STATE OF MICHIGAN
IN THE SUPREME COURT
Appeal from the Michigan Court of Appeals
Krause, P.J., Borrello and Riordan, JJ.

FRADCO, INC.,
Petitioner-Appellee,

v

DEPARTMENT OF TREASURY,
Respondent-Appellant.

Supreme Court No.: 146333
Court of Appeals No.: 306617
Michigan Tax Tribunal: 00-409506

The appeal involves consideration of a ruling that a provision of the Constitution, a statute, rule or regulation, or other State governmental action is invalid.

James H. Novis (P30679)
For Fradco, Inc.
The Novis Law Firm, PLLC
2295 Sower Blvd Ste. B
Okemos, MI 48864
(517) 347-1116

Bill Schuette
Attorney General

John J. Bursch (P57679)
Solicitor General
Counsel of Record

Richard A Bandstra (P31928)
Chief Legal Counsel

Scott L. Damich (P74126)
Assistant Attorney General
For Michigan Department of Treasury
P.O. Box 30754
Lansing, MI 48909
(517) 373-3203

BRIEF OF *AMICUS CURIAE* ALVIN L. STORRS LOW-INCOME TAXPAYER CLINIC AT MICHIGAN STATE UNIVERSITY COLLEGE OF LAW

Michele L. Halloran (P29973)
Christina Thompson (P76436)
Counsel for *Amicus Curiae*
Alvin L. Storrs Low-Income Taxpayer Clinic at
Michigan State University College of Law
610 Abbot Road
East Lansing, MI 48823
(517) 336-8088

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QUESTIONS PRESENTED FOR REVIEW

The Alvin L. Storrs Low-Income Taxpayer Clinic ("the Tax Clinic") addresses the following issues, as framed by the Michigan Supreme Court:

1. Is the running of the 35-day time period in MCL 205.22(1) for an aggrieved taxpayer to file an appeal in the Tax Tribunal from a final assessment triggered when Treasury complies with the notice provision of MCL 205.28(1)(a), or is there an additional notice requirement under MCL 205.8 when a taxpayer has filed a proper written request designating an official representative to receive copies of letters and notices?

   Respondent-Appellant answers: The statutory appeal period runs after issuance of notice to the taxpayer under MCL 205.28(1)(a).
   Petitioner-Appellee answers: There is an additional notice requirement under MCL 205.8 before the statutory appeal period begins to run.
   Michigan Tax Tribunal answered: There is an additional notice requirement under MCL 205.8 before the statutory appeal period begins to run.
   Court of Appeals answered: There is an additional notice requirement under MCL 205.8 before the statutory appeal period begins to run.
   Proposed *Amicus Curiae* MSU Tax Clinic answers: There is an additional notice requirement under MCL 205.8 before the statutory appeal period begins to run.

2. Is the tolling ruling adopted by the Tax Tribunal and the Court of Appeals contrary to the finality language of MCL 205.22(4) and (5)?

   Respondent-Appellant answers: Yes
   Petitioner-Appellee answers: No
   Michigan Tax Tribunal answered: No
   Court of Appeals answered: No
   Proposed *Amicus Curiae* MSU Tax Clinic answers: No

STATEMENT OF INTEREST OF *AMICUS CURIAE*

The Alvin L. Storrs Low-Income Taxpayer Clinic ("the Tax Clinic") is a non-profit, legal aid clinic that supports Michigan's underserved taxpayers through a variety of no-cost, tax-related services. The Clinic is staffed with two professors who have extensive experience in federal and state tax matters. The professors supervise student clinicians from Michigan State University College of Law ("the Law College"), who are permitted to assist clients in accordance with Michigan's Student Practice Rule, MCR 8.120. The Tax Clinic assists both English-as-a-Second-Language ("ESL") and low-income taxpayers in controversies with various taxing authorities, including Respondent-Appellant Michigan Department of Treasury ("the Department").

The Tax Clinic's controversy services run the full gamut of state and federal tax issues (*e.g.*, amended tax returns and returns for past years, questions relating to denied state and federal credits and deductions, tax collection problems, liens and levies, preparing and submitting offers in compromise and installment agreements, Collection Due Process hearings, audits, appeals conferences, refund claim denials, and informal conferences with the Department). The Tax Clinic also represents taxpayers before the Michigan Tax Tribunal, the Michigan Court of Appeals, this Court, the U.S. Tax Court, U.S. District Court, and the Sixth Circuit Court of Appeals. In providing these services, the Tax Clinic is able to meet the specific legal needs of many underserved taxpayers throughout Michigan whose limited means, education, physical limitations and illnesses, and other serious extenuating circumstances prevent them from obtaining adequate representation.

Clients of the Tax Clinic generally fall within a demographic subset that speaks to these individuals' tendencies to completely disregard notices from the taxing authorities and instead to rely entirely upon the expertise of their designated representatives. Clients of the Tax Clinic

often fall well below federal poverty guidelines. [2] Most clients are undereducated, unsophisticated, or otherwise severely limited in ordinary life skills or capacities—some cannot read. Many suffer from serious illnesses or a combination of physical ailments that prevent them from engaging in gainful employment or even performing ordinary and simple daily life tasks. Some have been the victims of ignorant or fraudulent tax preparers. Some are recovering from addictions to alcohol, narcotics, or gambling. Some are spouses who have been abused by their ex-spouses and seek to carry over innocent spouse relief awarded by the Internal Revenue Service ("IRS") to their state income tax returns.

Many clients frequently change addresses in search of jobs or more affordable housing, or because their homes have been foreclosed on or they have been evicted by their landlords, while others enduring more tragic circumstances are forced to live out of their vehicles or in homeless shelters. Almost none have saved for the proverbial "rainy day," or if they did at one time, Michigan's bleak economy has forced them to cash in their once cash-laden 401(k)s to obtain funds to meet their daily living expenses. Some are elderly people who have lost their entire life savings to pyramid schemes. Other are people who made bad life decisions and have been in state prisons—but have severe tax consequences flowing from those "bad life decisions" with no means to pay them. Most have, at most, high school educations with no hope of obtaining well-paying jobs in the future. Many live on social security alone. Sadly, it is not surprising for the Tax Clinic to lose contact with clients for a period of time during representation—the economy has forced them into a semi-nomadic existence. Whatever their circumstances, these taxpayers have retained the Tax Clinic in a good faith effort to resolve their liabilities or controversies—

[2] The Taxpayer Advocate Service grant the Tax Clinic receives specifies an income limitation of 250 percent of federal poverty guidelines, which means that in 2013, a client may not earn more than $28,725 to qualify for the Tax Clinic's services. Even so, many clients fall below 100 percent of federal poverty guidelines, meaning that in 2013 they cannot earn more than $11,490 to qualify.

they want to get their "tax lives" back on track and have decided to identify the Tax Clinic as their representative to ensure that their matter is handled efficiently, expeditiously, and with excellence.

