As noted, a lien is a legal claim against the property of an individual or a business to secure payment of that taxpayer's tax debt. Levies and warrants are generally used later in the collection process, when a taxpayer has failed to resolve its tax debt through voluntary payment. Levies and warrants are ways of seizing a delinquent taxpayer's actual property to satisfy the underlying tax debt. A warrant may be used to close a taxpayer's business and to seize the taxpayer's real or personal property. A levy is a specialized form of warrant and is generally used to withdraw funds from a taxpayer's account at a financial institution.

Treasury's authority to record and enforce tax liens derives from statute. State tax laws are administered pursuant to the Revenue Act (MCL 205.1-31), a statute that dictates specific procedures and processes for tax assessment and collection, as well as taxpayer appeals, that are of general applicability. The Revenue Act also creates tax liens. Section 29(1) of the Revenue Act provides, in part:

"Taxes administered under this act, together with the interest and penalties on those taxes, shall be a lien in favor of the state against all property and rights of property, both real and personal, tangible and intangible, owned at the time the lien attaches, or afterwards acquired by any person liable for the tax, to secure the payment of the tax. The lien shall attach to the property from and after the date that any report or return on which the tax is levied is required to be filed with the department …"

Although this section specifies that the lien attaches "from and after the date that any report or return on which the tax is levied is required to be filed with the department," the stated purpose of the lien is to "secure the payment of the tax." Accordingly, if the tax levied on the report or return has been paid in full, the lien does not attach to the taxpayer's property.

Although the tax lien itself arises automatically by operation of law, Treasury will not file a Notice of State Tax Lien against a taxpayer's property, making the lien a public record, unless three things have first taken place:

- The taxpayer has been assessed a tax liability;

- Treasury has sent the taxpayer a Bill for Taxes Due (Intent to Assess) and/or a Final Bill for Taxes Due (Final Assessment), stating the amount of tax owed by the taxpayer; and

- The taxpayer has failed to pay the stated tax debt in full within 35 days (90 days if the taxpayer is an individual) from the date shown on the Final Assessment.

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In general, a tax debt must be paid in full in order to avoid the filing of a Notice of State Tax Lien. However, Treasury works with taxpayers to arrange convenient payment terms, if needed. If an individual taxpayer enters into an installment agreement before 90 days from the date shown on the Final Assessment, Treasury will not file a lien notice as long as the taxpayer is current with all payments and otherwise remains in compliance with the agreement. Lien notices will be filed against business taxpayers even if an installment agreement is in place and the taxpayer payments and is current with all payments.

A Notice of State Tax Lien is filed with the Register of Deeds in the county where the taxpayer resides or, if the taxpayer is a business entity, where the business is located. If the taxpayer resides, or the business entity is located, outside of Michigan, the Notice of State Tax Lien is filed with the Ingham County Register of Deeds, pursuant to applicable law. The lien is filed by Treasury in the amount of the outstanding tax debt. The lien constitutes a charge against all property owned by the taxpayer – no property is exempt or excluded. Section 29(1) of the Revenue Act specifies that the lien arises against, and attaches to, all property then owned by the taxpayer, both real and personal, tangible and intangible, as well as to any property that the taxpayer may afterwards acquire. Note that personal property includes a taxpayer's financial assets.

Once a lien has been filed, in most cases the property subject to lien cannot be sold or transferred until the past-due tax is paid. If a debtor's property is sold for nonpayment of debt – for example, the debtor's residence is sold pursuant to foreclosure for nonpayment of mortgage debt – the proceeds are disbursed to pay creditors in the order in which those creditors placed liens on the property, or according to other statutory priority, if applicable. The Revenue Act provides that a properly filed and recorded state tax lien:

… "shall take precedence over all other liens and encumbrances, except bona fide liens recorded before the date the lien under this act is recorded. However, bona fide liens recorded before the lien under this act is recorded shall take precedence only to the extent of disbursements made under a financing arrangement before the forty-sixth day after the date of the tax lien recording, or before the person making the disbursements had actual knowledge of a tax lien recording under this act, whichever is earlier."

This means that, to the extent that a creditor advances funds to the debtor more than 46 days after the date of recording of the state tax lien, the state tax lien will have priority.

It is important to understand that this article addresses only state tax liens arising under the Revenue Act and filed for recording by Treasury; for example, liens for income taxes (both personal and corporate) and sales and use taxes. It does not address unpaid property taxes. For more information about the priority of property tax liens, see MCL 211.40.

Under applicable state law, Treasury has a minimum of six years to collect delinquent tax debts. This means that Treasury has at least six years to use any enforcement actions that it is authorized to take, including the filing of a Notice of State Tax Lien. This six-year limitations period, may be extended by certain actions, including the entry of a court judgment as well as the taxpayer's reaffirmation of the tax debt.

Once it has been filed, a state tax lien will typically only be released when the underlying tax debt has been paid in full. The release of a state tax lien means that the pertinent county records will be updated to reflect the fact that the previously recorded lien has been released, and that the state taxing authority no longer has any legal claim to or interest in the debtor's property. When the determination is made that a tax debt on which a lien has been filed has been satisfied in full, Section 29a(1) of the Revenue Act specifies that Treasury has 20 business days to file for a release of the state tax lien on the taxpayer's property. That subsection states, in part, as follows:

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"If the department files for recording a lien imposed pursuant to this act against property or rights of property under the state tax lien registration act … to satisfy a tax liability and the department determines that the tax liability out of which the lien arose is satisfied, the department shall file for recording a release regarding the property or rights of property, as applicable, … not more than 20 business days after funds to satisfy the tax liability out of which the lien arose have been applied to the taxpayer's account." Section 29a(1) provides that Treasury must take action within 5 business days if it discovers or determines that a lien was filed and recorded in error:

"If the department receives money to satisfy a tax liability or liabilities or receives information that would cancel that tax liability or those liabilities and subsequently files a lien for recording … , the department, upon request and upon a determination by the department that the lien was filed and recorded in error, with all due haste, but not more than 5 business days after the department determines that it has erroneously filed a lien for recording, shall file for recording a certificate of withdrawal for that tax liability or those liabilities which were satisfied which states that the recorded lien for that tax liability or those liabilities was filed in error."

The release or lien withdrawal filed by Tresury must state that the lien was filed in error. This is consistent with Section 4 of the State Tax Lien Registration Act, which states: "If a state tax lien has been assessed and filed or recorded in error, the certificate of release or discharge shall contain a statement that explains that the tax lien has been assessed and filed or recorded in error."
It is important that taxpayers understand the consequences of having a state tax lien recorded against their property, as such consequences can be serious. As noted, in most cases, once a state tax lien has been filed, property subject to the lien cannot be sold or transferred until the past-due tax amount is paid in full.

Other important consequences may issue from the filing of the lien, as well. A state tax lien, once filed, becomes a public record. Credit reporting agencies and news services may legally obtain, publish, and report tax lien information. A lien filed against an individual or business that is picked up by a credit reporting agency will have an immediate negative effect on the taxpayer's credit score and will remain part of the taxpayer's credit history for the next seven to ten years. Because the existence of a tax lien increases the risk to future lenders, the taxpayer's ability to obtain credit going forward may be inhibited. This means that it could be more difficult for the taxpayer to obtain a future loan for a car or a house, obtain a business loan, obtain a new credit card or line of credit, or even secure a lease for an apartment. In short, the filing of a state tax lien may have a harmful and long-term effect upon a taxpayer's credit history. It is therefore important for taxpayers to resolve any outstanding tax debts as soon as possible. Questions about specific tax debts should be directed to the appropriate taxing division at the telephone number that appears on the tax bill.

Questions about liens or about the collections process may be directed to Treasury Collection Services at 517-636-5265.