When viewed against the backdrop of just the Tax Clinic's clientele, it is easy to see that Michigan's indigent and underserved taxpayers have much at stake in the resolution of the two issues before the Court in this case. Many of these underserved taxpayers seek out the Tax Clinic to enable them to parallel or exceed the knowledge and sophistication of state agencies like the Department. Most are downright fearful of, and overwhelmed and intimidated by, the power and unfamiliarity of taxing authorities like the Department. It is not surprising that many of those seeking the Clinic's help bring in years of unopened mail from the Department simply because they are afraid of and overwhelmed by what is inside. Apprehensive because they lack an even basic understanding of their rights and obligations within the complex tax system, these taxpayers look to and rely exclusively upon the Tax Clinic to advise them of their state tax rights and duties, explain intricate state tax dictates, and help them navigate through the unfamiliar and daunting territory of state tax practice and procedure.

As in the typical attorney-client relationship, these underserved taxpayers entrust the Tax Clinic with advocating for their interests simply because they are incapable of being their own advocates. Student clinicians, under the direction of tax attorneys licensed in Michigan, work closely with the Tax Clinic's clients to explain the taxpayers' specific situations, to advise them of possible solutions, and to effect these resolutions, whether that means preparing past and amended state tax returns, communicating with Treasury, seeking tax collection alternatives, submitting refund claims, filing administrative appeals with Treasury, or preparing and filing appeals with the Michigan Tax Tribunal ("MTT") or Michigan appellate courts. The Tax Clinic's

legal representation in Michigan controversy matters also works to create a necessary buffer between the intimidating taxing authority and the fearful taxpayer. Most, if not all, of these clients are generally unaware of even the most basic structures and components of the state tax system, let alone any fine nuances. Thus it goes without saying that Michigan's underserved taxpayers have a justified expectation that when they designate the Tax Clinic as their representative under MCL 205.8, all decisions, orders, and assessments issued by the Department pertaining to them will also be sent to the Tax Clinic before any appeal window begins to run.

In light of its vital interest in the legal well-being of its clients, and as the designated representative for hundreds of underserved Michigan low-income taxpayers for whom much is at stake, the Tax Clinic, as *amicus curiae*, submits this Brief to the Michigan Supreme Court in the above-captioned matter with a request that this Court affirm the decision rendered by the Court of Appeals.

STATEMENT OF FACTS

Proposed *amicus curiae*, the Tax Clinic, relies upon the Counter-Statement of Facts, Standard of Review, and Counter-Statement of Jurisdiction set forth in Petitioner-Appellee's Brief to this Court.

ARGUMENT

Plain and simple, this case is about Treasury's attempt to shirk its responsibility to deal appropriately with a taxpayer's designated representative—a responsibility it attempts to pass off as merely a courtesy—and a taxpayer's right to appeal should Treasury fail to fulfill that responsibility.

From the top down, Michigan's tax system has undergone major overhauls through the years to make it user-friendlier for all Michigan taxpayers, especially those who are indigent. In 1991, then-Governor Engler, under the authority of Article V, § 2 of the State Constitution of 1963, transferred the administration of the state system of taxation to the Department of Treasury and its head, the State Treasurer. *See* MCL 205.35. This proactive measure was undertaken to improve the overall efficiency of the tax system by demanding more effective organization and administration of the Department's duties, functions, and responsibilities vis-à-vis Michigan taxpayers. *Id.*

In 1993, the State Legislature echoed this emphasis on efficient process and administration as an effort to promote accountability and fairness to Michigan taxpayers by enacting the Taxpayers' Rights legislation (1993 PA 14, enacting HB 4104 and HB 4160). This legislation requires Treasury to send with its communications to a taxpayer a brochure that lists and explains in plain language the taxpayer's available recourses and protections with regard to a particular tax dispute, certain procedures for appealing decisions and filing complaints, and the enforcement means the Department can lawfully take under a Department-administered tax law. *See* MCL 205.5; MCL 205.24. It also requires the Department to send courteous and non-threatening letters of inquiry to taxpayers; establish guidelines and rules governing informal

conferences; create and distribute audit procedures; increase the appeal window for appealing disputed decisions to the MTT from 30 to 35 days; and send copies of assessments and decisions to the taxpayer's designated representative. *See* MCL 205.21; MCL 205.4; MCL 205.22(1); MCL 205.8.

Legislative amendments cited above reflect these profound and expansive changes to the Department's administration of Michigan taxes and the manner in which the Department interacted with the taxpaying public. Together, these changes denoted a specific intent by the Executive and Legislative branches to revamp the tax system to provide for greater accountability on the part of the Department, to equalize the footing of all of Michigan's taxpayers—especially for those unsophisticated ones who are akin to the Tax Clinic's clients—and to force Treasury to be more forthcoming in its dealings with taxpayers. This clear intent is profoundly vital to this case, given that this Court must seek "to give effect to the intent of the Legislature at the time the [legislation] was passed." *Stover v Retirement Board of the City of St Clair Shores Firemen and Police Pension System*, 78 Mich App 409, 412 (1977) citing *Husted v Consumers Power Co,* 376 Mich 41, 54; 135 NW2d 370 (1965). Thus, in the context of this case, any interpretive exercises adopted by this Court must be employed pursuant to, and in furtherance of, this acknowledged proliferation of taxpayers' rights.

I. RELEVANT LEGISLATIVE HISTORY SUPPORTS A CLEAR LEGISLATIVE INTENT TO "EVEN THE PLAYING FIELD" BETWEEN TAXPAYERS—ESPECIALLY THOSE OF UNDEREDUCATED AND LESS SOPHISTICATED BACKGROUNDS—AND THE MICHIGAN DEPARTMENT OF TREASURY. ONLY BY AFFIRMING THE COURT OF APPEALS' HOLDING CAN THIS PARITY BE ACHIEVED AND FULL EFFECT GIVEN TO BOTH STATUTES. ADOPTING TREASURY'S READING WILL EFFECTIVELY NULLIFY MCL 205.8—A RESULT THIS COURT SHOULD AVOID.

The first issue certified by the Court involves the determination of the effect of MCL 205.8 in light of the already-existing notice requirements found in MCL 205.28(1)(a). Treasury acknowledges that this determination is made by engaging in statutory interpretation. *See* Treasury *Brief* at 7. ("Once the relevant statutory language is understood, there is very little over which to argue"). Yet nowhere in its analysis of the issue does Treasury apply, or at the very least even set forth, principles of statutory construction. It is misleading to examine the mark that MCL 205.8 leaves upon MCL 205.28(1)(a) and MCL 205.22(1) without using accepted interpretive mechanisms. A guide to the accepted principles this Court should use in interpreting statutory text follows.

It is well-recognized that this Court's primary goal in interpreting statutory law is to give effect to the intent of the Legislature. *Brown v Detroit Mayor*, 478 Mich 589, 593; 734 NW2d 514 (2007). Legislative intent is best discerned, first and foremost, by analyzing the plain language of the statute. *Sun Valley Foods Co v Ward,* 460 Mich 230, 236; 596 NW2d 119 (1999), citing *United States v Turkette,* 452 US 576, 593; 101 SCt 2524; 69 LEd2d 246 (1981). The statutory language should be read in context to determine whether ambiguities exist. *Macomb County Prosecutor v Murphy,* 464 Mich 149, 158; 627 NW2d 247 (2001).

If no ambiguities are apparent from the provision's plain language, the Court must apply the statute as it is written, and judicial construction is unwarranted. *Turner v Auto Club Ins Ass'n,* 448 Mich 22, 27; 528 NW2d 681 (1995). But where "reasonable minds could differ with respect to the language's meaning, the language is deemed ambiguous and judicial construction is necessary." *S Abraham & Sons Inc v Dep't of Treasury,* 260 Mich App 1, 8; 677 NW2d 31 (2003), citing *In re MCI,* 460 Mich 396, 411; 596 NW2d 164 (1999).

Once it has determined that the statutory language is ambiguous, the Court proceeds to provide a reasonable construction in light of the statute's purpose. *Macomb County Prosecutor* at 158, citing *Frankenmuth Mut Ins Co v Marlette Homes, Inc,* 456 Mich 511, 515; 573 NW2d 611 (1998). The Court should "identify the object of the statute, the evil or mischief the statute is designed to remedy and apply a reasonable construction that best serves the purposes of the statute." *Pittsfield Twp v Saline,* 103 Mich App 99, 104-105; 302 NW2d 608 (1981), citing *Bennetts v State Employees Retirement Board,* 95 Mich App 616; 291 NW2d 147 (1980). In identifying the legislative purposes behind a statute, the Court may consult external sources that are indicative of that legislative intent. *Central Advertising Co v Dep't of Transportation,* 162 Mich App 701, 707; 413 NW2d 479 (1987), citing *Sergeant v Kennedy,* 352 Mich 494; 90 NW2d 447 (1958) and *Stover* at 412.

Finally, in situations in which two statutes address the same subject matter, as is the case here with MCL 205.8 and MCL 205.28(1)(a), the terms and provisions of the statutes should be read *in pari materia. Michigan Bell Telephone Co v Dep't of Treasury,* 229 Mich App 200, 216; 581 NW2d 770 (1998), citing *Jennings v Southwood,* 446 Mich 125, 136; 521 NW2d 230 (1994). Statutes *in pari materia* that were enacted at different times "must be construed to preserve the intent of each and, if possible, to ensure that the effectiveness of one does not negate the effectiveness of the other." *Bay County Executive v Bay County Board of Comm'rs,* 177 Mich App 560, 567-568; 443 NW2d 168 (1998), citing *Gooden v Transamerica Ins Corp of America,* 166 Mich App 793, 804; 420 NW2d 877 (1988). Should those provisions conflict with one another, the Court is to read them in such a way that produces a harmonious result, reconciling any inconsistencies when necessary while keeping in mind that any conflicting taxing statutes relating to imposition of a tax are to be construed in favor of the taxpayer. *Michigan Bell*

Telephone at 216-217; *see also Pittsfield Township* at 105; *Macomb County Prosecutor* at 159-160. Thus, the Court must liberally construe the applicable statues in favor of securing tax relief for the taxpayer. *See Kinder Morgan Michigan, LLC v Jackson,* 277 Mich App 159, 172; 744 NW2d 184 (2007).

A. Relevant legislative history demonstrates a clear intent by the Legislature to promote a level playing field between taxpayers and the Michigan Department of Treasury. Affirming the Court of Appeals' opinion properly achieves this parity, particularly in instances in which underserved taxpayers rely exclusively upon the expertise of their designated representatives. Administrative rules or policies that are inconsistent with the clear legislative intent are rejected.

As Petitioner-Appellee, Fradco, Inc. appropriately contends, the Court of Appeals properly applied the plain language of the statutes in question to achieve its taxpayer-favorable result. *See* Fradco *Brief* at 14-16. If, however, this Court determines that an ambiguity exists between MCL 205.8 and 205.28(1)(a), it may look to the underlying intent suggested by the available legislative history. *Luttrell v Dep't of Corrections,* 421 Mich 93, 103; 365 NW2d 74 (1984). That available legislative history includes original Senate and House bills, any subsequent amendments to the bills, and any legislative analyses reports. *Id.* at 103-104. *See also Kinder Morgan Michigan* at 170-171. Legislative intent backed by the full weight of available legislative history is controlling. *Kinder Morgan Michigan* at 170-173. Therefore, any administrative decisions or rules that are inconsistent with the Legislature's intent are rejected. *Kinder Morgan Michigan* at 170-174. *See also Kelly Services, Inc v Dep't of Treasury,* 296 Mich App 306; 818 NW2d 482 (2012).[3]

Where statutory provisions are ambiguous, *Luttrell* permits this Court to look to available legislative history, including the original bill, subsequent amendments, and any legislative

[3] Compare *Luttrell,* 421 Mich. 93 (1984) (upholding an administrative rule because the rule was consistent with the intent of the Legislature as derived from the legislative history).

analyses in ascertaining the Legislature's intent. In that case, a class of criminal offenders challenged a Department of Corrections administrative rule denying eligibility for a community residence program to offenders classified as "drug traffickers" as an invalid exercise of authority granted to the Department's director. *Luttrell* at 99-100. Although the statute specifically precluded certain classes of offenders from being eligible, the statute said nothing about drug traffickers explicitly. *Id.* at 97-98. The statute did, however, grant the director of the Department of Corrections the authority to promulgate rules to implement the statute, MCL 791.265a. *Id.* at 97. This Court observed that the original bill established the director's power to administer the program, legislative analysis stated that the legislation was aimed at clarifying the conditions under which prisoners were to be granted leave from prison, and two specific amendments placed eligibility restrictions on certain classes of prisoners. According to this Court, the clear purposes behind the Legislature's actions included a desire "to vest the Department of Corrections with broad discretion in deciding which offenders were likely to honor their trust." *Id.* at 104. In light of this legislative intent, this Court was satisfied that the Department of Corrections' rule did not fall outside the scope of authority granted under MCL 791.265a.

The Court of Appeals in *Kinder Morgan Michigan* followed a line of analysis similar to that of *Luttrell*, relying upon legislative history to deduce the Legislature's intent with respect to taxation in Renaissance Zones. Plaintiffs in that case brought an action against the City of Jackson challenging a pension tax levied by the City against Renaissance Zone properties. *Kinder Morgan Michigan* at 162. The city began levying the taxes under the direction of the State Tax Commission on grounds that the tax was allowable under MCL 211.7ff(2), which permitted collection of any property taxes related to "obligations pledging the unlimited taxing

power of the local governmental unit" on Renaissance Zones. *Id.* at 161-162, 167. Plaintiffs asserted that this section only applied to bond and debt obligations. *Id.* at 167.

The *Kinder* court looked to and relied upon the original bill, indications from subsequent amendments, and legislative analyses in gleaning the underlying legislative intent surrounding exemption of certain zones from taxation. *Id.* at 170-174. The court cast this legislative intent against the City's and State Tax Commission's interpretation of MCL 211.7ff(2) and held that the pension tax was not the type of obligation contemplated by MCL 211.7ff(2). *Id.* at 170-174.

Taken together, *Luttrell* and *Kinder Morgan Michigan* allow this Court to discern legislative intent through analysis and review of the original bill, any subsequent amendments, and legislative analyses. That legislative intent is then juxtaposed against any administrative rule or policy to determine if the rule or policy is consistent with the intent. If inconsistent, as explained in *Luttrell* and *Kinder Morgan Michigan*, this Court may overrule the agency's rule or policy and reject its interpretation of the statute.

Like *Luttrell* and *Kinder Morgan Michigan*, the instant case is replete with available legislative history surrounding the institution of MCL 205.8, all of which indicates a clear legislative intent to require Treasury to send assessments, orders, and decisions to a taxpayer's representative and the taxpayer before any appeal window begins to run. Beginning as the *Luttrell* Court did with the original bill, MCL 205.8 was introduced as part of House Bill 4160 on February 4, 1993. *See* Attachment A: Original House Bill 4160 at 2. The Court will note that the language of § 8 as enacted identifies exactly with the language initially set forth in HB 4160. This is remarkable given that the entire bill underwent three different amendment processes between the House and Senate. *See* Attachment B: History of House Bills in the House at 1. The most likely conclusion from this and other evidence to be discussed later is that the Legislature's

intent with regard to § 8 from the beginning was to require Treasury to affirmatively and proactively interact with a taxpayer's designated representative before any statutory appeal period begins to run.

Just as this Court in *Luttrell* and the Court of Appeals in *Kinder Morgan Michigan* looked to and relied upon the House of Representatives' legislative analysis section to shed further light on what the bill sought to address, *Luttrell* at 103, so too should this Court look to and rely on the *Summary of House Bills 4104 and 4160*; *SFA Bill Analysis of H.B. 4104 & 4160: First Analysis*; *House Legislative Analysis Section First Analysis of H.B. 4104 & 4160*; *House Legislative Analysis Section Second Analysis of H.B. 4104 & 4160* in this case.[4] The "Apparent Problem," "Rationale," and "Supporting Argument" sections within these documents are particularly revealing of the Legislature's intent. For example, the "Apparent Problem" delineated in the House Legislative Section's First Analysis is that

> [t]axpayers need to perceive their treatment by tax collectors as fair and need to believe that they are on a "level playing field" when involved in disputes with the government over tax liabilities . . . As a former state tax commissioner has said, "Under the best of circumstances, revenue departments are viewed all too often as bureaucratic black holes, populated with Gestapo-like enforcers of laws few people understand and even fewer respect." Tax administrators need to treat the public consistently, fairly, courteously, and competently. And they must provide the public with the information needed to cooperate with the tax system. Fradco, Inc. Appendix at 13b.

The Senate Finance Analysis largely echoes that problem and further observes:

> A system that depends heavily on voluntary compliance should instill respect and confidence in those who must comply, i.e., the taxpayers. All too often, however, taxpayers view the tax collection system as unfair and intimidating, if not menacing. For the system to work efficiently, taxpayers need to perceive their treatment as fair and need to believe that they are on "level playing field" when involved in disputes with the government over

[4] It should be noted here that although legislative analyses are "generally unpersuasive tools of statutory construction," they "do have probative value in certain, limited circumstances." *Kinder Morgan Michigan* at 170 citing *North Ottawa Community Hospital v Kieft*, 457 Mich 394, 406 n 12; 578 NW2d 267 (1998).

> tax liability. The general thrust of these bills is to ensure that taxpayers would be treated with respect and dignity, provided with full information on the Department's determinations, and not be harmed when Treasury made erroneous claims of tax liability. Fradco, Inc. Appendix at 20b.

The collective echo reverberating throughout these House and Senate legislative analyses emphasize the evils the Legislature was aiming to correct. Characteristics such as "even-handed," "full and adequate information," "unintimidating," and "fairness" were the counterweights the Legislature intended to impose upon the Treasury in enacting this legislation.

Perhaps nowhere are these characteristics more applicable than in the situation of Michigan's underserved and indigent taxpayers, the clients of the Tax Clinic. Even in the best of circumstances, many of these taxpayers are severely disadvantaged because of the complicated nature of Michigan's tax system and their relatively low levels of experience and education. Often, their education falls far short of providing them with adequate confidence and knowledge required to engage Treasury in any meaningful way on their own. So, they look to their designated Power of Attorney representatives to match the sophistication of Treasury.

This very act of designating an individual or firm to handle tax disputes is at the core of the above-described legislative intent. When a taxpayer who understands very little about the State's system of taxation employs the services of an individual or firm who specializes in such matters, the inherent disparity between the unsophisticated taxpayer and the taxing authority is whittled away, and the taxpayer, as the Legislature contemplated, finds him or herself on level ground with Treasury. Treasury's contention that it is not required to send copies of notices, assessments, or orders to the taxpayer's designated representative before the appeal window begins to run is wholly inconsistent with the Legislature's clear and unmistakable intent in enacting MCL 205.8 because it, in effect, unlawfully preserves Treasury's upper hand with respect to Michigan's taxpayers—a gross defect the Legislature specifically aimed to cure.

Treasury tries to support its argument that §8 is not a parallel notice provision, in part, by referencing its own Rule 11, which, as Treasury characterizes, essentially confirms that §8 does not have any bearing on §22(1) and that §28(1)(a) controls. *See* Treasury *Brief* at 11, and Mich Admin Code, R 205.1011. Without even having to determine whether Rule 11 is consistent with the legislative intent of MCL 205.8, this Court will note that the plain language of R 205.1011(5) cited by Treasury in its *Brief* is blatantly at odds with the plain language of MCL 205.8. *See* Treasury's *Brief* at 11. Treasury asserts that R 205.1011(5) requires it only to issue a final assessment taken from an informal conference *"only to the taxpayer."* Treasury *Brief* at 11. Yet, MCL 205.8 requires that any final assessments, decisions, or orders must be issued also to the taxpayer's designated representative in a particular tax dispute. Thus, in the event a taxpayer had properly designated a representative under MCL 205.8 for a particular dispute and that dispute went to an informal conference before the Department, Rule 11 obviously undermines the plain language of MCL 205.8 by impermissibly allowing Treasury to issue a final assessment only to the taxpayer despite the mandate that it also issue a copy of the final assessment to the taxpayer's designated representative.

On its face, R 205.1011(5) is inconsistent with both the plain language of MCL 205.8 and the legislative intent behind the Taxpayer Rights legislation that became §8. As previously discussed, it is settled that the Legislature had in mind to ensure that taxpayers have the ability to engage Treasury in a meaningful way, even if this means the taxpayer has to engage the services of a representative to rely upon the representative's experience and expertise. When an administrative rule is inconsistent with the legislative intent behind the statutory provision, *Luttrell* and *Kinder Morgan Michigan* direct that the administrative rule be rejected or otherwise viewed as unauthoritative. In the instant case, Rule 11 contradicts MCL 205.8 on its face and

certainly undermines the legislative intent behind the enactment of HB 4160, whereby §8 was introduced. Thus, this Court should refuse to give weight to Treasury's contrary rule, a result that constructively undermines any arguments Treasury proffers under the rule.

In sum, in the instant case, the full weight of legislative history clearly demonstrates the Legislature's intent to promote fair and even treatment of Michigan's taxpayers, and to ensure they are provided with necessary information and guidance to effectively challenge a dispute. This intent is disclosed in the various provisions enacted as part of the Taxpayer Rights legislation, particularly through the requirement that Treasury send copies of assessments, decisions, and orders to a taxpayer's designated representative. To remain consistent with this demonstrated legislative intent, this Court should affirm the Court of Appeals' holding that requires Treasury to issue assessments, orders, and decisions to both the taxpayer and the taxpayer's designated representative before the statutory appeal period can begin to run. To hold otherwise would be inconsistent with controlling legislative intent, and would perpetuate the Department's uneven treatment of Michigan's taxpayers.

B. As dual notification statutes, MCL 205.8 and 205.28(1)(a) are to be read *in pari materia*. The Court should seek to give full effect to the legislative intent underlying both provisions while being careful to avoid a construction that accepts one provision to the demise of the other. The Court of Appeals' construction properly gives full effect to the legislative purposes that support both provisions and does not nullify one provision over the other.

Statutory provisions that have the same general purpose or relate to the same subject matter are to be read together in light of that purpose and are to be viewed as constituting one law even if they were enacted at different times. *State Treasurer v Schuster*, 456 Mich 408, 417; 572 NW2d 628 (1998), citing *Detroit v Michigan Bell*, 374 Mich 543, 558; 132 NW2d 660 (1965). In reading provisions *in pari materia*, a court will not adopt one provision over another if doing so

would defeat the legislative purpose of the defeated statute. *Id.* at 418. Likewise, a court should avoid a construction that allows the requirements of one provision to be circumvented in favor of the other. *Crawford County v Secretary of State*, 160 Mich App 88, 97; 408 NW2d 112 (1987). Instead, the object of the court is to harmonize the provisions, keeping them consistent with legislative intent. *See Michigan Bell Telephone* at 216-217; *see also Pittsfield Twp* at 105; *Macomb County Prosecutor* at 159-160; *Magen v Dep't of Treasury*, 299 Mich App 566, 567; __ NW2d __ (2013).

In its *Application for Leave to Appeal* to this Court, Treasury initially asserted that the principle of *in pari materia* "was unnecessary and anomalous because MCL 205.28(1)(a) and MCL 205.8 are not ambiguous and do not conflict." *See Department of Treasury's Application for Leave to Appeal* at 16. Treasury based this assertion on *Tyler v Livonia Public Schools*, 459 Mich 382; 590 NW2d 560 (1999), in which this Court held that "[t]he interpretive mechanism *in pari materia* can be used only where the section of the statute under examination is itself ambiguous." *Tyler* at 392. The Tax Clinic asserts that the language of MCL 205.8 and MCL 205.28(1)(a) is plain and clear; however, application of the provisions' clear language actually leads to a favorable result for the taxpayer, not Treasury. The language of both MCL 205.8 and MCL 205.28(1)(a) is clear: Treasury is required to send any and all assessments, decisions, and orders to the taxpayer and is further required to send copies of those same assessments, decisions, and orders to the taxpayer's designated representative. The fact that MCL 205.8 references copies of the same appealable documents issued to the taxpayer makes it clear that there are two notice provisions. If, however, this Court is not satisfied that the two provisions are sufficiently clear to warrant a decision remised upon the plain language of the statutes alone and that there are potential ambiguities (*i.e.*, neither provisions provides that notice under it

commences the appeal window specified in MCL 205.22(1)), then the principle of *in pari materia* is applied and necessitates the Court of Appeals' outcome. The following discussion demonstrates proper application of the principle of *in pari materia.*

A fair reading of this Court's opinion in *Schuster* highlights the principle that, when reading statutes *in pari materia,* the Court will seek to refrain from a construction that nullifies the plain language of one provision and subverts the main purpose of the Legislature in enacting it. In *Schuster*, the State Treasurer filed suit under the State Correctional Facility Reimbursement Act, 1935 PA 253, MCL 800.401 *et seq.*, against an incarcerated defendant and his wife seeking a portion of the defendant's monthly pension as reimbursement for the costs of his incarceration. *Schuster* at 411. The defendant claimed that his pension was specifically protected from such collection under the Public School Employees Retirement Act, 1980 PA 300, MCL 38.1301 *et seq. Id.* at 414-415. This Court found the two statutes to be sufficiently connected to be read *in pari materia* because both addressed pensions. The Court sought to provide a construction that, among other things, refrained from allowing the plain language of one of the provisions to be nullified in favor of the other, especially where doing so would have defeated the Legislature's primary intent in enacting that statute. *Id.* at 418-419. In reading the provisions *in pari materia,* this Court held that the State Correctional Facility Reimbursement Act prevailed over the Public School Employees Retirement Act, in part because the underlying legislative intent demonstrated the Legislature's desire to shift the burden of incarceration expenses to prisoners whenever possible, an intent this Court said would be effectively nullified under any other holding. *Id.* at 418.

A similar principle is gleaned from *Crawford County v Secretary of State.* In that case, the Secretary of State denied the plaintiff's multiple applications to be considered a self-insured

entity under a provision of the No-Fault Insurance Act because plaintiffs did not own at least twenty-six registered vehicles. *Crawford County* at 90. The twenty-six vehicle requirement did not come out of the No-Fault Insurance Act, but instead was required under a provision of the Financial Responsibility Act. *Id.* at 90-91. Despite the seemingly tenuous link between these two provisions, the *Crawford County* court applied the principle of *in pari materia,* and read the provisions as one law because both were designed as compensation statutes for victims of automobile accidents. *Id.* at 97. In reading the provisions as such, the court reasoned that the minimum vehicle requirement restricted the class of people who would be able to acquire certificates of self-insurance, an approved alternate method of ensuring collectability under the No-Fault Insurance Act. *Id.* Thus, "[i]f the minimum vehicle requirement [was] not applied to persons seeking self-insurance under [the No-Fault Insurance Act], the twenty-six vehicle minimum requirement [under the Financial Responsibility Act would] be circumvented," effectively rendering the requirement useless. *Id.*

Both *Schuster* and *Crawford County* provide a sound basis for affirming the Court of Appeals' decision in this matter. Because courts read provisions directed to the same subject as a single law and will seek to avoid nullifying one provision in favor of the other or will avoid allowing one provision to be read in such a way as to circumvent the requirements of the other, the provisions in the matter at hand must be read as the Court of Appeals dictated. To read MCL 205.8 and 205.28(1)(a) otherwise, as Treasury asks this Court to do, would completely nullify Treasury's obligation to affirmatively interact with a taxpayer's designated representative, and would clearly defeat the Legislature's primary intent behind § 8.

The analyses set forth in both *Schuster* and *Crawford County* demonstrate proper application of how statutes *in pari materia* must be read. At the outset, both courts made the determination

of whether the respective provisions at issue were sufficiently connected to be considered *in pari materia*. Next, upon finding the provisions to be sufficiently related, the courts sought to determine the underlying legislative goals and purposes of the respective provisions. Finally, both courts married the two provisions by fashioning reasonable constructions that sought to carry out the legislative goals and designs of each provision, while being careful not to nullify the requirements of, or otherwise defeat the respective legislative purposes behind, each provision. *See Schuster* at 418-420 and *Crawford County* at 95-97.

The interpretive precept of *in pari materia,* as applied to this case, directs this Court, as a first step, to determine whether MCL 205.8 and 205.28(1)(a) are sufficiently connected to be read as one. This Court in *Schuster* found two seemingly unrelated statutes to be *in pari materia* because both contained a common thread relating to pensions. *Schuster* at 417. The court in *Crawford County* determined that two provisions were to be read *in pari materia* because both were aimed at compensating victims of automobile accidents. *Crawford County* at 97. The cases demonstrate that, so long as the two provisions have similar aims or a common thread they are to be read *in pari materia.*

MCL 205.8 and MCL 205.28(1)(a) are both notice provisions that require Treasury to make due process efforts to notify both the taxpayer and the taxpayer's designated representative of any orders, assessments, and decisions by Treasury. The fact that both are notification provisions relating to the same material is in and of itself sufficient to establish a connection under the standards set forth in both *Schuster* and *Crawford County.* But the connection here goes even farther. In fact, MCL 205.8 essentially requires that copies of the very same documents (*i.e.*, assessments, orders, and decisions) given to the taxpayer under MCL 205.28(1)(a) also be sent to the taxpayer's representative.

After determining that the provisions in issue in this case should be read *in pari materia*, the Court, pursuant to both *Schuster* and *Crawford County*, will seek to uncover the legislative goals and intents behind the provisions. This Court in *Schuster* looked to the plain and broad language of the most recently revised act (the State Correctional Facility Reimbursement Act) and found that it "indicate[d] a legislative intent to shift the burden of incarceration expenses to prisoners and from the taxpayers whenever possible." *Schuster* at 418. The court in *Crawford County* pointed to both outside sources (*i.e.*, a Michigan Supreme Court case) and the plain language of both statutes in determining that the common designs of the statutes were to (1) "provide victims of motor vehicle accidents equitable and prompt reparation for certain economic losses through a system of compulsory insurance," and (2) to "secure payments of judgments rendered against owners or operators of motor vehicles." *Crawford County* at 95-96. As concerns this case, the clear intent of the Legislature in enacting MCL 205.8 was to provide equalized treatment of Michigan taxpayers so that they, through their designated representatives, could match Treasury's sophistication and prevent the tremendous and irreversible harm that occurs when Treasury makes erroneous claims of tax liability. *Schuster* and *Crawford County* make clear that these legislative intents and goals are well furthered by this Court's construction of the two provisions at issue as one.

With their legislative purposes and goals in mind, the final step noted by *Schuster* and *Crawford County* presents this Court with the task of providing a reasonable construction whereby the goals and purposes of the legislative enactments are furthered, and all precautions are taken to avoid rendering one provision's requirements null and void in favor of the other. Returning to *Schuster*, this Court held that pensions usually exempt from recapture under the Public School Employees Retirement Act are still subject to the State Correctional Facility

Reimbursement Act because to hold otherwise "would nullify the plain language in the reimbursement act and be manifestly unfair to Michigan taxpayers and to the other prisoners required to reimburse the state for their incarceration expenses." *Schuster* at 418. In addition, the *Schuster* Court noted that in holding that the Reimbursement Act prevailed over the Public School Employees Retirement Act, the primary legislative purpose underlying the Public School Employees Act was not hindered in any way. *Id.* at 419.

Likewise, in *Crawford County*, the court was careful to construe the statues *in pari materia* in such a way as to advance the effects of both statutes without diminishing one in favor of the other. *Crawford County* at 97. That court effectively held that a vehicle owner seeking to provide security through self-insurance under Michigan's No-Fault Insurance Act would have to meet the Legislature-mandated twenty-five vehicle ownership requirement under the Financial Responsibility Act or else owners could use the No-Fault Insurance Act to circumvent Financial Responsibility Act requirements. *Id.* at 97.

Here, reading the contested provisions contrary to the reading adopted by the Court of Appeals would defeat the underlying legislative purposes of both statutes. It also would permit Treasury to circumvent the requirements of MCL 205.8, and would allow Treasury to avoid its statutory obligations. Consistent with its ruling in *Schuster,* this Court should construe both statutes as one law, making a special effort not to negate either provision. Affirmance of the holding of the Court of Appeals in this case and in *SMK, LLC v Dep't of Treasury,* 298 Mich App 302; 826 NW2d 186 (2012) accomplishes this task. Construing MCL 205.8 as a parallel notice provision to that of §28(1)(a) requires Treasury to send assessments, decisions, or orders to the taxpayer and the taxpayer's designated Power of Attorney before the appeal window specified in §22(1) begins to run. Requiring that both notifications be given before the appeal

window begins is unquestionably consistent with the legislative intent behind MCL 205.8 and MCL 205.28(1)(a). And, requiring that both notifications be given before the appeal window starts undoubtedly provides the taxpayer with the means to challenge erroneous Treasury assessments, decisions, or orders in instances in which that taxpayer, because of personal circumstances, would be unable to do so personally.

Requiring Treasury to provide both notifications before the appeal window starts does not at all detract from the notice provision of MCL 205.28(1)(a), nor does it negate that provision. As a parallel provision, MCL 205.8 requires Treasury to send notifications to the taxpayer's designated representative *in addition* to sending the notifications directly to the taxpayer. Section 28(1)(a) remains in effect and is still a necessary component to satisfy due process requirements.

Adoption of Treasury's assertions in this case would prompt a result that is wholly incompatible with the legislative intent underlying both provisions, and would constructively nullify or otherwise dispatch any requirement imposed by §8. Treasury would have no incentive whatsoever to send what it refers to as "courtesy copies" of notifications to a designated representative, because failing to do so or doing so after the appeal period has expired would have no negative outcome for Treasury. The only real loser in this scenario would be the taxpayer, as he or she would thereby be precluded from appealing a deadline-critical assessment, order, or decision. Such taxpayer treatment significantly undermines the demonstrated legislative intent behind the enactment of §8, as the Taxpayer Rights legislation enacting §8 was specifically designed to cure this very disparity.

In summary, because both MCL 205.8 and 205.28(1)(a) address notifications relating to Treasury's assessments, decisions, and orders, the provisions must be read *in pari materia*, as one law with effect given to the underlying legislative intent of each provision. In this case,

nothing short of affirming the Court of Appeals' reading of these parallel statutes will satisfy the *in pari material* interpretive standards set forth in *Schuster* and *Crawford County*. By reading these provisions as parallel, the legislative intent behind both will be preserved, and neither will be circumvented or otherwise rendered nugatory.

II. THE TOLLING RULINGS OF THE MTT AND COURT OF APPEALS, THAT A TAX APPEAL WINDOW DOES NOT BEGIN TO RUN UNTIL TREASURY HAS COMPLIED WITH BOTH MCL 205.8 AND 205.28(1)(A) ARE CORRECT. BECAUSE THE APPEAL WINDOW DID NOT BEGIN TO RUN UNTIL NOTICE WAS PROVIDED TO THE TAXPAYER'S AUTHORIZED REPRESENTATIVE, IT DID NOT EXPIRE BEFORE THE AUTHORIZED REPRESENTIVE FILED THE MTT PETITION IN THIS CASE. AS A CONSEQUENCE THE FINALITY LANGUAGE OF MCL § 205.22(4) AND (5) DOES NOT COME INTO PLAY.

The second issue certified by this Court asks "whether the tolling ruling adopted by the Tax Tribunal and the Court of Appeals is contrary to the finality language of MCL 205.22(4) and (5)." Fradco, Inc. Appendix at 51b. These two provisions state:

> (4) The assessment, decision, or order of the department, if not appealed in accordance with this section, is final and is not reviewable in any court by mandamus, appeal, or other method of direct or collateral attack.
>
> (5) An assessment is final, conclusive, and not subject to further challenge after 90 days after the issuance of the assessment, decision, or order of the department, and a person is not entitled to a refund of any tax, interest, or penalty paid pursuant to an assessment unless the aggrieved person has appealed the assessment in the manner provided by this section. MCL 205.22(4) and (5).

As subsections of § 22, MCL 205.22(4) and (5) finalize, or otherwise make unreviewable, any assessments, decisions, or orders that are not appealed according to the process laid out in MCL 205.22(1), which states in relevant part:

> A taxpayer aggrieved by an assessment, decision, or order of the department may appeal the contested portion of the assessment, decision, or order to the tax tribunal within 35 days, or to the court of claims within 90 days after the assessment, decision, or order. . . .MCL 205.22(1).

As noted by *Fradco* in its *Brief*, the use of the term "tolling" in the Court's second certified question creates some confusion, as recently exemplified most keenly in the Court of Appeals' decision in *Bonar v Dep't of Treasury,* unpublished opinion per curiam of the Court of Appeals, issued May 30, 2013 (Docket No. 310707). *See* Fradco *Brief* at 26-29.

To be sure, any confusion relative to "tolling" is dispatched by an examination of the opinions of the MTT and Court of Appeals in this case. Careful consideration of the lower tribunal's and court's rulings reveals that the so-called "tolling ruling" solely refers to just when the appeal window under MCL 205.22(1) *begins* to run; it does not contemplate that the window is started and subsequently is suspended or tolled for some reason. This is not "tolling" of a statutory time period in any sense of the word; instead, the focus simply is on whether the time period for commencing an appeal in the MTT or the Court of Claims commences with issuance of the assessment, decision, or order to the taxpayer alone, or whether, when the taxpayer has designated a representative, it begins to run from the date the critical document is issued to the representative. Reframed, this certified question is whether the lower tribunal's and court's determinations that the appeal period starts only after issuance of the assessment, decision, or order to both the taxpayer and the taxpayer's designated representative contradicts the finality language of MCL 205.22(4) and (5). As demonstrated below, no such contradiction exists.

A. The MTT and Court of Appeals held that Fradco's appeal window never began to run upon issuance of the assessment solely to the petitioner when the petitioner had designated a representative to handle its matter before Treasury. Because that window did not begin to run it never expired. MCL 205.22(4) and (5) are simply inapplicable to this case.

For MCL 205.22(4) and (5) to be applicable in any case, the appeal window under MCL 205.22(1) must have started and expired. *See* MCL 205.22(4) and (5). The MTT and the Court of Appeals held that because MCL 205.8 is a notice provision that Treasury failed to comply with,

the appeal window under MCL 205.22(1) never began to run upon issuance of the assessment to the taxpayer alone. *Fradco, Inc v Dep't of Treasury*, 298 Mich App 292, 297; 826 NW2d 181 (2012). Where there is no beginning, there can be no end. Thus, MCL 205.22(4) and (5) are not at all applicable in this case. There is no contradiction between the MTT's and Court of Appeals' rulings and the finality language of MCL 205.22(4) and (5).

The Court of Appeals' opinion in this case focuses on exactly when the appeal window under MCL 205.22(1) begins to run. The Court of Appeals limited its inquiry to "when the 35-day period under MCL 205.22(1) *begins* to run if the taxpayer has previously filed a written request with the Department of Treasury to send copies of all letters and notices to the taxpayer's representative." *Fradco, Inc* at 296 (emphasis added). It then noted, and ultimately adopted, certain conclusions offered by the Michigan Tax Tribunal:

> The Tax Tribunal concluded that MCL 205.8 adds a parallel notice requirement whenever a taxpayer has filed a proper written request that copies of letters and notices be sent to a representative. The Tax Tribunal further concluded that because [Treasury] did not initially send notice to the appointed representative of petition, the time for petitioner's appeal *did not begin to run* until petitioner's representative was notified. *Id.* at 296 (emphasis added).
>
> We conclude that MCL 205.8 must be interpreted in tandem with MCL 205.28(1) as creating parallel notice requirements. If a taxpayer has filed a proper written notice that designates an official representative, then respondent must given notice to both the taxpayer and the taxpayer's representative before the 35-day period under MCL 205.22(1) *begins* to run. *Id.* at 301.

The Court of Appeals' opinion confirms that MCL 205.8 is a parallel but distinct notice provision to that of MCL 205.28(1)(a). *Id.* at 301. Consistent with that court's decision, Treasury was obligated to comply with both before MCL 205.22(1) came into play. Since the assessments at issue in *Fradco* were not distributed to both the taxpayer *and* the taxpayer's designated representative, the appeal window of MCL 205.22(1) never began to run. *Id.*

As a matter of logic, a § 22(1) appeal window that has not been initiated does not begin to run. If the appeal window has not begun to run, the 35 or 90-day appeal period remains intact. It cannot lapse or expire if it has not even begun to run. And if the appeal period has not lapsed or expired, then there can be no finality under MCL 205.22(4) or (5). Clearly, an uninitiated appeal window cannot produce a final and unreviewable assessment, decision, or order under MCL 205.22(4) and (5).

In summary, the Court of Appeals held that Fradco's 35-day window in which to commence an appeal in the MTT did not begin to run at the time asserted by Treasury because Treasury failed to satisfy the parallel notice provision of MCL 205.8. It follows, then, that because Fradco's appeal window did not start until notice was issued to Fradco's representative, it is impossible for that window to have expired. Because § 22(4) and (5) only apply in situations in which an appeal period has come and gone, and because Fradco's appeal window did not expire, the finality language of MCL 205.22(4) and (5) is inapplicable and there is no contradiction.

CONCLUSION

The changes in Michigan's system of taxation beginning in 1991 and the emergence of the Taxpayer Rights legislation in 1993 are indicative of, and responsive to, the Legislature's clear intent to provide taxpayers with the necessary means to protect their rights with respect to the State's administration of taxes. Many requirements instituted within these changes make Treasury accountable to taxpayers by requiring them, *inter alia*, to inform taxpayers of their rights and to acknowledge the taxpayer's designated representative, providing him or her with copies of the very same documents that are issued to the taxpayer. This requirement, instituted by the Legislature in 1993, is vitally important for all Michigan taxpayers whose comprehension, or lack thereof, of the State's complex tax system compels them to seek and rely upon the expertise of designated representatives; this is especially so for underserved taxpayers like the clients of the Tax Clinic.

The Tax Clinic files hundreds of Power of Attorney forms every year with the Department of Treasury on behalf of Michigan taxpayers who, because of their circumstances, seek out the Clinic and rely wholly upon its expertise to navigate through the complex tax system to fair and amenable solutions. By retaining the Clinic's services, these taxpayers have made good faith effort to reach fair resolutions or settlements with Treasury in particular disputes. The Court of Appeals' opinions in *Fradco, Inc* and *SMK, LLC* make those fair resolutions and settlements much more likely by requiring Treasury to deal with designated representatives in the manner envisioned by the Michigan Legislature.

The Court of Appeals' opinion in *Fradco, Inc* should be affirmed because it is consistent with the overall scheme of changes denoting the legislative intent discussed above. By requiring issuance of appealable documents to both the taxpayer and the taxpayer's designated

representative before the appeal window starts, Treasury is precluded from maintaining an upper hand with respect to an individual's tax dispute.

The opinion should also be affirmed because it is consistent with the legislative intent underlying MCL 205.8, to provide adequate protection against the serious and irreversible harm that occurs when a taxpayer's right to appeal is thwarted because Treasury did not comply with the obligations imposed upon it by the Legislature. The fact of the matter is, many taxpayers, especially those represented by the Tax Clinic, often do not understand tax procedures or even the documents that prescribe those procedures. Knowing this, the Michigan Legislature took affirmative steps to impose restrictions upon Treasury and forced it to be more responsible in its dealings with Michigan taxpayers. A decision that holds off the beginning of the appeal window until Treasury issues an assessment, decision, or order to both the taxpayer and his or her designated representative creates fairness for all of Michigan's taxpayers, especially those whose limited circumstances, education, or experience make them more vulnerable to the irreversible harm that occurs because of Treasury's irresponsibility. This is exactly what the Michigan Legislature had in mind, and the Tax Clinic as *amicus curiae* seeks to ensure that its clients, who are these vulnerable taxpayers, are guaranteed the protections given them by the Legislature twenty years ago.

Respectfully Submitted,

By: Michele L. Halloran

Michele L. Halloran (P29973)
Counsel for Amicus Curiae
Alvin L. Storrs Low-Income Taxpayer Clinic
at Michigan State University College of Law
610 Abbot Road
East Lansing, MI 48823
(517) 336- 8088

Dated: July 17, 2013

ATTACHMENT 1

Original House Bill 4160

HOUSE BILL No. 4160

HOUSE BILL No. 4160

February 4, 1993, Introduced by Reps. Gubow, Bobier, Brown, Oxender, Nye, Dalman, Jondahl, Dobb, Freeman, Profit, Bennane, Giré and DeMars and referred to the Committee on Taxation.

A bill to amend sections 23, 24, 27a, 30, and 31 of Act No. 122 of the Public Acts of 1941, entitled as amended

"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 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 provide an appropriation; to abolish the state board of tax administration; and to declare the effect of this act,"

sections 23 and 24 as amended by Act No. 83 of the Public Acts of 1991, section 27a as amended by Act No. 344 of the Public Acts of 1990, and section 30 as amended and section 31 as added by Act No. 58 of the Public Acts of 1986, being sections 205.23, 205.24, 205.27a, 205.30, and 205.31 of the Michigan Compiled Laws; and to add sections 4, 7, and 8.

02503'93 JLB

HOUSE BILL No. 4160

SEC. 8. IF A TAXPAYER FILES WITH THE DEPARTMENT A WRITTEN REQUEST THAT COPIES OF LETTERS AND NOTICES REGARDING A DISPUTE WITH THAT TAXPAYER BE SENT TO THE TAXPAYER'S OFFICIAL REPRESENTATIVE, THE DEPARTMENT SHALL SEND THE OFFICIAL REPRESENTATIVE, AT THE ADDRESS DESIGNATED BY THE TAXPAYER IN THE WRITTEN REQUEST, A COPY OF EACH LETTER OR NOTICE SENT TO THAT TAXPAYER. A TAXPAYER SHALL NOT DESIGNATE MORE THAN 1 OFFICIAL REPRESENTATIVE UNDER THIS SECTION FOR A SINGLE DISPUTE.

Sec. 23. (1) If the department believes, based upon either the examination of a tax return, a payment, or an audit authorized by this act, that a taxpayer has not satisfied a tax liability or that a claim was excessive, the department shall determine the tax liability and notify the taxpayer of that determination. A LIABILITY FOR A TAX ADMINISTERED UNDER THIS ACT IS SUBJECT TO THE INTEREST AND PENALTIES PRESCRIBED IN SUBSECTIONS (2) TO (5).

(2) If the amount of a tax paid is less than the amount that should have been paid or an excessive claim has been made, the deficiency and interest on the deficiency at the current monthly INTEREST rate of 1 percentage point above the adjusted prime rate per annum from the time the tax was due, and until paid, are due and payable after notice and INFORMAL conference as provided in this act. A deficiency in an estimated payment as may be required by a tax statute administered under this act shall be treated in the same manner as a tax due and shall be subject to the same current monthly interest rate of 1 percentage point above the adjusted prime rate PER ANNUM from the time the payment

ATTACHMENT 2

History of Bills in the House 4160

Jul. 1, passed; given immediate effect:
Roll Call # 0632 Yeas 093 Nays 000 ... 1980
Jul. 1, title amended ... 1980
Jul. 1, transmitted ... 1908
Dec. 8, returned from Senate without amendment with immediate effect ... 3549
Dec. 8, bill ordered enrolled ... 3549
Dec. 14, presented to the Governor
Time: 11:17 AM Date: 12/13/93 ... 3709
Dec. 31, approved by the Governor
Time: 12:04 PM Date: 12/22/93 1993 ADDENDA ... 3898
Dec. 31, filed with Secretary of State
Time: 12:35 AM Date: 12/27/93 ... 3898
Dec. 31, assigned PA 265 of 1993
with immediate effect ... 3898

4160. Taxation; other; taxpayer protection and recourses; establish.
Amends secs. 23, 24, 27a, 30 & 31 of Act 122 of 1941 (MCL 205.23 et seq.) & adds secs. 4, 7 & 8.
Feb. 4, introduced by Representatives David Gubow, William Bobier, Mary Brown, Glenn Oxender, Michael Nye, Jessie Dalman, H. Lynn Jondahl, Barbara Dobb, John Freeman, Kirk Profit, Michael Bennane, Sharon Gire, Robert DeMars, James Agee, Dick Allen, Tom Alley, David Anthony, Richard Bandstra, Lyn Bankes, Justine Barns, Maxine Berman, Beverly Bodem, Willis Bullard Jr., Dianne Byrum, Penny Crissman, Alan Cropsey, Candace Curtis, Agnes Dobronski, Jan Dolan, Frank Fitzgerald, Pat Gagliardi, John Gernaat, Donald Gilmer, Michael Goschka, Beverly Hammerstrom, Clark Harder, Charlie Harrison Jr., Curtis Hertel, Sandra Hill, Philip Hoffman, David Hollister, Jack Horton, David Jaye, Roland Jersevic, Shirley Johnson, Greg Kaza, Carolyn Cheeks Kilpatrick, John Llewellyn, Terry London, Allen Lowe, Jim McBryde, Michelle McManus, James McNutt, James Middaugh, Thomas Middleton, Raymond Murphy, Dennis Olshove, Gregory Pitoniak, David Points, Gary Randall, Lynn Rivers, Sal Rocca, Mary Schroer, Thomas Scott, Stephen Shepich, Dale Shugars, Ken Sikkema, Alma Stallworth, Leon Stille, Ilona Varga, Harold Voorhees, Jerry Vorva, Ted Wallace, Howard Wetters, Karen Willard, Tracey Yokich, Joe Young Jr., Richard Young ... 159
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Feb. 24, placed on third reading ... 303
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Mar. 23, presented to the Governor
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Time: 10:02 AM Date: 04/01/93 ... 844
Apr. 1, filed with Secretary of State
Time: 10:27 AM Date: 04/01/93 ... 844
Apr. 1, assigned PA 14 of 1993
with immediate effect ... 844

4161. Insurance; health maintenance organizations; access to health care for children; provide for in certain cases.
Amends Act 368 of 1978 (MCL 333.1101 - 333.25211) by adding secs. 21054u & 21054v.
Feb. 4, introduced by Representatives Gregory Pitoniak, Tracey Yokich, Lynn Rivers, Carolyn Cheeks Kilpatrick, Paul Baade, David Anthony, Robert DeMars, Burton Leland, Alma Stallworth, Sharon Gire, David Gubow ... 159